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# Gary Birnberg

Esq., FCI Arb

Mediator, Arbitrator

## Case Manager

Jaquelyn Alvarez

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**Gary Birnberg** serves as a mediator, arbitrator, and settlement negotiator in a diverse array of complex commercial matters, both internationally and domestically. Mr. Birnberg's significant, hands-on business experience coupled with his legal acumen allow him to quickly grasp the facts in multifaceted cases, and nurture trust amongst the parties. He employs determination and creativity to assist parties in reaching resolution. His ADR practice is concentrated on business and commercial, aviation, insurance/reinsurance, financial markets, and intellectual property disputes. Prior to joining JAMS, Mr. Birnberg spent 20 years providing strategic and business consulting services to companies in a wide variety of industries, including aviation, technology and communications, energy, life sciences, sports and entertainment, and maritime, among others. Through his work consulting with companies on global business initiatives, such as creating and executing distribution expansion strategies, Mr. Birnberg has garnered a strong understanding of the needs of businesses facing cross-border disputes. His business experience, multi-lingual capabilities, and negotiation skills make him uniquely qualified to resolve matters involving international issues.

Mr. Birnberg is a U.S. citizen and permanent resident of Brazil, fluent in English, French, and Portuguese with conversational capacity in Italian and Spanish.

## ADR Experience and Qualifications

- More than 30 years of experience as a commercial dispute resolution and business relations intermediary, management consultant, corporate board member, entrepreneur, trainer, speaker, and advisor to companies worldwide
- Florida Supreme Court's Civil (2010) and Appellate Mediator Certification (2012)
- Chair of the Advisory Board for The Hague Court of Arbitration for Aviation

**Has previously served on ADR panel appointments with multiple organizations including:**

- Multiple Brazilian institution panels, including: CAE Mediation and Arbitration Chamber of European Chambers of Commerce (São Paulo); CAM-CCBC – Center of Arbitration and Mediation – Brazil-Canada Chamber of Commerce (São Paulo); CAMARB - Brazilian Chamber of Business Arbitration; CBMA - Brazilian Center of Mediation and Arbitration (Rio de Janeiro); CIESP/FIESP Center of Industries of the State of São Paulo / Federation of Industries of the State of São Paulo; CMAA Câmara de Mediação e Arbitragem ACIF (Associação Comercial e Industrial de Florianópolis)
- HCAA-the Court of Arbitration for Aviation
- CAS-Court of Arbitration for Sport
- CMAP Mediation and Arbitration Center of Paris
- CPR International Institute for Conflict Prevention and Resolution (New York)
- CPR-CMAP joint panel for complex, high value, bilingual, international commercial cases
- CAfA-Court of Arbitration for Art
- FINRA
- KCAB International – Korean Commercial Arbitration Board International – Panel of International Arbitrators
- Russian Arbitration Center at Russian Institute of Modern Arbitration
- Vienna International Arbitral Center (VIAC)

## Representative Matters

- **Aviation**
  - Served as one of two mock arbitrators in a dispute involving the joint venture relationship between two aerospace companies to design, develop, manufacture, and maintain a specialized aircraft
  - Mediated numerous contractual cases involving leasing disputes
  - Mediated numerous contractual cases involving various supply chain issues, between airlines and OEMs as claimants
  - Mediated numerous contractual cases involving aircraft sales/trading
- **Business Commercial**
  - Arbitrated ICC-administered dispute involving breach of contract by Japanese conglomerate in acquisition of US-based designer of sleeping devices
  - Mediated dispute involving French multinational seeking recovery of investment from Brazilian entity in failed joint venture to exploit claimant's patented process for assembling wind turbine towers
  - Mediated dispute between Dutch and US companies involving competing contractual rights to sub-license technology developed by non-party patent holder
  - Mediated global family business disputes, including succession
  - Served as arbitrator on consumer matter involving alleged violations of terms of use

and intentional interference with contracts

- Served as arbitrator on consumer matter alleging violations of a state finance act
- Mediated a wide variety of contract matters including breaches of settlement agreements, distributorship agreements, employment contracts and contract termination
- Served as a business consultant on a project for a Top 10 pharmaceutical company assisting in the communication of production solutions between the corporate headquarters (French company) and a production facility of its US subsidiary, located in the US
- As a business consultant, worked directly with senior counsel at a Big Three pharmaceutical wholesaler to develop a comprehensive conflict resolution platform for external disputes

