

ZELAYA
ETCHEGARAY

/ SOLUCIÓN DE CONTROVERSIAS /

/ CV

PEDRO ZELAYA

Lawyer

During his professional life – and particularly as partner of an important law firm in Chile –, Pedro Zelaya has worked in different areas of law and in various business sectors. In this sense, his professional practice has not limited to providing corporate and contractual legal advice to companies but has also included matters pertaining to litigation and arbitration. Since he started ZELAYA ETCHEGARAY & Co., he is working as a full time and independent arbitrator only in contractual matters. In this role he was appointed by Chilean Supreme Court as member of the roster to the Arbitral Tribunal of Public Work Concession Systema. Also, he has acted as sole arbitrator -on institutional arbitrations proceedings- regarding Construction Disputes, Shareholders conflicts, export of goods by sea (transportation of insured goods that suffered damages during the sea crossing), real estate project development dispute between the owner and the project management company, etc.

ACADEMIC BACKGROUND

- > Post Doctorate, “Visiting Scholar at Fordham Law School”, Lincoln Center, Manhattan, NYC (2012-2013).
- > PhD in Private Law (thesis approved unanimously), Universidad de Navarra, Spain (1992).
- > Lawyer, Universidad de Chile (1986).
- > Bachelor of Laws, Faculty of Law, Universidad de Chile (1985).

ACADEMIC AND UNIVERSITY ACTIVITIES

- > Professor of the Post Graduate Diploma in Consumer Law, Faculty of Law of Universidad de Chile (2019 - present).
- > Associate Professor of Civil Law, Faculty of Law of Universidad de Chile (1996 - present).
- > Professor of the Specialization Course “Legal Liability and its Scope of Protection”, Faculty of Law of Universidad de Chile (2015 - present).
- > Professor of the master’s degree program in Labor Law and Social Security, Faculty of Law of Universidad de Chile (2014 - 2016).
- > Professor of Civil Law, Faculty of Law of Universidad de Los Andes (1993-2012).
- > Professor of the master’s degree program in Business Law (MDE), Faculty of Law of Universidad de Los Andes (2008-2012).
- > Professor at the “Judicial Academy” (public institution dependent of the Ministry of Justice of Chile that teaches courses to judges and judicial personnel) (2000 - 2011).
- > Professor of the Postgraduate Diploma in New Trends in Contracts and Damages of the Faculty of Law of Pontificia Universidad Católica de Chile (2007-2010).
- > Professor of the Postgraduate “Diploma in Civil Liability Insurance”, organized by the Escuela de Seguros de Chile (Insurance School of Chile), the Insurers Association and the Faculty of Law of Universidad de los Andes (2008).
- > Professor of the Postgraduate Diploma in Civil Liability, Faculty of Law of Universidad de Chile (2008).
- > Professor of the Postgraduate Program of the Faculty of Law of Universidad del Desarrollo (Concepción), Course: “Damages and Public Law” (2008).
- > Adjunct Professor of the Course titled “Civil and criminal liability for medical malpractice”, taught at the Faculty of Law of Universidad de Chile (2006).
- > Adjunct Professor of the course titled “Civil and criminal liability for medical malpractice”, taught at the Faculty of Law of Universidad de Chile (2001 - 2005).
- > Professor of the master’s degree program in Business Law, Faculty of Law of Universidad del Desarrollo, Concepción (1999-2004).
- > Professor of the Doctorate Program of the Faculty of Law of Universidad de los Andes (2003).
- > Professor of the Postgraduate Diploma in Torts, Graduate School, Faculty of Law of Universidad de Chile (2001).
- > Adjunct Professor of the course titled “Civil and criminal liability for medical malpractice”, taught at the Faculty of Law of Universidad Santo Tomás (2001).
- > Academic Professor in charge of the course titled “Civil Liability”, taught at the Faculty of Law of Universidad de Chile (2000).

Corporate and Out of Court Matters

Legal advice to national and foreign clients in the process of analyzing bidding rules and delivering bids in multiple bidding processes called by the Ministry of Public Works for the award of concession contracts of public works (roads).

Legal advice to public works concessionaires during the negotiation, drafting and signing of multiple supplementary agreements with MOP that compensated additional works and services requested by virtue of the "Ius Variandi" of the State (e.g., works necessary to build new footbridges, service roads, electronic collection systems via TAG; changes to irrigation canals, towers and power lines, ducts, and multi-ducts, etc.).

