

the parties to be marked "without prejudice".

Courts are keen to promote the benefits of negotiation and, essentially, the rule excludes negotiations that are genuinely aimed at settlement being given in evidence.

Consequently, if negotiations do fail and a dispute proceeds to court, neither party can rely on admissions made by the other in these negotiations. The rule is important as it allows parties to have frank and open settlement discussions.

Exceptions

However, there are exceptions to the principle that statements made in the course of without prejudice negotiations are not admissible in evidence. It is therefore important that parties who are attempting to settle a dispute understand the scope of the protection that the "without prejudice" rule offers.

This was demonstrated in the recent case of *Oceanbulk Shipping & Trading SA v TMT Asia Limited and others*. In this case the parties entered into a settlement agreement. There arose a dispute between the parties as to the true construction of the agreement. The Supreme Court had to decide on appeal whether it was permissible to refer to matters discussed in the course of the "without prejudice" negotiations as an aid to the interpretation of the agreement.

Lord Clarke on appeal to the Supreme Court decided that facts identified during without prejudice negotiations which lead to a settlement agreement will be admissible in evidence if

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these are necessary to aid the construction of a settlement agreement. Lord Clarke was of the view the evidence should be admitted so that the Court can make an objective assessment of the intention of the parties.

Settlements

There are a number of exceptions to the without prejudice rule and parties should be aware of these when negotiating to settle.

This decision confirms a further exception to the "without prejudice" rule that evidence may be admissible to explain "the factual matrix or surrounding circumstances" to a court interpreting the terms of a settlement agreement. Of course, if the settlement agreement was drafted clearly in the first place this would be unnecessary.

Parties should ensure once a settlement is reached that the terms agreed are committed to writing at the earliest opportunity. It is important to ensure that any agreement reached accurately reflects your position and that the points agreed are set out in the clearest of terms.

This decision shows that any ambiguity may later lead to a costly dispute which could have been avoided.

Gurbinder Grewal is an associate in the construction team at HBJ Gateley Wareing

Industry calls for women to fill the skills gap

EQUALITY

KARA SEGEDIN

Following the 100th International Women's Day, deputy chairman of CITB-ConstructionSkills Judy Lowe is keen for more women to consider a career in construction.

"As anyone in the construction industry knows, there's nothing more exciting than being able to point to an iconic building and say 'I was part of that,'" says Ms Lowe.

She also says the number of women employed at "shop-floor level" represents just 1.2 per cent of the workforce, and those figures do not get much better further up the company ladder.

She says half of the top 10 construction firms in the UK do not have any women on their boards, which is lower than the FTSE average. This was featured in the recent government-commissioned report by former trade minister Lord Davies.

"Only a very small proportion of women are in construction, however, as an industry, this is changing with more and more women managing or directing a range of industry projects and initiatives."

Ms Lowe says 140 women have signed up to participate in the ConstructionSkills' Ambassador programme. These volunteers give up their time to champion the sector by going into schools and talking to pupils

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JUDY LOWE, CITB-CONSTRUCTIONSKILLS

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about their experiences in the industry. "More than 100 women have also benefitted from our Inspire University Scholarships programme since 2008," she says.

Elsewhere, CITB-ConstructionSkills has been a strong supporter of the Olympic Women's Project which aims to promote construction-related job and skills development for women and to provide to access employment opportunities at London 2012.

Also, for the past four years it has supported more than 3,800 women with retention and progression through the Women and Work programme.

Education

Ms Lowe says education providers are also playing their part in attracting more women to construction.

"The Leeds College of Building ensures it has women tutors for the trades it teaches - ranging from carpentry to heritage skills.

"As you look around the college, you get a sense of feeling that it's not just you alongside dozens of men, which can be much more appealing to women learners," she says.

According to the latest figures from the ConstructionSkills Network, the industry needs 43,000 new entrants each year up to 2015 to avoid a skills gap.

"This is quite a challenge," she adds. "It's why we run a Positive Image campaign, to attract the brightest and best new talent. And nowadays that means encouraging the brightest and best young women, too.

"It's about ensuring we have the right skills, in the right place, at the right time."

To find out more about CITB-ConstructionSkills training opportunities and grants, and to find contact details of a local office, visit www.cskills.org