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New York, New York



Current Employer-Title Resolve Mediation Services, Inc. - President

Profession Mediator, Arbitrator, Neutral, Attorney

Work History President, Resolve Mediation Services, Inc., 1996 – Present; Principal, Simeon H. Baum Esq, 1992 - 2015; Associate, Miller Singer Raives & Brendes (merged into KMZ Rosenman), 1989- 1992; Associate, Certilman Haft Balin Buckley & Kremer, 1986 - 1989; Associate, Delson & Gordon, 1985 - 1986; Associate, Semel Boeckman & Skydel, 1983 - 1985.

Experience Starting legal practice in the early 1980s. Practiced law for more than 35 years as a commercial and general civil litigator. Having spent the first 10 years of legal career with various firms, in 1992, commenced a dual practice as a litigator and neutral party.

Since 1992, began developing a practice as a neutral in dispute resolution, assuming the roles of mediator, neutral evaluator and arbitrator in a variety of cases, including the highly publicized mediation of the Studio Daniel Libeskind-Silverstein Properties dispute over architectural fees relating to the redevelopment of the World Trade Center site, Trump's \$ 1 billion suit over the West Side Hudson River development, and Archie Comics' shareholder/CEO dispute.

As a litigator represented clients in a wide variety of areas. The litigation included the following: complex commercial, securities, reinsurance matters, the insurance industry, tort defense, employment disputes, unfair competition, intellectual property, real estate, coop/condo, defamation and construction litigation, Uniform Commercial Code, creditors' rights, bankruptcy, business fraud, and partnership dissolution. As a litigator and a mediator handled substantial eight-figure disputes (mediator, over \$1 billion at issue).

Mediator Experience Mediated roughly 2,000 matters since 1992, privately or through various panels. Served as a neutral in dispute resolution, assuming the roles of mediator, neutral evaluator, and arbitrator in wide variety of cases, including the highly publicized mediation of the Studio Daniel Libeskind-Silverstein Properties dispute over architectural fees relating to the redevelopment of the World Trade Center site, Trump's \$1 billion suits over the West Side Hudson River development, and Archie Comics' shareholder/CEO dispute. Wide variety of matters involving claims concerning

business disputes, financial services, securities industry disputes, reinsurance and insurance coverage, property damage and personal injury, admiralty, transportation, malpractice, professional liability, employment discrimination, ERISA benefits, civil rights (1983), fair housing discrimination, real property, construction, real estate development, mortgages, rent, surety bond defaults, accounting, partnerships, unfair competition, fraud, bank fraud, civil forfeiture, bankruptcy, intellectual property, entertainment, sports management, and commercial claims.

Served as a neutral on the United States District Court for the Southern District of New York Mediation Panel; the United States District Court for the Eastern District of New York Mediation and Early Neutral Evaluation Panels; the US Bankruptcy Court ADR panels for the Southern and Eastern Districts of New York; the New York County Supreme Court's Commercial Division ADR Panel and Matrimonial Fee Dispute Arbitration Panel; Joint Committee on Fee Disputes & Conciliation (tri Bar Committee from New York City Bar Association, New York County Lawyers Association & Bronx County Lawyers Association), later the Part 137 Attorney-Client Fee Dispute panel of Arbitrators & Mediators administered by NYCLA; the American Arbitration Association's ("AAA") Panel of Arbitrators and Mediators; New Jersey's Superior Court, Statewide CDR Mediation Panel; the New York County Small Claims Court's Arbitration and Mediation Panels; the mediation panel of the Financial Industry Regulatory Authority ("FINRA", formerly the National Association of Securities Dealers ("NASD")); the mediation panels for the U.S. Postal Service ("USPS" - REDRESS) and the U.S. Equal Employment Opportunity Commission ("EEOC"), Judicate's non-judicial mediation panel; and serves on the commercial neutral ADR panel of various arbitral institutions. Also named to the National Academy of Distinguished Neutrals, and served as founding director on its New York Chapter Executive Committee.

Representative Issues Handled as a Mediator

Sampling from 2,000 matters mediated:

Domestic and international commercial disputes, including: distributorship and licensing agreements (termination fees, manufacturing process failures); M&A (fraud, misrepresentations and warranties, nondisclosure/due diligence, earnouts, escrow agreements, asset sales, successor liability); private equity (unwinding /continued participation); acquisitions; family businesses (terminating financial services providers, profit-sharing, restructuring roles/interests/rights of family members, communications and management, dissolutions/divisions/ reorganizations, general commercial disputes); partnerships (go/stay determinations, dissolutions and reorganizations, client transfers, work in process/receivables/accounts, law firms, role and directional challenges, communication/organization/decision making, fiduciary duty, misappropriation, accountings); compensation arrangements (corporate, partnership, LLC, pre/post termination of relationships); unfair competition (customer lists, trade secrets, poaching, non-solicit/non-compete/non-hire agreements); defamation and trade disparagement; intellectual property; biotech (disparagement, infringement, failure to develop, grey market); Lanham Act; copyright (parody); patents; entertainment and sports management (agents, royalty splits, recoupment, intra talent); class actions (multi-employee discrimination claims, Fair Debt Collections Practices Act (FDCPA), Telephone Consumer Protection Act (TCPA), banking overdraft practices (e.g., "authorize positive, settle negative"; returned item fees; etc.), contract breach, general business law deceptive practices). International parties have included: Colombia, France, Italy, Japan, Germany, China, United Kingdom, Ireland, Canada, Peru, and Switzerland.

