



CEDR Accreditation:	1995
CEDR Panel Admission:	1998
CEDR Chambers:	2012
Languages:	English
Location:	United Kingdom

## Christopher Newmark

*“... hugely developed insight into the dynamics of a dispute ...”*

### Overview

– Chambers & Partners Guide to the Legal Profession

Chris Newmark is a highly experienced mediator who conducts his mediation practice through CEDR Chambers, CEDR's lead UK practice group of mediators. His mediations have covered a very broad range of commercial disputes and, in addition to mediating in the UK, Chris has been retained to conduct mediations in the US and Canada. Chris is a member of the CEDR Mediator Training Faculty and a practising arbitrator.

Chris is recommended as a leading mediator by the 2013 editions of both Chambers and The Legal 500. Chambers describes Chris as *“a popular commercial mediator. He is someone with an excellent grasp of the technical and personal issues in a dispute, and a talent for peace-making”*. Legal 500 describes Chris as *“dynamic and approachable”* and says that he is praised for his *“patience and determination”* and willingness to *“stay with parties to the very end”*.

### Professional Background

A founding partner in the law firm Spenser Underhill Newmark LLP, Chris is also a former partner in the Dispute Resolution Department of Baker & McKenzie's London office where he was the Chair of the firm's European Dispute Resolution Group.

## Expertise

- Banking & Finance
- Commercial Contracts
- Construction & Engineering
- Energy & Natural Resources
- ICT
- Insolvency
- Insurance
- Intellectual Property
- Partnership & Shareholder
- Pharmaceuticals
- Professional Negligence
- Property
- Public Sector
- Sale of Goods & Services
- Sport
- Trusts, Wills & Probate

## Dispute Experience

### Banking & Finance

- Dispute between a bank and former customer for repayment of loan used for the acquisition of a new business. The dispute involved the enforcement of security over property and allegations of economic duress
- Dispute between a bank and customer regarding interest charges made under a mortgage deed and payments due under a related life insurance policy.
- Dispute concerning terms of repayment of a loan made to support a family business.
- Dispute between corporate financier and client regarding the fee payable for services related to the acquisition of a new business.
- Dispute between investor and financial institution regarding the performance of foreign exchange contracts.

### Commercial Contracts

- Two day mediation in the US concerning a dispute between a manufacturer of large scale machinery and its international customer.
- Dispute arising out of damage sustained during international transit to large scale IT equipment.

- Dispute between a manufacturing company and provider of global branding services.
- Dispute between a major broadcaster and a supplier regarding the development and provision of an on-line curriculum.
- Dispute between a major financial institution and a marketing agency regarding the termination of a contract for the provision of marketing services.
- Dispute valued in excess of € 450 million following the contested termination of an agreement regarding the payment of substantial royalties from one party to the other.
- Dispute involving a major electronics manufacturer arising under a contract for the provision of services related to the accreditation of certain products.
- Dispute between software company and one of its overseas agents concerning commission payable in respect of a major new contract allegedly procured by the agent.
- International dispute between supplier of power plants and its supplier of generators for incorporation into its generator sets. The dispute was mediated over several days under the ICC ADR Rules.
- Dispute following termination of a commercial agent. The claims included compensation under the Commercial Agents Regulations and minority shareholder relief for unfair prejudice.
- Dispute between a supplier of machinery and its commercial customer regarding the customer's loss of profits following an alleged repudiatory breach of contract by the supplier.
- Dispute between vendor and purchaser under a share purchase agreement regarding alleged breaches of the agreement and payment of the purchase price.
- Dispute arising from the sale of a vineyard and related business.
- Dispute between a supplier of health products and an internet marketing agency regarding alleged breaches of duty committed in the marketing of the products.
- Multi-day mediation of major dispute involving several participants in the product recycling sector.

- Dispute between head contractor and sub-contractors relating to the provision of waste management services at a waste disposal centre.
- Dispute between a global footwear brand and its UK agents.

### Construction & Engineering

- Dispute between a construction company and one of its sub-contractors regarding consequences of sub-contractor leaving the site due to late payment of invoices.
- Three party dispute between employer, contractor and sub-contractor concerning responsibility for defects to a floor forming part of a newly erected commercial property.
- Dispute arising out of a contract for the provision of specialist labour services for installation of cabling in secure premises.
- Dispute referred to mediation via the Court of Appeal Mediation Scheme concerning the damage caused by allegedly negligent building works which were part of large property renovation.
- Dispute between contractor and employer relating to the cost of replacing faulty parts within the heating system for a commercial property.

