Conna A. Weiner, Esq., FCIArb

Mediator, Arbitrator, Referee/Special Master

Contact Information

Katie Robinson

One Boston Place, 201 Washington St. Suite 3300
Boston, MA 02108
T: 212-607-2707

Conna A. Weiner, Esq., FCIArb brings to her U.S. and international mediation and arbitration practice a unique combination of litigation, transactional and in-house experience after roles with internationally known outside counsel and multinational life sciences (pharmaceuticals, medical device, diagnostics, vaccines and other therapeutics) and health care companies. She has extensive experience mediating and arbitrating (in-person and virtually) complex general commercial cases in the U.S. and internationally, as well as franchise and employment matters, and serves as a sole arbitrator, neutral party-appointed arbitrator on three member panels and as the chair of arbitration tribunals with many of the major ADR providers. Her experience in the pharmaceutical, medical device, diagnostic and other therapeutics industries is particularly unique and sought after in connection with dispute resolution clause requirements requiring therapeutics or related industry experience. She also has an extensive healthcare disputes practice and is retained in technology disputes outside of the life sciences involving IT and related patent, copyright, and trade secret disputes, such as disputes regarding the development and implementation of databases and

allegations of infringement and misappropriation of technology-related IP and trade secrets by business partners.

Although she has decades of experience in general commercial and employment matters representing both plaintiffs and defendants and is noted for her ability to help parties assess their positions before and after litigations or arbitrations are filed, Ms. Weiner's extensive transactional and deal work over the years help her rapidly appreciate the core issues involved in business arbitrations and mediations and creatively assist parties in structuring an appropriate arbitration process or working out negotiated business solutions that help preserve relationships. Her inside counsel experience helps her understand and communicate with clients and maintain an objective perspective in connection with a wide variety of matters.

Ms. Weiner has special expertise in the full range of unique, complex legal issues and contractual arrangements prevalent in life sciences (such as intellectual property, licensing and acquisitions, supply agreements and the research, development and commercialization of pharmaceuticals, medical devices and diagnostics), health care (both payors and providers) and other technology arenas such as software/tech development and implementation and related allegations of negligence, infringement, misuse and misappropriation of IP, copyright and trade secrets. She is a Fellow in the Chartered Institute of Arbitrators, a Fellow of the College of Commercial Arbitrators, and holds a number of leadership positions in legal and dispute resolution organizations.

Details of her experience are set forth below.

Representative Arbitration and Mediation Matters

Ms. Weiner's practice is split fairly evenly between arbitration and mediation, and she has gained extensive experience hosting both types of matters remotely (primarily on the Zoom platform.) The list below is not all-inclusive; note that Ms. Weiner's counseling/legal experience (discussed below) is significantly broader than the issues covered to date by her ADR practice:

Representative Life Sciences matters (pharmaceutical, device, diagnostics, vaccines), such as research, development, commercialization, manufacturing and intellectual property:

- Neutral party-appointed arbitrator in ICC arbitration concerning **early stage strategic research, development and commercialization** of immuno-therapy drugs, including licensing obligations
- Ad hoc, issues-based baseball arbitration involving dispute between **synthetic biology investment fund and fund investors** revolving around representations concerning likelihood of success regarding complex technologies
- UNCITRAL ad hoc international arbitration between US pharmaceutical company and third party-distributor
- Neutral party-appointed arbitrator in dispute over **inventorship and other patent issues** and allegations of misappropriation of confidential information.
- Neutral party-appointed arbitrator regarding dispute over diagnostics joint development agreement
- Successful fast-track, multiple session Zoom mediation resolving issues between founding stockholders of a diagnostic company (Delaware incorporated) prior to company acquisition

