



AAA Mediation.org™

FN-1014 MN-1014 LN-1014, Esq.

Scottsdale, Arizona



Current Employer-Title Lang-Klain P.C. – Of Counsel

Profession Attorney

Work History Of Counsel, Lang-Klain P.C., 2020 – Present; Member, Dickinson Wright PLLC, 2013 – 2019; Shareholder and Partner, Mariscal Weeks McIntyre & Friedlander P.A., 1972 – 2012; Associate, Hoffman & Davis, 1969 – 1972.

Experience Attorney with background in over 45 years of experience with construction, surety claims, bid disputes, real estate, options, escrow, title insurance, bad faith, insurance, bonds, partnerships, joint ventures, as well as complex commercial litigation.

Mediator Experience For over 45 years, extensively involved in construction and commercial litigation disputes, with substantial experience handling complex, multi-party construction matters. Represented owners (including public owners), design professionals, general contractors, and subcontractors in both court and ADR proceedings. Actively involved as an arbitrator and mediator in complex commercial and construction disputes. In recent years, substantial portion of practice involves dispute resolution through ADR procedures as arbitrator or mediator. Mediated approximately 1,000 disputes, both as a private mediator and for the American Arbitration Association, principally in the construction law field but also civil matters such diverse areas as insurance, real estate, bankruptcy, title insurance, contracts, bad faith, indemnity, partnerships, etc.

Successfully mediated disputes by video – is experienced with and available to handle ADR matters via Skype, Zoom, GoToMeeting and other virtual platforms.

Representative Issues Handled as a Mediator Contractor claims on school district project against owner and engineer, where contractor wrongfully terminated and owner sought liquidated and other damages well in excess of contractor's claims; construction defect claims involving subdivisions, school districts, and other commercial projects; bid protests; easement and driveway relocation dispute on multimillion-dollar spec home involving the lender, title company, designers, builder, and adjacent property owners; delay and other impact claims against school district brought by contractor and surety and school district's offsetting liquidated damage claim; termination of multimillion-dollar jewelry distribution business involving numerous cruise lines; owner's claims for roof repair and replacement, mold remediation, drywall and structural repairs against architect, structural engineer, general contractor, roofing

subcontractor, and various suppliers; multi-party disputes involving public structures, including jail/juvenile facility and waste treatment plants; complex bankruptcy claims; multi-party claims involving construction of highways, bridges, hotels, schools, hospitals, and private residences; claims against design professionals (including civil, mechanical and HVAC); partition of ownership in real estate; franchise and licensing agreement disputes; and supply contract disputes; multi-phase mediations on large commercial projects (over extended periods of time and numerous sessions), including public buildings, wastewater treatment plants, and hospitals; termination of a general contractor on an industrial project; disputes over the development of a golf course project; disputes over installation of sewer and water systems and off-sites on public and private projects; damages caused by expansive soils; UFTA, fraud and self-dealing claims in pending bankruptcy adversary action; real estate disputes (broker's commissions, specific performance and title claims); airport facilities disputes; bad faith and other tort claims; HVAC design disputes; and soil and structure failure.

Mediator Style & Process Preferences	I strongly believe settlements are more easily facilitated if the mediator is well-prepared, having made a careful study of all mediation memoranda and other documents, the facts and issues in dispute, and the applicable law. Generally, most successful mediations that I have handled were through careful negotiations with each of the parties separately, and then through shuttle diplomacy. Open sessions with the parties generally will not facilitate a successful resolution. Most successful mediations are facilitated in private caucuses. I use a pro-active approach and style in each mediation, tailored to the dispute, demonstrating to each of the parties their strengths, weaknesses, risks and exposure in each dispute. I do not believe that a successful mediation can be achieved by acting as a passive "message carrier" merely conveying offers and counteroffers. I use a strategy that looks for "win-win" solutions which may be business and other solutions, not simply the payment of monies. I stress to the parties and their counsel the importance of being candid with me as to their needs, expectations and settlement numbers, since I have found my knowledge of a party's ultimate settlement goals helps promote a greater likelihood for a successful resolution. Development of trust and credibility with the parties is critical. These ingredients have allowed me to achieve an extremely high settlement rate.
Education	Northwestern University (JD-1969); University of California at Berkeley (BA-1966).
Professional Licenses	Admitted to the Bar: Arizona (1973), Illinois (1969); U.S. District Court: Northern District of Illinois (1969), District of Arizona (1973); U.S. Court of Appeals, Ninth Circuit (1992); U.S. Supreme Court (1977).
Professional Associations	American Bar Association (Construction Industry Forum Committee); State Bar of Arizona; Maricopa County Bar Association; member of the Executive Committee of the Arizona Alternative Dispute Resolution Section.
Recent Publications & Speaking Engagements	Contributing Editor to Arizona's "Construction Law Practice Manual" (2006, 2016); also wrote numerous articles and for many years has lectured extensively for private organizations and State Bar Continuing Legal Education programs on various construction dispute issues, including bid disputes, contractor and owner damages, design defects, notice requirements for claims, exculpatory clauses, disclaimers and waivers of claims, change orders, constructive change orders, flow-down clauses, no damage for delay provisions, incorporation by reference, delay damages, consequential damages, exculpatory clauses, and other types of construction claims, ADR (various aspects of mediation and arbitration), litigation, use of experts, cross-examination of experts, malpractice issues in handling construction claims, negotiation of construction disputes, Arizona's new RUAA, Arizona's revised interest statute; quantum meruit and unjust enrichment construction claims; an arbitrator's authority to award interest, award of liquidated damages in termination situations and changes to the AIA 2017 Contracts and General Conditions.
Mediation Rate	\$650 Per Hour
Languages	English
Citizenship	United States of America
Locale	Scottsdale, AZ

The AAA's Rules provide the AAA with the authority to administer a mediation including, mediator appointment, general oversight and billing. Accordingly, mediations that proceed without AAA administration are not considered AAA mediations, even when the parties select an mediator who is on the AAA's Roster.

The information contained in this resume has been supplied solely by the individual mediator and may, or may not, be a complete recitation of their experience. The AAA assumes no responsibility for the content, completeness, accuracy, or reliability of the information contained in a mediator's resume. If you have any questions about a mediator's experience or background, you are encouraged to contact your case manager.

Mediators on the AAA Roster are not employees or agents of the AAA.