- **Financial Markets**

- Mediated to settlement Brazilian anti-trust authority mandate for vertically-integrated monopolist (monopolist on exchange, clearing, and custodian levels) to accommodate viable entry of competition into the marketplace. This was a historic agreement that changed the nature of the US\$1 trillion Brazilian securities market
- Served as mediator in US\$100+ million U.S. IPO of foreign telecommunications company: redressing toxic interplay among global investment banker and in-house legal and external local and international legal teams. Ultimately, designed internal dispute resolution system assuring successful continuation of IPO
- Served as chair, arbitrator or as mediator in dozens of cases involving investor complaints against broker-dealers related to the sale of unsuitable products (including derivatives), fraud and other allegations
- Served as mediator in cases involving secured debt restructuring with major financial institutions
- Served as mediator in dozens of cases involving consumer claims against commercial banks for consumer policy malfeasance
- Consulted on matters involving shareholder rights and valuation, including dissolutions, minority share valuations upon sale, disputes involving private equity transactions
- Arbitrated a number of FINRA securities matters, including issues of expungement
- As a business consultant, worked on the financial restructuring of businesses, involving major global banks
- As a business consultant, worked on corporate financing projects for companies specializing in devices/systems for decentralized molecular diagnostics, real-time monitoring of patients' metabolic state and fertility detection

- **Insurance**

- Mediated to settlement a single US\$600 million limit of liability coverage claim on a US\$7 billion loss involving numerous insurers and reinsurers from multiple jurisdictions. The week-long mediation sessions included 56 participants managed by a single mediator
- Mediated numerous cases involving coverage claims in areas of art theft, real estate, landlord-tenant, mining and natural disaster property damage and loss
- Mediated a dispute involving alleged fraud by an insurance broker in connection with the procurement of two policies on a maritime vessel
- As a business consultant, worked on several projects with major hospital systems which involved recouping erroneously rejected claims for Federal program and

- private insurance claims
  - Mediated liability claim stemming from collision by a towfish, severing an oil drilling platform mooring line
- **Intellectual Property**
  - Mediated dispute between Chinese and US parties involving allegations of patent infringement
  - Mediated copyright infringement dispute between domestic parties involving copyright infringement of academic materials

## Honors, Memberships, and Professional Activities

- Chair, Board of Advisors, the Hague Court of Arbitration for Aviation. 2022-2024
- Member, Advising Committee, U.N. Convention on International Settlement Agreements Resulting from Mediation, 2022-2023
- Member, Board of Advisors, Câmara Especial de Resolução de Conflitos em Reestruturação de Empresas (CamCMR), Centro de Mulheres na Reestruturação Empresarial (CMR) [The Women's Center of Business Restructuring], 2022
- Distinguished Fellow, International Academy of Mediators, 2021-2024
- Member, Rules Committee ICC International Commercial Mediation Competition, 2021-2023
- Chair, Arbitration/Mediation Committee (new merged committee), International Law Section, Florida Bar, 2022-2024
- Chair, Mediation Committee, International Law Section, Florida Bar, 2020-2022
- Member, National Academy of Distinguished Neutrals, Florida Chapter, 2020-2024
- International Bar Association
  - Advisory Board Member, 2022-2024
  - Advisory Board Chair, 2021
  - Co-Chair, Mediation Committee, 2019-2020
- Past President, French-American Chamber of Commerce of Florida, 2018-2020
- Chair, Florida Chapter, Chartered Institute of Arbitrators (CIArb) North America Branch, 2019-2020
- Fellow, CIArb (UK), 2017-2024
- Member, CBAR - Brazilian Arbitration Committee
- Member, Miami International Arbitration Society, 2014-2024
- Expert Assessor, CDRC Vienna: IBA-VIAC Mediation and Negotiation Competition, 2016-2019
- Operating Committee, CDRC Vienna 2018-2021
- Submissions Judge, CONIMA - CBAME, 2015-2019
- Judge, CAMARB Mediation Competition 2018
- Judge and Mediator, International Chamber of Commerce (ICC) International Mediation Competition, 2016-2023
- Member Local Organizing Committee, Global Pound Conference: Miami, 2016-2017

