



CEDR Accreditation: 2001
CEDR Panel Admission: 2000
CEDR Chambers: 2012

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Tim Hardy

"We used Tim to mediate a substantial and highly charged dispute with 4 different firms of solicitors representing different parties ... there was a large degree of personal animosity which further complicated matters. Tim managed the mediation in a very impressive and controlled way keeping the parties focussed throughout the day and he was instrumental in assisting the parties in making good progress well into the evening. There was insufficient time to conclude matters during a single day but Tim remained focussed upon, and engaged in, the mediation and, through a combination of sheer force of will, rational argument and exceptional commercialism, he assisted the parties in engineering a settlement and bringing to an end one of the most difficult and unpleasant cases I have ever dealt with. I have mediated somewhere near 100 commercial disputes and Tim is by far the "stand out" mediator and I shall certainly be using him again in the future."

Client feedback January 2020

Expertise

Tim has experience in the following practice areas. Examples of cases Tim has mediated in each of these practice areas can be found in **Appendix 1** below at the page numbers indicated.

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What clients say about Tim

Here are some examples of recent feedback. More feedback can be found in **Appendix 2** at pages 19 to 21 below.

- *"We instructed Tim in relation to a one-day mediation of a complex dispute concerning the management of technology funds. Tim processed and analysed a lot of information, viewpoints and (most importantly!) personalities very quickly and, despite serious differences at the start of the day, was able to bring the parties together to reach a positive agreement by the afternoon."*
- *"We really appreciated Tim's approach from the very beginning. It was emphatic and sensitive; he led both parties towards a solution of the matter when it appeared to be far from a settlement. He had also an incredible attitude to calm down both parties when they raised their voices. Absolutely recommended."*
- *"The dispute had escalated almost to the point of no return and involved some very strong personalities, each entrenched in their own positions. Tim was clearly very experienced and quickly got to the nub of the dispute and worked hard with the parties all day with a persistent and tenacious approach. Whilst the mediation did not settle on the day, it did soon afterwards and Tim continued to offer support to the parties and his follow up work was great and was essential in helping to unlock a covenant issue that almost caused the settlement discussions to collapse. I would heartily recommend him as a mediator for complex and bitter disputes."*

What the Directories say about Tim

- *"Tim is a highly respected and accomplished commercial mediator with a talent for dispute resolution. One respondent says, he has honed his skills over the years to become one of the finest technically gifted mediators. His sharp legal acumen combined with his tough but fair negotiation style places him as a mediator in high demand."*
Who's Who Legal
- *"Very effective; he shows skill, intelligence, common sense and patience in dealing with very tricky and challenging situations."*
Legal 500
- *"Stands out as an "amazing" practitioner who possesses broad experience and immediately gains the confidence of the parties."*
Who's Who Legal



Style and Approach

I manage the process with understanding, patience, quiet authority and humour. I am always concerned to work out in advance with the parties how we are going to manage the issues in the most efficient and effective manner to give us the best chance of achieving a settlement.

I am naturally empathetic, enquiring and optimistic. I am driven by a real interest in people and helping them. I want to hear

from the clients, as well as the lawyers, and give them time and space to air all of their concerns and grievances. I am energetic and maintain pace, keeping all of the parties actively engaged and avoiding distracting side issues. I like to use a flip chart to keep the decision makers focused on key issues, particularly numbers.

A high percentage of my mediations run into an impasse and that is when I call on all of my experience to hold on to the parties and guide them through this dangerous stage, helping them to find their own solutions. This usually involves examining assumptions and positions that may be barring process while maintaining the parties' confidence in my impartiality.

Professional Qualifications

- LLM Advanced Litigation (with distinction) 1996
- Higher Courts (Civil Proceedings) 2002
- PG Dip Oxon International Arbitration 2009
- CIArb Fellowship 2011

Career History

- 2018 – present Independent mediator
- 1996 – 2018 Head of Commercial Litigation CMS
- 1996 to 2018 Cameron McKenna Nabarro Olswang LLP
- 1980 – 1986 Slaughter & May
- 1978 – 1980 Simmons & Simmons

Accreditation

- Accredited CEDR Mediator 2001
- Accredited ADR Group Mediator 1998



Appendix 1 - Mediator Experience Listed by Practice Area

Banking, Finance & Investment

Claims by disappointed investors against funds, banks and intermediaries have been a constant theme in Tim's litigation practice particularly following the financial crisis in 2007. This included representing investors and funds in relation to claims for misrepresentation and negligent misstatement in the marketing, or for breach of mandate in the management of those funds. The global economic crisis had political as well as commercial consequences with governments in emerging markets targeting foreign companies for unfairly 'exploiting' the countries' resources. In this connection Tim has handled ICSID investment treaty claims in Eastern Europe and litigation in the Caribbean against sovereign states on behalf of hoteliers. More information about this part of Tim's practice is available in his Arbitrator profile.