Financial Services:

Class actions (FDCPA), contract breach, deceptive practices.

Securities Industry:

NASD/FINRA - customer/broker (suitability, unauthorized trading, churning), employment agreements (bonuses, options, profit sharing, benefits).

Reinsurance & Insurance Coverage:

Program challenges, coverage claims (property, disability, D&O/E&O, CGL), property damage (large loss – fire, flood, wind), personal injury (death, Long Term Care Facilities and Providers), toxic torts).

Employment:

Discrimination, wrongful termination, contract breach, ADA, ADEA, Title VII, Age, Gender, Race, Disability, Orientation, Harassment, NYC and NYS Human Rights Laws, wage and hour, NY Labor Law (commissions, wages), ERISA.

Real Property:

Commercial leases, restaurants, guarantees, development, investor claims, airline rental space.

Construction:

Allocation (Owner, General Contractor/Construction Manager, Architects, Engineers, Contractors, Subcontractors); defects, change orders, non-completion, early termination); variations (specs, shop, field drawings); surety and performance bond defaults; neighboring properties; sequencing issues; insurance claims; coverage issues.

Other Areas:

Admiralty (Jones Act, cargo losses); airplane engines (UCC and liens); transportation (Carmack Amendment); malpractice and professional liability (lawyers, accountants); Civil Rights (1983); Fair Housing discrimination; real estate development (investors - sell or stay issues; return on, or of, investment; capital calls; characterization as loan or investment; unauthorized reinvestment; veil piercing); accounting; bankruptcy (adversary proceedings, intercreditor challenges, real property and lenders); mortgages; rent; surety bond defaults; civil forfeiture.

Mediator Style & Process Preferences

Core Mediation View:

Mediation is a forum for the integration of the norms of justice and harmony. Parties can consider not only what is fair or legal outcomes but also relational issues and adjustment to actualities that differ from law or contractual terms – including financial ability, hierarchical demands, business challenges and life needs.

Core Efforts of Mediator and Parties:

Build understanding and deal making. Understanding encompasses one's own interests, values, principals, economic and life context – and risks and benefits of proceeding into court/arbitration should the matter not be resolved. Also, understanding people on the other side – their needs, interests, concerns, values, principles, aspirations, constraints, hierarchical and economic drivers, pressures and capacities – and their legal strengths/weaknesses should the matter proceed to final hearing and determination. Deal-making involves all that happens in negotiation of any deal or dispute. Under the umbrella of understanding, negotiation can shift to dialogue that can enhance or repair relationships, address challenges in inter-party dynamics, and generate breakthroughs producing deals.

Core Opportunities Beyond Understanding and Dealmaking:

Pragmatism and creativity - flexible remedies (beyond arbitral or court options); party freedom and control; enhanced quality of communication; potential relationship repair; process control; outcome control.

Mediator should be open, flexible, deeply humble, and listen profoundly to what is said and not said. Mediator relates deeply with parties, enabling them to feel heard, understood and accepted. Mediator prepares extensively. During initial, joint pre-mediation conference call, after hearing a “nutshell description of the matter” and seeing if interparty disclosures might be helpful in reducing informational asymmetry, mediator invites parties to prepare pre-mediation statements sharing core facts, law to the extent it is pivotal to parties' negotiation or case valuation, interparty dynamics, process recommendations, settlement history and thoughts for resolution. Encourage counsel to include any documents, spreadsheets, correspondence, pleadings, deposition transcripts, decisions, or other information helpful in getting mediator up to speed with counsel and parties. While preparing extensively – including reading cited cases – enter the mediation session as tabula rasa, with a fresh mind, attentive to what is happening in each moment. While preferring to support parties' own evaluative processes, once trust and rapport is established, might, at the appropriate time offer some feedback – only if helpful.

The mediator should be responsive to the needs of each matter, parties and counsel involved, and its circumstances. The mediator should be flexible and open to designing a mediation process in conjunction with parties that works best under the circumstances and according to their needs. Have written, taught, trained, and offered webinars on mediation that reflect this mediation philosophy.

Education

Fordham University School of Law (J.D.-1982); Colgate University (M.A. in Philosophy, with distinction-1979); Colgate University (B.A., cum laude-1976).

Professional Licenses

Admitted to the Bar: New York (1983); U.S. District Court: Eastern (1984) and Southern Districts of New York (1984).

