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Jennifer Haywood - Mediator

Year of Call: 2001

“exceptionally good with difficult clients and works extremely hard to steer parties towards settlement.”

Legal 500, 2019

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Practice Overview

Having practised as a commercial-chancery barrister for over 20 years, Jennifer practises ADR as a neutral, helping parties to resolve their disputes by acting as an arbitrator, mediator or conducting binding or non-binding evaluations and private FDR's.

Jennifer's experience as an arbitrator includes disputes involving partnerships, pharmaceuticals, companies, media contracts and finance agreements. She has been appointed to many of the major arbitral institution lists, including those of BVI IAC, HKIAC, AIAC and DIAC. She is a fellow of the Chartered Institute of Arbitrators. She has acted as sole arbitrator, co-arbitrator and presiding arbitrator.

Her experience as a mediator includes both commercial and private client disputes, reflecting her experience as counsel and her recognised client handling skills and commercial approach. She has particular experience of difficult partnership/JV disputes but she has also mediated company, commercial, property, wills and trusts disputes. She is experienced at remote mediations as well as in person mediations and has also conducted mediations with multiple parties. She is recommended as a mediator by Legal 500.

Jennifer is able to draw on both her experience as a commercial chancery barrister and her medical science background. Her practice as a barrister has covered the breadth of commercial chancery practice, including litigation, drafting and advisory work, with a strong emphasis on disputes involving breach of fiduciary duty, company, partnership, trusts and probate and fraud.

Particularly well-regarded for her commercial outlook and client interaction, Jennifer is praised by The Legal 500 as being *"exceptionally user-friendly, easy work with and a great team player,"* and Chambers and Partners says *"she attracts particular praise for her excellent, candid and common sense-based client service." She has been ranked in Tier 1 for Partnership work.*

Areas of Expertise

ADR: Alternative Dispute Resolution

Jennifer is also an experienced arbitrator.

Partnership and LLP

Legal 500 says that Jennifer Haywood is *"a star in the making"* who *"is always available, and always has an answer."*

Jennifer's partnership experience covers both contentious and non-contentious work and has involved general partnerships, limited partnerships and limited liability partnerships.

Her clients have included professional services firms (including legal, accounting, surveying and medical firms), financial services firms (including a major retail/investment bank), investment vehicles, property partnerships and individual partners/members (including LP investors and general partners in such firms). She has advised on LLP conversions, amendments to deeds, LLP members' duties in an insolvency, repudiation of LLPs, transfer of business opportunities, expulsions, enforceability of restrictive covenants, valuation of goodwill, salaried partners' status, s994 CA 2006/just and equitable winding up, recovery of overdrawn profits and challenges to the exercise of discretion, amongst other issues.

Private Client Trusts and Probate

Jennifer is a member of ACTAPs and ConTRA and has broad experience of contentious trusts and probate work, including disputes over the validity and/or construction of wills and trust deeds, breach of trust claims, mental capacity issues, undue influence, Inheritance Act claims, Beddoes applications, proprietary estoppel, conflicts in relation to the appointment and removal of trustees and constructive trust claims. She has acted for o□shore firms as well as onshore firms.

Commercial Litigation

Jennifer has experience of a wide range of commercial disputes across many business sectors. Many have involved allegations of breach of fiduciary duty and/or a duty of good faith and/or fraud.

Company

Jennifer has experience of disputes between shareholders, claims against directors and disputes arising from business acquisitions.

Arbitration

Appointed as sole arbitrator, co-arbitrator and presiding arbitrator in arbitrations covering a wide range of issues and sectors, including one dealt with on an expedited basis and two involving non-participating parties. For example,

- Co-arbitrator in LCIA arbitration by multinational professional services LLP against a member.
- Co-arbitrator in LCIA arbitration by multinational media company against a Turkish joint venture partner.
- Sole arbitrator in LCIA arbitration between Indian and US companies arising out of a pharmaceutical supply agreement, involving alleged regulatory breaches.
- Sole arbitrator in LCIA arbitration between Malaysian and Irish companies arising out of a pharmaceutical supply agreement, involving jurisdictional issues, regulatory problems and claims of wrongful exercise of a discretion.
- Co-arbitrator in LCIA arbitration by Luxembourg finance company for US$89m under personal guarantee.
- Sole arbitrator in LCIA arbitration of professional services/property dispute, involving expert valuation evidence.
- Presiding arbitrator in LCIA arbitration arising out of a settlement agreement.