Examples of mediator experience

Investor State Dispute - This concerned negotiations between competing interests in an ICSID Award in favour of two family trusts which had owned investments that had been expropriated by the State.

Fund management - Mediator in a dispute concerning a finance house specialising in bundling innovative technology start-ups into investment funds which were then managed by an Investment Fund Manager. Issues between them included an Insolvency Petition and claims related to the calculation of IRR, priority of carried interests, cumulation of priority expenses, performance fees and the treatment of profits and losses.

Interest rate hedging products - Mediator in a dispute involving a light industrial business suing its bank for losses incurred, on the basis that it had received misleading and/or negligent statements in 'tailored advice'. They claimed it induced them to enter into interest rate swap transactions which contained disclaimers, no advice and non-disclaimer clauses.

Bank Business Support Unit - Mediator for a claim by a private limited company and its directors against a firm of accountants for breach of mandate and negligence. The claim arose from the accountant's appointment by the 'Business Support Unit' of the company's Bank to conduct a financial review of the company and advise its directors what steps they should take to improve its solvency.

Venture Capital - Mediator in a claim by sophisticated investors seeking to recover from the directors of a Risk Management Fund monies invested by purchasing shares and loan notes, as 5 months after making their investment it was put into administration and liquidated 3 months later.



Guarantee - Mediator in cross claims between a bank, a partnership and former partners; the bank seeking to recover debts of the partnership under the guarantee; the partnership claiming restitution of sums the bank had seized asserting that the bank knew they were subject to a trust for the benefit of the partnership; and former partners claiming that the trust was for their personal benefit.

Guarantee - Mediator concerning a director of a property development company disputing personal liability to a finance house pursuant to a guarantee given in support of a loan to finance a development. The finance house had withdrawn the loan on short notice before any money had been advanced other than the finance house' own arrangement, surveyor and legal fees.

Security - A dispute between a property developer and a bank seeking to enforce security for a business loan secured on a portfolio of developments.

Commercial Contracts

As Head of Commercial Litigation at CMS for 20 years much of Tim's work related to commercial contractual disputes, many related to international commerce. This included work in most business sectors including Consumer Products, Energy & Utilities, Financial Institutions & Services, Hotels & Leisure, Infrastructure and Project Finance, Lifesciences, Real Estate & Construction, TMC.

Examples of mediator experience

Freight Transport - Outsourcing - A dispute between a supplier of building products and a freight company to whom the delivery of products across the country had been outsourced. The case concerned alleged breaches of KPIs and misrepresentations, notice to terminate and a substantial counterclaim based on a dispute as to the correct interpretation of the contractual obligations.

Manufacturing - Agent's authority - A dispute involving a Swedish agent, employed to source parts for a German car manufacturer, and a UK supplier who accepted the agent's order to manufacture. The German company sourced the parts from another manufacturer and denied that the agent had authority to bind them to the contract with the UK supplier.

Banking - Loss of a chance - A recruitment agency employed to source candidates for a sales force to be trained to sell a High Street bank's financial products in a national supermarket chain was suing the bank for the loss of a chance following a decision by the bank not to employ the agency.



Manufacturing - Performance guarantee - A dispute between a German manufacturer of metal goods and UK company that supplied some specialist tools with a performance guarantee which, it was alleged, the tools failed to achieve.

Graphic Designer - Wrongful termination - A dispute between a graphic designer providing services to a wholesaler for damages for breach of an exclusivity arrangement and wrongful termination in breach of a contractual clause requiring 6 months' notice of termination.

Recruitment Agency - Performance - A dispute between a University and a Higher Education Recruitment Agency as to liability and performance under a Services Agreement.

Car dealership - Termination - A dispute as to whether a car manufacturer was justified in terminating one of its dealerships because of concerns about the validity of claims for reimbursement of work claimed to have been undertaken while vehicles were under warranty.

Marketing - Supply & maintenance contract - A marketing business in dispute with a contractor supplying and maintaining office equipment who terminated the contract claiming non-payment of invoices was a repudiatory breach entitling them to termination charges which the customer claimed were exorbitant.