- Neutral party-appointed arbitrator for tripartite panel in international arbitration regarding dispute over **long-term supply and distribution agreements** regarding blood plasma products between two pharmaceutical companies
- Neutral party-appointed arbitrator for tripartite panel in international arbitration regarding dispute over **earnout provisions of an acquisition agreement between two pharmaceutical companies** requiring use of commercially reasonable efforts to achieve milestones targeted to increases in sales of a basket of acquired products
- Sole arbitrator in connection with **university hospital – pharmaceutical company dispute over scope of permissible scope of patents sublicensing rights** and appropriate royalty rate
- Sole arbitrator in connection with **biological materials storage agreement** dispute
- Sole arbitrator in dispute over **valuation of private shares** in biotechnology company
- Successful fast-track, multiple session Zoom mediation resolving issues between founding stockholders of a diagnostic company (Delaware incorporated) prior to company acquisition
- International deal mediation involving mediator assistance with negotiation of patent license terms (royalties, etc.) resulting from patent litigation settlement
- International mediation regarding disputes between global diagnostics company and privately held diagnostics development company related to **diagnostics research, development and commercialization agreement**, including allegations of failure to use commercially reasonable efforts to both develop and commercialize diagnostics products in context of significant long-term collaboration
- International, multiple-party mediation of dispute amongst inventors, start-up company and research institution relating to **inventorship, patent and commercialization rights and responsibilities with respect to psychiatric pharmaceutical product**
- Mediation of research university and pharmaceutical company licensee dispute regarding **university's entitlement to sublicensing income from pharmaceutical company sublicense** to large pharmaceutical company
- Mediation of university-based vaccines supplier dispute with pharmaceutical company over effects of **termination of long term supply agreement in connection with flu vaccines**
- Mediation of **patient/subject injury claims in context of clinical trial**; disputes over informed consent, foreseeability of claimed injury, causation, damages
- Mediation of dispute over inability of clinical research organization and university clinical trial site to enroll number of patients required by clinical trial protocol during COVID-19 pandemic.
- International mediation of dispute over **sale of products to pharmaceutical company and failures to achieve sales and revenue targets**
- Mediation involving **university clinical trial compliance and data issues**
- Mediation regarding **gene therapy research foundation contribution to academic medical center research** which resulted in down-stream licensing deal
- Mediation involving **distribution and sales agency rights and obligations in connection with diagnostics products**

Representative ADR Matters in Technology and IT Outside of the Life Sciences

- Chair of international arbitration involving dispute with former **global distributor of certain non-life sciences technology;** conducted **Markman hearing;** additional allegations relating to software/copyright infringement, trademark infringement, false advertising and trade secret infringement and misappropriations

- Mediation relating to allegations of nonpayment of invoices and and trade secret misappropriation in connection with **global development and implementation of food safety and auditing management technology**
- Mediation involving allegations of fraud and negligence in connection with **development and implementation of healthcare reporting and auditing system**

Representative ADR Health Care Matters (such as managed care, payor-provider, physician practice issues)

Ms. Weiner has applied her years of substantive, hands-on experience to help parties in connection with a wide range of ADR matters. Representative of her ADR practice are the following:

- Chair of tripartite arbitration panel assessing out-of-network emergency room reimbursement dispute between health plan and hospital system provider involving thousands of claims; ad hoc
- Sole arbitrator of significant dispute between health plan and its pharmacy benefit manager regarding **appropriate basis for determining rebate payments due health plan after adjustments for modified AWP calculations**.
- Sole arbitrator in connection with payor-provider dispute centering around **appropriate reimbursement of bundled incidental charges**
- Neutral party-appointed arbitrator in connection with payor-provider dispute over reimbursement of thousands of **out-of-network claims**
- Emergency arbitrator appointed to assess applications for emergency relief in connection with **termination of health providers from health plan**
- Neutral party-appointed arbitrator for tripartite panel in **hospital/physician compensation dispute** (complicated by potential Stark Law issues)
- Chair of tripartite panel in physician partnership dispute involving allegations of failure adequately to compensate departing/retiring disabled partner
- Sole arbitrator payor-provider coverage dispute regarding **appropriate level of reimbursement for inpatient and outpatient mental health treatment** of potential suicide risk patient
- Sole arbitrator in connection with ambulance services and managed care provider reimbursement dispute
- Mediation of dispute involving **SaaS for health care claims administration software** and customer over software data migration and implementation issues
- Mediation of dispute regarding **sourcing of KN95 face masks** under FDA Emergency Use Authorizations for hospital use
- Mediator in connection with **termination of medical supplies agreement by hospital chain** in connection with acquisition by chain of community hospitals
- Mediation of university-based **vaccines supplier dispute** with pharmaceutical company over effects of termination of long term supply agreement
- Mediation of pharmaceutical company **false advertising/trade defamation** federal litigation involving cross claims with respect to accuracy of respective ad campaigns
- Mediation of complex dispute between health system and therapeutic hardware/software supplier in connection with **long term collaboration on cancer radiology therapy and associated software**

