



AAA Mediation.org™

**FN-1191 MN-1191 LN-1191, Esq.**

**Clovis, California**



**Current Employer-Title** Noll Associates - Owner

**Profession** Attorney, Mediator, Arbitrator

**Work History** Noll & Associates, 2000-present; Vice-President, Clearwater Holdings International (2008-present), Senior Consultant, Mobius Executive Leadership, 2007-present; Principal, Boogaert & Noll, LLC, 2006-2011; Shareholder/Associate, Lang, Richert & Patch, P.C. 1978-2000; Law Clerk, Hon. George A. Hopper, California Court of Appeal, Fifth District, 1977-78.

**Experience** Commercial arbitrator with a broad range of experience in financial, business, secured transactions, UCC, construction, commercial, technology, and industrial disputes centered around agriculture, food processing, food distribution, water rights and distribution, extraction industries, and environmental issues. Areas of Particular Expertise: Water conflicts and disputes including water rights, priorities, storage, conveyance, and distribution; agricultural conflicts and disputes, including winery disputes, crop losses, federal crop insurance claims, cultural practices, quality issues, crop insurance, commission merchant disputes, PACA claims, USDA marketing orders, casualty and admiralty insurance claims on perishable and non-perishable commodities, grower cooperatives, crop financing, land financing, equipment financing; UCC sales and secured transactions, organic farming, pesticide, herbicide, and fungicide claims and disputes, international agricultural disputes and claims, food processing claims and disputes, food distribution and transportation claims and disputes, tainted food and commodity claims and disputes, dairy, cattle, and feedlot claims and disputes, and environmental disputes arising from agricultural operations and practices. Construction expertise in design and engineering liability, large scale industrial, commercial, residential defects claims, bonding and subrogation issues, owner contractor disputes, contractor subcontractor materials supplier disputes. Financial and commercial expertise in UCC, financial instruments, securities, debtor-creditor issues, general business contracts. Business and unfair business trade practices expertise in trade secrets, unfair competition, unfair business practices, fraud and deceit. Corporate expertise in involuntary corporate dissolutions, shareholder derivative claims, directors liability, and general corporate governance issues. Insurance expertise in first and third party liability and casualty policies, claims and claims handling, and insurance bad faith.

**Mediator Experience** Handle deep, intractable, and complex litigated and non-litigated disputes involving high emotions and high dollar amounts. These matters generally involve family business disputes (100+), employment disputes (100+), partnership dissolutions (professional, commercial, and real estate

100+), corporate buyouts, restructures, and dissolutions (100+), trade secrets/intellectual property disputes (30+), and general commercial, business, and real estate matters 800+). Have also mediated construction disputes involving design professionals, general contractors, subcontractors, owners and sureties. Construction matters have ranged from large industrial to commercial to design defect to residential construction defect matters (300+).

## **Representative Issues Handled as a Mediator**

Business dissolution issues include business valuation, buy-out terms, performance, contract interpretation, covenants not to compete, trade secrets. Employment issues included sexual harassment, discrimination, ADA, retaliation, age discrimination, termination for cause, against public policy, etc. Construction issues include delay damages, change orders, design defects, indemnity, interference, failure to perform, interference, delays, weather issues, construction or material defects. Trade secrets issues include misappropriation of trade secrets, breach of confidentiality. Real estate issues have included easements, boundaries, rights of way, breach of sales contract, escrow issues, title issues of all types, adverse possession, water rights, damages, restitution, appraisals, specific performance, and injunctions. Family business issues have included buy-out negotiations, restructures, trust building, respect agreements, reconciliation of injustices, retirement, financial security, business dissolution, family reconciliation. Restorative justice cases include clergy sexual abuse (3) and criminal matters (150) ranging from vandalism to aggravated assault with serious bodily injury.

## **Mediator Style & Process Preferences**

I view mediation as a process about choices. My role is to provide a safe, secure, confidential process where the parties can have the difficult conversations necessary for resolution, that they are unable to provide for themselves. I prefer no-caucus mediations, but will utilize caucus as necessary. because of my additional graduate training as a peacemaker, I see most conflicts in a broader perspective than as a legal dispute. consequently, i help the parties seek pragmatic, creative, business, and personal solutions that would be unavailable from a court. Ideally, i hope and expect the parties to participate fully in the process and for counsel to be counselors and advisors instead of advocates.

