

CEDR Accreditation: 2012

Languages: English

Location: Ireland

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## Sara Phelan SC

### Professional Background

Sara is a practising barrister, having been called to the Irish bar in July 1996, and she has practiced continuously as a barrister since October 1996. Sara “took silk”/was called to the inner bar in October 2013 and has significant expertise and experience across many areas of law including tort/personal injury law, crime, administrative law/judicial review, family & child law, mental health law, chancery and probate. Sara is an accomplished and experienced barrister with a very strong academic and practical record. In 2019, Sara was admitted to the bar of England & Wales and is a member of Middle Temple.

Sara has been practising as a mediator since 2012, when she completed the CEDR Mediator Skills Training programme and became a CEDR-accredited mediator. Prior to this, Sara had participated in mediation advocacy skills training organised by Mediation Ireland (2010) and she has since continued her professional development through workshops/seminars facilitated by CEDR, GEMME, Round Table and the Mediators Institute of Ireland. Sara is a member of the CEDR International Mediator Panel; is a member of the MII (Mediators’



Institute of Ireland); is a fellow of the Chartered Institute of Arbitrators (FCIArb) and is an associate member of the Irish Branch of GEMME (European Association of Judges for Mediation). In short, Sara is wholly committed to education in the area of mediation and mediation advocacy and to promoting mediation, and arbitration, as real and viable (and preferable) alternatives to litigation.

Sara has also completed the CEDR Certificate in Advanced Negotiation (2013) and the Harvard Programme on Negotiation (2017) and she holds Professional Diplomas in Professional Regulation (University College Dublin, 2019) and Arbitration (University College Dublin, 2020).

Sara is an elected member (from August 2019) of the Council of the Bar of Ireland and Chairs the Professional Practices Committee of the Council, having previously chaired the Arbitration/ADR Committee. She also sits on the Equality and Resilience Committee, Chairs the Law & Women Mentoring programme, and is a member of various other Council Committees and the Council of the Honorable Society of King's Inns. Sara additionally tutors on the Bar of Ireland Advanced Advocacy Course.

In a different vein, Sara is a qualified but non-practising pharmacist, having graduated from Trinity College Dublin in 1998 and having practised as a pharmacist from 1988 until 1996, when she was called to the bar.

From an extra-curricular perspective, Sara is a Mental Health Tribunal Chairperson and is a lay-member of the Fitness to Practice Committee of the Nursing and Midwifery Board of Ireland.

## **Expertise**

- Clinical Negligence
- Contract Law
- Insurance
- Family Relationships
- Professional Negligence
- Public Law
- Employment & Workplace
- Personal Injury
- Wills & Probate
- Property/Land Disputes



## **Dispute Experience**

### **Property/Land Disputes**

Sara practised as a junior counsel on the South Eastern Circuit for 16 years, during which time she was involved in any number of land/boundary/neighbour disputes. More recently, Sara has mediated disputes involving:

- land transfer where maintenance rights not adhered to by reason of lack of specificity
- lease agreement where conditions for statutory scheme (upon which lease was conditional) not met
- defective workmanship in construction of property
- professional (architect's and engineer's) negligence in construction of property

### **Commercial Contracts**

- purchase of product where claim was invalid due to lack of due diligence on the part of the purchaser

### **Professional negligence**

Sara has acted for clients in many High Court cases involving professional and clinical negligence and has also mediated disputes such as:

- professional (solicitor's) negligence in and around completion of paperwork
- professional (solicitor's) negligence in and around sale of land
- professional (solicitor's) negligence in and around land transfer
- clinical negligence arising out of failed procedure

### **Public Law/Child Care/Disability**

- failure to provide appropriate services to service user
- lack of engagement by service user leading to threatened withdrawal of services by service provider
- unrealistic expectations of service user by service provider



## **Wills & Probate**

Having been a family law practitioner for upwards of 20 years, Sara is very familiar with emotionally fraught situations and is particularly aware of the desirability of maintaining relationships between family members. Sara brings to bear her own unique mix of realism, empathy and humour in her involvement in disputes such as:

- claim for proprietary rights to estate by reason of representations made and works rendered
- claim against estate by child on grounds of failure by parent to abide by his moral duty
- distribution of parents' estates where undue influence and fraud alleged
- distribution of parent's estate where capacity of beneficiaries disputed
- long-term litigation between siblings over administration of parents' estates