### Energy & Natural Resources

- Dispute concerning negligent performance of services relating to the offloading and storage of a cargo of fuel.
- Dispute in respect of amounts due under a contract for the drilling of an oil exploration well in North America.
- Dispute between the manufacturer of power generation systems and its supplier of generators arising from catastrophic failure of certain products.

### ICT – Information, Communications & Technology:

*“He was very professional and had a good grasp of IT and contractual issues.”*

## Software

- Dispute between financial institution and software services provider regarding the termination of a contract for the provision of services relating to internet security systems.
- Dispute between a software provider and customer in the insurance and reinsurance sector.
- Dispute between human resources consultancy and IT provider concerning the provision of allegedly defective software.
- £15 million dispute between customer and IT supplier / consultancy concerning the design and implementation of a geographic information system.
- Lead mediator in co-mediation of five party dispute between a public body and four IT services and hardware suppliers. The dispute, which was worth £3 million, involved third party claims between the defendants. This case was settled in a one day mediation, the preparation for which involved briefing sessions with each of the parties.
- Dispute between a financial institution and software development company concerning the development and provision of a bespoke software system.
- Dispute between a construction company and IT supplier regarding problems in the implementation of accounting software system.
- Dispute between an internet service provider and equipment manufacturer concerning on-line payment system.
- Dispute between IT services company and one of its major corporate clients regarding liability for invoices issued pursuant to an IT services contract.
- Dispute between IT company and its customer (a telecoms provider) regarding the fitness for purpose of bespoke software.
- Dispute between developer of internet security software and its customer regarding the effect of resignation of a key member of the developer's research and development team.

- Dispute between lead contractor and sub-contractor in connection with the performance under a long term contract of a major IT project for the public sector. The mediation involved several meetings with the parties over a number of months, dealing with both historic issues and improvement of the future relationship.
- Dispute between software provider and customer in the leisure sector regarding royalties and other payments allegedly due.

#### Telecommunications:

- £300 million dispute between a major telecom company and internet service provider.
- Dispute between a major mobile operator and large financial institution regarding claims and counterclaims arising out of a long term contract for the provision of mobile phone services.
- £11 million dispute concerning termination of an IRU agreement in respect of a fibre optic cable network.
- Dispute concerning performance of a call monitoring and answering system supplied to a London Borough.
- Dispute between two telecom companies relating to unpaid invoices for call usage on certain leased lines.
- Dispute between two telecom providers in respect of amounts due under a revenue share agreement.
- Dispute between two businesses concerning a failed project involving smart card technologies.

#### Insolvency

- Multi-party dispute involving misfeasance and transaction at undervalue claims brought by liquidator against former directors and connected parties in connection with a sale of land prior to the liquidation.

- Contractual dispute between tour operator (in liquidation) and company providing flight operation services.

## Insurance

- Dispute between a manufacturing business and its insurance broker regarding alleged breach of broker's duty to explain policy conditions.
- Dispute between insurer pursuing subrogated claim and defendant's insurance arising out of the damage caused by the supply of an allegedly faulty piece of equipment used in the space industry.
- Dispute between ship owner and insurer in respect of business interruption losses arising from a broken propeller on a large commercial vessel.

## Intellectual Property

- Dispute between two providers of business software to the public sector over the consequences of termination of an agreement for the joint sale and support of software. The dispute included IP as well as breach of contract issues.
- Dispute between a government department and a provider of IT services regarding the alleged breach of intellectual property rights in the software.
- Copyright dispute over use of a photographer's images in a media campaign.

## Partnership & Shareholder

- Four party dispute between shareholders in a business in the entertainment sector. The dispute also concerned disputes over IP rights.
- Dispute between shareholders and family members regarding rights in a publishing business.
- Dispute between a company and a former director regarding the appropriate price to be paid to him on the transfer of his shareholding in the company.

- Dispute between a former shareholder and continuing shareholder in a company in the photographic industry relating to repayment of the shareholder's investment in the company
- Three party dispute between shareholders in a manufacturing company regarding the level of dividend payments due to one of the minority shareholders.
- Dispute between shareholders in a furniture manufacturing company relating to board representation and various other shareholder rights.
- Dispute between shareholders to a joint venture company created to develop and market products in the energy conservation sector.

