

# EDNA SUSSMAN, ESQ.,

## *SussmanADR LLC*

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## *Arbitrator & Mediator*

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## **Background**

**Current:** Arbitrator and mediator since 1995, full time since 2003, Principal SussmanADR LLC; Distinguished ADR Practitioner in Residence at Fordham Law School

**Former:** Litigation Partner at White & Case, LLP; Of Counsel, Hoguet Newman Regal & Kenney, LLP; Litigation attorney serving as an arbitrator and mediator in complex domestic and international litigations, arbitrations and mediations. Cases handled as an arbitrator involved claims ranging in value from \$1 million to \$1 billion.

## **Dispute Resolution Experience**

**Arbitration** – conducted over 150 arbitrations of complex multi-million dollar commercial disputes as chair, sole and co-arbitrator under many institutional rules and in ad hoc proceedings; fellow of the Chartered Institute of Arbitrators, one of 6 trainers for the AAA’s new arbitrators and provides advanced training for the AAA’s ICDR international arbitrators.

**Mediation** – conducted over 150 complex commercial mediations; certified as a mediator by the Courts in New York and by the International Mediation Institute and serves on the mediation panels of the federal, state and bankruptcy courts in New York

**Arbitration and Mediation Panels** –AAA, ICDR, CPR, Hong Kong, South China, Shanghai, Singapore, Korea, Kuala Lumpur, Vietnam, Swiss, Vienna, Dubai, Kigali and British Columbia, Energy Arbitrators List Around the World, FINRA (securities disputes), National Futures Association, U.S. Institute for Environmental Conflict Resolution, federal, state and bankruptcy courts in N.Y.; ICC and LCIA rosters.

## **Professional Recognition**

Ranked by Chambers USA 2015 and 2016 for International Arbitration (“highly respected and really knows the business,” “terrific and dedicated,” “well prepared”)

Listed annually: Who's Who of International Commercial Arbitration and Who's Who of Commercial Mediation

Best Lawyer and Super Lawyers - listed annually for Arbitration and Mediation

Rated One of the Ten Outstanding International Mediators by Who's Who Legal International Commercial Mediation, 2013

Selected as Best Lawyer's “2012 New York City Mediation Lawyer of the Year” (one selected)

Ranked by Chambers USA 2016 for Mediation (“incredibly smart”)

### **Representative arbitration and mediation matters:**

- **Commercial contracts:** broad range of commercial disputes including payment, pricing, defective deliverables, delays, deficient services, fraud, commercial code, warranties
- **Franchises/distributorships/agencies:** terminations, failure to support, royalty payments, non-compete; exclusive arrangements, coop advertising, best efforts, targets, commercially reasonable
- **Energy:** electricity production, pricing and distribution, energy service contracts, photovoltaic/solar, wind turbines, energy intellectual property, hydraulic fracturing (fracking), renewable energy credits, oil spills, oil warrants, energy service company (ESCOs), PMPA
- **Corporate mergers, acquisitions and dissolutions:** breaches of reps and warranties, post-closing adjustments, earn-outs entitlement, violation of non-compete, asset valuation, fraud
- **Partnerships and Joint Ventures:** entitlement to payments and ownership, accounting, mismanagement and misappropriation, breach of non-compete, removal of general partner
- **Financial matters:** bank/broker/customer, debt obligations, guarantees, hedge fund, private placements, private equity, mortgage backed securities, structured products, secured transactions
- **Intellectual property:** licensing, R&D, ownership disputes, trade secret, trade mark, trade dress
- **Insurance:** Bermuda form, credit risk, property and casualty, builders risk, malpractice, fidelity, title, transit, mold, stop loss, health, FEMA, workman's comp and employment practices
- **Construction and Real Estate:** construction disputes, delay damages, defects, developer/landlord and tenant/coop/condo, breaches of contract for sale, sub-prime mortgages
- **Securities:** fraud, customer/broker/investment adviser disputes, private placements, churning
- **Professionals:** accountant's liability (e.g. audit, tax advice), attorney malpractice, fee collections
- **Environmental:** remediation responsibility, oil spills, superfund/CERCLA, infrastructure disputes, renewable energy credits, environmental assessments, storm water management
- **Pharmaceuticals and Health Care:** product development, manufacture, delivery, licensing, royalties, distribution, marketing, therapeutic services, recall, FDA issues, valuations
- **Aviation:** defective parts supply claims, failure to supply and delay, intellectual property ownership claims, real estate lease for crew layovers, sales commission for aircraft sales
- **Hospitality:** development projects, motel and fast food franchisee and distributorship disputes
- **Telecommunication:** mobile phone software infringement, off shore customer services, FRAND disputes, licensing disputes, stock options,
- **Employment:** executive compensation, stock options, bonuses, wrongful termination

