



AAA Mediation.org™

## **FN-134 MN-134 LN-134, Esq.**

Los Angeles, California



### **Profession**

Arbitrator and Mediator

### **Work History**

Partner/Of Counsel, Fulbright & Jaworski, 1995 – 2015; Partner, Mitchell Silberberg & Knupp, 1980 – 1995; Partner/Associate, Nossaman Guthner Knox & Elliott, 1965 – 1980.

### **Experience**

Over 40 years of commercial litigation experience in state and federal courts, at trial and appellate levels, and extensive arbitration and mediation experience. Litigation experience includes: counsel for plaintiffs and defendants in antitrust, unfair competition, trade secret misappropriation and intellectual property actions, including patent, copyright and trademark infringement and licensing disputes; securities class actions, derivative suits, mergers and acquisitions, and broker/dealer litigation; partnership and corporate dissolution matters; fraud and other business torts; defamation; fiduciary litigation under ERISA; prosecution and defense of accounting and attorney professional liability claims; civil RICO litigation; contractual and real estate disputes; employment litigation, under state law and FLSA; franchisor-franchisee disputes; products liability cases; bankruptcy and creditors rights; and general business litigation. Industry experience includes manufacturing, motion picture, television, music, computer, internet and related high technology, health care, insurance, securities and financial services, banking, energy, retailing, food processing, apparel, and real estate.

### **Mediator Experience**

Served as a mediator since 2005 on the Mediation Panel of the Alternative Dispute Resolution Program of the United States District Court for the Central District of California. In that capacity, has served as a neutral mediator in a wide variety of commercial cases, including breach of contract, fraud, employment, intellectual property and ERISA cases. Has also been directly selected by parties in commercial and intellectual property litigation for mediation services, separate from the District Court program.

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

Representative issues handled as a mediator have included:

Breach of contract and fraud claims involving contract for development of a wind tunnel to test space rockets for major rocket manufacturer.

Antitrust, unfair competition and copyrights issues in federal court litigation between competing computer software manufacturers. The mediation involved cloud computing technology and legal issues concerning circumstantial evidence of copying, market share and market power, and exclusionary provisions of license agreements.

Resolution of employees' wage and hour claims against major provider of office maintenance and janitorial services, including claims of unpaid overtime wages.

Trademark and copyright infringement claims by major motion picture/television studio.

ERISA litigation issues, including fiduciary obligations of ERISA plan administrators and liability of plans for denial of retirement and disability benefits to employees.

Property damage claims by church against insurance company arising out of flooding of church building and property.

Resolution of claims by investment banking firm against client for fees arising out of sale of franchised restaurants.

## **Mediator Style & Process Preferences**

In mediation, disputing parties are able to come together in a safe, confidential environment, have their positions heard by their adversary and the neutral mediator, and work toward a voluntary resolution that is better for both sides than protracted court litigation. A mediator should prepare in advance of the mediation session, by reviewing applicable pleadings and mediation briefs of the parties, thereby avoiding waste of time "getting up to speed" at the mediation. The parties and the mediator should listen to the expressed concerns of the parties and feedback from the mediator. In commercial cases most parties expect, in confidential caucuses, that the mediator will identify strengths and weaknesses of their claims and defenses. The mediator should not, however, make firm "predictions" of how the case will ultimately be decided, or inflexible statements of the what settlement terms the parties "should" find acceptable. While commercial cases often involve simple "bargaining" on dollar amounts, the mediator should be alert to underlying concerns and issues and for potential "win/win" solutions that may involve non-monetary terms. If the case does not settle at the mediation, later follow up by the mediator can sometimes rescue a settlement.

## **Technology Proficiency**

Experienced in conducting remote arbitration hearings using the Zoom videoconference platform.

## **Education**

Harvard Law School (LLB, cum laude-1964); Stanford University (AB, with great distinction, Phi Beta Kappa-1961).

## **Professional Licenses**

Admitted to the Bar: California (1965); U.S. District Court, all California Districts; U.S. Court of Appeals, Ninth Circuit; U.S. Supreme Court.

## **Professional Associations**

College of Commercial Arbitrators (Fellow); American College of Trial Lawyers (Fellow); Association of Business Trial Lawyers (Past President; Board of Governors); American Bar Association (Litigation Section; Committee on Liaison with State and Local Bar Associations, Past Co-chair).

## **Recent Publications & Speaking Engagements**

Lecturer, USC-JAMS Arbitration Institute, "Managing Enterprise Risk through Intelligent and Strategic Use of ADR," June 2017; Lecturer, "Hybrid Dispute Resolution Processes," ABA Dispute Resolution Section Meeting, April 2017; Faculty member, USC-JAMS Arbitration Institute, August 8-12, 2016; Co-Chair and Faculty member: "Mastering Commercial Arbitration--for Lawyers and Arbitrators," Los Angeles County Bar Association, January 28, 2016; Faculty member, "The Managerial Arbitrator," College of Commercial Arbitrators and Los Angeles County Bar Association, January 15, 2015; Faculty member, "What Lawyers and Arbitrators Need to Know About Commercial Arbitration," College of Commercial Arbitrators and Los Angeles County Bar Association, January 23, 2014; Contributing author, College of Commercial Arbitrators Guide to Best Practices in Commercial Arbitration, 3rd Ed. 2013; Co-Chair and faculty member, "Difficult Issues for Arbitrators and Lawyers," Los Angeles County Bar Association, January 24, 2013; "Arbitrator Disclosure Requirements," LOS ANGELES LAWYER, November 2011; "A New Way to Protect Trade Secrets," HOUSE COUNSEL MAGAZINE, 1998; "Congress Holds the Key to Encryption Regulation," NATIONAL LAW JOURNAL, April 20, 1998; Lecturer, "Recent Developments in Intellectual Property Law," Los Angeles County Bar Association, 1995; "Contracts Limiting Competition by Former Employees: A California Law Perspective," Practicing Law Institute, 1992.

## **Mediation Rate**

\$5,000 Per Day

<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	Los Angeles, 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.