Healthcare - Rectification - A claim brought by the owners of a specialist clinic against a Private Hospital Chain defending a claim for rectification of a contract giving the clinic rights to operate in all hospitals in the chain.

Stockbrokers - Dispute between self-employed stockbrokers who together managed a portfolio of investments on behalf of a number of clients.

Construction - Maintenance & supply contract - A dispute between a contractor and subcontractor relating to the alleged failure to supply goods fit for purpose.

Company, Shareholder & Directors

As one of the most experienced dispute resolution lawyers within his firm, Tim has frequently been consulted on how to resolve boardroom, director and shareholder disputes. Some examples are

- Representing a European Investment Fund in litigation with a US Private Equity Fund, both of whom held shares in and were competing for control of a target in a hostile takeover bid, over rights to shares alleged conferred in an Option Agreement; and



- A shareholders' dispute concerning the management and control of a television station managed through a Corporate Nominee in an offshore tax haven, including claims against the Corporate Nominee for mismanagement.

Examples of mediator experience

International Trading Group - Deadlock - Two families disputing ownership and control of a group of companies trading in the UK and with South East Asia, following the sudden death intestate of one of the two founders of the business.

Private Limited Company - Deadlock - Two founders of a chain of retail outlets, who had equal shares disagreed as to the need for capital injection and future expansion. One had commenced proceedings for dissolution with a view to buying the others' shareholding at a price to be fixed by the court.

Luxury Brand - Minority Shareholder - Dispute between the founder of a luxury brand of goods and a private equity fund that had bought a controlling interest in the brand. Subsequently, the fund had entered into an agreement to acquire 100% of the brand and a dispute arose as to the interpretation and enforceability of that agreement.

Retailing - Minority Shareholders - Claim by minority shareholders that they were being significantly disadvantaged by an agreement for the acquisition of a competitor that involved a change in the ownership of shares and repayment of a group loan in exchange for the issue of further shares, thereby diluting the minority's shareholding.

Fund Management - NDA Breach - The parties had signed an NDA and lock out agreement as part of the negotiations for the purchaser to acquire the vendor's business. A dispute emerged as the vendor claimed that the purchaser disclosed the negotiations to the market to devalue the target.

Healthcare - Warranty - The purchaser of a care home claiming damages for breach of warranty by the vendor in respect of an alleged failure to give accurate information to the professional valuer employed by the purchaser when negotiating the purchase price.

Unfairly prejudicial conduct - A claim by the owner of a manufacturing business against a new shareholder who bought a 50% share and then in breach of a shareholders managed the financial affairs of the business to advance his own interests and defraud his fellow shareholder.



Corporate Transactions

Having worked alongside the Corporate and Private Equity transactional lawyers, Tim has been involved in many disputes arising out of sale and purchase agreements related to businesses all over the world. These typically included claims for breach of warranties and/or indemnities, frequently including allegations by the claimant of fraudulent misrepresentation to try to avoid contractual caps and/or limitations on liability and the ubiquitous 'whole agreement' clause. The dispute resolution mechanisms included High Court litigation, international arbitration and expert determination.

Examples of mediator experience

Waste Treatment - Warranty - A claim by the purchaser of a Waste Treatment Plant under a SPA for alleged breach of warranty causing diminution in the value of shares, related to the alleged non-disclosure of investigations and possible prosecution by the Environment Agency into breaches of licence conditions.

Warehousing - Deferred Consideration - A claim brought by the vendor, against the purchaser, of a business for the final instalment of the consideration payable under a share purchase agreement and a counterclaim for damages for fraudulent misrepresentation and breach of warranty regarding the company's accounts.

Construction & Engineering - Warranties & Indemnities - A dispute between a US construction and engineering group and a Jersey based engineering company concerning warranty and indemnity claims arising from the sale/purchase of a UK subsidiary and claims for loss of value attributable to breaches of financial warranties.

Pharmaceutical - Financial Warranties - A dispute between the purchaser of a controlling shareholding in a pharmaceutical distribution company and the vendors for breach of financial warranties said to be evidenced by a deterioration in turnover and net assets contrary to the position warranted.

Franchising - Warranties - The purchaser of a franchised business claimed that amounts in the audited accounts were implicitly warranted to be true, but they were overstated, and the amount overstated should be set off against the last instalment of the purchase price due to the Vendors.



