



CEDR Accreditation: 2002

CEDR Panel: CEDR 2004

Chambers: 2012

Languages: English

Location: United Kingdom

## Alan Jacobs

*“..brought gravitas and a high level of understanding to the mediation and he developed rapport wonderfully.”*

Client Feedback

### Overview

Alan Jacobs has been involved in dispute resolution for over 40 years, was a senior partner at top 50 law firm, Mills & Reeve until 2019, having previously been a partner at the international law firm, DLA Piper. He is now a full time mediator and his mediation work includes a wide spectrum of personal injury and clinical negligence claims (his areas of expertise as a lawyer). He is much sought after as a clinical negligence mediator (having completed over 170 such mediations) but Alan has also a long history of mediating disputes in many other sectors and is a member of the Court of Appeal Mediation Panel that deals with commercial and personal injury claims referred to mediation by the Court. Alan is also a member of CEDR Faculty

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coaching and assessing people training to be mediators.

## Professional Background

Alan is a full-time mediator but formerly a partner at the Birmingham office of law firm Mills & Reeve. He has considerable experience in handling serious personal injury and clinical negligence claims. Over his legal career he has worked extensively with household name insurance companies and self-insured's as well as injured claimants and their families. Chambers & Partners Directory to the Legal Profession has recommended Alan as a 'Key Individual' in the field of personal injury. Beyond that expertise Alan's solicitor background included work as a general litigation lawyer covering all aspects of commercial disputes across wide and various sectors.

## Expertise

- Agency Agreement
- Banking & Finance
- Clinical Negligence
- Commercial Contracts
- Construction & Engineering
- Employment & Workplace
- Energy & Natural Resources
- ICT
- Insurance
- Manufacturing
- Partnership & Shareholder
- Personal Injury
- Professional Negligence
- Property
- Sale of Goods & Services

## Dispute Experience

*(Non-Neutral work in italics)*

### Agency Agreements

- Agency agreement dispute in relation to an accounts balancing payment made by the agent who alleges it was based on misrepresentation that the money was owing.

### Banking & Finance

- Dispute between a consumer, a finance company and between the finance company and a supplying car dealer in relation to an allegedly defective supercar.
- Claim for unpaid invoices in relation the provision of horticultural services.
- Dispute between bank and SME customer in relation to service charges and funding advice.

### Clinical Negligence

Alan spent many years working on negligence cases as a litigator including cases involving negligent plastic surgery, post-operative infections, incorrect diagnosis of disease, incorrect drug administration.

*“... straightforward and likeable guy who explained the process well and kept things moving.*

*He got on with all the attendees.”*

– Client Feedback

- Clinical negligence dispute in relation to alleged failure of a surgeon to properly advise prior to carrying out a cosmetic surgery procedure.
- Clinical negligence case involving the failure to identify the existence of a foreign body within a wound.

- Clinical negligence claim by the family of a deceased patient in relation to the value of the financial and care dependency claims.
- Clinical negligence case involving delayed diagnosis of cancer resulting in avoidable death.
- Clinical negligence claim in relation to a fatality in hospital. Damages claim on behalf of the deceased mother and by her family.
- Clinical negligence claim against a hospital trust by elderly patient who had contacted a virulent disease whilst in hospital.
- Clinical negligence claim relating to a fatality.
- Clinical negligence case where liability, causation and quantum were all in dispute and there had been no previous settlement attempts but with trial listed within 2 months.
- Clinical negligence claim by a patient against a hospital for alleged negligent execution of an operation by a surgeon & the hospital negligently discharging the patient too early.
- Clinical negligence resulting in fatality to 47 year old man with dependants.
- Complaint against a hospital in relation to the care of the complainant's deceased mother.
- Claim for £300k involving clinical negligence alleged to have caused sterilisation.
- Clinical negligence case by Dependents of a deceased who committed suicide, alleged to be due to lack of proper restraint/care whilst detained in hospital allowing him to escape.