### Bar Admissions

- New York

## Selected Presentations, Publications, and Trainings

- Master Class in Cross-Cultural Mediation, CCAMI Course for Mediator Training, online, October 2024
- Speaker, Facing the challenge: approaches to the resolution of the most difficult conflicts, Brazilian Association for Intellectual Property Mediation Center, October 2024
- Panel Moderator, Clearing for Takeoff: Exploring Arbitration's Path in Airport Concessions at XI CAM-CCBC Arbitration Congress & 17th IFCAI Biennial Conference, São Paulo, October 2024
- Speaker, Dispute Resolution: Mediation, Arbitration, Litigation, 14th Annual McGill Conference on International Aviation Liability, Insurance and Finance, Montreal, September 2024
- Panel Coordinator and Moderator, Mediation in the Air, IBA Annual Meeting, Mexico, September 2024
- Contributing Editor, "The Guide to Aviation and Space Disputes," Global Arbitration Review (GAR), June 2024
- Speaker, The Use of ADR in Aviation, Member Airline Legal Briefing Sessions at IATA's World Legal Symposium, Vancouver, February 2024
- Panelist, Mediation in Aviation, Hague CAA Annual Conference, The Hague, January 2024
- Speaker, Duty of Disclosure under Comparative Law, English Arbitration Day, São Paulo Arbitration Week, October 2023
- Panel Moderator, Greener Grass or Scorched Earth: The Impact of Legislation and Court Reform on Arbitration Friendliness in the Americas, Miami Arbitration Week, November 2023
- Guest Speaker, *Conflicts and their Resolutions: A Global Adventure Through Time*, Honors Social Science Methods/Theory Course, University of Texas, October 2021
- Panelist, *International Perspectives on Commercial Mediation*, ILS Virtual Panel Series Novos Rumos Da Mediação Comercial Internacional, August 2021
- Moderator, IBA Annual Conference, *Mediation of International Commercial Disputes Pitfalls, Risks and Opportunities*, November 2020
- Panelist, *The Implication of the Recently Signed Singapore Mediation Convention for Australian Practitioners*; ILS International Law and Practice Course 2019 lecture; Sydney, Australia, August 2019
- *Resolving Art Disputes: Solutions for Stakeholders*. Panel Discussion Moderated during Art Basel Miami Beach, 2018
- CAMARB VIII Brazilian Competition in Business Arbitration and Mediation: Panelist on Opening Panel *The use of Mediation within Arbitration*. 2018
- GEMEP / CBAR 11 International Congress on Business Mediation. Panelist: *The Value-Added of Mediation* 2018

## Selected Awards

- Recognized as a Best Lawyers "*Best Lawyer in America*" in Arbitration and Mediation, 2022-2024
- Listed as Excellent Mediator, Dispute Resolution Category, *Leaders League Brazil*, 2021-2024

## Background and Education

- M.B.A., INSEAD, 1986

- J.D., Boston University School of Law, 1985
- B.A., International Relations, University of Pennsylvania, 1981

### Nationality and Languages

Mr. Birnberg is a Citizen of the USA and has Permanent Residency status in Brazil. He speaks, reads, and writes on a fluent, professional level in English, French and Portuguese. He also speaks conversational Italian and Spanish.

