



<b>CEDR Accreditation:</b>	2007
<b>CEDR Panel:</b>	2008
<b>CEDR Faculty:</b>	2012
<b>CEDR Chambers</b>	2015
<b>Foreign Languages:</b>	French - C2 Spanish - C2
<b>Location:</b>	United Kingdom



***“Excels on the commercial mediation stage and is commended for her great talent in de-escalating tension and refocusing the parties on the matter at hand”.***

***“Your work both before and during the mediation was excellent and was the reason that the parties were able to bring this long running dispute to a close”.***

## Eve Pienaar

### Overview

Eve is a highly regarded commercial mediator, working across a range of commercial sectors including property and construction, professional negligence, shareholder disputes and insolvency. She also has significant experience working on trust & probate, and workplace cases. Eve was promoted to Tier 2 in *Legal 500* and Band 3 with *Chambers & Partners*, in 2022. She has mediated over 300 commercial cases and is regularly sought after for complex, high value or multi-party cases.

Eve's practice includes difficult projects mediated over a longer period of time. Recent cases include mediating division of assets due to the breakdown in relations between very high net worth, multi-generational family members, beneficiaries of multimillion-dollar trust funds. Or working with partners of a UK accountancy practice to negotiate terms of exit of their Paris based partners and de-merger of the branch, over a period of six weeks.

Eve regularly contributes articles in the field and speaks on mediation related topics at conferences and panels. She is a Fellow of the CMC and member of Faculty of CEDR. She also mediates for the ICC and LCIA

## Professional Background

Eve began her career in private practice, with Clifford Chance, a “magic circle” law firm in London. Preferring to work in industry, Eve has since held a number of senior in-house Counsel roles with global organisations, including Vice President Warner Bros., Senior In-House Counsel at RICS<sup>1</sup> and RIBA<sup>2</sup> and latterly with supply chain compliance technology platform, Sedex<sup>3</sup>.

Eve combines keen legal analysis with strategic business insight and works with parties to find constructive and pragmatic solutions to conflict situations. Noted for her calm and professional approach, Eve will also challenge parties to help broker a deal, adopting a pro-active approach to finding a solution which works for all.

Considerable experience of working with Litigants in Person (CLCC cases).

## Expertise

- Construction
- Commercial Contracts
- Employment and Workplace
- Engineering
- Insolvency
- Partnership and Shareholder
- Professional Negligence
- Property and boundary
- Public Sector
- Trust, Wills and Probate

## Dispute Experience (recent)

### Construction and Engineering

- Multimillion-pound dispute over design, engineering and construction of tram development in Scotland; multi-party dispute co-mediated over several days;
- High Court claim for breach of statutory duties in relation to extensive pipe laying project, by

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<sup>1</sup> Royal Institution of Chartered Surveyors - <https://www.rics.org/uk/>

<sup>2</sup> Royal Institute of British Architects - <https://www.architecture.com/>

<sup>3</sup> Sedex - <https://www.sedex.com/>

local affected businesses, under Water Industry Act 1991;

- Claim for outstanding invoices in relation to building surveyor fees (including preparing full plans and specification of works), based on fee as percentage of contract sum, variations under JCT contract;
- Dispute under Development Joint Venture between UK construction company and Hong Kong referral agency, for commissions on sale of new build properties sold on plan;
- Dispute relating to Grade 2 listed building, in relation to sub-contractor design and installation of mechanical works; application of Collateral Warranty under Contract for Works;
- Numerous cases involving claims between developers and clients, on commercial or residential property developments, relating to contract variations. These cases are likely to involve a number of parties where different trades are present on site;
- Many final account disputes, usually involving conflicting expert reports, where the mediation process is adapted to the different heads of claim and which may take longer than a day. Insurance dimension;
- Claims in relation to retention monies, or liability for latent defects, during Defects Liability Period following practical completion.

## **Property and Boundary**

- Dispute over payment of their commission, to one of the agents operating under a joint-sole agency contract, on sale of £10.3m residential property in London. Counterclaim by Seller, for £900k, alleging a higher acceptable offer had not been conveyed to them during the sale process;
- Alleged failure by Defendant to address pre-conditions attached to planning permission for new property development in Devon, leading to funding being withdrawn by investors;
- Residential development joint venture involving 14 plots where it subsequently became apparent a number of sites were unviable due to risk of flooding; injunction proceedings where one partner had attempted to re-enter;
- Numerous commercial property claims, at pre-issue stage or while litigation running, for rent and service charge arrears, often involving counterclaims for defects, before the County Courts and/or First Tier Tribunal;
- Claims by Landlords, acting through Managing Agents, against residential property owners (including Residents' Associations), in relation to service charges raised against program of works, such as upgrading conduits or roof repairs, or to enforce covenants of quiet enjoyment under common leasehold provisions;
- County Court case brought against operators of mobile home park, by mobile home residents, when the local Council issued a Compliance Notice requiring owners to rebuild the base structure of the mobile homes (due to subsidence), in circumstances where the modular homes would not survive re-siting;