Representative ADR Employment matters

- Sole arbitrator in connection with workplace retaliation claims for reporting safety violations
- Sole arbitrator in **hostile work environment and retaliation** matter involving employee allegations of widespread harassing and male-dominated culture at company resulting in discrimination and a conspiracy among management employees to retaliate against female employees; assessment of extent of permissible me-too discovery in connection with same.
- Neutral party-appointed arbitrator for tripartite panel in dispute over **denial of severance benefits under an ERISA plan** in connection with change of control
- Sole arbitrator in connection with **FLSA, discrimination and retaliation claims** brought by terminated employee
- Neutral party-appointed arbitrator for tripartite panel in connection with **breach of partnership agreement and fiduciary duty by law firm partner**
- Sole arbitrator in connection with **age discrimination claims** in connection with reduction in force at community hospital associated with acquisition of community hospital by national hospital organization
- Charges of defamation on social media and other platforms

International and Domestic Franchise Arbitrations
Ms. Weiner has extensive international and U.S. experience as a sole arbitrator in franchise termination arbitrations, having arbitrated over numerous cases involving a number of different franchisors, including food service and hair salons

Attorney-Client Disputes
Ms. Weiner has arbitrated a number of disputes between attorneys and their clients, including fee and malpractice disputes, including as chair of tribunals.

Honors, Memberships, and Professional Activities

Completed Virtual ADR training conducted by the JAMS Institute, the training arm of JAMS.

Selected Appointments and Memberships

- Fellow, College of Commercial Arbitrators
- Vice Chair, Boston International Arbitration Association, Inc.
- ABA Health Care Section Leader: for the 2018-19 Bar Year - Vice Chair, ADR & Conflict Management in Healthcare
- Vice Chair, USCIB/ICC Arbitration Northeast Subcommittee
- Fellow of the International Chartered Institute of Arbitrators
- Named on the Silicon Valley Arbitration & Mediation Center's List of the World's Leading Technology Neutrals in 2016
- Appointed to World Intellectual Property Organization (WIPO) Panel of Neutrals
- Available for American Arbitration Association and International Centre for Dispute Resolution cases through party or neutral appointment. Previously served on the American Arbitration Association's (AAA) arbitration and mediation panels, including its commercial, large complex cases, health care and joint venture and mergers and acquisitions specialty panels, and the

AAA's international affiliate, the International Centre for Dispute Resolution (ICDR)
- American Bar Association (Section on Dispute Resolution; appointed co-chair, Women in Dispute Resolution Committee 2015–2018; Section of Litigation; Commercial and Business Litigation Section, appointed chair of ADR subcommittee; Health Law Section, appointed to ADR Task Force)
- New York City Bar Association
- New York State Bar Association (Dispute Resolution Section)
- Women's Bar Association (Massachusetts), Co-Chair, ADR Committee
- Massachusetts Bar Association (appointed to Dispute Resolution Council)
- American Health Lawyers Association (appointed to panel of neutrals)
- International Institute for Conflict Prevention and Resolution (appointed to Distinguished Panel of Neutrals, including to specialty health care and life sciences and technology panels)
- Association of Corporate Counsel
- Licensing Executives Society
- Boston Bar Association

Publications and Materials

- Conna Weiner & Bennett Picker, "Commercial Mediation Practice Guide: A Practical Handbook for Lawyers and their Business Clients, Third Edition", American Bar Association, January 27, 2023
- "Mediating Complex Business Disputes Before Litigation: Making the Most of the Moment," *The Resolver,* Spring 2018, Federal Bar Association
- "Reassessing Commercial Arbitration: Making It Work for Your Company," with Steven M. Greenspan, *American Corporate Counsel Docket* magazine, March 2017
- Case Note, New York State Bar Association Dispute Resolution Lawyer, Spring 2015: Second Circuit Refuses to Enjoin Subsequent Arbitration Based Upon All Writs Act: *Citigroup, Inc. v. Abu Dhabi Investment Authority*
- "Striving for the 'Bulletproof' Mediation Settlement Agreement," with Edna Sussman, April 2015
- Outlines, Materials and Forms for Mediation Convening and Intake Best Practices, with Nancy Greenwald, 2015 ABA Section on Dispute Resolution Annual Meeting Program
- Foundational materials and bibliography for presentations regarding "Beyond ADR: Managing Conflict with External Partners Before and After the Contract Is Signed," selected for CLE presentation at the February 2016 Annual Meeting of the Association of University Technology Managers in San Diego