Distribution Agreements

For many years, Tim was client relationship partner for a Germany manufacturer of electrical products who had numerous disputes with distributors all over the UK.

Examples of mediator experience

Manufacturing - A French manufacturer of sporting goods had a long-standing relationship with an exclusive English distributor without a formal agreement and had purported to terminate the relationship on 3 months' notice without any compensation.

Manufacturing - The manufacturer of building products suing a distributor for failing to account for proceeds of stock sold and failing to return the balance of unsold stock when the distributorship was terminated, including a counterclaim that the manufacturer had misrepresented the value of the distributorship.

Manufacturing – UK manufacturer of building products being sued for alleged wrongful termination of a distribution agreement, including a counter claim alleging that the distributor had stolen know-how and set up in competition while still engaged as distributor.

Agency Agreements

Examples of mediator experience

Food & Drink - Commercial Agents Regulations - Claim by an agent for compensation from an importer of food and drink under regulation 2 (1) of the Commercial Agent (Council Directive) Regulations. The agent's claim was based on an oral agreement evidenced by an email for a monthly retainer for introducing products to the Cash & Carry Wholesale market.

Pharmaceuticals - Foreign Regulatory Approval Agent - A European pharmaceutical manufacturer in dispute with its foreign regulatory approval agent employed to introduce products into and obtain licences in highly regulated markets in new territories in Africa and the Middle East, including a counterclaim for damages for wrongful termination.

Chemicals - Commercial Agents Regulations - European chemicals manufacturer, in dispute with its South American agent, claiming damages for termination of its appointment by extra-territorial application of the Commercial Agents (Council Directive) Regulations 1993. Much of this mediation was conducted between Vienna and Chile using Skype.

Manufacturing - Commercial Agents Regulations - A claim for damages under the Commercial Agents Regulations by a European agent managing distributors in 12 European States for a US manufacturer of toys following the expiry of the term of the agency agreement without compensation.



Franchise Agreements

Tim represented a very large national franchisor in a number of disputes over many years, as well as acting for a Turkish distributor of electrical products and a UK distributor of Italian wines.

Examples of mediator experience

Retail - Franchise agreements - The franchisor was in dispute with the owner of five retail franchises through which it buys and sells second-hand technology products. The franchisor had issued a termination notice in respect of one of the franchises and was threatening a claim for damages for breach of the express terms of the franchise agreement including provisions of the BFA's Code of Ethics.

Services - Franchise - A franchisee was disputing the lawfulness of notice to terminate for alleged breaches and was facing a claim for damages having set up a competing business in the same area servicing the same customers.

Misrepresentation - A franchisee terminated the franchise claiming the right to do so because of pre-contractual misrepresentations and the franchisor was claiming against the directors' personal guarantees unpaid franchise and marketing commissions.

Repudiatory Breach - As a consequence of the franchisor changing the name of the franchise, the franchisee treated this as a repudiatory breach and continued trading under the previous name.

BFA Code of Practice - A claim by a franchisee that they had been treated unfairly in breach of the British Franchise Association Code by its franchisor when terminating the franchise for not achieving targets, failing to settle debts to other network members, not attending regional meetings, failing to return questionnaires and failing to disclose out of territory trading.

Services - A dispute between a national franchisor and a franchisee with exclusivity in a substantial part of London where the franchisor gave notice to terminate by reason of breaches of the agreement. The franchisee retaliated by terminating for repudiatory breach based on a 'disproportionate' reduction of territory.

Engineering & Construction

Tim's experience in this field relates to disputes concerning construction, design and/or failure of engineering plants, and/or failure of materials. Early in his career he worked on a large number of claims relating to North Sea construction. Some examples of this work include successful defending claims related to substantial damages arising from the closure of an oil refinery and persistent failure of glazing units in office developments across Europe; and successfully prosecuting claims for Architect's negligent design of a retail shopping centre and office development in London with over 130 roofs and a contractor's failure to complete on schedule the construction and commissioning of a fully automated plant for manufacturing pharmaceutical active ingredients.

Examples of mediator experience

Cladding - A dispute between a contractor and sub-contractor related to a contract for cladding high rise residential buildings. There had been three adjudications during the life of the contract and the contractor was contesting all three, claiming damages for delay by the sub-contractor which caused the contractor to have to pay the employer significant Liquidated and Ascertained damages.

Glazing - Dispute between a glazing manufacturer, a high street bank and a glazier in connection with a national contract and liability for work done after the contract had been terminated but for which the bank had received a benefit.