## Commercial Contracts

*"I was particularly pleased with (his) sensible commercial approach and ability to pull the parties back from the buffers."*

– Client Feedback

- Dispute between two brothers regarding a contract for the supply of goods and services. The dispute involved a lot of emotion and complex family dynamics.
- Manufacturing agreement between parties who had entered into a joint venture for the manufacturing of bedroom furniture. The business failed.
- High value claim involving a party providing call centre services and print management services to a large mail order retailer.
- Very substantial quantum/merit claim, alternatively a contractual claim for the provision of healthcare services by a private provider to a health authority.
- Claim arising out of a merchandising contract for the provision of services by a family company in a specialist niche area.
- Contractual dispute involving the sale of an allegedly faulty high value car.
- Dispute between a haulage & packing contractor with a customer over contract terms.
- Dispute between franchisee and franchisor in relation to repudiator breach of contract reference a retail toy shop.

## Construction & Engineering

*"He did well in his dealings with the client, who can be difficult to get much out of. This was quite a complex case and he did well to get up to speed on it so quickly."*

– Client Feedback

- Dispute between a purchaser of an apartment and the builders in relation to defects that have been occurring for the past 11 years.
- A housing association and a tenant's claim in relation to disrepair and poor service delivery over a protracted period of time.
- A tenant's claim against a housing association in relation to allegedly defective repairs to the tenant's home.
- Claim for alleged defective building works in relation to a house renovation and kitchen replacement.
- Dispute between Housing association vendor and a group of 16 purchasers of properties in relation to alleged misrepresentation.
- Dispute between multiple Right to manage property management companies and a lift company in relation to a lift maintenance contracts and alleged monies due and damages sought by way of counterclaim.

## Employment & Workplace

- Dispute between government officer and her employers in relation to personal injuries from slipping in foreign accommodation they provided, and between that employer and an agency providing them with labour to manage property.
- Dispute between agent and principle over accounting balances and consequential losses.
- Dispute between agent and principal in relation to accounting balances between then in which the agent alleged return of monies paid to the principal.
- Court of Appeal mediation involving a claim for damages under the Human Rights Act by a professional in relation to the process adopted by a regulatory authority which it was claimed lead to the closure of the professional practice due to the way discretion was used by the

regulator in how they applied procedure, and the timing of it. There were background issues around disciplinary proceedings and bankruptcy proceedings arising out of the issues which grounded the claim for damages.

- Alleged secret profit made by employee without declaring it to employer and alleged misuse of business assets.
- Dispute between agent and principal in relation to accounts between them and termination of the agreement.
- Dispute between agent and principal where the principal had a judgment for monies due and costs of £20k but the agent counterclaimed £337k in relation to damages for breach of agency agreement.
- Dispute between a person prosecuted for theft and the company pressing for the prosecution, which was eventually dropped. The person subsequently died and it was alleged that their illness was exacerbated by the stress of the prosecution.

## Energy & Natural Resources

- Dispute between a commercial tenant and an energy company regarding payment for the provision of electricity under a deemed contract pursuant to 1989 Electricity Act.

## ICT – Information, Communication & Technology

- IT supply/purchase agreement dispute in relation to performance of software. Worth £1.2m with £500k counterclaim.

## Insurance

- Advising a major composite insurer on setting up a pre-action mediation scheme, then advising on individual case suitability for mediation.

## Manufacturing

- Claims between factory owner and a servicing company related to alleged defective maintenance provided by the contractor resulting in delays and disruption on the production line.

## Partnership & Shareholder

- Dispute involving a former partner of a law firm. A claim for secret profits was brought against the partner. The matter involved complex reputation issues.

## Personal Injury

*"...brought gravitas and a high level of understanding to the mediation and he developed rapport wonderfully."*

– Client Feedback

- Personal injury claim by employee in relation to an accident at work causing Chronic Regional Pain Syndrome (CRPS) and psychiatric depression. Claim valued by claimant at £1.6m.
- Accident at work producing a claim against the employer relating to a relatively low speed motor accident resulting in minor physical injuries but alleged serious psychological injuries including PTSD and agoraphobia potentially having brought the claimant's future working capacity to an end.
- Personal injury claim for psychiatric injury by four secondary victims as witnesses to the death of a family member caused by food poisoning from a restaurant and involving issues also between insurers and insured.



