



AAA Mediation.org™

**FN-127282 MN-127282 LN-127282,
Esq.**

West Newton, Massachusetts



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Current Employer-Title Holtzman ADR, LLC (Principal)

Panelist Video <https://www.adr.org/videoresume?paramName=268406306>

Professional Summary After more than thirty (30) years as a litigation attorney, advocate and counselor to companies, non-profits, government agencies and individuals - and over twenty (20) years of work as a mediator and seven (7) years as an arbitrator -- practice is now focused exclusively on Alternative Dispute Resolution work as a mediator, arbitrator, and hearing officer. Work as a neutral is informed by experience representing parties on all sides of disputes ranging from commercial, partnership, business and contract matters to the full range of labor and employment issues, including wage & hour, discrimination, wrongful termination, non-compete and commission disputes.

Profession Arbitrator, Mediator, Hearing Officer

Work History Holtzman ADR, LLC, 2024 - Present; Krokidas & Bluestein, LLP, 1992 – 2024; Staff Attorney, Lawyers' Committee for Civil Rights Under Law, 1989 – 1992; Attorney, NAACP Legal Defense & Educational Fund, 1988 – 1989; Law Clerk to Honorable Pierre N. Leval, U.S. District Court Southern District of New York, 1987 – 1988.

Experience Prior to transition to full-time neutral status, as a litigation attorney for over thirty (30) years managed a diverse practice encompassing business, real estate, and employment matters in state and federal court and administrative agencies -- as well as serving as a mediator and arbitrator.

Represented corporations, non-profits, government agencies and individuals in disputes ranging from breach of contract; professional fee disputes; Chapter 93A unfair business practices; intellectual property, fraud, defamation, breach of fiduciary duty, real estate, trade secrets and partnership agreements to insurance coverage disputes.

Employment matters on behalf of employers and employees included disputes regarding non-

competition, non-solicitation and confidentiality agreements; wrongful termination, wage & hour (including class and collective actions related to misclassification, overtime pay, off the clock work, prevailing wage, and other claims under the Fair Labor Standards Act (FLSA)), commission disputes, discrimination and harassment.

Litigated partnership and professional fee disputes; insurance coverage disputes under Commercial General Liability (CGL), Directors and Officers (D&O) and Employment Practices Liability (EPL) policies; business disputes involving breach of fiduciary duty, fraud, Chapter 93A deceptive business practices, consumer protection, and intellectual property claims. Also litigated housing discrimination, public accommodation and Americans with Disabilities Act cases.

Handled dozens of matters involving disputes between landlords and tenants, ranging from challenges to tenant selection and marketing plans, to requests for accommodations based on handicap status, contested evictions, discrimination claims, and enforcement of property rules regarding parking and use of common areas.

Handled cases involving defamation claims by a business competitor, disputes between shareholders, disputes between a payroll company and clients, collection actions, and litigation under the Massachusetts Zoning Act and Dover Amendment.

Counseled employers and employees regarding discipline and termination decisions, drafting employment agreements, responding to requests for accommodation, FMLA and other leaves of absence.

Currently a full-time neutral providing Alternative Dispute Resolution services including arbitration and mediation.

Mediator Experience

Over more than twenty years, have mediated in excess of two hundred fifty (250) employment cases, including class actions raising complex wage and hour issues. Mediation experience includes federal and state court actions related to misclassification, overtime, off the clock work, prevailing wage, commission disputes, and retaliation claims. Mediated numerous cases involving sexual harassment, and allegations of discrimination on the basis of age, disability, gender, race, and sexual orientation. Other issues have included claims of misclassification as independent contractors, claims under the Family and Medical Leave Act (FMLA), and collective actions under the Fair Labor Standards Act (FLSA).

Mediated commercial and construction contract disputes, as well as cases involving allegations of corporate freezeout, breach of fiduciary duty, defective products, breach of covenant of good faith & fair dealing, commission disputes, earnout payments from sale of business, and partnership and shareholder disputes.

Mediation practice benefits from wide experience with insurance coverage disputes.

