



AAA Mediation.org™

FN-11329 MN-11329 LN-11329, Esq.

Primary Areas of Expertise

Atlanta, Georgia

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Current Employer-Title Herbert H. Gray, III, P.C.

Panelist Video <https://www.adr.org/videoresume?paramName=246872038>

Profession Attorney - Construction Law and Litigation, Alternative Dispute Resolution, Commercial, Business and Real Estate Law and Litigation

Work History Herbert H. Gray, III, P.C., 2014 - Present; Managing Partner/Partner, Ragsdale Beals Seigler Patterson & Gray LLP, 1999 – 2013; Partner/Associate, Varner Stephens Wingfield & Humphries, LLP, 1980 – 1999; Associate, Powell Goldstein Frazer & Murphy (now Bryan Cave), 1978 – 1980.

Experience Construction Law and Litigation: Representative clients and dispute participants include architects, engineers, designers, project owners, construction and program managers, developers, public agencies, general contractors, subcontractors, suppliers and materialmen in public and private commercial, industrial, institutional, governmental and residential projects. Projects include apartments and condominiums, hospitals, office buildings, underground pipeline and utility construction, regional shopping malls, stadiums, public transit authority, schools and universities, dormitories, hotels, electrical generating and power plants, industrial plants and factories, airport, parking decks, financial institutions, and road building, heavy and highway, and bridge design and construction. Experienced in disputes involving design matters, all construction trades, project delays, acceleration and inefficiencies. Construction Insurance: General Liability and Professional Errors and Omission coverage and liability issues; OCIP and CCIP policies and coverage. Extensive experience in real estate matters, both from the litigation and business sides. Represented local and multi-state builders, developers, and lending institutions. Experienced in solar, wind, nuclear, hydropower and natural gas energy projects. Versed in various Project delivery systems including traditional, fast track, design/build, design/assist and EPC. Experienced in LEED/Green sustainable design and construction issues and disputes. Experienced with EPA, Georgia EPD and OSHA matters.

Commercial Law and Litigation: Franchisor/Franchisee disputes; Manufacturer/Distributor disputes, both domestic and international; Partnership and Shareholder Agreements and disputes; Lender/Borrower issues; Railroad/Freight Shipper disputes; Professional and other Employment

matters; Commercial Sellers/Vendors matters; Warranty disputes and other UCC matters; Professional practice and other business dissolutions; Business and Trade Association matters. Real Estate Law and Litigation: Both transactional and dispute resolution issues; Land Title and Title Insurance disputes, Quiet Title cases; Ad Valorem Tax Appeals; Broker/Client disputes; Landlord/Tenant and Leasing matters; Easement and Licensing matters; Cell Tower construction and leasing. Healthcare: Provider/Payor disputes; Healthcare professional disputes and dissolutions.

Mediator Experience

Served as a mediator in 500+ construction and general commercial disputes. Construction mediation experience has involved the resolution of disputes at all levels of the construction industry, between owners and general contractors, general contractors and subcontractors, design professionals and owners, and compound disputes involving all of these entities. General commercial mediation experience has involved real estate disputes, landlord-tenant issues, business breakups and dissolutions, acts of alleged conversion of assets, personal injury and run-of-the-mill contract and tort cases. Registered Mediator, Georgia Office of Dispute Resolution.

Representative Issues Handled as a Mediator

Typical issues in construction mediations concern delays in performance, scope of work issues, changes and changed work, default and termination issues and supplementation and completion claims. Commercial and real estate mediations have centered around trespass to realty as a result of surface-water retention and discharge, real property title disputes. Division of assets among partners following business breakups and dissolutions, defamation claims, franchisor/franchisee disputes. Personal injury experience in construction-related injuries and premises liability matters.

Mediator Style & Process Preferences

Mediation is an avenue to settlement at any stage of a dispute. Early mediation, even if unsuccessful to resolve all issues in a particular case, should be used to settle those issues that may be settled, and to frame those that remain between the parties. My role as a mediator is to facilitate settlement discussions; not merely to communicate offers. This requires taking an active role assisting the parties in the evaluation of their positions and cases. Having served as an AAA arbitrator for over 35 years, and having rendered awards in over 300 cases, I bring to mediation an experienced eye in predicting outcomes if no settlement is reached. That experience has proved valuable in helping parties and their counsel evaluate the "real-world" strengths and weaknesses of their positions.

As a mediator I discreetly suggest alternative, hopefully creative, solutions that the parties may not raise, whether out of fear of losing a strategic advantage or out of an inability to see the forest for the trees. Examples are partial settlements; deferred or future in-kind compensation; alternate potential sources of recovery; and the like. It is important for a mediator to communicate, especially to parties and counsel with limited experience in litigation and arbitration, what will happen if mediation is unsuccessful. What are the alternatives to settlement, and are they palatable to the parties? As a mediator I try to adapt to the particular styles of the attorneys in advocating for their clients, taking advantage of counsel who have good rapport with each other by encouraging caucuses with counsel only, and minimizing contact between persons with conflicting personalities. A successful mediation is the result of the hard work of all involved, including counsel - who must come to the process well prepared to advise and assist clients in evaluation of settlement proposals.

Education

Emory University (J.D.-1978); The University of North Carolina at Chapel Hill (A.B.-1975).

Professional Licenses

Admitted to the Bar: Georgia (1978); U.S. District Court: Northern, Middle and Southern Districts of Georgia; U.S. Court of Appeals: Fifth (1978), Eleventh (1980), and Federal (1984) Circuits; U.S. Court of Federal Claims (1984); U.S. Supreme Court (1982).