Final Account - Dispute between contractor and employer, for the construction of residential properties, for payment of the final account, with a counterclaim for defects, rectification work and delays.

Subcontractor's account - A dispute between a contractor and a piling subcontractor for the construction of an office block relating to the sums due and a counterclaim for delay.

Building Waste Removal - A dispute arose out of a contract with a local authority where the contractor employed a subcontractor under a term contract to remove and dispose of waste materials from 35 sites. The subcontractor was alleged to be wrong categorising materials as waste for land fill, rather than recyclable, so as to charge more for the service.

Sealing Materials - A claim against a supplier by a manufacturer in respect of two year's production of prefabricated housing units which were failing because materials used to seal them, allegedly represented as suitable for the particular use and weatherproof for 20 years, were failing.

Project Management - A claim by a Government Department against a supplier of project management services where the contract was terminated early because of claims that the contractor failed to manage the project as required.

Insolvency, Bankruptcy & Fraud

As one of the few lawyers who has worked through three recessions Tim has a plethora of experience of insolvencies and bankruptcies. Tim has represented parties in connection with a number of high-profile cases involving fraud and corruption as illustrated by the following examples:

Fiona Trust Litigation - He acted for a ship broker in the Fiona Trust litigation involving allegations of a conspiracy to defraud through bribery, secret commissions and the sale of vessels at an undervalue involving issues of Russian, English, Cypriot, Liberian and Panamanian laws.

Ponzi Scheme - Representing a family office defending 'claw back' actions by trustees in bankruptcy.

BCCI - Acting for a North African Bank in a Commercial Court proceedings in London with parallel proceedings in Luxembourg relating to a claim by the biggest single creditor of BCCI for recognition of the debt owed arising from trades on the spot gold market designed to be compliant with Sharia Law which the bank had fraudulently failed to execute.

Mirror Group Pension Fund – Tim was appointed by IMRO (Investment Managers Regulatory Organisations) to conduct its investigation into the misappropriation of Mirror Group Pension Fund securities by Robert Maxwell.

Examples of mediator experience

MTIC VAT scheme - A City trader was being sued by the Liquidators of four companies allegedly involved in an MTIC VAT scheme. It was alleged to have dishonestly assisted by accepting trades in the spot EUA (carbon credits) market despite red flags that should have alerted them to the fact that the transactions were part of a sophisticated fraud on HMRC.

LPA Receiver's Success Fee - A dispute between a liquidator of a property investment company and a Lender to the company who included in its proof of debt a claim for success fees charged by an LPA Receiver appointed by the Lender to liquidate the company's portfolio of properties.

Fraudulent Preference - Dispute between the creditors of an insolvent company, as a consequence of the late appreciation, that plans to set up a new vehicle to purchase assets from the insolvent company before its liquidation may involve issues of fraudulent preference.

Wrongful Trading - Relating to an action brought by a liquidator against the former directors and principal shareholders of a business put into voluntary liquidation over allegations that they had allowed the company to trade wrongfully in breach of S 214 of the Insolvency Act.



Director's Liability - A claim brought by a liquidator against former directors of a company variously for fraudulent preference, transactions at an undervalue, breach of fiduciary duty and repayment of a loan.

Trustees - An action for breach of duty by the previous trustees of an off-shore trust by making distributions to a person who was not a beneficiary.

Cheques - Claim by a customer against a bank for reimbursement of sums debited to his account as a consequence of material alterations to the amounts and payee's name as part of a fraud perpetrated by his accountant who was bankrupt.

Wrongful Dismissal - The managing director of an international engineering company in a dispute with new owners of the business following his summary dismissal arising from his allegedly fraudulent authorisation of a substantial inter group loan to protect his own interests.

False Accounting - The purchaser of a company claimed that, after completing the acquisition agreement and before paying the final instalment of the consideration, it had discovered systemic fraud by the previous directors going back many years.

Insurance

Throughout his career Tim has acted for numerous insured defendants and is accustomed to considering coverage issues. He has also been involved in bringing subrogated claims, including one on behalf of an insurance club against an engineering company as a consequence of the failure of a pipeline in the North Sea. Other examples are

Insurance Premium - Defending the Vendors of a Consumer Products manufacturer against a claim for damages related to the Vendor's alleged failure to disclose circumstances which caused the Purchaser to have to pay a significantly increased insurance premium to obtain cover;

Legal Expenses Insurance - An action for breach of fiduciary duty and an account of profits against previous management of a group providing legal expenses insurance; and

Credit Hire Insurance - An action for unlawful means conspiracy against law firms and former directors in relation to false and misleading expert evidence given in court actions related to insured damages claims.

