



AAA Mediation.org™

FN-11302 MN-11302 LN-11302, Esq.

Denver, Colorado



Current Employer-Title Woods & Aitken LLP - Of Counsel

Profession Attorney; Construction ADR

Work History Of Counsel, Woods & Aitken, LLP, 2014 - Present; Partner, Berg Hill Greenleaf & Ruscitti LLP, 2006-2014; Partner, Oviatt Clark and Gross L.L.P., 1986-2006; Associate, Smart De Furio and McClure, 1985-1986; Associate, Skelton Oviatt and O'Dell, 1982-1985.

Experience As of mid-2023, primary focus of practice on ADR. More than 40 years experience as a construction law attorney representing public and private owners, general contractors, subcontractors and suppliers and design professionals. Represented parties in more than 85 court and arbitration proceedings. Twenty-five years experience as a AAA construction arbitrator. Practice focused on all aspects of construction law, including insurance and defects, bonds, government contracts, and in particular, claims such as terminations, differing site conditions, scheduling and productivity issues (sequencing, delays, acceleration, impact and disruption) and defective specifications. Extensive experience with construction insurance, UCC in construction, and alternative project delivery methods such as design-build, P3, and job order contracting.

Cases as counsel and arbitrator often involve technical issues such as materials, sufficiency of design, scheduling and complex damages.

Building claims experience includes high rise residential and office buildings, multi-family housing, hospitals, prisons, airport and transit facilities, hotels, sports and entertainment venues, schools, warehouses, and large metal buildings.

Heavy/highway and industrial experience includes power plants and alternative energy (hydro, wind, PV, biogas recovery, and concentrated solar); process manufacturing and water and sewage treatment plants (mechanical, electrical, and controls); construction and rehabilitation of dams, including tunnels, gates, spillways, and turbines; concrete and asphalt highways (including pavement design); tunnels; bridges; mass earth operations; airport infrastructure (runways, taxiways, drainage, and lighting); large concrete structures; subdivision infrastructure; water, wastewater, and gas pipelines; canals and levies; steel fabrication and erection; rail construction; water storage tanks; high voltage electrical; open pit mines; demolition; and environmental remediation.

Considerable experience with single family and multi-family residential defects, including pertinent insurance.

Cases have encompassed multiple areas of specialty subcontracting such as caissons, foundations, retaining walls, soil stabilization, specialty concrete, steel erection, waterproofing and building envelope integrity, welding, electrical, MAP (including heating/cooling, controls, generators, pumps and low voltage systems), life safety, masonry, drywall, finishes, flooring, roofing, glazing, landscaping and reclamation, and fencing.

Mediator Experience

Active mediator since the fall of 2023, with mediation practice steadily increasing to one or two per month. As with legal and arbitration work, mediation emphasis is on construction matters, including defects. Have extensive experience with mediation as a 40+ year construction law practitioner.

Representative Issues Handled as a Mediator

Completed mediations have been a mix of two party and multi-party and pre- and mid-litigation. Subject matters have included several residential defect and contract disputes; contractor claims against surveyor on a public highway project; a differing site condition and timeliness of performance dispute on a subdivision infrastructure directional boring and pipeline contract; allegedly substandard home inspection services; payment and scheduling disputes for multiple biogas recovery contracts; schedule, performance and payment disputes on a project to rehabilitate and upgrade an historic apartment building; and a termination of a landscaping subcontractor on a public school project.

Mediator Style & Process Preferences

My mediation practice is a complement to my ongoing work as an arbitrator. My style is to initially give deference to the preferences and needs of the parties. To that end I begin by ascertaining the parties' objectives and expectations. Client buy-in to the process is crucial; that is best attained by carefully and respectfully allowing the parties to be heard, and as necessary, to vent. As with my work as a practitioner and arbitrator, I like to dig into the factual, technical, and legal underpinning of the parties' positions. My depth of knowledge of most aspects of construction is sufficient that I believe I have the ability to understand disputants' concerns and priorities and meaningfully understand construction professionals and speak to them authoritatively. I have been involved in enough residential matters that I can connect with homeowners whose needs and objectives are often different from full-time construction professionals. It is my preference to actively engage counsel prior to mediation. In my experience evaluative mediation is often helpful for resolving construction disputes; in part because of my service as an arbitrator, I am comfortable providing my opinions on key issues when and if it advances the mediation process. Because I have transitioned away from full-time practice of law I have the flexibility to fully prepare for mediation, and, when appropriate, to continue to work with counsel after an unsuccessful mediation if there is a prospect of restarting discussions.

Technology Proficiency

Well-grounded in construction scheduling (P6, MS Project), electronic discovery, and virtual meeting platforms. Have conducted several virtual mediations and arbitrations and am open to virtual proceedings if appropriate.

Education

University of Denver (JD-1982); University of Colorado (BA-1977).

Professional Licenses

Admitted to the Bar: Colorado (1982); U.S. District Court: Colorado (1982); U.S. Court of Appeals: Tenth (1982) and Federal (1983) Circuits; U.S. Court of Federal Claims (1982).

Professional Associations

American Bar Association (Forum Committee on Construction Industry; Public Contract Law Section); Colorado Bar Association (Construction Law Section)

Recent Publications & Speaking Engagements

Numerous articles for construction industry publications and newsletters.

Locations Where Parties Will Not be Charged for Travel Expenses

Greater Denver area

Mediation Rate

\$400 Per Hour

English

Languages**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 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.