



CEDR Accreditation: 2001

CEDR Panel Admission: 2013

Languages: English

Location: United Kingdom

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Client Feedback

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Client Feedback

Stephen Barker

Overview

Stephen Barker was a practising lawyer for 25 years before leaving private practice in 2012 to become a full time commercial mediator. As a mediator Stephen brings together his deep understanding of commercial litigation and arbitration with a natural flair for creating innovative solutions to business disputes. He has successfully mediated some seemingly intractable long-running sagas including one recent case where the dispute started 14 years before it was settled at mediation.

Professional Background

Prior to his call to the Bar in 2017, Stephen worked in private practice as a Solicitor. On transferring to become a barrister, he became a tenant at 4-5 Gray's Inn Square in London.

When he was admitted as a Solicitor in 1989, Stephen joined Eversheds, one of the leading international law firms and became an equity partner in 1999. He was head of the Commercial Litigation team at the Birmingham office of Eversheds, until he moved on in 2006 to join US law firm Reed Smith as a partner in their Commercial Disputes Group. Later Stephen was part of the management team of Reed Smith's Birmingham off-shoot, Hill Hofstetter, now FieldFisher. He set up Barker Commercial Law, to look after the commercial legal needs of a select group of clients, including an automotive systems manufacturer and one of the world's leading cyber-security software developers, both global listed businesses.

During his legal practice career, Stephen has been fortunate to gain fantastic experience representing many household name clients in major business disputes, sometimes with values in the hundreds of millions.

Expertise

- Banking & Finance
- Commercial
- Construction & Engineering
- ICT
- Insolvency
- NHS & Healthcare
- Manufacturing
- Partnership & Shareholder
- Professional Negligence
- Property
- Public Sector
- Sale of Goods & Services
- Sport

Stephen has conducted some extremely complex disputes requiring a firm grasp of the facts and an eye for detail. He also recognises that sometimes the simplest of cases are the hardest to crack.

Whether a case is large or small, complex or straightforward, Stephen will bring the same focus and energy to work with the parties to find a mutually acceptable lasting solution.

Dispute Experience

(Non-Neutral work in Italics)

Banking & Finance

- Tri-partite dispute between financial institution seeking to enforce security over property relating to various corporate cross guarantees, defended on basis of undue influence and noncompliance with financial institution's obligations to provide information to surety. Surety brought Part 20 claim against lawyers alleging professional negligence in respect of advice to give the security.
- Four party guarantee/misrepresentation/solicitor's negligence dispute. Claim by brewery against guarantors for trade debt and lease liabilities. Counterclaim alleging misrepresentation. Third Party claim against guarantors' solicitors.
- *£850m completion account dispute arising from sale of a volume vehicle manufacturer; \$38m warranty claim arising from SPA.*
- Dispute between two ex-colleagues, financial services agent and the claimant, about their personal relationship and over repayment of commissions that were clawed back.

Commercial

- Pharmaceuticals distribution agreement dispute between US drug manufacturer, German global pharma distributor and Hong Kong subsid/ PRC distribution agent dis. The US co. had

served notice of termination due to performance issues with PRC distributor. The Chinese distributor valued the potential losses on termination at USD\$50m. Stephen retained to manage the renegotiation of distribution agreement between the parties, facilitating multi-cultural meetings and discussions between parties in five different time zones.

- Shareholder dispute arising out of automotive technology joint venture. Cross claims and allegations between parties as to performance of obligations, share of profits and cost allocations.
- Claim for damages for breach of outsourcing contract, alleging poor performance against key performance indicators with equal and opposite cross claim for payment of invoices.
- Tri-partite mediation in claim by liquidator against former director and connected company relating to the transfer of assets at an undervalue, and claim by liquidator against the solicitors who had carried out the transaction.
- Six party "Springboard" injunction proceedings between volume car trading business and group of former employees. Allegations of unlawful retention of confidential information such as customer lists, pricing and business plans.
- Four party guarantee/misrepresentation/solicitor's negligence dispute. Claim by brewery against guarantors for trade debt and lease liabilities. Counterclaim alleging misrep. Third Party claim against guarantors' solicitors.
- Franchise dispute relating to allegations of breach of franchise agreement.
- Agricultural machinery financing dispute arising out of contractor refusing to pay lease installments due to loss arising from excessive downtime of equipment.

