



ArbDB Chambers

ARBITRATORS, MEDIATORS
& DISPUTE BOARD MEMBERS

Mark E. Appel

Mediator, Arbitrator, Attorney, Consultant,

Work History:

2016-Present - Member, ArbDB Chambers

2001-2015 - Senior Vice President - Europe, Middle East, Africa,
International Centre for Dispute Resolution - AAA

1976-2001 - Assistant Director, Regional Director, Regional VP,
Senior VP, American Arbitration Association



Experience:

Independent International Mediator and Arbitrator with ArbDB Chambers in London.

Nearly 40 years of global mediation and arbitration experience, having lived and worked in Europe, the Middle East and Africa since 2001 and having served in both executive and senior executive positions at the American Arbitration Association (AAA) and International Centre for Dispute Resolution (ICDR), leaving ICDR/AAA as Senior Vice President-EMEA in December of 2015.

Thoroughly familiar with Civil and Common Law mediation and arbitration practice and procedure, with 30 years of experience in training mediators and arbitrators on multiple continents on behalf of various dispute resolution institutions, government ministries, Courts and NGO's.

Experience as a Mediator:

Over 30 years experience as a mediator. Founding, now honorary Director, International Mediation Institute.

Experience as a mediator in variety of industry settings as follows:

Construction - Public and Private projects, usually building construction and invariably multi-party

Technology (Suitability; Buy-Sell Agreements)

Joint Venture (Professional Practice)

Banking (Commercial Loan Agreements)

ArbDB Chambers

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And Dubai (Associate Office) and Ocean Financial Centre, Singapore

ArbDB Limited is registered in England - Company No. 07498754.

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Buy/Sell Agreements (Commercial Real Estate)
Equipment Leasing (Collections)
Securities (Investor-Broker)
Higher Education (Department Disputes)

Representative Issues Handled as a Mediator:

In Construction, mediated cases involving alleged negligence on the part of supplier/subcontractors and design professionals; breach of contract claims involving owner/employer and contractors; delay damages/no damages for delay claims between contractors and owner-employer; contract claims for extras, change orders and termination.

In Technology, mediated claims for breach of sales contract; product failure; breach of implied or express warranties (suitability for purpose).

Joint Venture cases included matter involving long-standing lawsuit between members of a medical practice; issues included breach of joint venture obligations and valuation issues.

In Banking, representative case involved dispute between a Regulator standing in for a failed lending institution and a real estate developer/borrower. Issues included breach of contract and bad-faith lending.

Buy/Sell agreements experience included dispute involving sale of a car dealership; mis-representation and non-representation issues; valuation issues.

Higher education cases involved single institution with new budgetary constraints and long-standing inter-departmental competition.

Securities issues included churning and suitability.

Equipment leasing issues included breach of contract/payment and collection.

Multi-Party Dispute Resolution Experience:

Mediated a variety of Construction claims, both public and private sector. Almost invariably those matters involved multiple-party claims, counterclaims and cross-

claims. Frequently negotiated settlements involved negligence and contribution issues. Public sector claims involved Schools and other Public Projects (e.g. a Prison). Additional issue on public contracts was ratification of any settlement by the government authority, adding an extra layer to the negotiation.

Other multi-party settings involved Partnership disputes (multiple partners/ performance and contribution issues) and Higher Education (multiple parties addressing limited resources).

Mediation Philosophy:

The mediation process is a creature of the parties' agreement. I will be pleased to follow the parties' agreements as to process and, in the absence of agreement, I will work with the parties and their representatives to structure a process that suits the particular dispute.

Successful mediation begins with sound preparation. Parties and/or their counsel should be prepared to participate in an organizational conference call soon after my appointment is confirmed. Besides scheduling, topics of the organizational call will include conversation regarding participation, anticipated or desired, of persons and pre-conference information exchange that would assist settlement. For particularly complex mediation (e.g. Investor-State matters), the Parties should also anticipate the possibility of individual meetings with me before joint meetings commence.

At the first joint session, summary statements from counsel will be entertained and encouraged but my experience is that the mediation process works best when the parties participate actively from beginning to end.

If possible, I prefer to begin the mediation with all parties present. It provides an opportunity for each party to hear from their counter-party/parties directly, a wonderful opportunity for education. Generally speaking my role early in the process is to encourage dialogue and listen actively, summarizing or asking short clarification questions for my own benefit and the benefit of others.

If and when appropriate I am also comfortable working with the parties in individual, private caucuses. A caucus can be helpful for safely addressing barriers to settlement or possible options for settlement. Parties can expect that I will take a more inquisitorial role in the caucus. My experience is that the parties benefit significantly from reality testing, responding to questions and reactions from an impartial mediator.

Ultimately mediation becomes a search for appropriate and effective solutions. My firm belief is that the best solutions come from the parties themselves and that my role is to assist the active exploration of settlement options. My approach is to listen carefully for opportunities, posing questions regarding interests, needs and priorities and assisting the parties to think broadly about settlement options.

When the parties reach settlement, my habit is to confirm at least the heads of agreement with all parties present and then to leave the drafting of the settlement agreement to parties' counsel, intervening where necessary to keep the process on track.

Education:

Manhattan College - Bronx NY - BA (Political Science/Peace Studies) 1976
University of Denver College of Law - JD 1986

Awards and Honors:

Denver Bar Association - Special Achievement Award - 1990
International Mediation Institute - Honorary Director - 2013

Publications and Speaking Engagements:

Representative Publications - The Chess Clock in International Arbitration - Les cahiers de l'arbitrage - Reprinted by Juris Publications 2015; Investor-State Mediation: Not Whether Or Even When, But How - Global Pound Conference Blog - 2016; A "Done Deal" For States And Investors? The New United Nations Convention On International Settlement Agreements Resulting From Mediation. *The Journal of Enforcement of Arbitration Awards*, Vol: 1, No: 2 © JurisNet, LLC 2018 <https://arbitrationlaw.com/books/journal-enforcement-arbitration-awards>

Recent Speaking Engagements: Society of Construction Arbitrators (UK) Annual Meeting - Malta - Early Dispute Resolution; Energy Charter Conference Meeting- Brussels - Recent Developments in Investor-State Mediation; KLRCA (AIAC) Conference Kuala Lumpur - The Dispute Board Process; Chartered Institute of Arbitrators - London - Online Dispute Resolution African Legal Support Facility (AfDB) and Pan African Lawyers Union - Drafting Dispute Resolution Clauses

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