Relevant experience as counsel

- Extensive experience of disputes between members of general partnerships, limited partnerships, limited liability partnerships, companies and joint ventures across a very wide range of sectors. For example,Flanagan v Liontrust Investment Partners LLP [2015] EWHC 2171 (Ch), a leading LLP decision concerning notice provisions and whether the doctrine of repudiatory breach applies to LLP agreements.

- Experience of contractual disputes (especially those involved allegations of fraud and/or breach of fiduciary duty and/or breach of a duty of good faith) in sectors as wide ranging as shipping, finance/investment, art, pharmaceuticals and real estate. Relevant cases include:

- *Fiona Trust & Holding Corp v Privalov* [2006] EWHC 2583 (Comm), a decision on whether bribery arguments impeached the arbitration clause.

- *Soprim Construction Sarl v Djibouti* [2016] EWHC 3864 (Comm) an appeal on a point of law from an arbitration award.

- *Experience Hendrix LLC v PPX Enterprises Inc* [2003] EWCA Civ 323, a leading case on the assessment of damages for breach of a negative covenant.

- Trusts disputes (onshore and offshore), including disputes between beneficiaries, claims against trustees and attacks on trusts.

- *Barnes v Tomlinson* [2006] EWHC 3115 (Ch), a decision identifying the test for honesty in the context of an express trustee.

- Many disputes involving issues of foreign laws, including the laws of Russia, Djibouti, Switzerland, France and Germany. For example:

- Joint Stock Co Aeroflot v Berezovsky, Glushkov [2014] EWCA Civ 20

- *Djibouti v Boreh* [2016] EWHC 405

- Acting as Counsel in ad hoc and LCIA arbitrations.

Recent ADR articles and case notes

- The proper law of an arbitration agreement – the Law Commission revisits Enka v Chubb, Solicitors Journal, 27 April 2023
- Reining in section 67 challenges to tribunal jurisdictions: the Law Commission's proposals, LIDW 19 June 2023
- How effective conflict management can prevent and resolve disputes, Law360, 27 July 2023
- LexisNexis Case Note: *Alphamix Ltd v District Council of Rivière du Rempart* (Mauritius) [2023] UKPC 20
- LexisNexis Case Note: *SQD v QYP* [2023] EWHC 2145 (Comm).

Other relevant professional experience and associations

- First degree in Natural Sciences/Medical Sciences. I practiced as a medical practitioner before coming to the Bar.
- Admitted to practice as a barrister in the British Virgin Islands (2013)
- Contributor to the fifth edition of The Law of Limited Liability Partnerships, Whittaker and Machell

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Mediation

Jennifer is a CEDR accredited mediator, with experience of over fifty mediations (in person and virtual). Several have included multiple parties.

The subject matter of the disputes has included commercial matters and trusts/probate matters. Jennifer has particular experience of difficult partnership, LLP and joint venture disputes.

Jennifer's approach varies from facilitative to evaluative, depending on the case in hand. Whenever possible she likes to hold pre-mediation video-calls with each of the parties and she is keen to assist parties to resolve issues relating to the mediation itself and broader procedural issues relating to the matrix proceedings. Jennifer is proactive in suggesting solutions to impasses and remain in contact with the parties if there is no final settlement on the day of the mediation.

Recommendations

Mediators *(The Legal 500)*
Partnership *(Chambers & Partners)*
Partnership *(Legal 500)*

Quotes

Recently moving into full-time ADR work, Jennifer Haywood at Serle Court is *'a calm and constructive presence, even in fraught and emotive mediations'.* Haywood conducts mediations across the spectrum of Chancery and commercial disputes, particularly in relation to trusts, partnerships, company law, and commercial disputes. (The Legal 500, 2024)

"*exceptionally good with difficult clients and works extremely hard to steer parties towards settlement.*" (Legal 500, 2019)

Publications

"Discretionary decision making in a commercial context", Journal of International Banking and Finance Law

Contribution to The Law of Limited Liability Partnerships, 5th Edition

Social Distancing & Isolation: A role for ADR, March 2020

Losing the farm in a family feud, New Law Journal, June 2019

A third way? A review of cases relevant to trustees' liability to forfeit remuneration for breach of fiduciary duty T.E.L. & T.J. 2018, 194(Mar), 11-13

Education & Qualifications

Christ's College, Cambridge - MA (Natural Sciences), MB BCh

City University - Postgraduate Diploma in Law (CPE)

Megarry Scholarship, Lincoln's Inn

Memberships

Chancery Bar Association

Commercial Bar Association

Association of Partnership Practitioners

ACTAPS

ConTRA