



AAA Mediation.org™

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Needham, Massachusetts



Current Employer-Title Hecker ADR LLC - Principal

Professional Summary After litigating many types of breach of contract, intellectual property, employment, and other commercial cases for forty years, retired from the active practice of law in summer 2023. Tried jury and non-jury cases and represented clients in numerous mediations and arbitrations. Have handled private mediations involving breach of contract cases, health care issues, construction issues, leasing issues, personal injury issues, and other matters. Have acted as an arbitrator for 30+ years for the American Arbitration Association.

Profession Arbitrator and Mediator
Retired Attorney - Commercial Litigation, Labor and Employment, Professional Liability

Work History Principal, Hecker ADR LLC, 2023-Present; Partner, ArentFox Schiff LLP, 2022-2023; Partner, Arent Fox LLP, 2019-2022; Partner, Posternak Blankstein & Lund LLP, 1994-2018; Partner/Associate, McDermott Will & Emery LLP, 1986-1994; Associate, Kaye Scholer Fierman Hays & Handler LLP, 1983-1986; Economist, Bureau of Economic Analysis, U.S. Department of Commerce, 1978-1980.

Experience Retired civil trial attorney with broad experience litigating many types of commercial disputes and employment matters. Handled all manner of breach of contract disputes, mergers and acquisitions, business and shareholder valuations, real estate issues, franchise terminations and disputes, distributorship disputes, close corporation issues, investment and securities cases, copyright matters, tax cases, covenants not to compete and trade secret and confidentiality cases, and employment contract and compensation matters. Years of experience with professional liability issues involving attorneys and accountants. Regularly advised clients on business transactions and employment agreements, terminations, and counseling.

Before retiring from the active practice of law, was a member of ArentFox Schiff's LLP's Professional Conduct Committee, which is responsible for addressing ethical and professional liability issues. Acted as Posternak's General Counsel.

Served as chair of hearing committees for ethics complaints on behalf of the Massachusetts Board of Bar Overseers.

Mediator Experience	<p>Have served as a mediator since 2020 for breach of contract and other commercial disputes as well as consumer claims against businesses. Handled approximately 20 mediations to date. Disputes include million-dollar renovation of Back Bay home involving representatives from six parties and insurers; existence and valuation of withdrawal liability for former member of public-school health care buying cooperative; long-term leases of commercial property; alleged misrepresentations in sale of dental practice; alleged seven figure theft of substantial assets from elderly couple's bank and investment accounts; and miscellaneous contract matters. Acted as an advocate in numerous commercial mediations.</p> <p>Volunteer as mediator in Massachusetts state courts.</p>
Mediator Style & Process Preferences	<p>I enjoy helping lawyers and their clients resolve disputes of all kinds. I take an active role before, during, and if necessary, after the formal mediation session to explore interests, personalities, positions, legal and factual theories, damages analyses, and of course proposals to settle the dispute. I do not like to walk away from mediation without an agreement between the parties or a path to reaching an agreement in the future.</p> <p>Mediations are most likely to be successful when all sides are equally interested in resolving the matter now, have broadly similar views of the issues to be tried (in the case of litigation) or that their business and relationship face (where a restructuring of one or both is needed), and have the financial and emotional ability to implement a resolution and move forward with more productive pursuits. I will explore all these areas before the formal mediation session so the time spent together can be productive. Typically, I require the lawyers to exchange short memoranda advocating their client's positions. I also ask for a confidential email or memoranda explaining possible impediments to settlement or their client's concerns that they would not want to make known to the other side, at least yet. I also spend a good deal of time speaking with each lawyer before the mediation session.</p> <p>Settlement can be difficult when the parties believe that important facts remain to be discovered, have dramatically different views whether particular legal arguments will likely succeed, or if they have not yet fully vetted or do not understand expert analyses, including about damages. If necessary, I will push the parties to disclose to the other side important facts or arguments that have not yet been articulated but which could be persuasive. If there is confusion about an expert opinion or a damage analysis, I might request the lawyers bring their respective experts to the mediation. In short, I likely will employ a facilitative approach where a relationship is being restructured. By contrast, when the lawyers in an active litigation or arbitration agree to hire a mediator, I assume they are looking for someone to provide evaluation and direction to help close a deal.</p>
Technology Proficiency	Very familiar with remote technology and electronic discovery among other technology matters.
Education	University of Virginia School of Law (JD-1983); University of Virginia (BA, Economics-1978).
Professional Licenses	Admitted to the Bar: Massachusetts (1987), New York (1984-inactive), District of Columbia (1985-inactive); U.S. District Courts: District of Massachusetts, District of Colorado, Eastern (inactive) and Southern (inactive) Districts of New York; U.S. Court of Appeals: First Circuit, Second Circuit; United States Tax Court; admitted pro hac vice: Delaware, New York, California, Illinois, Vermont, and New Jersey, Central and Northern Districts of California, Southern District of Florida, Northern District of Texas, Southern District of New York, Bankruptcy Court for the District of Maine.
Professional Associations	<p>Boston Bar Association (Litigation Section, Past Co-Chair; BBA Council, Past Member; Ethics Committee, Past Member; Business Litigation Committee, Past Co-Chair).</p> <p>MWI Mediation (volunteer mediator in MA state courts).</p>
Locations Where Parties Will Not be Charged for Travel Expenses	Eastern Massachusetts.
Mediation Rate	\$400 Per Hour
Languages	English

Citizenship

United States of America

Locale

Needham, 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.