Examples of mediator experience

Professional Negligence - Whenever professional negligence is raised in a claim, insurers and insurance issued will be involved in the mediation, standing behind one of the parties and very much involved in and party to the negotiations of any settlement. For example, all of the mediations in the list below entitle 'Professional Negligence' involved insurers and insurance issues, as do many other contractual claims I have mediated when negligence is also pleaded

Brokerage Commissions - A dispute between a sub-broker and a broker as to commissions received from the underwriters and the amount due to the sub-broker.

Business Insurance - The insured was a trading company seeking to recover under a business insurance policy the amount of VAT withheld by HMRC following a tax investigation into a VAT carousel fraud in which the insured was innocent but the insurers were refusing to accept cover on the basis of lack of full disclosure when taking out the policy.

IT, Technology, Telecoms & Outsourcing

Tim was the CMS relationship partner for a number of companies in the Technology and Outsourcing Sectors and handled a large number of disputes relating to IT, IT and other outsourcing, hardware supply and installation, software design, implementation and licensing, systems development and integration, and systems maintenance. Some examples of cases are

Mobile phone supply contract - A dispute as to liability for late delivery;

Revenue Collection Outsourcing - Disputes with joint venture who had agreed to design, supply and integrate new hardware, software and data warehousing; and

Banking Services Outsourcing - A dispute as whether a failure to meet service levels were material breaches which had accumulatively amounted to a repudiatory breach.

Examples of mediator experience

Software Development - High Court TCC action in respect of the design and development of a CRM System alleged not fit for purpose as it had been designed negligently.

Outsourcing, Transport - A Building Materials manufacturer outsourced its fleet of country wide delivery vehicles to a freight specialist but had served notice to terminate for numerous alleged breaches of KPIs and Service Levels.

Project Management - A claim under an outsourcing contract by a Government Department against a supplier of project management services where the contract was terminated early because of claims that the contractor breached agreed Service Levels and generally failed to manage the project as required by the contract.

Software Development - A dispute between a UK consumer credit business and a software designer employed to design, build and install a bespoke system to manage a large database of customers, including complaints that the software was not fit for purpose, it was late and over budget.

Outsourcing - A dispute relating to a contract for outsourced services terminated for alleged breach of contract



together with a counterclaim for damages allegedly caused by the employer's failure to manage the contract.

Partnerships & Joint Ventures

As an elected member of CMS' management board for a number of years and in his role as Head of Commercial Litigation Tim, has first-hand, practical experience in managing partnership issues as well as representing parties in partnership disputes in professional, investment and financial partnerships.

Breach of Partnership Agreement - Retired partner's entitlement to a capital distribution asserting an assignment of shares Between existing shareholders amounted to a "Crystallizing Event" triggering a right for former partners to receive a capital distribution.

International Property Fund Manager - Numerous partnership disputes relating to the termination as good or bad leavers and/or retirement of partners and their respective equity interests.

Examples of mediator experience

Law firm, Equitable Dissolution - Two partners had started arbitration proceedings for an equitable dissolution of a partnership. It was resisted by three other equity partners, but the heart of the issue was which partners would take over the firm and what the terms for the exiting partners would be. This involved issues of enforceability of restrictive covenants, the relative worth of their contribution to the firm, entitlement to drawings and the valuation of equity interests (£7m).

JV to Develop Medical Devices - A designer and manufacturer of medical devices had entered into a Joint Venture with its distributor to raise capital to develop the market. A dispute arose resulting in a decision to dissolve the partnership and matters in issue included ownership of the Intellectual Property in the medical devices and precision machinery.

Partnership Bank Guarantee - Mediator in a multi-party dispute between a bank, a partnership and partners claiming variously under a guarantee for the debt of the partnership and for restitution of sums the bank had claimed to have security over when it was alleged the bank knew of, or should have known, those sums were subject to a trust for the benefit of the partnership and not individual partners.

Division of Quasi-Partnership Assets - An international publishing company owned equally by two individuals was split geographically between them and a dispute emerged as to the relative values to their shares, in litigation for 13 years before coming to mediation and settling in one day.

