

Eve Pienaar

Panel Mediator for CEDR Solve, CEDR Direct, ADRgroup and ICC

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"Absolutely excellent... competent, creative, patient and empathetic... exactly the right touch... engaging manner..."

Overview

With over 25 years experience as a solicitor, in private practice and senior in-house counsel roles, Eve combines strong legal skills with a very commercial approach to risk management and negotiation. Her international background and fluent French make her an ideal fit for mediating international disputes. She has been the Legal Director for the Royal Institution of Chartered Surveyors for the last 9 years.

Eve is an experienced commercial mediator, specialising in property and construction disputes, as well as a range of insurance, breach of contract and workplace disputes. In her current role with RICS she is involved in property and construction issues on a daily basis. She also handles litigation, commercial and transactional matters for RICS worldwide. Eve has written a number of articles, for In-House Lawyer, CI Arb and RICS Journals and delivers mediation training.

Eve has specialist experience of property, construction, media, workplace and probate disputes. Her calm, engaging manner and professional approach keep the focus on realistic yet creative settlement opportunities.

Eve was brought up in France. She is fully bi-lingual and is fluent in Spanish.

Experience includes:-

Commercial/ Business to Business

With 20 years working in senior in-house counsel and new business roles for Warner Bros, Young & Rubicam Europe and RICS, Eve understands the commercial drivers which must underpin settlement. She has mediated a wide range of commercial and business to business disputes, such as:

- Corporate finance, terms of financing agreement, securitisation.
- Accounting treatment of expenditures under development agreement.
- Final account dispute, liability and quantum issues in relation to breach of management agreement.
- Partnership agreement, breach and exit terms. Buy-out terms.
- failure to mitigate.

- Negligence under fit-out contract leading to economic damage and loss of profit.
- Negligence claim and counterclaims.

Construction and engineering

As Legal Director for RICS, Eve works with property and construction issues regularly. Numerate and with an eye to detail, Eve will however keep the parties focussed on the broader issues where necessary to achieve settlement. Her experience includes:

- Multi-million pound dispute over utilities diversion works in connection with tram construction (co-mediation).
- contributory negligence.
- negligence in supply of materials.
- agreement.

Property

In her current role as Legal Director for the Royal Institution of Chartered Surveyors, Eve is involved in property issues and advising on practice standards on a daily basis. She advises management on legal issues in relation to the international property portfolio of RICS. Her legal expertise of leases or other property instruments enable her to quickly grasp the issues and help the parties explore creative means of overcoming litigation. Mediation experience includes:

- Tri partite dispute between various Leaseholders and Landlord of mansion block, one tenant seeking to enforce long lease covenants against others, via Landlord and tenants association.
- Interpretation of terms of lease, unreasonable behaviour, right to quiet and peaceful enjoyment of property.
- Forfeiture of leasehold terms, interpretation of long leasehold terms. Breach of consent to alter.
- Rights of way, permitted development and maintenance of unadopted highway under Deed of Grant and Variation, between owners of parcelled land.
- Easements and rights to light, noise issues.
- Rights of way over unregistered property, authorised use by adjoining owners.

Employment and workplace

Eve has worked on a number of workplace mediations and team facilitation projects. Her emphasis is on helping parties understand underlying drivers of behaviour, with a view to improving communication and working relationships on a long term basis. Eve will ensure any settlement includes a longer term plan of support involving the Employer, without prejudicing the confidentiality of the mediation. Eve has mediated cases with trade union involvement. She has also dealt with grievance cases which become a negotiation over termination of the employment relationship. Eve is an accredited Skilled Facilitator. Her workplace experience includes:

Grievance

- Grievance against line manager for bullying and harassment. Time keeping and reporting issues.
- Evolving remit of job description leading to unmanageable levels of time off sick with stress.
- Working with large scale public body with entrenched grievance culture, from mediations of individual disputes to running workshops to change workplace relations dynamics.
- Allegations of discrimination over flexitime allocation, grievance for harassment and bullying. Management perceived as overbearing.

Employment

- Terms of settlement in light of claim for unfair dismissal.
- High profile case involving Non Executive Chairman of public sector body, in face of bullying grievance. Exit terms.
- Healthcare: allegations of negligence in delivery of medical services. Impact on funding for clinic.

Team facilitation

- Breakdown in management within tertiary education institution.
- Dysfunctional team interaction hampering operations. Team facilitation, charitable organisation
- Multiple grievances against management, knock on effect on service levels.
- Restoring relations between Governors and Local Council, following acrimonious litigation in relation to school amalgamation.

