



AAA Mediation.org™

FN-14242 MN-14242 LN-14242, Esq.

Overland Park, Kansas



Current Employer-Title Foulston Siefkin LLP - Special Counsel

Profession Attorney

Work History Special Counsel, Foulston Siefkin LLP, 2022 - Present;
Founding Partner, Smithyman & Zakoura Chartered, 1986 – 2022;
Partner, Weeks Thomas Lysaught Bingham & Mustain, 1977 – 1986;
Captain, U.S. Army, 1970 – 1974;
Analyst, Exxon Chemical Corp., 1969 – 1970;
Kansas Tenth Judicial District Nominating Commission - 12 years.

Experience Legal practice is divided between civil litigation (80%) and business transactions (20%).

Litigation includes commercial and business issues (30%), energy and utility issues (10%), insurance (40%), and health care (20%).

Insurance litigation includes: more than 30 years of coverage opinions for a national auto insurer; first-chair class action representation on flood and oil loss losses; multiple first-chair defense representations and coverage determinations for insurance coverage bad faith claims; representation and recovery on a series of policies providing complex determinations of primary/excess responsibilities, “other insurance” obligations, drop-down coverages, pollution coverage determinations (in which \$54M of losses was recovered from insurers).

Business litigation to resolve disputes involving partnership, franchise, and commercial agreements, healthcare reimbursement issues, business dissolution issues, and non-competition and non-solicitation issues.

Business transactions include purchases, sales and mergers of pipelines, veterinary and pharmaceutical companies, printing and chemical companies, physician and dental groups.

Appointed by the Kansas Supreme Court to Board of Discipline (14 years). Elected to the Johnson County Judicial Past President of Selection Committee for three terms (12 years). Past President of the Kansas Bar Association.

Ethics investigator of attorneys by appointment of approximately 5 per year for more than 20 years, concluding in 2020.

Mediator Experience	Served as a mediator on health care capitation issues, insurance claim valuation issues (five times), marketing agreement and territory infringement issues, business valuation issues, inventory valuation (two times), breach of contract issues (four times), oil lease royalty and renewable energy issues. Has served as counsel for a party in business dispute mediation approximately 30 times in the last six years.
Representative Issues Handled as a Mediator	As a mediator, had five cases over the last six years achieving settlement in business contract disputes involving employment issues, computer service billing/value issues, insurance policy coverages and claim valuation, quality of computer software preparation, partnership dissolution, noncompetition covenants, and construction contract differences.
Mediator Style & Process Preferences	At the conclusion of a mediation, if settlement has not been reached, each party will have a much better understanding of their position, their strong and weak points, and the risks associated with continuing the dispute in either the arbitration or litigation forum. A mediator's role is to focus each party on the risks of continued dispute and on the problems inherent in their position. A mediator's primary role is to serve as an independent observer such that each party will have access to a neutral and unbiased evaluation of (1) their position and (2) the risks inherent in continued conflict.
Education	Washburn University (JD-1976) Carnegie Mellon University (MBA-1970) Carnegie Mellon University (BS-1970).
Professional Licenses	Admitted to the Bar: Kansas (1977), Missouri (1991), Oklahoma (2010); U.S. District Court: Kansas (1977), Missouri (1991), Oklahoma (2010); U.S. Tax Court (1990); U.S. Supreme Court (1997). Civil Litigation, Board Certification received from the National Board of Trial Advocacy.
Professional Associations	Kansas Bar Association-President (2013) Kansas Bar Association-Board of Governors (2007-2013) Wyandotte County Bar Association (since 1977) Johnson County Bar Association (since 1977) Missouri Bar Association (since 1991) Oklahoma Bar Association (since 2010) Earl E. O'Connor American Inn of Court (Master Emeritus) American Trial Lawyers Association - Top 100 in Kansas (since 2008) Missouri and Kansas Super Lawyers (since 2005) Member of the Million Dollar Advocates Forum. Johnson County Judicial Selection Committee (elected by county attorneys to three terms - 12 years) Kansas Board of Discipline (Appointed by Kansas Supreme Court for three terms - 12 years)
Mediation Rate	\$3,800 Per Day
Languages	English
Citizenship	United States of America
Locale	Overland Park, KS

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.