Law firm, Reduction in Points - A partner in a law firm who was retired against his will was threatening to sue for wrongful termination and for damages for breach of the partnership agreement in relation to an earlier retrospective

Law firm, Duress - A claim for damages for misrepresentation, breach of duty of good faith and duress against a leading international law firm based in London by a partner in a European office following an agreed termination of their equity interest on terms, which they subsequently discovered, were different from those offered to other partners in a similar situation.

Deadlocked Quasi-limited Partnership - Consultancy business providing strategic advice to multi-national corporations owned and controlled by two equal partners who ran it as a quasi-partnership without a shareholders' agreement or any provisions for breaking deadlock.

Professional Negligence

Professional negligence arises in just about every aspect of commerce and many of Tim's cases have involved both contractual and negligence claims. These mostly relate to negligent advice and negligent performance. His cases have involved valuations of trophy properties, commercial developments and hotels; valuation of shares and accounts; negligent legal, tax and investment advice. For example:

Examples of mediator experience

Landlord's Consent - A claim against a law firm for negligently failing to obtain the landlord's consent to building works in accordance with a contractual deadline.

Valuation - A dispute between a European bank claiming damages for professional negligence in connection with a surveyor's valuation of a property used as security for a very substantial loan where the borrower defaulted on the loan and the property was sold at a very significant undervalue.

Lease Renewal - A claim by a hotelier for negligence against a firm of specialist hotel consultants who were managing lease Renewal proceedings and failed to make the necessary application to the court to renew the lease so that the lessor took possession of the hotel.

Limitation Period - A former client suing a law firm for damages for negligent advice and breach of duty in failing to commence a civil action within the statutory limitation period.

Litigation - A former client suing a law firm employed to represent the individual in litigation for negligence in respect of the advice related to and conduct of the litigation.

Executrix - A claim in negligence brought by the principal beneficiary and executrix of an estate against a law firm employed to administer the estate.



Surveyor - A claim that a surveyor instructed by a prospective purchaser of an investment property to check that renovation works complied with Building Regulations failed to do so.

Negligent Misstatement - A claim by a customer against a High Street Bank for an alleged representation of the reliability and standing of another customer on which the first customer relied to its detriment eventually leading to its insolvency.

Failure to serve process - A firm of lawyers sued by former clients, owners of a Surgical Clinic, for failing to serve on the correct body an appeal against a decision of the Health Authority to withdraw their operating licence.

Lease - A claim that a law firm had negligently failed to draft termination provisions in a lease of a business centre in order to protect properly the tenant's interests. Administrator dispute between shareholders of company in administration suing the administrator for negligence in the performance of his duties

Litigation - A claim that a law firm had negligently advised a party to litigation to settle on terms that were not favourable.

Advice – A claim that a law firm had given negligent advice concerning dishonoured cheques. Property Many of the disputes referred to above relate directly and indirectly to real estate interests, the following are disputes which primarily relate to property.

Real Estate, Hotels & Leisure

Examples of mediator experience

Landlord and Tenant - A dispute between a landlord and tenant for breach of the landlord's covenants and a counterclaim for the recovery of unpaid rent.

Long lease - The tenant under a long lease of a country estate and a landlord were in agreement that the tenant should surrender the leasehold interest, but they were in disagreement as to its value.

Repossession Action - The joint owners of a property, one of whom was senile and represented by the Official Solicitor, resisting a repossession action by a mortgagee on the basis that the senile individual did not have sufficient mental capacity when signing the legal charge.

HK Property Fund - The parties to a joint venture set up a fund in Hong Kong with the sole purpose of acquiring and developing industrial and commercial property in the UK, they had decided to terminate the venture but were in disagreement as to allocation of costs and expenses between them.



Freehold Reversion - A claim by a property developer to a half share in the considerable profits made from the purchase of the freehold reversion to a block of flats in central London as a result of providing 50% of the deposit at the time of the purchase, where the counterparty alleges that the contribution was purely a loan and did not entitle the claimant to any equity interest.

Sales Commission - A claim by an agent for commissions on sales to overseas investors of long leases in a new development of student accommodation where the developer counterclaimed that it would not have developed the property but for the agent's misrepresentations.

Appendix 2 - Feedback on Tim as Mediator

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Very calm, collected ... was able to identify key issues to discuss, which led to settlement.