Legal advice to highway concessionaires in drafting bidding rules, bidding and awarding EPC contracts for all or part of the public works subject of the concession contract and/or its supplementary agreements.

Legal advice to foreign clients in the incorporation of Agencies in Chile, helping them obtain their Business License ("Inicio de Actividades") and Tax ID No. before the Internal Revenue Service (IRS), opening of checking accounts in domestic banks, office rentals, obtaining visas for executives, etc.

Legal advice to public port owner in Chile in the preparation of bidding rules to award the concession of one of its mooring docks, receipt of bids and subsequent award.

Legal advice to a foreign Fintech Group in the incorporation process of companies so the latter could operate and provide its services in Chile. This included the incorporation and approval by the Regulatory Agency of a special sociedad anónima that issued payment cards with provision of funds.

Legal advice to foreign companies in analyzing bidding rules. This also included providing legal advice during the preparation, and submittal of bids in bidding processes for works contracts of Empresa de Ferrocarriles del Estado.

Legal advice to a group of medical companies (sociedades de profesionales médicos) in connection with the contractual relationship they had with the holding company (owner of the Private Clinic).

Legal advice to a foreign company in the bidding process called for by the Ministry of Mining in Chile, which sought to award Special Lithium Operation Contracts.

Legal advice to an investment fund in the process of purchasing shares from highway concessionary companies.

Legal advice to a highway operator group in the negotiation of its EPC contracts with a construction partner before submitting the bid to the MOP.

Legal advice to a foreign company in a bidding process involving the supply of spare parts or components for the construction of a desalination plant.

Legal advice to foreign multinationals in the closing of their local operations, termination of business before the IRS and liquidation of their existing corporate vehicles in Chile.

Legal advice to a foreign company in the potential acquisition of a project developed under the Private Initiative system of the Public Works Concessions Law and declared of public interest by the Public Works Concessions Council (Consejo de Concesiones de OOPP).

Litigation in proceedings heard before Public Courts.

Legal advice in the defense of highway concessionary companies against civil liability claims for damages suffered by users during the use or circulation on the highway.

Legal advice in the defense of a concessionary company against a lawsuit for alleged non-payment of emergency works executed during an earthquake.

Legal advice in the defense of a client against a claim filed by SERNAC followed before collective interests proceedings for alleged violations to the Consumer Protection Law.

Legal advice in the defense of a client against Appeals for Legal Protection (Recursos de Protección) filed before the competent Court of Appeals for alleged illegal or arbitrary acts contrary to constitutional guarantees protected by such constitutional remedy.

Legal advice to clients for damages suffered inside hospital establishments, negotiations and transactions.

Experience as Lawyer in Arbitration Proceedings

Legal advice to highway concessionary companies in arbitration claims against the Ministry of Public Works (MOP) for the existence of "construction cost overruns", loss of income, loss of machinery performance and labor, higher general expenses, etc., that took place after the contract was awarded and arising from facts not attributable to the highway concessionary company.

Legal advice to highway concessionary companies in arbitration claims against MOP for fines imposed by the Public Works Inspector for alleged breaches of obligations established in the concession contract.

Legal advice in the defense of concessionary companies in arbitration claims filed by construction companies for alleged breaches of obligations of construction contracts executed between the parties.

Legal advice in the defense of a stock broking company against an arbitration claim filed by a client for alleged losses in futures contracts.

Legal advice to a foreign business group in the preparation of an arbitration claim against Empresa de Ferrocarriles del Estado for breaches to the concession contract, whose purpose was the improvement of the standard of the railroad track south of Santiago.

Legal advice to international companies in the recognition of foreign arbitral awards (Exequatur before the Supreme Court), which are necessary to enforce or execute them in Chile.

Experience as Arbitrator in arbitration proceedings in Chile

"Ad hoc" arbitration proceedings in which the plaintiff was a public road construction company (insured company under an all-risk construction policy), and the defendant was an insurance company that refused to pay compensation for damages caused to the public highway due to heavy rains in the north of Chile. In this line, the latter party alleged that this specific event was not covered by the insurance contract (terminated).

Arbitration proceeding administered by CAM SANTIAGO in which the plaintiff was a private construction company, and the defendant was an insurance company that refused to indemnify losses or damages alleged by the former during the construction of a shopping center in Santiago (terminated).

