



FN-107091 MN-107091 LN-107091

Denver, Colorado



Current Employer-Title

Current Employer-Title - Constructive Options – Principal
engaging Mediation, Arbitration, Dispute Resolution Boards (DRBs)

Profession

Profession - ADR Services including Mediation, Arbitration, Dispute Resolution Boards (DRBs)

Work History

Principal, Constructive Options, 1999-Present; Executive Vice President and Chief Operations Officer - Saunders Construction Inc., 1974-1996.

Experience

Dispute resolution services since 1999

-Mediation - construction, real estate, HOA/CIC, general business and employment

-Arbitration and mediation-arbitration (med-arb) - construction, real estate

-Dispute resolution board (DRB) chair and member

-American Arbitration Association - arbitration panelist since 2001; mediation panelist since 2003

-US Postal Service REDRESS Mediation Program - employment/EEO mediation since 2007

-Colorado Department of Transportation - Dispute Review Board chair and member - standing and on-demand boards since 2008

-University of Denver University College – classroom and online adjunct faculty for graduate program in Communication Management/ADR studies 2008-2023

Saunders Construction, Inc. - Executive Vice-President and Chief Operations Officer

Colorado commercial contractor Responsibilities – management coordination, contract negotiation, safety/loss control, employee relations. New construction and complex renovation of hospitals, schools, warehouses, manufacturing, laboratories, industrial, office buildings, shopping centers - 1974-1996

Associated General Contractors of Colorado – President 1991

Mediator Experience

Summary of ADR cases - Construction/real estate (112 cases), EEO/employment (102 cases), HOA/CIC (40 cases), CDOT and county Dispute Review Boards, standing and on-demand DRBs as chair and member (29 Colorado projects, 3 Nevada projects)

246 additional cases involving protection orders, victim-offender, citizen-police, and high-risk dialogue.

Representative Issues Handled as Mediator - Commercial building, highway, and residential construction contract disputes involving owners, developers, designers, general contractors, subcontractors, insurance companies and suppliers. General business claims involving breach of contract, EEO claims, succession planning.

Disputes involving claims greater than \$1million involving design defects, construction defects, mechanics liens, breach of contract, breach of warranty, escrow fraud, failure to complete, failure to pay, wrongful termination, negligent performance, differing site conditions, undue enrichment, project delay, failure to perform, nonpayment, loss of productivity, scope of work, interpretation of contract language, value of work/change orders.

Contract methods included lump sum, cost-plus, cost plus with GMP, unit price, design build, CM/GC - GC/CM.

Representative Issues Handled as a Mediator

Representative Issues mediated:

Commercial building, highway, and residential construction contract disputes involving owners, developers, designers, general contractor, subcontractors, insurance companies and suppliers.

Disputes involving claims greater than \$1million involving design defects, construction defects, mechanics liens, breach of contract, breach of warranty, escrow fraud, failure to complete, failure to pay, wrongful termination, negligent performance, differing site conditions, undue enrichment, project delay, failure to perform, nonpayment, loss of productivity, scope of work, interpretation of contract language, value of work/change orders.

Contract methods included lump sum, cost-plus, cost plus with GMP, unit price, design build, CM/GC-GC/CM.

Mediator Style & Process Preferences

Mediation cannot guarantee settlement but is 80-85% effective when parties participate with the intention of resolving rather than arguing their differences, offering enduring settlements without mere compromise. To foster a positive outcome, parties need to consider:

Preparation – It is important to review and share relevant documents so that participants are thoroughly informed beforehand, providing information that is discoverable in a legal case. At the core of mediation is any contract that establishes party expectations, along with relevant correspondence, changes, photographs, schedules and technical documents. Parties may submit a confidential settlement statement to the mediator that considers realistic resolution possibilities.

Evaluation - Parties decide how the mediation is to be conducted, addressing attendance, issues to be resolved, and how best to communicate with one another. Participants need to have full authority to create a binding agreement.

Interactive style - It may be helpful in business cases for the mediator to evaluate case dynamics if requested by the parties, addressing industry standards rather than legal perspectives toward settlement. This may help parties understand options if mediation does not resolve all claims. Counsel is invaluable in supporting resolution.

Technology Proficiency

Technological proficiency – Experienced with in-person and remote participation for dispute resolution and DRB cases using Zoom and Teams involving plenary and shuttle interaction with parties, confidential break-out rooms, for multi-party involvement that is essentially problem-free.

Education

University of Denver (MA, Applied Communications, ADR focus - 2003)
College of William & Mary (BA, Business Administration - 1969)

Professional Licenses

General Contractor License, Class A (inactive);
Colorado Construction Supervisor Certificate (inactive).

Professional Associations

Mediation Association of Colorado (member since 2002, previously served on the Board of Directors and Ethics Committee)
Dispute Review Board Foundation (member since 2008).

Recent Publications &

Publications:

Speaking Engagements "An Argument for Admissibility", THE DRBF FORUM, February 2017
 "Commercial Construction Can Gain from the Use of DRBs", THE DAILY JOURNAL, March 2011
 "The Ethics of Mediation-Arbitration", THE COLORADO LAWYER, May 2009
 "2007 Recommendations for Mediators", prepared by the CBA ADR Section and the Mediation Association of Colorado", THE COLORADO LAWYER, March 2008
 "Impact of Senate Bill 06-089 on Dispute Resolution between Associations and Unit Owners", CAI COMMON INTERESTS MAGAZINE, July 2006
 "Can Arbitration Fulfill Its Obligation to the Construction Industry", COLORADO CONSTRUCTION, April 2005
 "More Effective Mediation", COLORADO CONSTRUCTION, August 2005
 "Searching for Balance in Conflict Management: The Contractor's Perspective", DISPUTE RESOLUTION JOURNAL, vol. 60, no. 1 Feb-April 2005

Speaking Engagements:

Ohio State Journal Symposium on Dispute Resolution - Ethics Panel Discussion - Moritz College of Law, November 4, 2016
 Ethical Conundrums Facing Neutrals in Arbitration, presented to the Colorado Statewide ADR Conference, October 2012
 Dispute Resolution Boards in the Construction Industry, presented to the ACR National Convention October 2013; Colorado Statewide ADR Conference, November 2011
 The Ethics of Mediation-Arbitration present to the Conflict Resolution Day, October 2010; ACR National Convention, September 2010; Colorado; Statewide ADR Conference, October 2009; Judicial Arbitrator Group retreat, June 2009.

Locations Where Parties Will Not be Charged for Travel Expenses Denver metropolitan area less than 45 minutes from office.

Mediation Rate \$300 Per Hour

Languages English

Citizenship United States of America

Locale Denver, CO

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 a 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.