

ARBITRATOR/MEDIATOR SPOTLIGHT

Dancia Penn, OBE, KC



CAREER & BACKGROUND

I have enjoyed and continue to enjoy a varied and enriching career in both the private and public sector.

I have practiced actively at the Bar for many years and have appeared in the Courts at all levels including in The Judicial Committee of the Privy Council. I have served in the three branches of Government, having held office as Attorney General of The Virgin Islands, Deputy Governor, Member of Parliament and Deputy Premier. I have also been a Justice of Appeal (Acting) of the Eastern Caribbean Supreme Court.

I am based in The Virgin Islands (BVI) and as Kings Counsel I have the right of audience in the Courts of all nine Member States of the Eastern Caribbean Supreme Court, as well as Barbados.

ARBITRATOR/MEDIATOR PRACTICE

I sit regularly as an arbitrator and mediator in these jurisdictions and elsewhere, and accept appointments as Sole Arbitrator, Chair or as a Member of Tribunals. I have particular expertise in commercial law, contracts, financial services, shareholder disputes, succession and estates, employment law, hospitality, property and real estate.

Apart from my practice as an arbitrator and mediator, I maintain an active practice as a lawyer with the Law Firm, Dancia Penn & Co which is one of the oldest Law Firms in The Virgin Islands and which has a solid domestic and international client base.

In addition to being on the Roster of Arbitrators at Arbitration Place, I am an arbitrator with 33 Bedford Row, London, Caribbean Arbitrators and the BVI International Arbitration Centre. I am The President of its Arbitration Committee and I am a Neutral with CPR/AAA Dispute Resolution as well as a Neutral with The Jamaica International Arbitration Centre (JAIAC).

I am a Judge of The Caribbean Community Administrative Tribunal (CCAT) which hears and determines appeals from employees of the institutions of The Caricom Community (CARICOM).

I am an Overseas Member of The Chancery Bar Association of the United Kingdom and a Member of the Legal Services Panel of The Government of The Virgin Islands.

BENEFITS OF ARBITRATION/MEDIATION

It appears that the inability to resolve conflicts is on the rise, and there are increasingly issues in all jurisdictions with long delays and backlogs in the Courts and in the legal system. I believe that arbitration and mediation and the benefits which they offer are viable options for the resolution of disputes.

Among the benefits are saving time and costs, confidentiality, preservation of relationships, flexibility and in most instances finality. Arbitration affords parties in a dispute a great deal of autonomy, including the ability to choose their own tribunal to determine their dispute, as opposed to having the dispute determined by a judge who they cannot choose.

Additionally, parties have the flexibility of choosing the Rules under which their dispute is to be conducted unlike in litigation where disputes must proceed in accordance with the prescribed Procedural Rules of Court.

I am strong on the preservation of relationships and confidentiality and have found emphasis on these to be particularly helpful in mediation.



TIPS FOR COUNSEL TO BE MORE EFFECTIVE IN ARBITRATION/MEDIATION

My tips for counsel in arbitrations and mediations are:

- Be organized and well prepared
- Identify the key issues early and address each of them
- Be helpful and courteous, and display civility and professional conduct
- Ensure that your submissions are clear and succinct and address all of the relevant points and aspects of the dispute
- Know your documents and bundles and be able to readily point the Tribunal to the evidence, references and authorities on which you are relying.
- Be mindful of the potential consequences of the dispute, and do your best to ensure particularly in commercial and business disputes that as much as possible, the settlement process and the commercial and business goals and objectives align
- Be non-judgmental and help the parties in mediations in particular to separate their emotions and help the parties to craft a settlement with which they can live.