Arbitration proceeding administered by CAM SANTIAGO in which the plaintiff was a construction company that sued its subcontractor for several contractual breaches; in turn, the subcontractor also filed a counterclaim against the plaintiff (terminated).

Arbitration proceeding administered by CAM SANTIAGO in which a real estate company filed a claim against a professional services company alleging several breaches of contract (pending).

Arbitration proceeding administered by the CNA in which it acted as the sole Court of Appeal in a case related to a joint venture created by both parties to build and operate a run-of-river hydroelectric project. The plaintiff was Company No.1, which – through a JV with Company No. 2 – assigned to the JV the use of its water rights on the river in question. Company No. 2 in turn, designed, built, operated the plant, according to which it agreed paying Company No. 1 a regulated monthly amount of money. The plaintiff alleged that Company No. 2 did not pay the monthly payment due; to the contrary, Company No. 2 alleged that there was no right to receive this monthly amount because the clause that regulated these payments was clear in providing that, in such circumstances, there were no grounds to receive any payments. At first instance, the arbitration award rejected the claim. The appellate court confirmed the final award of the first instance arbitrator (terminated).

International arbitration proceeding administered by CAM SANTIAGO in which the claimant was a fruit producing company (agro-industrial company) and the respondent was a foreign company represented in Chile by an individual (exporting company). The fruit producer alleged that the exporter had not paid the fixed and minimum guaranteed price; the exporter alleged that there was no fixed and minimum price (terminated).

PUBLICATIONS

"Las denominadas obras adicionales o extraordinarias en los proyectos de infraestructura privada a suma alzada: una importante distinción", published in *El Mercurio Legal* (01.18.2023).

"Los dispute boards para los contratos de infraestructura minera", published in *El Mercurio Legal* (08.31.2022).

"Así se respetan las "reglas del juego" en los contratos de concesión de obra pública (Parte II)", published in *El Mercurio Legal Chile* (12.30.2020).

"Hay que respetar las reglas del juego en los contratos de concesión de obra pública en Chile", published in *El Mercurio Legal* (12.11.2020).

"Controversias y discrepancias en los contratos de obra pública a suma alzada", published in *El Mercurio Legal* (01.30.2020).

"El Ius Variandi del Estado en los contratos de obra pública", published in *El Mercurio Legal* (01.02.2020).

"La responsabilidad solidaria de la Empresa Principal frente a los daños sufridos por el trabajador del contratista (naturaleza y alcance de la responsabilidad del art. 183-B del Código del Trabajo: un análisis dogmático y jurisprudencial)", in *Revista de Derecho y Jurisprudencia*, volume CIII, No. 1, section I, pp. 1 et seq. (2006).

"La responsabilidad civil en el Código Francés y su relativa influencia en el Código Civil Chileno", et al., "El Código Civil Francés de 1804 y el Código Civil Chileno de 1855 (Influencias, confluencias y divergencias)", in *Cuadernos de Extensión Jurídica*, No. 9, Faculty of Law, Universidad

de los Andes, Santiago, 2004, pp. 95-116. Also published in the Annual Reports of the Faculty of Law, No. 2, 5th Period, Faculty of Law, Universidad de Chile, Santiago, pp. 283-298 (2005).

"La responsabilidad subsidiaria del dueño de la obra, empresa o sitio por los daños causados por el trabajador del contratista y subcontratista (naturaleza y alcance de la responsabilidad del artículo 64 del Código del Trabajo: un análisis dogmático y jurisprudencial)", in *Revisión de Derecho y Jurisprudencia*, volume CI, No. 2, section I, pp. 25 et seq. (2004).

"La responsabilidad civil de hospitales y clínicas privadas: hacia una paulatina responsabilidad objetiva por riesgo empresarial, et al.", "Responsabilidad civil de las personas jurídicas", Edited by Jorge Baraona González, *Cuadernos de Extensión Jurídica*, No.7, Faculty of Law, Universidad de los Andes, Santiago, pp. 173-205 (2003).

"Responsabilidad civil del empresario asegurado por los hechos o daños causados por un tercero", in *Revista Chilena de Derecho*, volume 29, No. 1, Faculty of Law, Pontificia Universidad Católica de Chile, pp. 95-110 (2002).

"Responsabilidad civil de hospitales y clínicas", in *Ius Publicum*, No. 8, Faculty of Law, Universidad Santo Tomás, Santiago, pp. 71-90 (2002).