Representative Issues Handled as a Mediator

Commercial Cases including:

Construction services contract dispute between construction manager at risk and municipality
Corporate freezeout and breach of fiduciary duty in investment management firm

Claim for defective electrical equipment in commercial properties

Dispute regarding earnout from sale of marketing communications and public relations business

Shareholder dispute in cannabis industry

Breach of non-compete and other restrictive covenants at investment management firm

Dispute between Professional Employment Organization (PEO) and client

Employment Cases including:

Class action involving overtime claims by hundreds of employees of major retailer

Class action involving prevailing wage claims by hundreds of employees of government contractors

Collective action on behalf of employees of restaurant chain alleging off the clock work and minimum wage violations

Gender discrimination claim by senior executive of leading company

Claim of retaliation by a public employee alleging termination for whistleblowing activity

Class action seeking treble damages for unpaid commissions to sales staff of major corporation

Breach of contract claim by university professor
Sexual harassment and race discrimination cases in financial, hospitality and nonprofit sectors.

Mediator Style & Process Preferences My commitment as a mediator is to exhaust every possible effort to explore a negotiated resolution of the parties' dispute. Having litigated employment cases for employees and employers for over 30 years, I bring to mediation a keen understanding of the governing legal principles, likely outcomes and a textured sense of the likely range of recovery for different sorts of claims. As a result, in addition to ensuring that each party is heard and respected during the process, I do not hesitate as a mediator to play an evaluative role. I can speak with counsel and parties about my experience with similar cases, areas of legal exposure and promising defenses, as well as procedural and doctrinal hurdles to overcome. In sum, I have found that a mediator who can share lessons learned from litigating similar cases can offer a uniquely valuable perspective about best and worst alternatives to a negotiated solution.

My approach (and my expectations of the parties) is informed by decades of experience as an advocate at mediations. I aim to understand the objectives and interests of each party, and to employ a wide variety of techniques to bring counsel and parties to a negotiated result. In some cases, this involves suggesting elements of a resolution that may not have been articulated by the advocates but that serve the overall goal of an effectively facilitated negotiation. I also bring to bear my knowledge of insurance coverage issues where relevant.

In sum, building on extensive experience in the realm of litigation, I seek to assist parties and their counsel in crafting a solution which achieves their core objectives without the inherent risks associated with litigation.

Education Yale Law School (JD-1987); Harvard College (AB-1983).

Professional Licenses Admitted to the Bar: Massachusetts (1993); District of Columbia (1989); New York (1988).
Member, Bar of the Supreme Court of the United States (2007).
Member, Bar of the First Circuit Court of Appeals (1989).

Professional Associations American Law Institute, Board of Advisors, Restatement of Employment Law (2005-2015)
Boston Bar Association, Co-Chair Alternative Dispute Resolution (ADR) Committee (2003-2005)
Boston Bar Association, Co-Chair Employment Law Section (2005-2007)
Boston Bar Journal, Board of Editors (2011-2017)
Association for Conflict Resolution
American Bar Association

Recent Publications & Speaking Engagements Chaired panel presentations on employment law at Judicial Retreat and Bench-Bar Conference of the United States District Court for the District of Massachusetts (2019).
Progressive Discipline & Employee Evaluations Seminar (April 2017).
Fair Labor Standards Act Overtime Webinar (October 2016).
"Siting Opioid Treatment Programs: Legal Tools for Addressing Zoning Restrictions and other Municipal Impediments." Boston Bar Journal (July 2016).
"Why Litigate When You Can Mediate?" 60 HR Magazine 7 (September 2015).
"Availability of Insurance Coverage for Employment Claims," Massachusetts Employment Law (MCLE Books 2015).
"Earned Sick Time: Tips for Compliance." 59 Boston Bar Journal 2 (Spring 2015).
"Heads Up: Traps Associated with Hiring Unpaid Interns." 57 Boston Bar Journal 4 (Fall 2013).
"Proving and Valuing Damages in Employment Cases." MCLE Panel (February 2011).

Author of chapter on "Availability of Insurance Coverage for Employment Claims" in Massachusetts Continuing Legal Education (MCLE) treatise entitled "Massachusetts Employment Law."

Published widely on topics relating to employment law and alternative dispute resolution, including columns in Massachusetts Lawyers Weekly, and has often been quoted in news articles dealing with employment and civil rights issues.

Locations Where Parties Will Not be Charged for Eastern Massachusetts

Travel Expenses

Mediation Rate \$545 Per Hour

Languages English

Citizenship United States of America

Locale West Newton, MA

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.