Partnership and probate

For four years Eve held a senior in-house counsel role within United International Pictures, a partnership between Universal Studios, Paramount and MGM. She gained valuable experience in the management of partnerships and the difficulties these engender, in particular, on exit of one party. Valuation and distribution of assets in contentious circumstances. Eve has the necessary people skills and experience to work effectively with parties in emotionally charged situations, including family partnership disputes and probate. Her experience includes:

- Claim for loss of profit over delays in implementing a Deed of Family Arrangement, execution of Probate.
- Probate dispute over estate management, Will interpretation.
- Exit terms under partnership agreement, claim for material breach and apportionment of assets.
- Long term litigation between family members over administration of Estate.

International

Brought up in France, Eve has lived and worked in France and Spain and, for a number of years, for US companies. Her in-house counsel work has always been international in nature and she has recently overseen the roll-out of an international property and business strategy for RICS. Eve has experience of the tax, legal and operational issues which arise in international disputes. Her mediation experience includes:

- Transatlantic dispute over terms of financing instrument.
- Israel and key witnesses in Australia at the time of litigation.
- France.

Other

Eve is an active panel mediator for Ealing Mediation Service and has mediated a number of neighbourhood disputes, ranging from noise issues to harassment and abusive behaviour. Eve also teaches peer mediation in schools and the workplace. These highly emotional disputes can spill over into the community, with escalating levels of retribution. The process always involves co-mediation and may involve a combination of private and joint meetings or, where emotions are running too high, may take the form of a shuttle mediation.

Personal style and feedback

Eve has a calm, professional style. She remains firmly in control of the process and will challenge the parties to work hard towards finding settlement. She is able to quickly grasp legal issues and move parties to creative solutions thinking. Eve likes to ensure both she and the parties are as prepared as possible before the mediation, to give the day an optimal chance of success. She will remain involved after the mediation, if this helps the parties progress, where the mediation does not settle on the day. Most of her mediations do, however, settle on the day.

Eve has strong people skills and is able to adopt a range of approaches to best suit the needs of the parties and nature of the dispute. She is a good and empathetic listener.

Feedback

"Eve was excellent. She was very competent, creative, patient and empathetic. The day went very well and we reached a compromise. It was quite difficult as there were three parties, but we had a satisfactory outcome. We would be absolutely happy to use Eve again."
Party, CEDR mediation

"I thought Eve was first class and had exactly the right touch"
Legal representative, CEDR mediation

"Eve was absolutely excellent. Our clients thought it was a good exercise and we have no qualms about using Eve again."
Legal representative, CEDR mediation

"She remained positive in very difficult and negative circumstances."
Legal representative, CEDR mediation

"I genuinely don't think that anyone could have tried harder than you to get a result here. Thank you for your perseverance. I have enjoyed working with you."
Legal representative, CEDR mediation

"Eve's calm, resilient style helped cope with the parties' clear personal animosity."
Legal representative, CEDR mediation

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

"Many thanks for all your efforts at the mediation...I am pleased to let you know that XXX has now accepted the offer discussed at your mediation. On behalf of the [Client] I would like to thank you as this was a very good outcome for the organisation."
Client, workplace mediation

"I just wanted to thank you for your hard work, patience, support and kindness throughout the day yesterday..."
Client, workplace mediation

"Eve's engaging manner and approachable style make her an ideal choice for workplace mediations. She combines her legal skills with a real understanding of people to help parties rebuild working relationships and move forward. I recommend her to others."
Legal representative, workplace mediation.

"Eve is a skilled and versatile mediator. She is rigorous in approach and her natural empathy enables her to quickly build rapport and trust with all parties. She is highly respected within the field."
Co-mediator, Ealing Mediation Service

Published articles:

<http://www.guardian.co.uk/money/2009/oct/31/mediation-in-the-workplace>

<http://www.inhouselawyer.co.uk/index.php/litigation-a-dispute-resolution/7888-workplace-mediation-an-overlooked-method-of-dispute-resolution>

http://www.rics.org/site/scripts/download_info.aspx?fileID=5467

"What is the future for workplace mediation?"
CI Arb Symposium Paper (October 2009)

Professional skills and background

2002 to date: Legal Director, Royal Institution of Chartered Surveyors

Head of Legal Department, overseeing management of all legal issues for the organisation, ranging from regulatory, contract and commercial and litigation to acquisitions and IP licensing.
Specialist property practice.

1994 to 1998: Vice President, New Business Development, Warner Bros.

Overseeing roll-out of Studio Store franchise business in Europe. Legal and new business financial analysis role.

1992 to 1994: Legal Director, Young & Rubicam Advertising

Head of legal department for Europe, Middle East and Africa.

1989 to 1992: Senior Counsel, United International Pictures

Legal Affairs role in film and pay television for UIP in Europe, Middle East and Africa. Partnership between MGM, Paramount and Universal Studios.

1984 to 1989: Associate Solicitor, Clifford Chance

Commercial and competition law private practice role.

Educated in France and England, bi-lingual English/French speaker. Fluent Spanish.

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