### Pharmaceuticals

- The claim was against the Claimant's former law firm for negligent advice relating to a strategy for renegotiating a high value agreement for the development of certain drugs. The strategy resulted in litigation which the Claimant claimed it had not been warned of. The law firm had since gone into liquidation, so was represented by its insurer only.
- Dispute between a drug development company and a research organisation under a contract for the provision of drug trials.
- Dispute concerning contract between two companies in the agrochemicals sector for the supply of goods and services.
- Dispute between two companies in the pharmaceutical industry arising out of a contract for the development of new compounds.
- Dispute between a drug development organisation and a clinical research organisation relating to a drug testing programme under a Clinical Development Agreement (CDA). The dispute concerned the clinical trials and the possible termination of the CDA.

### Professional Negligence



- Dispute between an international law firm and its former client concerning an allegedly unlawful conditional fee agreement and allegations of negligent advice
- Dispute between a client and its former law firm representatives relating to fees claimed under a conditional fee agreement, including allegations of over-charging.
- Dispute between a client and his former law firm concerning an alleged failure to provide adequate fee estimates.
- Dispute between insolvency practitioner and solicitor in respect of the provision of allegedly negligent legal services.

### Property

- Dispute between landlord and managing agent for the landlord's properties.
- Dispute between tenant and landlord concerning the impact on the tenant's business of building works at the premises.

### Public Sector

- Dispute between a government department and a consortium of professional firms regarding the fees chargeable pursuant to a contract for services.
- Dispute between a London Borough and a provider of advertising hoardings in relation to alleged trespass.
- Dispute between a consortium of local authorities and a provider of waste disposal services.
- Dispute between a government owned business and an employment agency regarding fees due under a long term contract.
- Dispute between an NHS Trust and a supplier of software for use in several hospitals.
- Dispute between a sovereign state and a provider of restoration services regarding performance of a contract.

## Sale of Goods & Services

- Dispute between supplier of specialist equipment to a customer in the mining industry.
- Dispute between brand owner and licensee in the retail sector regarding terms upon which the license was to be terminated.
- Dispute following failure of a long term manufacturing agreement for infant formula milk.
- Dispute under a contract for the supply of bio-fuel, including issues relating to the recovery of losses incurred in connection with hedging contracts.
- Dispute between two companies involved in the supply of food and services to a major supermarket chain.
- Dispute between a multi-national consumer electronics manufacturer and a supplier of TV stands relating to alleged quality defects.
- Dispute between two companies concerning a contract for provision of mail delivery services.
- Multi-party dispute between a purchaser of sophisticated machinery and the overseas manufacturer, local agent and bank which provided finance for the purchase.
- Dispute between a vendor finance company and a local borough regarding an equipment finance agreement between the claimant and a local borough school.
- Dispute concerning commission payments claimed by an agent following termination of an agency agreement which had never been recorded in a signed agreement.

## Sport

- Dispute between event management company and its consultants regarding the promotion of an international golf tournament.
- Dispute between an official and the governing body of a sport concerning certain disciplinary action taken by the governing body.
- Dispute between football club and its former manager concerning the manager's departure from the club.

- Dispute between the governing body of a sport and one of its member associations regarding governance of the governing body.
- Member of the Football League's independent neutrals panel.

### Trusts, Wills & Probate

- Dispute between trustees of a trust responsible for the management of a place of worship.
- Dispute between trustees of a charitable trust regarding the roles and responsibilities of individual trustees and the financial management of the trust.

### Personal Style

Chris's approach to mediating involves thorough preparation: early briefings with the parties with a view to ensuring that all protagonists arrive at the mediation ready to engage. While he places the focus on the parties and their commercial interests, he also uses his expertise as a commercial arbitrator and litigator to assist the parties in evaluating their strengths and weaknesses.