- Second appeal by an employee claiming damages for personal injury – RSI alleged to be due to work. Alleged no adequate risk assessment and breach of the Manual Handling Regulations.
- Court Of Appeal scheme dispute over a road traffic accident causing injury and loss.
- Claim by a serving police officer against the police service in relation to injuries suffered while on a training course.
- Employer's liability – claim by employee allegedly injured on an “away day” training day.
- High profile stress claim, particularly challenging because of the claimant's psychological medical condition.
- Motorcycle accident alleged to have been caused by the presence of ice.
- Personal injury claim involving an American domiciled claimant and three different insurers. The case involved working out the complex dynamics between the three insurers.
- Holiday accident claim involving a serious fall from a hotel balcony in a foreign country. Liability and quantum disputed.
- Quantum only RTA case where the parties were at loggerheads.
- Accident at work, allegedly leading to an attempted suicide – problems around proving factual and causative issues.
- Accident at work involving a head injury where there were 3 defendants.
- Accident at work involving a forklift. Contributory negligence and quantum were areas of issue.
- Personal injury claim for £250k involving psychiatric injury following the sinking of a ship.
- *Fibromyalgia court action (£400K), issues of accident liability and causation.*

- *A number of upper limb disorder claims by food factory workers on the basis of causation, stopping "floodgate" claims.*
- *Chest disease case alleging asthma caused by a hot-dip galvanising operation. The first recorded case of this nature.*
- *A series of slipping accidents at a food factory alleged to be due to a fundamental defect in the factory flooring; claims came to approximately £750,000 in total.*
- *Acting for a major supermarket chain in relation to a "floodgate" baker's asthma claim.*
- *Factory accident claim (£300k) where the claimant alleged a continuing disability causing a permanent inability to work and therefore a substantial loss of earnings claim.*
- Court of Appeal, personal injury claim, defendants seeking relief from sanctions under the CPR. Occupiers liability case.
- Court of Appeal Personal Injury claim against a police authority by a member of a public.
- Court of Appeal case involving a personal injury claim for brain injury at a motorsport event, claimed at over £2m.

## Professional Negligence

- Allegedly negligent valuation advice in relation to the sale of a house.
- Mediation Involving a claim for monies due under contract on sale of a solicitors practice and counterclaim for damages for misrepresentation and similar related issues.

## Property

### Boundary and Highway Disputes

- Residential boundary dispute in relation to the position of a wall and other physical features.

- A boundary dispute involving domestic property neighbours that had been ongoing for 10 years.
- A dispute involving alleged possessory title to a strip of land adjoining a domestic house.
- Dispute by several, adjoining, property owners in relation to an allegation of creation of a public right of way over their property by usage over time and therefore of the status of the land as highway.
- A property owner alleging a public right of way existed over their land, by usage over time, such that they had no duty to repair and maintain and therefore defended an injured party's claim for damages for personal injury.

### Sale of Goods & Services

- Mediation involving a claim for damages by purchasers of a new house against the builder for the remedial cost of and general and consequential damages arising from alleged defects that were not covered by the NHBC warranty.
- Dispute between building owner and interior design and kitchen design company.

### Personal Style

Alan believes his mediation style is energetic, determined and enthusiastic. Whilst empathetic, he will take strong control of the process and engage the parties in focussed reality testing where necessary to help them achieve their best outcome.

## Feedback

- *"The family were very happy with the outcome of the mediation ... I was sceptical about mediation before using you as a mediator but now I see how a mediator holds things together and makes a compromise more likely."*
- *"Alan's shining quality is his radiant cheerfulness. A much underrated gift in the many a grim adversarial setting. Even his "reality checking" is carried out in a measured fashion, leaving the participants to weigh up the situation with more objectivity and less anxiety. That's how settlements are achieved."*
- *"I have not had that much experience of mediation and many barristers are instinctively suspicious of the process. I must say that I am now something of a convert, for which you must take the credit!"*
- *"As far as the mediation itself was concerned I was very happy with the mediator Alan Jacobs and I would certainly recommend him to anyone else in the future particularly in the area of clinical negligence."*
- *"You did a great job bringing about a resolution between the parties. I have absolutely no hesitation in proposing you for further appointments going forward."*
- *"Thank you so much for your patience and understanding and of course for achieving such a fantastic result for my client."*
- *"Thank you for all your helpful advice/assistance with the mediation, it was most appreciated."*
- *"They were also very impressed with how you managed the day... taking their concerns and considerations into account."*
- *"Alan was quite inventive in the way he tried to find ways to get parties to see the strengths and weaknesses of their case."*
- *"Alan worked exceptionally hard with a difficult Claimant and showed real empathy with him as well as a full awareness of the legal and commercial issues involved."*