"Responsabilidad civil del empleador en el uso de vehículos automotores (un estudio de jurisprudencia chilena)", in *Revista de Derecho of "Universidad Católica de Norte, Coquimbo campus"*, pp. 49-80 (1999).

“Acumulación u opción de responsabilidades en la nueva Ley de Protección al Consumidor de Chile”, et al., “Derecho del Consumidor y Protección al Consumidor”, Edited by H. Corral Talciani, Faculty of Law, Universidad de Los Andes, Santiago, p. 213-250 (1999).

“El Régimen Jurídico Económico del matrimonio contraído en el extranjero” (coauthored with Prof. Hernán Corral T.), et al., “Los Regímenes Matrimoniales en Chile”, Cuadernos de Extensión, Faculty of Law, Universidad de Los Andes, Santiago, pp. 205-253 (1998).

“Historia de la responsabilidad extracontractual del empresario por el hecho o culpa del dependiente”, in Revista de Historia del Derecho Privado, No. 1, Instituto de Historia del Derecho Privado Juan Solórzano y Pereyra, Santiago, pp. 95- 129 (1998).

“Responsabilidad civil de hospitales y clínicas: tendencias jurisprudenciales modernas”, in Revista Derecho y Jurisprudencia, volume 94, No. 2 (May-August), 1997, pp. 47-90. It was also published in Revista de Derecho No. 201, year LXV, January-June, Universidad de Concepción, pp. 11-58 (1997).

“La responsabilidad civil del empleador por el hecho de su dependiente (un intento de sistematizar la jurisprudencia chilena)”, in Revista Jurídica, No.197 (January-June), Faculty of Law, Universidad de Concepción, 1995, pp. 101-145; It was also published in “Derecho y Empresa”, No. 5, Law Department of the Faculty of Business Sciences, Universidad Austral, Rosario (Province of Santa Fe, Argentina), pp. 123-163 (1996).

“Responsabilidad civil del empresario en y por el uso de sus vehículos de transporte”, et al., “Responsabilidad civil del empleador”, Cuadernos de Extensión, Faculty of Law, Universidad de Los Andes, Santiago, pp. 105 -143; it was also published in Revista de Derecho y Jurisprudencia, volume 93, number 1 (January-April), pp. 1-38 (1996).

Legal Journal of the Faculty of Law of Rosario, Universidad Católica Argentina, “Editorial Jurídica Panamericana”, S.R.L., Santa Fe (Argentina), pp.305-363 (1996).

“Responsabilidad civil de la empresa por los daños causados por sus dependientes en el Código Civil Francés”, in Libro Homenaje al Profesor Fernando Fueyo Leneri, Editorial Ediar-Conosur Ltda., Santiago, pp. 463-517 (1996).

“Responsabilidad civil del propietario del vehículo a motor (aproximación a la doctrina de la responsabilidad civil del

propietario de cosas peligrosas): su naturaleza y límites”, in Instituciones Modernas de Derecho Civil. Libro en Homenaje al Profesor Fernando Fueyo Laneri, Editorial Jurídica ConoSur Ltda., Santiago, (1996).

Book titled “La responsabilidad civil del empresario por los daños causados por su dependiente”, Ed. Aranzadi, Spain (out of print edition)(1995).

“La responsabilidad civil del patrón por los daños causados por sus dependientes en el Código Civil Alemán”, in Revista de Ciencias Sociales, No. 40 (1st and 2nd Semester), Faculty of Law, Universidad de Valparaíso, Edeval, Valparaíso, pp. 109-162. It was also published, et al., Responsabilidad Civil Empresarial (1995).

“El sistema de responsabilidad civil en el Derecho español”, in Revista de Derecho, No. XV, Pontificia Universidad Católica de Valparaíso, pp. 101-152 (1993-1994).

“Responsabilidad civil de la empresa por los daños causados por sus dependientes”, in Revista de Derecho y Jurisprudencia, sections II, II, volume 90, No. 3, Editorial Jurídica de Chile, Santiago, pp. 119-156 (1993).

“La responsabilidad civil de los Centros Educativos en el Código Civil Español”, in Revista Jurídica, No. 192, July-December, Universidad de Concepción, pp. 99-125 (1992).

“Portalís y la Escuela de Exégesis”, in Revista Chilena de Historia del Derecho, No. 14, Faculty of Law, Universidad de Chile, pp. 259-266 (1991).

“El pensamiento ius-administrativo del señor Jorge Hunneus Zegers”, in Revista de Derecho Público, No. 43-44, Faculty of Law, Universidad de Chile, pp. 67-97 (1988).