### Feedback – Clients

- *“Extremely commercial, handled the situation very sensitively, worked out the personalities very quickly, was very calm, found the way to resolve the mediation quickly and closed the deal. It was a superb performance.”*
- *“Short of wearing a Santa Claus outfit and distributing presents, it's difficult to know what Chris could have done better!”*
- *“Chris was great...Both sides had their cases well thought out and Chris was ideal for this mediation. This was a complex case and Chris was very patient and persistent. I cannot think of any weaknesses. I would definitely use Chris again.”*

- *"Approachable, organised and methodical. He was sensitive to both parties, listened very well and helped find avenues towards resolving the issues / brokering an agreement which the parties had not considered. ... the mediator did need to probe the parties a bit and Chris did so perfectly."*
- *"Managed the process nicely, explaining everything so that the clients felt comfortable. In particular, I was impressed by his pre-mediation contact to the parties which helped prepare both parties for the mediation and no doubt saved time on the day."*
- *Calm, clear and good at dealing with the clients. I felt comfortable with him as the mediator and would certainly use him again."*
- *"Chris has very good people skills and was excellent at managing everybody on the day. He was very pragmatic which is what you need from a mediator. He was also non-judgemental with a non-interventionist style."*
- *"Chris was prepared to stick it out on the day and the mediation went on past midnight. He made contact with us before the mediation, very informal and we appreciated that Chris had even phoned while on holiday."*

#### Feedback – Directories

- A broad practice and is particularly noted for large, complex mediations in the IT and telecoms sector. Clients praise his *'great ability to communicate hard messages in a calm, measured and personable way'*. He also shows *'immense tact, skill and humanity in steering emotional and difficult negotiations to successful conclusions'*.

–The Legal 500 2012

- *"A calming influence,"* Christopher Newmark is a popular choice for seemingly intractable commercial disputes. Sources comment that he is *"proactive, efficient and effective"* with an *"excellent grasp of the underlying issues."*

– Chambers & Partners Guide to the Legal Profession 2013

- *“Immaculately prepared, commercially aware and a creative thinker, Newmark possesses a diverse skill set and has established an excellent mediation practice. He is a go-to for a wide array of commercial disputes, both domestically and internationally.”*

– Chambers & Partners Guide to the Legal Profession 2012

- *“Hugely developed insight into the dynamics of a dispute” and that “clients appreciate the high-level attention he provides”.*

– Chambers & Partners Guide to the Legal Profession 2010

- Chris’s *“gentle manner, combined with a ‘total grasp of the issues’ quickly wins confidence, laying the groundwork for settlement”.*

– The Legal 500 2010

- In 2009, Chambers noted that Chris is *“highly rated as a result of his measured, charming and knowledgeable approach”.*

– Chambers & Partners Guide to the Legal Profession 2009

- *“Recognised for impressive interpersonal skills, a warm sense of humour and a shrewd view across a range of commercial and financial disputes.”*

– The Legal 500 2009

## Other Dispute Resolution Experience

Chris is regularly appointed as chairman, panel arbitrator and sole arbitrator in arbitrations under the LCIA, ICC, Stockholm Chamber and UNCITRAL rules and in ad hoc arbitrations. Chris was the first emergency arbitrator to be appointed under the 2012 ICC Rules.

Chris has also represented clients before many international tribunals in arbitrations governed by the UNCITRAL, LCIA, ICC and LME rules and has represented clients in investment arbitrations administered by ICSID.

Chris was appointed Chairman of the ICC Commission on Arbitration and ADR with effect from 1 January 2014. He has acted as chair of the task force revising the ICC ADR, Expertise and Dispute Board Rules. He co-chaired the ICC task force which published the ICC Commission's "Techniques for Controlling Time and Cost in Arbitration" and was a member of the drafting sub-committee which worked on the 2012 ICC Rules of Arbitration. Chris sits on the mediator panel for the Court of Arbitration for Sport (CAS) and the mediator and arbitrator panels for Sport Resolutions UK. He is a member of the LCIA.

Chris writes and speaks regularly on ADR and arbitration. He is a Senior Visiting Lecturer at the School of International Arbitration, Centre for Commercial Law Studies, Queen Mary University of London and devised and co-edited the leading mediation book "*Butterworths Mediators on Mediation – Leading Mediator Perspectives on the Practice of Commercial Mediation*" which won the 2006 CEDR Excellence in ADR Award for best publication.

Chris studied Dispute Resolution at the University of de Paul in Chicago and has also trained as a mediator with CPR. Chris has also trained as a community mediator with the Lewisham Action for Mediation Project and regularly mediates cases for LawWorks Mediation.

Chris has a good working knowledge of French, having studied French law at the University of Limoges.