Professional Associations

American College of Construction Lawyers (Fellow); College of Commercial Arbitrators (Past President, Fellow, Member Board of Directors and Legislation and Judicial Education Committees); Georgia Arbitrators' Forum (Past President, Fellow); American College of Civil Trial Mediators (Fellow); Certified Mediator, International Mediation Institute; Georgia Academy of Mediators and Arbitrators (Fellow); National Academy of Distinguished Neutrals (Fellow); Master Mediator Panel of Mediation.org/AAA (Member); State Bar of Georgia (Dispute Resolution Section, Past Chair, Executive Committee, Chair Webpage Committee; Construction Law Section); Atlanta Bar Association (Construction Law Section, Past Chair, Board of Directors; Dispute Resolution Section, Past Chair; Board of Directors); Member, Georgia Commission on Dispute Resolution; American Bar Association (Dispute Resolution Section, Arbitration Committee, Forum Committee on Construction Industry); Lawyers Club of Atlanta, Inc. (Past President, Past Executive Committee); Atlanta Lawyers Foundation (Past Chair, Past Trustee), Member, The Advocates Club.

Recent Publications & Speaking Engagements

Lecturer, "Introduction to the Georgia Office of Dispute Resolution and the Georgia Commission on Dispute Resolution", Conflict Day Resolution Program, State Bar of Georgia Dispute Resolution Section, Atlanta, GA -- 2023; Program Moderator and Lecturer, "The Mediator's Candor in Evaluative Mediation" as part of "Advanced Ethical Considerations in Negotiations and Construction ADR – The Duty of Candor", 34th Annual Conference American College of Construction Lawyers, Bonita Springs, FL - 2023; Moderator, "Arbitration Update", 29th Annual Arbitration Institute and Neutrals' Conference Georgia Commission on Dispute Resolution and State Bar of Georgia Dispute Resolution Section, Atlanta, GA – 2022; Lecturer, "Professionalism in Arbitration" with L. Tyrone Holt, Esq., 28th Annual Arbitration Institute and Neutrals' Conference, Georgia Commission on Dispute Resolution and State Bar of Georgia Dispute Resolution Section, Atlanta, GA - 2021; Lecturer, "A Few Current Issues in Arbitration – 2020", 27th Annual Dispute Resolution Institute and Neutrals' Conference, Georgia Commission on Dispute Resolution and State Bar of Georgia Dispute Resolution Section, Atlanta, GA - 2020; Lecturer, "Best Practices for Virtual Mediations and Arbitrations", Atlanta Bar Association Construction Law and Dispute Resolution Sections, Atlanta, GA - 2020; Lecturer, "Mediation from Three Viewpoints", Georgia State University School of Law, Atlanta, Ga – 2020, 2021; Lecturer, "Arbitration in Practice", Mercer University School of Law, Macon, GA – 2019; Lecturer, "Courtroom vs. Hotel Conference Room – When to Use Mediation - Construction Law and Government Contracting", The Seminar Group, Atlanta, GA – 2019; Lecturer, "I Know 'Money Doesn't Count' and 'You Want to Beat the Heck Out of 'Em' ...But...Managing Client Expectations in Construction Arbitration", ABA Spring DR Conference, Minneapolis, MN - 2019; Lecturer, "Handling the Complex Construction Dispute". ABA Annual Spring DR Conference, Washington, DC – 2018; Lecturer, "Living the ADR Dream: Evolving Experiences in Alternative Dispute Resolution" with Thomas J. Stipanowich, Esq., 24th Annual ADR Institute and Neutrals' Conference, Atlanta, GA – 2017; Lecturer, "An Insider's View on Alternative Dispute Resolution from a Career Mediator and Arbitrator", The Seminar Group, Atlanta, GA – 2017; Program Moderator and Lecturer, "Motion Practice in Arbitration", Tenth Annual Arbitration Institute, Atlanta, GA – 2016; Lecturer, "Taylor Swift or The Rolling Stones? – The Changing ADR Landscape", American Arbitration Association Construction Conference, Miami, FL – 2016; Lecturer, "ADR Hybrids: Why Clients Want More Than One Option", 22nd Dispute Resolution Conference, Atlanta, GA - 2015; Lecturer, "Practical Arbitration", Institute for Continuing Legal Education in Georgia, Columbus, GA, 2013; Moderator, "Ten Things Lawyers Like/Hate about Mediators," Atlanta Bar Association Dispute Resolution Section, Atlanta, GA, 2012; Moderator, "What Exactly Is Barbecue Anyway - A Mock Mediation for the Real Estate Practitioner," Atlanta Bar Association Dispute Resolution and Real Estate Sections, Atlanta, GA, 2012; Lecturer and Moderator, "Arbitration - What It Is and What It Ain't: Alternative Dispute Resolution for Trial and Non-Trial Lawyers," Institute for Continuing Legal Education in Georgia, Augusta, GA, 2012; Lecturer, "ADR: Arbitrating and Mediating Construction and Mechanics' Lien Claims," Institute for Continuing Legal Education in Georgia, Atlanta, GA, 2012; Moderator, Sixth Annual Arbitration Institute, State Bar of Georgia Dispute Resolution Section and Institute for Continuing Legal Education in Georgia, Atlanta, GA, 2012; Lecturer and Moderator, "Obstacles to Agreement and How To Overcome Them," Practical Mediation, Institute for Continuing.

Locations Where Parties Will Not be Charged for Travel Expenses

No charge for expenses for travel within the State of Georgia.

Mediation Rate

\$525 Per Hour

Languages

English

Citizenship

United States of America

Locale

Atlanta, GA

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.