Professional Associations

Founding Chair of the New York State Bar Association's Dispute Resolution Section 2008-2009; New York State Bar Association, Executive Committee, June 2021 – present; New York State Bar Association House of Delegates Member, 2008 – Present (less required "garden leave" years); Executive Committee Member, New York State Bar Association's Dispute Resolution Section, 2008 – Present; Board Member, New York State Bar Association's Section Delegates Caucus, 2013 – Present, including service as Chair and Executive Committee Member; Executive Committee Member 2009-present; Member Board of Directors, Federal Bar Association, 2013 – 2016; President, Federal Bar Association SDNY Chapter, 2011 – 2012; previously Chair, Federal Bar Association, ADR Section; Fellow, Federal Bar Association, 2009 – Present; Member, Federal Bar Association National Council, 2006-present; Legislative Tracking Subcommittee Chair of the ADR Committee of the Litigation Section of the American Bar Association; Charter Member, ABA Dispute Resolution Section Corporate Liaison Committee; Member Board of Governors, NYS Attorney-Client Fee Dispute Resolution, present; Past Chair, Joint Committee on Fee Disputes and Conciliation (of Association of the Bar of the City of New York, New York County Bar Association and Bronx County Bar Association), responsible, inter alia, for administering arbitrations or mediations of attorney-client fee disputes subject to 22 NYCRR, Part 137 of the Rules of the Chief Administrator, Office of Court Administration, 2002 – 2004. Fellow, American Bar Foundation, 2004 – present; Committee on Committees, New York County Lawyers Association Committee ("NYCLA"), 2001- 2004, liaison to ADR Committee, Insurance and Health Law Committee, ad hoc NYCLA membership committee; NYCLA: Chair, and CLE Chair of ADR Committee; Advisory Group Member, Alternative Dispute Resolution Advisory Committee, New York State Unified Court System (OCA), 1999 – present Advisory Group member – Chief Judge DiFiore ADR Task Force; Supreme Court, State of New York, New York County Commercial Division ADR Advisory Group, 1997 – present; Subcommittee Chair, NYSBA ADR Committee on Delivery of ADR Services, 1998 – 1999.

Recent Publications & Speaking Engagements

For the last 20 years, has delivered a three-day Commercial Mediation Training and two-day Advanced Commercial Mediation for mediators serving on the ADR panel of the New York State Court's Commercial Division, which handles large, complex business cases. Presented these training programs at least once annually, if not more frequently in any given year. This amounts to not less than 24 hours of training per year. In addition, have regularly participated in other trainings, webinars, and Bar Association programs on mediation and ADR.

In addition, for over 20 years have taught on the ADR faculty of the Benjamin N. Cardozo School of Law, during the majority of that time, have presented, and continue to present, a two-credit course every Spring in Negotiation Theory & Skills.

Publications:

- "Effective Mediation ...: Grasping Victory with an Open Hand" – Plaintiff's Personal Injury Practice in NY, NYSBA, Patrick J. Higgins, Ed., (8/2021)
- "Online Mediation in a Time of Coronavirus" - NY Dispute Resolution Lawyer ("DRL"), Dispute Resolution Section ("DRS"), NYSBA, Summer 2020, Vol. 13, No. 2; and Ch. 10, Virtual Lawyering: A Practical Guide, Ed., Mark A. Berman, NYSBA, 2020

Speaking Engagements:

- Speaker, Comprehensive Commercial Arbitration Training for Arbitrators & Counsel, NYSBA DRS, Summer 2021
- Identifying & Connecting with Principals in Financial/Business Mediations, Italian Nat'l Assn of Lawyer-Mediators (UNAM) & University of Florence Law School, Summer 2021
- Effective Online Mediation for Mediators & Representatives, Lawline, Summer 2021
- Fireside Chat/Townhall on Video Conference Etiquette: "I am not a Cat", Bklyn Bar Assn, Summer 2021
- Holistic Consideration of COVID's Challenge to Commercial Tenancies - More than A Landlord, Tenant, Lender 3-Way Negotiation, NYSBA DRS, Winter 2021
- Effective Zoom Mediation for Mediators & Representatives, Pt. II, NYSBA DRS, Winter 2021
- Training: Part 137 Arbitrators and Mediators, NYCLA, Winter 2020.
- Virtual Lawyering: Insights – How To Excel, NYSBA ComFed Section, Winter 2020
- Roundtable: Zoom Mediation with Zoom CIO, Harry Mosley, et al. NADN, Fall 2020
- Tactical Decisions for Counsel & Client in Mediation: Part 1, NYSBA DRS Webinar, Summer

2020

- Negotiation Theory & Practice, NYSBA EASL Section, June 2020
- International Advanced Conflict Resolution Training, Florence University. Spring, 2020
- Mediation in the Time of Coronavirus: Effective Zoom Mediation ..., FBA, Spring 2020
- "Considering Joint Session & Caucus", NJ Law Center, Winter 2019.
- Mediation Choices for Effective Representation & Advocacy. NY Law School, Fall 2018
- 4th Annual Professional Skills Program, Lipscomb University, Nashville, Tenn, Fall 2018
- Effective Representation in Mediation. FBA National Convention, NY Marriott Downtown, Fall 2018

For a more complete list, please see: www.mediators.com.

Mediation Rate	\$950 Per Hour
Languages	English
Citizenship	United States of America
Locale	New York, NY

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.