Construction & Engineering

- Claim for delay and disruption damages by contractor against supplier relating to allegedly faulty product.
- Final account dispute as to quantum and allegations of defective/out of specification work.
- *Acting for national house-builder in claim against ground works contractor for laying road contrary to s.106 agreement specification.*
- *Adjudication in £120m off-shore energy contract.*
- Dispute between scaffolding company and main contractor relating to whether scaffolding temporary (and chargeable) or permanent structure transferred to client on practical completion.

ICT – Information, Communication & Technology

- Software services dispute arising from the early termination of fixed term contract for the provision of a web-based car sales portal. The software services provider sought payment for the term of the contract, which was being defended on the basis of functionality defects and allegations of pre-contract compatibility misrepresentations.
- Dispute relating to website search engine optimisation services. Alleged wrongful termination by the customer and an intimated counterclaim for wrongfully taking commercial website off-line.
- Dispute between internet e-commerce services provider with sales generation business regarding disputed direct debit indemnity claim and questions as to standard of service delivered, contractual misrepresentations and questions of insolvency of customer.

A number of IT software and project implementation projects including:

- *Acting for IT services company in £13m claim arising from the termination of the implementation of a new IT system for a financial institution.*
- *Advising software company in respect of licence disputes.*

Insolvency

- Claim by administrator to claim to recoup alleged preferences - payments by insolvent company and VAT refunds paid to a fuel-card company which reduced debts backed by directors' personal guarantees.
- Tri-partite mediation in claim by liquidator against former director and connected company relating to the transfer of assets at an undervalue, and claim by liquidator against the solicitors who had carried out the transaction.
- *Applying to High Court (as advocate) for the appointment of a Provisional Liquidator of Excalibur Airways.*
- *Acting for a clearing bank in contested guarantee actions.*
- *ROT actions.*

NHS & Healthcare

- *Acting for supplier of medical diagnostic equipment in €7m international arbitration against Turkish distributor.*
- *Advising veterinary medical supplies in complaint concerning adverse procurement decision.*
- Dispute between a Private Healthcare Insurance company and one of its regional sales agents relating to alleged breaches of agency agreement which caused the PHI company to charge reduced premiums.

Manufacturing

Acting for a number of automotive engineering and manufacturing companies including:

- *A vehicle manufacturer with supply chain issues.*
- *Acting for Tier 1 suppliers in production line stoppage disputes.*

Partnership & Shareholder

- Shareholder dispute arising out of automotive technology joint venture. Cross claims and allegations between parties as to performance of obligations, share of profits and cost allocations.
- Six party “Springboard” injunction proceedings between volume car trading business and group of former employees. Allegations of unlawful retention of confidential information such as customer lists, pricing and business plans.
- *Representing outgoing partner in solicitors firm in exit dispute.*
- *Advising spin-off team of stock-brokers in respect of restrictive covenant issues.*
- Dispute between shareholders, following managing director/minority shareholder leaving to set up new company and taking key staff. Claim for repayment of directors' loan account and s.994 proceedings for unfair prejudice.

Professional Negligence

- Claim against top four accountancy firm relating to handling of tax investigation with counterclaim for unpaid fees.
- Three party professional negligence claim (in effect two mediations in one). Wife in matrimonial case alleged that two sets of lawyers had failed to protect her interests by

failing to obtain and enforce worldwide freezing order against husband's substantial business assets in Pakistan.

- Solicitor's negligence claim for breach of duty arising from issuing insurance coverage claim outside limitation period. Significant dispute concerning the value of the loss of the claimant's chance to recover damages in the first action. The claimant's claim related to an incident that had occurred 14 years ago.
- Professional negligence claim against a firm of solicitors for alleged failure to carry out proper searches in relation to the purchase of plot of land. There were issues in respect of both liability and the alleged diminution in value of the land.
- *Acting for claimant in Architect's negligence claim relating to defective building structure.*
- *Acting for Bank/liquidator in action against firm of Surveyors in respect negligent valuation of large commercial office block, with counterclaim for contributory negligence based on poor lending decision.*
- Claim for professional negligence arising from failure to spot damp and structural defect in Home Buyers Report.
- Professional negligence claim against top four accountancy firm relating to handling of tax investigation with counterclaim for unpaid fees.
- Tri-partite dispute between financial institution seeking to enforce security over property relating to various corporate cross guarantees, defended on basis of undue influence and non-compliance with financial institution's obligations to provide information to surety. Surety brought Part 20 claim against lawyers alleging professional negligence in respect of advice to give the security.