We used Tim to mediate a substantial and highly charged partnership dispute with 4 different firms of solicitors representing different partners involved in the dispute. As with most partnership disputes, there was a large degree of personal animosity which further complicated matters. Tim managed the mediation in a very impressive and controlled way keeping the parties focussed throughout the day and he was instrumental in assisting the parties in making good progress well into the evening. There was insufficient time to conclude matters during a single day but Tim remained focussed upon, and engaged in, the mediation and, through a combination of sheer force of will, rational argument and exceptional commercialism, he assisted the parties in engineering a settlement and bringing to an end one of the most difficult and unpleasant cases I have ever dealt with. I have mediated somewhere near 100 commercial disputes and Tim is by far the "stand out" mediator and I shall certainly be using him again in the future.

I was as always delighted that you would be mediating this case and despite my misgivings about the dynamics of a joint mediation, we got there in the end due in no small part to your skilful work.

The dispute had escalated almost to the point of no return and involved some very strong personalities, each entrenched in their own positions. Tim was clearly very experienced and quickly got to the nub of the dispute and worked hard with the parties all day with a persistent and tenacious approach. Whilst the mediation did not settle on the day, it did soon afterwards and Tim continued to offer support to the parties and his follow up work was great and was essential in helping to unlock a covenant issue that almost caused the settlement discussions to collapse. I would heartily recommend him as a mediator for complex and bitter disputes.

Tim should be the go to mediator for disputes of a technical nature. His approach really helped the parties dive into the detail where necessary without losing sight of the big picture. He also doesn't give up when the going gets tough and tirelessly presses on to assist the parties reach a resolution.

Tim was an excellent choice as mediator on a testing commercial dispute. Needless to say, thanks to his career background, Tim brought enormous, high quality experience to the day. A charming, firm and very effective



communicator, Tim handled challenging personalities well helping them to strip away emotion and focus on the key issues for the day.

I am just writing to thank you on a personal level for your support and assistance during the course of the day yesterday. There was clearly some considerable distance between the parties at the start of the day and your skills and determination helped bridge the gap. I was fearful at one point that we may not actually achieve a resolution but I think that the deal that was struck was in everybody's best interests and allowed the parties to move on in to the future.

I was very sceptical and hadn't seen it used before. The long plenary session really worked in letting everybody air their views and allowing the parties to assess their strengths and weaknesses. The clients are relieved and pleased with the outcome'

Tim's background as head of a commercial litigation team for a city firm means he is skilled in analysing and solving legal disputes. As a full time mediator he shows empathy to the parties and is driven to help them achieve a settlement.

We have been delighted with your involvement in this matter and (our client) has also asked me to pass on his thanks to you.

I was interested by your mediation style - I haven't come across such an interactive style of mediation and I thought it worked very well. I will be pleased to put your name forward in future mediations."

You exercised great skill and employed great experience. I can't really express my admiration for what you did and how you did it but you stopped an old cynic in his tracks anyway. I couldn't speak more highly of you as a mediator.

Both my clients and I are very grateful for your efforts. You had a keen grasp of the commercial realities of the situation and the skillful way in which you maintained momentum was undoubtedly a major factor in enabling us to reach a settlement.

I will certainly be recommending you to my colleagues and clients – without your patience, authority and good humour, I doubt this matter would have settled.

Tim controlled the meetings well in light of particular challenges and proposed a sensible strategy for the parties and their experts by which to work through the key areas of contention.

Very sensitive and emphatic towards both parties. With that attitude he brought both parties together to find a solution even though it seemed impossible to settle at the beginning.

My clients were delighted with the result and, if I may say so, your efforts.



Thank you for your considerable efforts. It was a rather unusual mediation, but you certainly went the extra mile to bring about a very effective resolution.

You conducted the mediation with great courtesy, patience and diligence. I have no doubt, but for your great efforts, we would have not been able to achieve the settlement.

Although it started very negatively, despite the ups and downs of the day it all came right on the night. I am sure both parties realized that your skill as a mediator contributed to the successful outcome.

I found Tim to be very proactive and he seemed genuinely concerned about the matter at hand. Happy to appoint him again.

Very calm, collected ... was able to identify key issues to discuss, which led to settlement.

His decision to bring matters to a head was a good one, and provided the groundwork for settlement.

Kept pressure on both parties to keep them involved” and “Despite immense ill feeling between the parties’ legal representatives, a settlement was achieved.

I do not think that we would have achieved the settlement without your hard work, perseverance and efforts during our mediation.

I'm certain we would never have been able to facilitate an outcome by ourselves, so I'm extremely grateful for help.





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