

SPENSER UNDERHILL NEWMARK

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Christopher Newmark

Practice Areas

Arbitration and ADR.

Practice Description

Chris is an experienced international arbitrator and mediator. He sits regularly as chairman, panel and sole arbitrator under the rules of the leading arbitral institutions. In December 2012, he was the first emergency arbitrator to be appointed under the 2012 ICC Rules of Arbitration and in 2020 was appointed as emergency arbitrator by the LCIA in two parallel cases arising out of the COVID pandemic.

Chris has arbitrated a broad range of commercial matters and has particular experience of arbitrating disputes in the following sectors:

IT and telecoms; Power; Oil & Gas; Shareholder/JV; International trade/commodities; M&A; Consultancy/agency agreements; Financial services; Sport

Chris was the Chairman of the ICC Commission on Arbitration and ADR from 2014 to 2017. During his time as Chairman, the ICC Commission introduced task forces working on Emergency Arbitration, the Probative Value of Witness Evidence and on Climate Change disputes, and published reports on Decisions on Costs and on Financial Institutions and Arbitration.

Chris was a member of the Drafting Sub-Committee for the 2012 ICC Rules of Arbitration and chaired the Consultative Task Force responsible for revising the ICC ADR, Expertise and Dispute Board Rules. Chris also acted as co-chair with Yves Derains of the ICC Task Force which produced the ICC publication "Techniques for Controlling Time and Cost in Arbitration".

Prior to forming Spenser Underhill Newmark LLP with Dominic Spenser Underhill in 2007, Chris was a partner in the Dispute Resolution Department of Baker & McKenzie in London where he was the chair of the firm's European Dispute Resolution Practice Group.

From 2007 to 2010, Chris sat on the Board of Directors of the CPR International Institute for Conflict Prevention and Resolution. He is also a member of the LCIA, an arbitrator and mediator panellist for Sport Resolutions UK and a mediator panellist for the Court of Arbitration for Sport (CAS).

Current and Recent Arbitration Appointments and Projects include:

IT and telecoms

- Party nominated arbitrator in ICC arbitration arising under a licensing agreement relating to silicon chips for use in televisions and mobile phones
- Party nominated arbitrator in three separate LCIA and DIFC-LCIA proceedings relating to termination of a series of contracts for the supply of equipment and services for a telecoms expansion project
- Appointed by LCIA as sole arbitrator in a dispute under a contract for the provision of apps for a mobile phone
- Appointed by LCIA as presiding arbitrator in dispute in the telecoms sector involving a disputed settlement payment and related foreign court proceedings
- Selected by co-arbitrators as chairman for an LCIA arbitration concerning fees due for services provided to a mobile and internet telecommunications company
- Jointly appointed as sole arbitrator of ad hoc arbitration concerning performance of an IT contract
- Appointed by ICC Court as chairman of Swiss arbitration concerning dispute arising out of consultancy agreements in the telecom sector
- Appointed by LCIA as arbitrator in arbitration concerning the telecoms sector in eastern Europe
- Appointed sole arbitrator by LCIA Court in London arbitration of dispute concerning termination of IT outsourcing contract
- Appointed by ICC Court to arbitral tribunal for telecoms dispute between eastern European and English companies

Power

- Selected by party nominated arbitrators to act as presiding arbitrator in an LCIA-MIAC arbitration concerning a dispute over payments under a power purchase agreement
- Selected by parties from list provided by the LCIA as sole arbitrator for an UNCITRAL arbitration concerning a dispute between a state owned utility and a commercial customer
- Acting for global power company in LCIA arbitration concerning a dispute arising out of the sale of an eastern European subsidiary
- Acting in LCIA arbitration for global power company against grid operating company and Ministry of Energy of sovereign state

Oil & Gas

- Selected by ICC as presiding arbitrator in a case involving a dispute under a joint venture agreement between state owned and private corporations for the operation of a refinery and the sale of petroleum products
- Appointed by LCIA as emergency arbitrator in two related LCIA cases in the oil & gas sector where force majeure was claimed due to circumstances caused by the COVID pandemic
- Appointed by respondent in SIAC arbitration relating to performance of a maintenance contract for equipment to be used for the security of an oil & gas facility
- Party nominated arbitrator in two related DIAC arbitrations relating to a dispute under an EPC contract
- Selected by co-arbitrators as chairman for LCIA arbitration concerning the supply of equipment in the oil and gas sector
- Appointed by ICC as emergency arbitrator in the first such proceeding under the new ICC Emergency Arbitrator Rules
- Party appointed arbitrator in Stockholm Chamber arbitration involving the drilling industry

Shareholder/JV

- Selected by LCIA as presiding arbitrator in a shareholder dispute between parties involved in the financing and construction of a solar power plant
- Party appointed arbitrator in LCIA arbitration involving claims between parties to a joint venture agreement relating to the purchase and sale of commodities in Africa
- Presiding arbitrator selected by party nominated arbitrators in ICC arbitration relating to a shareholder dispute between founder and investor in connection with a media company
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- Party nominated arbitrator for LCIA arbitration involving a shareholder dispute