## **Banking & Repossession**

- possession and sale of land where debt sold to vulture fund

## **Separation/divorce/co-habitation**

- distribution of assets where significant business/company enterprises involved

## **Personal Style**

Sara is very familiar with emotionally fraught situations and is particularly aware of the desirability of maintaining relationships (whether business/commercial, professional, workplace or between family members) once a mediation has come to an end. Sara brings to bear her own unique mix of realism, empathy and humour in her involvement in disputes. Sara has an ability to analyse and understand the facts of a dispute in a clear, concise and straightforward manner. She appreciates the critical importance of active listening, together with the use of verbal and non-verbal communications skills and the investment of time in the lead-up to a mediation in order to gain the parties' confidence and trust. Sara has a proven ability to build relationships with different individuals (with varying



agenda/perspectives) from many different backgrounds and walks of life and to interact with these individuals, valuing their many and varied contributions. She is forthright, decisive and strong-minded when the situation demands, but is always empathetic, non-prejudicial and diplomatic and she neither pre-judges matters nor tends to be distracted by side issues.

### **Feedback - Clients**

- “We were very happy with Sara’s work as a mediator. It was a complex multi-party mediation and we were impressed by Sara’s ability to identify the root of the issues and to spend time with the parties that needed attention, which ultimately led to a successful outcome for all and a signed settlement agreement that day. We were impressed by her patience, attention to detail and her professionalism and would have no hesitation recommending her or using her again.”
- “To date, Sara has acted as mediator in two complex cases in which I was instructed for the plaintiffs in the cases. One was a mediation concerning redress for past failings in the care of a number of vulnerable young adults with extremely unusual and complex conditions and care needs and concerning the putting in place of measures for their future care. The second was a professional negligence case which successfully resolved at the mediation stage. From my experience in both of these cases, I am delighted to recommend Sara as an excellent mediator who adheres to the highest of standards in her approach to the mediation process and in all of her dealings with the parties and their representatives throughout the mediation process, from start to finish. Her preparation, grasp of the issues, attention to detail, patience, and objectivity throughout were integral to the achievement of a very positive overall result. I will certainly be recommending Sara as mediator in any future cases I have in which mediation arises.”
- “Sara did an excellent job. There were a lot of extraneous matters raised which complicated the case and Sara cut through it all to get to the crux of the issue. She was professional while also being very personable with the clients. This made the whole process easier and the clients trusted her and were very happy that their concerns and points were being listened to while also being expressed and relayed to



the other side. However, most important of all she managed to successfully mediate a case that would have costs my clients a significant amount to defend with very little to show at the end. My clients went away very happy with the mediation and in particular with Sara.”

- “In a mediation involving parties whose interests were predominantly commercial and a party (the claimant) who had a more personal or emotional involvement in the dispute, Sara was particularly effective in bringing each party to a position whereby successful resolution of the dispute was reached. Her ability to relate to persons of differing backgrounds and viewpoints and to reduce commercial concepts to their core are of a particular advantage in a mediation, as are her versatility, energy and patience.”
- “Sara Phelan acted as mediator in a very complex case which combined professional negligence and a neighbour dispute, and she managed to mediate a settlement between the parties. This case had previously been the subject matter of repeated unsuccessful attempts at settlement. Sara accomplished the mediated settlement in a manner which led each of the parties to understand that their positions had been fully taken into account. Her impartiality was beyond doubt and her method of conducting the mediation without comparison. I have no doubt but that Sara’s mediation skills led directly to the settlement of this very difficult case.”

### **Other Dispute Resolution Experience**

Sara has gained invaluable dispute resolution experience over her 25 years as a practising barrister, and time and time again her ability to bring clients to the table and encourage them to reach agreement with the opposing party has been noted and appreciated by her clients and instructing solicitors. Sara’s experience, until qualifying as a mediator in 2012, was always from the perspective of representing clients, but in so doing she was known by her bar colleagues, instructing solicitors and members of the judiciary as someone who would bring about or facilitate a resolution if a resolution were at all possible. This ability



was widely acknowledged and appreciated, both in terms of cost-saving and face-saving for clients and time-saving for colleagues and those involved in the administration of justice.

Since 2010 or thereabouts, Sara has participated (and continues to participate) in any number of mediations as a lawyer representing the interests of her client/s and this has given her the unique vantage point of understanding the mediation process from both sides (i.e. as a mediator and as a participant). The skill-set of a lawyer at a mediation is different to the skill-set required when a lawyer is negotiating face-to-face with a colleague or indeed preparing a case for a court hearing and having been that lawyer in any number of cases since circa 2010, Sara is particularly well-placed as a mediator to optimise the input from lawyers at a mediation.