## Counsel Comments

*"It was a very productive day with a successful outcome, which I attribute to [Mr. Birnberg's] skills. I enjoyed working with [Mr. Birnberg] on this and will certainly request [his] assistance in the future as the need arises. Thanks for the professionalism, skill and good nature. It all helped get [the case] resolved."*

*"He is persistent and creative. If a settlement is possible, he will make it happen."*

*"I have worked with many of the best mediators in this city. Nobody is more effective than Gary."*

**- Litigator/Partner of Miami-based Law Firm**

*"How did you do that?"*

**- The identical comment of several attorneys who went through successful mediations with Mr. Birnberg that they anticipated would never settle**

*"Agradeço imensamente pela liderança e habilidade em nos conduzir em processo tão complexo" Translation: "I thank you immensely for your leadership and ingenuity in directing us through such a complex process"*

*"It was a great week. You truly did an amazing job. Big egos, big pockets... you did amazing to get it done"*

*"Fiquei absolutamente encantado com a maneira muito habilidosa como conduziu um conflito tão complexo subjetiva e objetivamente" **Translation:** "I was absolutely enchanted with the skilled, unbiased manner in which you conducted [this mediation based on] such a complex and subjective conflict"*

# HOME OFFICE

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# NEWS

## 10 JAMS Panelists Named 2024 “Lawyers of the Year” and 59 Recognized as “Best Lawyers in America” by Best Lawyers®

<https://www.jamsadr.com/news/2023/jams-panelists-named-2024-lawyers-of-the-year-by-best-lawyers>

August 17, 2023

## Six JAMS Panelists Named 2023 “Lawyers of the Year” and 63 Recognized as “Best Lawyers in America” by Best Lawyers®

<https://www.jamsadr.com/news/2022/six-jams-panelists-named-2023-lawyers-of-the-year-and-63-recognized-as-best-lawyers-in-america-by-best-lawyers>

August 22, 2022

## Gary Birnberg, Esq., FCI Arb, Appointed Chair of the Advisory Board for The Hague Court of Arbitration for Aviation

<https://www.jamsadr.com/news/2022/gary-birnberg-esq-fciarb-appointed-chair-of-the-advisory-board-for-the-hague-court-of-arbitration-for-aviation>

July 21, 2022

## Four JAMS Panelists Named “Lawyers of the Year” and 61 Recognized as “Best Lawyers in America” by Best Lawyers®

<https://www.jamsadr.com/news/2021/four-jams-panelists-named-lawyers-of-the-year-and-60-recognized-as-best-lawyers-in-america-by-best-lawyers>

August 19, 2021

## **JAMS, Society of Mediation Professionals (Singapore) to Host Interactive Think Tank in Celebration of Singapore Convention**

<https://www.jamsadr.com/news/2019/jams-society-of-mediation-professionals-singapore-to-host-interactive-think-tank-in-celebration-of-singapore-convention>

August 6, 2019

## **International Arbitrator & Mediator Gary Birnberg, Esq. Joins JAMS in Miami**

<https://www.jamsadr.com/news/2017/international-arbitrator-mediator-gary-birnberg-esq-joins-jams-in-miami>

February 16, 2017

# **EVENTS**

## **Past Events**

October 17, 2024

**Open Talks at Siqueira Castro - Arbitration**

October 16, 2024

**Facing the Challenge - Approaches to the Resolution of the Most Difficult Conflicts**

October 14, 2024

**XI CAM-CCBC Arbitration Congress**

September 19, 2024

**IBA Annual Conference 2024**

August 6, 2024

**Commercial Mediation: What Can Brazilian Practitioners Learn from American Best Practices**

February 16, 2024

**iLaw2024 The ILS Global Forum on International Law**

November 13-17, 2023

**Dubai Arbitration Week**

November 8, 2023

**Inaugural Miami Arbitration Week Kickoff Event**

November 3, 2023

**IBA Annual Conference Paris 2023**

October 20, 2023

**Alternative Dispute Resolution and the Access to Justice: Comparison between the American and the Brazilian Systems**

October 11, 2023

**Miami: A Hotspot for Cross-Border Disputes**

April 14, 2023

**IBA Annual Arbitration Day**

March 27-31, 2023

**Paris Arbitration Week**

February 6-11, 2023

**18th ICC International Commercial Mediation Competition**

November 10-11, 2022

**IV CBMA International Congress of Mediation - 20 Years in 2: The Advances of Mediation In a Pandemic Period**

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