Property

- Multi-party property ownership dispute. Claim brought by residents' association against property owner alleging rights of way and seeking declarations as to ownership of land.
- Boundary dispute relating to alleged 'theft' of land.
- Housing disrepair claim. Tenant claimed damages for distress and inconvenience of having to live in a property with a leaking roof.
- Dispute between neighbouring landowners relating to title to land acquired by squatting/adverse possession and historic rights of way.
- Dispute between selling agent and lender relating to allegations of negligence in the valuation of the guide price for a group of properties and contributory negligence by lender

in failing to make proper enquiries before lending. Claim started as a fee claim by the selling agent.

- Claimant entered into contract via a limited company to acquire mixed used property development just before the financial crash.
- Dispute between neighbours relating to ownership of land forming part of one's registered title, but appeared to be part of neighbour's garden.
- Disability Discrimination (Equality Act) claim against landlord arising from failure to make reasonable adjustments, and for direct and indirect discrimination against tenant with mental health disability.

Public Sector

- *Acting for transport firm in JR of decision in respect of reimbursement rates for concessionary fares for over 60s.*
- *Advising government department on challenges to procurement decisions.*

Sale of Goods & Services

- Claim by fit-out contractor in relation to its final account against University, relating to the construction of a new library building.
- Defective goods claim by agricultural business against UK distributor, claiming wastage of valuable crop due to failure of product. UK distributor sought indemnity from Belgian manufacturer, who challenged jurisdiction based on Belgian Law in Distribution Agreement and failure to notify in accordance with terms.
- Dispute between home owner and joiner re quality of new windows made for extension.
- Dispute between firm of surveyors with housing association concerning allegations of overcharging.

Sport

- *Representing World Rally Champion in litigation with his race team.*
- *Acting for F1 world champion, in a falling-out with his commercial manager.*

Personal Style

Stephen has a creative and facilitative style and works tirelessly to enable parties to find solutions to their problems, however complex. His dogged approach has resulted in a very high settlement rate in his mediations. He strives to provide a neutral, calm and professional space for the parties to explore the options for resolution working hard to uncover the underlying barriers and hidden opportunities by listening patiently and allowing people to explain their needs and concerns in private.

Chambers Rankings

- *"His calm approach helped him put the parties at ease, and he was able to quickly narrow the issues, he brings the consequences of going to trial to the clients in a friendly way."*

Chambers Guide 2015

- *"He gets people on his side; they trust him very quickly."*

Chambers Guide 2016

- *"One source praises his performance as "excellent, professional and impeccable," while another highlights his "thorough, relentless and tenacious" work.*

Chambers Guide 2017

- *"One market source highlights his "neutral, calm and creative" approach, and another reports: "He established a good rapport in the room and built confidence well." Sources consistently praise the balance he strikes between patience and pragmatism, saying: "He took the time to listen but was straight-talking in dealing with any of the parties' unrealistic expectations."*

Chambers Guide 2018

Feedback – Clients

- *"It is inherent in a mediation process that the involved parties rarely get exactly what they want but the end result is always dependent on the quality of the mediator. That quality shone through today.*
- *We were delighted at the outcome. I cannot stress enough the feeling of relief at the lifting of three years' worth of harassment and constant pressure, which will now allow us to pursue our lives in a manner which we had thought would never return."*

- *"Is it wrong to hope that your clients will bring you a litigation problem, just so you get the chance to work with someone who inspires you? This was my dilemma while at []. Stephen's passion makes working with him fun and exciting. If there is a hope, he will find it, sometimes in the most unusual places. But if there is no hope, he will tell you, but beautifully craft an exit that gets the best commercial outcome for the client. I loved working with Stephen, he inspired me ... and continues to do so to this day."*
- *"Stephen has mediated a case in which I was instructed as a barrister. His approach was very patient, measured and creative and we ended up with a good and workable compromise."*
- *"Stephen achieved a settlement between two difficult clients with entrenched views. He was efficient and organised, he pitched the discussions at exactly the right level. He engaged with the client and kept the momentum going until the very end. I would highly recommend Stephen and would not hesitate to instruct him again."*
- *"Mr Barker was astonishingly effective."*

Feedback – Directories (As a lawyer)

Chambers & Partners' Guide to the UK Legal Profession repeatedly rated Stephen in 'Band 1' as a Leading Individual and has said of him:

- *"His "measured and sensible approach" convinces commentators that clients are in safe hands." [2008]*
- *"Stephen Barker wins applause for his exceptional work."*
- *"A well established and respected practitioner."*
- *"Hard working and highly intelligent." [2009]*
- *"An extremely good litigator with an astute business mind." [2010]*
- *"A-list player who has a good legal brain and brings incredible energy to his cases." [2011]*

Honorary posts: External tort examiner for the Institution of Civil Engineers.