International trade/commodities

- Appointed by LCIA as chairman of arbitration involving a commodity dispute
- Party appointed arbitrator in LCIA arbitration relating to dispute under long term commodity sale agreement
- Appointed by LCIA as chairman in international trade dispute
- Appointed by LCIA as chairman of a London arbitration concerning an international trade dispute
- Appointed by LCIA as arbitrator in five commodities arbitrations totalling approximately USD 100 million in value
- Appointed by LCIA as arbitrator in commodities arbitration between English and Indian parties

M&A

- Party appointed arbitrator in LCIA case relating to a dispute under a corporate finance advisory agreement
- Party appointed arbitrator in LCIA case relating to a disputed termination payment following the failure to obtain permission from competition authorities for an acquisition in the media sector
- Appointed by LCIA as sole arbitrator in dispute relating to exercise of a put-option under a share purchase agreement
- Appointed by LCIA as one of three arbitrators in case concerning a dispute relating to an M&A transaction in the telecom sector
- Party appointed arbitrator by claimant in LCIA arbitration relating to a USD 22 million dispute over the completion of an M&A transaction

Consultancy/agency agreements

- Selected by parties as sole arbitrator in ICC expedited proceedings relating to non-payment of invoices due to alleged failure to comply with anti-bribery and anti-corruption policies
- Jointly selected by parties as sole arbitrator in LCIA arbitration relating to a dispute following termination of an international agency agreement

Financial services

- Appointed by LCIA as sole arbitrator in dispute between a bank and guarantor under a guarantee of liabilities under a facility agreement
- Appointed by LCIA as sole arbitrator in dispute relating to claims for breach of a settlement agreement between a major international bank and a senior former employee
- Party nominated arbitrator in LCIA proceedings relating to claims against borrower and sureties for in excess of USD350m under a credit agreement Financial Services
- Selected by co-arbitrators as chairman for LCIA arbitration concerning a dispute under a series of financing agreements
- Selected by co-arbitrators as chairman of LCIA arbitration concerning a dispute relating to financial services
- Appointed by ICC Court as sole arbitrator in a dispute between a multi-national bank and a corporate client
- Appointed by LCIA as sole arbitrator in dispute relating to calls under an on demand guarantee Financial services

Sport

- Appointed by the English Football Association as arbitrator in two unrelated cases involving agents' fees Sport

Miscellaneous sectors

- Presiding arbitrator selected by the parties in an ICC arbitration relating to a dispute under a Toll Manufacturing Agreement in the pharmaceutical sector
- Party nominated arbitrator for LCIA arbitration relating to alleged breaches of confidentiality under a research and development agreement in the biotechnology sector
- Appointed sole arbitrator in ICC arbitration between a state and a supplier of commercial services
- Party appointed arbitrator in LCIA arbitration concerning a dispute under a services agreement in the automotive sector
- Party appointed arbitrator in LCIA arbitration relating to a dispute concerning the broadcasting of a TV channel
- Party appointed arbitrator in LCIA arbitration between private and state entities relating to a dispute arising out of the privatisation of a significant business
- Appointed by an ICC arbitral tribunal as an expert to give an opinion on English law and procedure relating to the implementation of an ethical barrier
- Party appointed arbitrator in ICC arbitration relating to a middle eastern property development dispute
- Party appointed arbitrator by claimant in ICC arbitration relating to a central European property development
- Appointed sole arbitrator under UNCITRAL rules of dispute relating to the licensing of retail premises
- Appointed sole arbitrator under UNCITRAL rules of dispute concerning the supply of agricultural products
- Advised North African company in ICC arbitration against multi-national company concerning a dispute over rights under a franchise agreement

Directories

Chris is regularly recommended as a leading arbitration lawyer in the directories. Since 2017, Chris has been listed in Chambers UK in Band 1 as a leading arbitrator, as well as a Global Leader in Who's Who Legal Arbitration. Chambers UK 2022 said:

“Christopher Newmark is an expert arbitrator with considerable experience performing under a range of arbitral rules, with especial knowledge of ICC proceedings. He is regularly appointed as chair, sole and party arbitrator. “He is an effective operator” “He is terrific and he is great at project-managing cases.”

ADR Experience

A CEDR accredited mediator since 1995, Chris is a member of CEDR Chambers and has been recommended by the directories as a leading mediator for many years.

Chris is a member of CEDR's mediator training faculty. Chris is also on the LCIA and Court of Arbitration for Sport (CAS) panels of mediators and is a panel mediator and arbitrator for Sports Resolutions UK Limited. Chris was a rapporteur to the CEDR Commission on Settlement in International Arbitration which published its report and rules in 2009.

Teaching

In 2006, Chris was appointed a Senior Visiting Lecturer at the School of International Arbitration, Centre for Commercial Law Studies at Queen Mary's University, London.