“Sobre la responsabilidad extracontractual de las personas jurídicas en el Código Civil chileno”, in Revista de Derecho Chileno, vol. No. 13, No. 3, Faculty of Law, Pontificia Universidad Católica de Santiago, pp. 525-540 (1986).

“La responsabilidad del Estado chileno en un autor del siglo XIX”, in Revista de Derecho de la Pontificia Universidad Católica de Valparaíso, No.10, pp. 525-540 (1986).

“Ley de Enjuiciamiento Criminal. Parte I.” Offprint containing the lecture notes given at Universidad de Chile by the lawyer Juan Agustín Figueroa Yávar, (1983 and 1986).

INSTITUTIONAL ARBITRATION CENTERS

Pedro Zelaya is member of the panel and roster of the following Arbitration Centers or Courts:

Arbitration Centers in Chile

- > The Arbitration and Mediation Center of the Santiago Chamber of Commerce (CAM SANTIAGO).
- > The National Arbitration Center (CNA).
- > The AIDA Arias LATAM Arbitration Center.

Arbitration Centers abroad

- > The International Arbitration Center of Madrid (CIAM) & The Ibero-American Arbitration Center (CIAR), jointly called the CIAM CIAR International Arbitration Court.
<https://ciam-ciar.com/>
- > The Arbitration & Mediation Center of the Chambers of Commerce in Tegucigalpa (Honduras).
<https://www.ccit.hn/cca>

- > Member of the roster of AMCHAM Arbitration and Mediation Center in Costa Rica.
- > Member of the roster of the Arbitration Center of Mexico (CAM MEXICO).
- > Member of the official list with the experts that can be elected as members of the Tribunal to resolve disputes between the State of Chile and any concessionaire in the Public Work Concession System (Chile).
- > Member of the Roster of International Arbitrators of the Arbitration Center of Lima Chamber of Commerce.
- > Member of the roster of Barcelona Arbitration Court – TAB.
<https://tab.es/en/arbitrators-list/>
- > Member of the New York International Arbitration Center.
<https://nyiac.org/my-account/>
- > Member of the roster of Bilbao Arbitration Center.
- > Member of the roster of the Mediation & Arbitration Center just created by the University Martin de Porres in Lima (Perú).
- > Member of DELOS arbitration database.
https://member-delosdr.org/membership-account/profile/pedrozelaya_bx6ois/
- > Member of the Arbitrators Roster of the Court of Appeals of Santiago for the 2023-2024-2025 terms.
<https://www.pjud.cl/post/listado-de-jueces-arbitros>
- > Member of Mediation and Arbitration Center of the Commercial Defense League (CMYA LIDECO), in URUGUAY.
<https://www.lideco.com/lideco/centro-de-mediacion-y-arbitraje.html>

RECOGNITIONS

Highlighted by LEADERS LEAGUE – Latin America ranking, in the “quality practice” category, for his activity as a “Arbitrator” – <https://www.leadersleague.com/es/rankings/arbitraje-clasificacion-2024-arbitro-chile>

Included in the ARBITRATOR RESEARCH TOOL (ART).

-<https://globalarbitrationreview.com/tools/arbitrator-research-tool/profile/13715/pedro-zelaya>

MEMBERSHIPS

Memberships in Chile

- > Member of the Bar Association of Santiago de Chile.
- > Member of the Ethics Tribunal of the Bar Association (2015 to 2019).
- > Member of the list of arbitrators of the Court of Appeals of Santiago (2016 to 2019).
- > Member of the Alumni Network of the Faculty of Law of Universidad de Chile.
- > Member of the Academic Group of the PhD Program in Law of the Faculty of Law. Universidad de Chile.

International Memberships

- > Member of Arbitration Intelligence.
- > Member of the Miami International Arbitration Society (“MIAS”).
- > Member of the “Campaign for Greener Arbitrators”.
- > Member of the Latin American Arbitration Association (“ALArb”).
- > Member of the Latin American International Arbitration (“LIA”).
- > Member of the International Council for Commercial Arbitration (“ICCA”).
- > Member of the Arbitration Research Tool (ART).
<https://globalarbitrationreview.com/tools/arbitrator-research-tool/profile/13715/pedro-zelaya>
- > Member of Jus Connect, part of JUS MUNDI.
<https://jusconnect.com/en/directory/arbitrators/all>