## **Education**

Dartmouth College (BA, English-1973); University of the Pacific (JD-1977); Fresno Pacific University (MA, Peacemaking and Conflict Studies-2001).

## **Professional Licenses**

Admitted to the Bar: California Supreme Court, 1977; U.S. Supreme Court, 1989.

## **Professional Associations**

International Academy of Mediators (Distinguished Fellow); California Bar Association; Fresno County Bar Association.

## **Recent Publications & Speaking Engagements**

ELUSIVE PEACE:HOW MODERN DIPLOMATIC STRATEGIES COULD BETTER RESOLVE WORLD CONFLICTS, Prometheus Books, Amherst NY 2011, co-author, SEX, POLITICS & RELIGION AT THE OFFICE: THE NEW COMPETITIVE ADVANTAGE, Auberry Press, Fresno, CA, 2006; chapter author, "The Neuropsychology of Conflict, THE PSYCHOLOGY OF RESOLVING GLOBAL CONFLICTS: FROM WAR TO PEACE, M. Fitzduff & C.E. Stout, eds., vol. 1, Praeger Security International, Westport, CN, 2006; PEACEMAKING: PRACTICING AT THE INTERSECTION OF LAW AND HUMAN CONFLICT, Cascadia Publishing House, 2003.

Articles list by request.

SPEAKING ENGAGEMENTS (2010-2011 only. Full list by request): Core Faculty Member, American Institute of Mediation;  
Valley State Prison for Women, Chowchilla, California, Prison of Peace, on-going pro-bono training of life inmates incarcerated for murder in peacemaking skills to be utilized to transform the prison into a prison of peace, 2010-2011  
American Academy of ADR Attorneys, Micro-Interventions in Mediation, Des Moines IA, November 3, 2011  
American Institute of Mediation, Impasse is a Fallacy workshop, Riverside CA, October 21-22, 2011  
Advanced Commercial Mediation Institute, Keynote Talk, From Peace in Prisons to World Peace, San Diego CA, October 12, 2011  
American Arbitration Association Mediation Training, Guest Lecturer, From Peace in Prisons to World Peace, San Francisco, CA October 7, 2011  
Arizona State Bar Association, Micro-Interventions in Mediation, Phoenix AZ, September 16, 2011

National Academy of Distinguished Neutrals Annual Conference, Micro-Interventions in Conflict Mediation, Amelia Island, FL August 12-13, 2011.  
 Strauss Institute, Pepperdine School of Law, Advanced Practitioners Program, Lead Faculty, Avoiding Bad Settlement Decisions and Impasse, Malibu, CA June 21-24, 2011  
 American Academy of ADR Attorneys, This is Your Brain on Mediation, Dubuque IA, June 2011  
 Getting Unstuck: Understanding Emotions in the Settlement Process, Sacramento, California, April 2011  
 American Bar Association Dispute Resolution Section Teleconference, Understanding Beliefs in Mediation, March, 2011  
 Lipscombe University, Southeastern Conflict Management Conference, The Neuropsychology of Peace and Conflict, February 2011  
 Texas State Bar, ADR CLE, Houston TX Micro-Interventions in Mediation, January 2011  
 American Arbitration Association, 2010 Neutrals Conference, Orlando FL, Myths of the Mediator as Settlement Broker, November 2010  
 Minnesota Continuing Legal Education Annual ADR Institute, Minneapolis, MN, The Neuropsychology of Peace and Conflict, Elusive Peace-The Status of International Mediation, Prison of Peace, October 2010  
 International Academy of Mediators, Fall Conference, Nashville TN, High Maintenance Personalities in Mediation, October 2010  
 National Academy of Distinguished Neutrals, Orlando FL Harnessing the Power of the Master Mediator, August 2010  
 American Institute of Mediation, Los Angeles, CA, Mediating the Non-Litigated Dispute, March 2010

<b>Mediation Rate</b>	\$4,000 Per Day
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	Clovis, CA

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.