Publications

Books

- 2008 and 2014 The Leading Arbitrators Guide to International Arbitration (Second and Third Editions) published by Juris Publishing – Chapters on controlling time and costs in international arbitration.
- 2006 - *Butterworths Mediators on Mediation: Leading Mediator Perspectives on the Practice of Commercial Mediation* - co-edited with Anthony Monaghan.
- 2004 - International Arbitration Checklists - Chapter entitled “*Expert Evidence*” in book published by Juris Publishing.
- 2001 International Commercial Arbitration: Practical Perspectives, a book published by The Centre of Construction Law and Management - author of chapter entitled “*ADR and International Arbitration: an evolving relationship*”.

Selected Articles

- 2004 - International Arbitration Law Review, Issue 3 - *The appointment of arbitrators in international arbitration.*
- 2005 January - *Schieds VZ - Siemens v. Argentina: most favoured nation clause (re)visited.*
- 2005 February, Mealeys - *Most favoured nation clause: is the Siemens v Argentina decision the high-water mark?*
- 2005 August, Mealeys - *Striking a Balance for Court Intervention in Arbitration Disputes: The Decision in Cetelem SA v. Roust Holdings Ltd*
- 2006 November - *International ADR - A Flourishing Field*
- 2010 – International Arbitration Law Review, Vol.13, Issue 5 – “*Efficient, Economical and Fair – the Mantra of the New IBA Rules*”
- 2015 – Issue 2 ICC Dispute Resolution Bulletin Bulletin – “*Practical guidance on ICC model dispute resolution clauses*”.

Seminars/Conferences

Chris frequently speaks at conferences on Arbitration and ADR, for example:

- 2004 - Moderated Panel of European Judges at the International Court of Justice in The Hague on The Role of Public Courts in Private Dispute Resolution.
- 2006 - Speaker at JAMS Conference in New York on International Mediation

- 2007 – Chair, ICC Conference on Reducing Time and Cost in Complex Arbitration
- 2008 – Speaker, ICC Symposium on Settlement in International Arbitration
- 2009 – Speaker, ICC Conference on Construction Disputes, Istanbul, Turkey
- 2009 – Speaker, Juris Leading Arbitrators’ Symposium, Vienna, Austria
- 2010 – Speaker, VIAC/UNCITRAL Conference on case management, Vienna, Austria
- 2011 – Panel Chairman, ICC new arbitration rules Launch Conference, Paris, France
- 2011 – Panel Chairman, ICC UK conference: “Is international arbitration meeting the needs of its users?”
- 2011 – Panellist, IBA Conference, Dubai, Session on Med-Arb
- 2012 – Speaker, Fordham University Conference on International Arbitration and Mediation, 2013 – Speaker, CDR conference on the ICC Commission on Arbitration and ADR
- 2013 – Speaker, ICC/AAA/ICSID triple colloquium, Paris, on emergency arbitrators and the grant of interim and conservatory measures in international arbitration
- 2014 – Speaker, CIArb conference, London on mediation
- 2014 – Speaker, ICC UK Annual Arbitrators’ Forum, on managing the arbitrators
- 2015 – Speaker, Vienna Arbitration Days, on efficiency of arbitral tribunals
- 2015 – Speaker, Croatian Arbitration Days on communication within arbitral proceedings
- 2016 – Speaker, IBA Conference, Washington DC, on advocacy in arbitration and mediation
- 2016 – Speaker, CIA Arbitration Masterclass, London on med-arb
- 2017 – Speaker, ACC (Europe)/CCIA 3rd International Conference for Corporate Counsel, London on Emergency Arbitration
- 2017 – Speaker, ICC Conference, Reykjavik, Iceland on procedural efficiency in arbitration
- 2018 – Speaker, GAR Conference, Prague, Czech Republic on witness evidence on the occasion of the launch of the Prague Rules

Professional Affiliations

- Chairman, ICC Commission on Arbitration and ADR 1 January 2014 – 31 December 2017
- Vice-Chairman, ICC Commission on Arbitration 2008 – 2013; 2018 - 2020
- Board Director, CPR International Institute for Conflict Prevention and Resolution 2007-2010
- Member of the LCIA
- CEDR Chambers mediator
- Mediator panellist for LCIA, CAS and Sports Resolutions UK Limited
- Member of the Steering Committee of the Campaign for Greener Arbitrations

Career

- 1987 - Graduated from the University of Birmingham with an LLB (Law and French) (1985/6 - University of Limoges, France - Diplome d’Études Juridiques Françaises).
- 1990 - Admitted as a solicitor, Baker & McKenzie, London
- 1993/4 - Baker & McKenzie, Chicago (studied dispute resolution at the University of De Paul)
- 1997 - Elected a Baker & McKenzie Partner
- 2007 - Formed Spenser Underhill Newmark LLP

Pro Bono and Community Involvement

Mentor, Waterloo Legal Advice Service

Languages

French - working.