### **Education, Selected Bar Association and Professional Activities:**

**Columbia Law School:** (J.D. 1973); **Barnard College** (B. A. 1970)

**American Arbitration Association**, Director

**AAA-ICDR Foundation**, Chair, Board of Directors

**New York International Arbitration Center**, Vice-chair, Director

**College of Commercial Arbitrators (CCA)**, President, Fellow

**New York State Bar Association**

- Co-Editor-In-Chief, Dispute Resolution Lawyer; Chair 2010-2011, Dispute Resolution Section

**American Bar Association**

- Co-Chair, Arbitration Committees, 2010-2012, International and Dispute Resolution Sections
- Chair, Renewable Energy Committee 2006-2008, Chair, Dispute Resolution Committee 2008-2010, Section of Environment Energy and Resources

**New York City Bar Association**

- Chair, Energy Committee 2006-2009, member, International Commercial Disputes Committee

**Energy Bar Association** - Chair, Alternative Dispute Resolution Committee 2008-2009

**ICC** - U.S. Member of the ICC Consultative Task Forces on the ADR Rules and on Emergency Arbitration

### **Selected Presentations:**

- The Mediation Window*, ICC Miami, November 2016
- Annulment at the Seat and its Ramifications*, London Court of International Arbitration, Tylney Hall, UK May, 2016
- Impact of Emotions and Moral Judgments on Decision Making*, PluriCourts, Oslo May 2016
- Red Flag Alert: Data Security and Arbitration*, New York International Arbitration Center, May 2016
- *Ethics Considerations When Choosing a Seat of Arbitration*, ABA, International Section, April 2016
- Effective Arbitration Advocacy and Management*, College of Commercial Arbitrators, March 2016
- *Subconscious Influences in International Arbitration*, ITA workshop, June 2015
- *Who's arbitration is it?* Leading Arbitrators Conference, JURIS, Vienna, March 2015
- The Corporate World and International Dispute Resolution*, ICDR, ICC and ICSID, November 2014
- The International Arbitrators Perspective*, ICDR, CAM-CCBC, AMCHAM, São Paulo, November 2014
- *Technique and Ethics of Advocacy*, ICC Miami November 2014
- Decision Making: What Goes on in the Tribunal's Mind?* Center for Int'l Legal Studies, Salzburg 2014
- Arbitral Legitimacy, The Users' and Justices' Perspectives*, ICCA Congress, Miami, 2014
- Use of Arbitration and Mediation for Energy Disputes*, Energy Bar Association 2014
- Jurisdiction*, Co-chair working session, London Court of International Arbitration, Boston, 2013
- Essentials for Efficient Dispute Resolution*, 8<sup>th</sup> Annual ICC NY Conference 2013
- Willem C. Vis Moot East- Judge of Final Round*, Hong Kong 2013
- Conversations with the World's Leading Arbitrators*; ABA, Section of International Law 2012
- Mediation vs. Arbitration vs. Litigation*, World Bank, IFC, MIGA and ICSID, 2011
- Saving Time and Lowering Costs, What Options can Really be Accomplished*, IBA and ICDR 2011
- Guerrilla Tactics in Arbitration*, ICC Austria, 2010
- Legislative and other U.S. Arbitration Developments*, U.S. Secretary of State's Advisory Committee on Private International Law Conference, 2010
- Recalibrating the Bilateral Investment Treaty*: ITA - American Society of International Law, 2010

### **Selected Publications:**

- The Arbitrator Survey, Practices, Preferences and Changes on the Horizon*, American Review of International Arbitration, 2015
- Evaluating the Advantages and Drawbacks of Emergency Arbitrators*, NY Law Journal March 2015
- *Ethics in International Arbitration*, in *Soft Law in International Arbitration*, (Juris Publ. 2014)
- Arbitrator Decision Making: Unconscious Psychological Influences and What you can do About Them*, American Review of International Arbitration, 2013
- Med-Arb: An Argument for Favoring Ex Parte Communications*, World Arb. and Mediation Rev., 2013
- All's Fair in Love and War: or is it?: Reflections on An International Code of Ethics for Counsel in Arbitration*, American Review of International Arbitration, 2012
- Drafting the Arbitration Clause: A Primer*, Dispute Resolution Journal, 2012
- Use of Dispositive Motions in Arbitration*, NY Dispute Resolution Lawyer, Spring 2011
- Time and Cost Solutions for Commercial Arbitration*, Dispute Resolution Journal, 2011
- A Multilateral Energy Sector Investment Treaty*: International Lawyer, 2011
- Combinations and Permutations of Arbitration and Mediation*: in *ADR in Business*, (Kluwer Publ.2011)
- The Advantages of Mediation in Investor State Disputes*, Revista Brasileira de Arbitragem, 2011