- Acrimonious litigation between neighbours of high-end London residential properties, allegations of trespass, harassment and criminal damage, over unclear boundary dispute. Disproportionate levels of costs incurred creating a barrier to settlement;
- Local residents opposing planning conditions imposed on developer, including creating a new cycle and footpath as part of large, new-build residential development. Houses on the development could not be occupied until all pre-conditions were met and financing costs ongoing while project in deadlock with local residents.

## **Commercial Contracts**

- Breach of warranty allegations in relation to financial instruments raised by French consortium of investors, in connection with student accommodation development in Versailles (France);
- Six figure settlement of a dispute over distribution rights of high value Hermes bags, sourced in the UK (bespoke design), for resale in Hong Kong. Multi party dispute between 3 jurisdictions, including parties expecting goods on consignment in Hong Kong;
- Dispute over early termination rights under software services and maintenance contract. Whether the customer law firm had been induced to commission the services under misrepresentation;
- Franchise dispute over right to renew, and terms of renewal, including goodwill in the name such that (founder and Seller) Franchisee sought a buy-out as owning key IPR;
- Claim by Luxembourg based software development company, against Bank in DRC, under 3 year software supply and maintenance agreement (bi-lingual mediation).

## **Partnership and shareholder**

- Dispute over terms on which member of LLP had been exited from the partnership, whether the employer had the right to vary Drawings and Profit Share during period of garden leave;
- Dispute between widow and deceased's siblings, in relation to administration of property portfolio partnership accounts and distributions (value in excess of £1m), under Partnership Act. Assets in the UK and India;
- Breakdown in relationship between shareholders of SME providing financial software enabling procurement of public works. Valuation of the business and terms of buy-back by one shareholder, to exit others without disruption to the business;
- Deadlock between partners of holiday lettings agency business in London and Turkey, managed from the UK, terms of exit/separation of assets and preservation of business goodwill

## Professional negligence

- Numerous valuation claims against surveyors, where purchasers of commercial or residential property are unable to realise value on redevelopment (e.g.: for failure to identify coastal erosion risk and therefore negating opportunity to obtain planning). These claims can run into high six figure claims due to inability of owners to resell their assets;
- Solicitor professional liability claim in relation to restructuring documentation for private garment manufacture business. Claim value £500k and two insurance parties involved;
- Professional negligence claim against firm of solicitors for failing to properly reserve parking rights for Seller of part property in centre of Winchester, on a redevelopment project;
- Many professional negligence claims against construction companies, including:
  - Defects claim in relation to new roof, leaks and allegations poor workmanship;
  - Standard of care in construction of residential rear extension and conservatory;
  - Whether works in relation to new multi-occupancy development had been constructed in line with Schedule of Conditions;
  - Redevelopment of flat, where required standard of works departed from original scope and against background of relatively modest contract sum
- Professional negligence claims against architects of high-end residential properties in London – various. Scope of design works/ variations by clients/ basis for remuneration.

## Insolvency

- Claim for £1.5m by company in administration, brought by insolvency practitioner acting for creditors, against prior Managing Director. Allegations of fraudulent mismanagement. The mediation process ran for a period of 3 weeks, and resulted in full settlement;
- Claim against (i) Seller and (ii) financial advisors, in relation to sale of local school transport business, where advisers had incorrectly applied TOMs<sup>4</sup>, leading to claims for refunds from Local Authorities. Whether Sellers were in breach of warranty. Insolvency of the business;
- £1.5 insolvency claim against former Senior Partner of mid-size accountancy firm, after significant loss of business due to Covid-19 lockdown, brought by litigation funder on assignment of claims by insolvency administrator;

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<sup>4</sup> Tour Operators Margin Scheme (VAT treatment under Tour Operators Order 1987)

- Claims against former Senior Partner of Accounting Firm, by Plc litigation funder (under assignment of claims by creditors), for sums in excess of £1m. Full settlement reached, including release for third parties related to Defendant

## **Trusts, wills and probate**

- Co-mediation of complex family trust (assets worth in excess of \$250m in multiple jurisdictions and across property and financial market sectors), in the context of allegations of mismanagement against Trustees. Multi-generational communication facilitation. Tax as well as legal complexity around trust holdings. Settled in principle and project ran for 5 months;
- Dispute relating to (i) administration of the estate of their late mother, and (ii) matters relating to the ownership and occupation of 3 high end residential properties in Greenwich, London, under terms of a Will. The mediation project took place across a number of different meetings over a period of a month, and brought to an end deadlock over administration of the Estate;
- Many TOLATA<sup>5</sup> cases involving disputes between children or close partners of deceased, regarding assets left under intestacy provisions. These cases tend to be highly emotive and often involve acute housing or income needs requiring creative solutions and much empathy.