- *"He is particularly good when a situation is being reached that the parties are at a stand-off, he's good at bringing them back to the negotiation table."*
- *"Calm attitude. Enabled middle ground to be found when polar positions taken early on."*
- *"...he grasped the issues quickly and worked well with both sides."*
- *"... a fund of useful ideas and contributed greatly throughout the day."*
- *"... very quickly and effortlessly established good rapport with the parties."*
- *"... built rapport well with the parties and facilitated the process well."*
- *"Both myself and the other attendees had complete trust with him even in the face of the pressure being imposed by the other side."*
- *"... very patient with both sides and very pleasant."*
- *"... very good, a nice bloke who is very friendly, approachable & a good listener."*
- *"We were there until the early hours, finishing at 5.30am, and Alan retained his good humour throughout which is to be applauded."*
- *"Certainly think my clients trusted him and that was really important."*
- *"I thought he was good, and will use him again in the future."*
- *"Extremely impressive, patient and quite persuasive."*
- *"... went out of his way to make sure that everyone was comfortable."*
- *"Alan was fantastic, put everyone at ease immediately and developed great rapport with the parties."*
- *"He is a really lovely guy and he helped to smooth the path to settlement."*
- *"Perseverance! Calm attitude. Enabled middle ground to be found when polar positions taken early on."*

- *“Alan was as open as he was able to be whilst not compromising any party's position.”*
- *“He grasped the side issues in relation to energy. He advised the client of any possible issues which may be raised by the other side. This was very helpful. This Mediator will be added to the internal intranet.”*
- *“He brought new insight into case, progressed it.”*

### Professional Skills

Alan retired as a senior partner with Mills & Reeve solicitors (based in Birmingham) before becoming a full time mediator. He qualified as a solicitor in 1981. He headed up a team of lawyers working on personal injury claims and his areas of expertise include in particular:

- Employers' liability claims
- Public liability claims – including traumatically induced injuries and disease cases.
- Clinical negligence claims

Alan's background is also as a general commercial litigation solicitor which enables him to successfully mediate such disputes arising in a very wide variety of different sectors.

Alan is a CMC registered mediator.

### Additional Skills and Experience

In conjunction with CEDR Alan has undertaken various projects to encourage insurers to adopt mediation as a basic part of their personal injury claims handling processes. This includes

setting up insurer pilot schemes and speaking to insurance claims managers and directors at a high level conference with Lord Justice Brooke and Karl Mackie, Founder President of CEDR.

Alan has presented submissions to the alternative dispute resolution (ADR) committee of the Civil Justice Council (CJC) regarding personal injury mediation, resulting in amendments to the Pre-Action Protocol for personal injury claims and to the CPR. He created the Medical Experts Database Service (MEDS), the online medical database service for the personal injury claims market containing data on more than 9,000 medical experts. He has also headed up an e-learning programme for a major composite insurer.

Alan is co-author of the Mediation section of the Dispute Resolution module of the Lexis PSL website. He chaired the Commercial Mediation Sub-Group of the Civil Mediation Council's Mediation Sectors Committee.

The media have regularly asked Alan to comment on issues surrounding claims and other related matters, such as medical experts fees (Health Insurance Magazine); round-table mediation (Insurance Times); medical agency fees (Post Magazine and Insurance Times); personal injury mediation (Law Society Gazette); mediation in personal injury cases (Insurance Age and Resolutions Magazine); managing the supply chain (Insurance Times); scrutinising medical evidence (Post Magazine); and work-related stress (Birmingham Post).