Selected Speaking/Teaching Engagements and Panel Presentations

- June 2022: Mediator, Introduction of the Moot Trial, 8th Annual World Life Sciences Conference
- May 2018: Panelist, Arbitration Best Practices Tips, American Bar Association Section of Litigation National Annual Meeting
- May 2018: Organizer and Panelist: Managing Dispute Risk in Business Agreements: How Transactional Lawyers and Litigators Can Work Together
- April 2018: Panelist, Cutting-Edge Issues in Commercial Arbitration, New York Law School
- February 2018: Organizer and Panelist, How Experience Lawyers Can Hone Their Mediation Advocacy Skills, American Bar Association Corporate Counsel CLE Program
- April 2017: Organizer and Panelist Special Issues in Health Care Arbitration, Boston Bar

Association
- Organizer and Panelist: Essentials of Mediation and Arbitration, Massachusetts Bar Association 2017-2018
- January 2017: Co-Chair and Panelist, New York State Bar Association Dispute Resolution Section Annual Meeting
- October 2016: Organizer, Moderator and Panelist: Reassessing Commercial Arbitration in 2016: Making It Work for Business, New England Legal Foundation
- July 2016: Seminar, Dispute Risk Management in External Alliances, Association of Strategic Alliance Professionals
- May 2016, Speaker, Negotiation and Conflict Resolution, Women Who Build: Leadership and Networking Summit Construction Institute of the University of Hartford
- April 2016: Speaker, Unpacking, Mapping and Evaluating Conflicts: Analytical Tools for Resolving Complex Disputes and Enhancing Your Practice, ABA Section on Dispute Resolution Spring Meeting
- February 2016: Organizer, Moderator and Speaker, Beyond ADR: Managing Disputes with External Partners Before and After the Contract Is Signed, Annual Meeting of Association of University Technology Managers
- February 2016: Organizer, An Insider's Look at Alternative Dispute Resolution, Women's Bar Association ADR Committee
- November 2015: Organizer and Speaker, What Every Litigator Needs to Know About ADR to Be Competitive in Today's Marketplace, ABA Women of the Section of Litigation
- October 2015: Speaker, What Lawyers Need to Know About Dispute Resolution Methods and Drafting, D.C. Bar Association
- 2015: Organizer, Moderator and Speaker: The Alternative Dispute Resolution Continuum: Ombuds, Early Neutral Evaluation and Med-Arb, Arb-Med, New York State Bar Association Dispute Resolution Fall 2015 Meeting
- 2015: Organizer, Moderator and Speaker: Mediation Convening and Intake Best Practices, ABA Section on Dispute Resolution Annual Meeting
- 2015: Speaker, High-Technology ADR, ABA Section on Dispute Resolution Annual Meeting
- 2015: Speaker, ADR in Intellectual Property Cases, CPR Annual Meeting
- 2014: Speaker, Managing Disputes in Life Sciences Collaborations, Association of Strategic Alliance Professionals
- 2014: Semifinal Judge, ABA National Mediation Competition
- 2014: Speaker, Dispute Resolution: Managing Your Exposure and Avoiding Your Day in Court (And What to Do If You Can't Avoid It), New England Corporate Counsel Association
- 2013: Speaker, ADR and Business Disputes, Massachusetts Law Weekly
- 2013: Speaker, Arbitration Evolution, ExecuSummit on ADR
- 2013: Speaker, What Clients Are Looking for in Arbitration, ABA Section on Dispute Resolution Annual Meeting

Bar Admissions

- New York, 1987
- Massachusetts, 2013
- U.S. District Court, Eastern and Southern Districts of New York, 1989

Background and Education

- Independent Mediator, Arbitrator and Consultant, 2013–2018
- General Counsel, North America, Mylan, Inc., 2010–2012
- Vice President and Lead Counsel, Shire Human Genetics Therapy, 2009–2010
- U.S. and global roles, Novartis, 1993–2009
    - Head of Litigation, Ex-Americas, 2009
    - Global General Counsel and Global Compliance Officer, Novartis Animal Health, Inc., 2007-2008
    - Vice President, Legal, Novartis Pharmaceuticals Corporation, 2004–2007; specific roles included U.S. Legal Head of Transplant, U.S. Legal Head of Ophthalmics, Legal Head of U.S. Managed Markets and work in oncology and epilepsy
    - Executive Director and Section Head, 1996–2003
- Litigation Associate, Paul, Weiss, Rifkind, Wharton & Garrison, 1987–1993
- J.D., University of Chicago Law School, 1986
- B.A., With Highest Honors, Oberlin College, 1983

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