CE Marking: Who is responsible for signing the Declaration of Conformity and what is their liability in court?

The following should at least help to clarify matters a bit.

The Declaration has two purposes. The first is to provide the recipient (generally the user of the machine, or an enforcement officer such as customs or HSE) with some information about who was responsible for the CE marking of the equipment, what directives they CE marked it under and which standards they applied in order to do this.

The second purpose is to concentrate the mind of the 'responsible person' and make them consider whether the process of attestation to the Directive has been properly completed. As you are aware, the CE mark directives all contain duties for the supplier of equipment which can generally be summarised as follows:

1. Ensure the product complies with the essential health and safety/protection requirements of the Directive (usually achieved by the application of appropriate standards);
2. Where series production is envisaged, ensure that manufacturing controls are in place so as to make sure that all products manufactured are compliant;
3. Maintain appropriate technical documentation;
4. Apply the CE mark to the product and complete the Declaration of Conformity.

Only when all of the above have been properly completed is it legitimate for the product to bear the CE logo. The person who signs the Declaration should have the knowledge that these things have been done, and it would be appropriate for it to be someone whose management responsibility includes the processes that the above duties entail.

In signing the Declaration, the signatory makes a binding commitment on behalf of the Responsible Person (which may be a corporate body, etc.) that the above processes are properly completed. They sign as a representative of the Responsible Person, and their personal liability is dependent on their responsibilities within the company. Both individuals and companies can be held responsible for the activities of a corporate body. Normally the director(s) of a company are held liable for any activities of that company, but if the directors can show that they fulfilled their duty to provide good management and adequate resources to their staff, and it was the actions (or inactions) of a junior staff member which caused a breach, the junior staff member will have to answer for their personal actions rather than the Director. Directors have certain specific duties which is why they have to be formally appointed and notified to Companies House, but all members of staff have other legal duties which are appropriate to their position, and just because someone is not a Director does not mean that they cannot be hauled into court and asked to account for themselves in the event of the company making a major error in which they were involved.

It's an important point of law that you cannot re-assign your criminal obligations by contract, although you may be able to subcontract the actions which fulfillment of those obligations entails. A company Director has many duties under the law, and most of the actions which those duties require are actually delegated to junior staff. CE marking obligations are just further such duties, which a Director will assign to appropriately qualified staff. However, the duties remain the legal responsibility of the Director and just because he tells someone else to sign the Declaration of Conformity does not mean that he is not liable if the work is not done correctly.
In practice, I would make two further comments which should be borne in mind. Firstly, the CE marking regulations all permit a defence of due diligence, which means that if you took all reasonable precautions to discharge your obligations under the law, although you may be found guilty of a prima facie breach of the Regulations the consequences are unlikely to be a serious penalty, particularly where there has been good co-operation with the enforcing authorities.

Secondly, I would observe that actions taken under the CE marking regulations are exceedingly rare - there have been less than a handful where the legal action was solely with respect to a CE marking non compliance, and even cases where the CE marking issue is part of a larger set of charges are pretty unusual. Furthermore, in my experience, when due diligence has been applied, such cases usually turn on the smallest and most unpredictable matter. This is law and politics, not engineering!