## **Public sector**

- Claim against West of England Combined Authority, for loss of funding for online training programme, based on performance management framework audited on sample allegedly unrepresentative of scope of services. Claim value £250k;
- £1.3m claim by online supplier invoice management provider, upon LB Tower Hamlets seeking early termination of supply of services, due to technical interface issues. Claim for loss of projected profits and revenue;
- Claim brought by TfL alleging abuse of position and fraud, in relation to procurement of survey and analysis services contract, by parties connected to TfL;
- Claim against LB Hackney by education services provider, alleging breaches of funding agreement and unfair early termination of license to operate.

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<sup>5</sup> Trusts of Land and Appointment of Trustees Act 1996

## Employment and workplace

- Project mediation over 4m period, to re-build trust and communication between governors of a well-known English boarding school, against backdrop of reputationally damaging social media and press allegations;
- Grievance within senior management of statutory police oversight body: allegations of bullying, harassment and discrimination;
- Discrimination and false imprisonment claim by private individual, against Chief Constable of British Transport Police, in the CLCC. Case settled on a creative and respectful basis. Unrepresented Claimant;
- Claim against prominent music Academy, alleging bullying and marginalisation by Supervisor, leading to serious mental health issues by Claimant; inability to complete Masters degree. Creative settlement resulting in changes to policies of education establishment;
- Employment claim for £160k “Strain Payment” in respect of loss of pension rights, as a result of the transfer of employer Housing Group (registered as a Community Benefit Society<sup>6</sup>), to a limited liability entity;
- Breakdown in relationship between senior managers of a small charity, in Coventry, hampering delivery of public services.

## Personal Style

Legal directories say of Eve that she *“has that rare ability to control a mediation through her robust, no-nonsense style, while at the same time lending a sympathetic ear to the parties’ grievances, which allows her to gain the parties’ confidence”*.

Eve is empathetic and builds trust and rapport easily with clients, including in emotionally charged disputes. She is calm and persistent and knows when to challenge parties to help them overcome deadlock. Her in-depth preparation and pre-mediation interaction with clients help ensure swift progress to offers on the day.

## Feedback (recent)

*“In essence [Eve] was fantastic. She has a natural calming manner and managed to help keep us all cool and focused even after 11 hours of mediation.*

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<sup>6</sup> Community Benefit Society under the Co-operative and Community Benefit Societies Act 2014

*The amount of preparation she put in prior to the meeting wasn't only impressive and showed her experience, but paid dividends for us all on the day."*

*"Eve comes with the very highest recommendation. She invested considerable time (including the weekend) in getting to know the case and in creating a relationship with the parties involved. On the day she again committed more than the allocated time and in the closing minutes managed to bring the parties to an agreement."*

*"In relation to the substance of the case, the property side, it was Eve's idea of a piece of 'no-mans-land' that made the solution possible. On the subject of costs, which I have always believed to be the [Claimant's] motivation, Eve was firm and effective in bringing them to a more reasonable position than we all thought possible at the outset."*

*"Eve was amazing at handling quite a difficult mediation for us and would highly recommend her to anyone looking for an experienced mediator with the perfect balance of a firm hand but with a kind touch. We had shortlisted a few mediators that were recommended by our lawyers and really glad we selected her above the others."*

*"Thanks for your perseverance. I was not convinced it was worthwhile and I am glad you proved me wrong."*

*"Your contribution to the whole process was clearly very positive, and instrumental in securing a fair outcome for both parties."*

*"Thank you so much for what you did yesterday. It seemed impossible, but now there is a way forward."*

*"You helped make us realise that our "legalistic" arguments were hard for a lay person to digest."*

*"Eve was very good, absolutely top notch. The other side were very difficult and I was not expecting any resolution at all. She mediated very well and did extremely well to get the resolution she did in very difficult circumstances."*

*"Eve has an ability to match endless patience and tact with a clear vision of what is actually going on."*

*"How can we begin to thank you for your excellent, professional and calm mediating. We really could not see any light at the end of the tunnel before the mediation..."*



