



AAA Mediation.org™

**FN-14723 MN-14723 LN-14723, Esq.**

**Wichita, Kansas**

**Current Employer-Title** Foulston Siefkin LLP - Partner

**Profession** Construction Attorney, Arbitrator, and Mediator

**Work History** Partner, Foulston Siefkin LLP, 1983-Present.

**Experience** Practice includes design and construction contract drafting and consulting, claim negotiation, and dispute resolution in both arbitration and court settings on a nationwide basis. Serves as the lead attorney for Foulston Siefkin's construction law practice. Practice as an advocate has included service as co-counsel in a complex arbitration involving a cost and schedule dispute over the construction of a \$53 million corporate headquarters. Dispute included bifurcated subcontractor payment and impact claims. Counsel for a piping subcontractor in a cost and schedule dispute with the design-builder of two Iowa ethanol plants; and for the prime contractor in a dispute with the owner of and technology provider for a failed bio-gas project. Also served as counsel in a complex arbitration involving rehabilitation of railroad trackage.

Defense counsel for the project design team in the successful trial court defense against a \$6.5 million economic loss claim (arising from RFI's) made by the contractors on a university library project. Counsel for the prime contractor and its surety in the successful defense of an \$11 million construction defect claim filed by the State of Kansas. Served as plaintiff's counsel in a case involving the expansion of a municipal electrical generating plant. Also served as special counsel to the utility owners for evaluation of construction at a nuclear generating station. Converted a government termination for default to a termination for convenience, then established the basis for a bad faith termination claim. Through handling a case, established the scope of Kansas statutory payment bonds.

**Mediator Experience** Mediation experience includes cases involving construction defects, subcontractor terminations, directional boring, survey and engineering malpractice, pre-engineered metal buildings, exterior metal panel (fenestration) and other building-envelope systems, wind turbines, commercial glazing systems, utility locates, and residential construction.

**Representative Issues Handled as a Mediator** Allocation of responsibility among prime and sub-contractors for construction defects and schedule delays; navigating insurance-coverage implications on settlement value; developing ground rules for the parties' post-mediation completion of a construction project.

**Mediator Style & Process Preferences** An effective mediator should encourage parties to evaluate when in the dispute resolution process to engage in mediation in order to minimize the expense and business distraction of litigating the dispute; perform reality testing on the parties' respective positions; and explore creative, out-of-the box solutions to the parties' dispute.

**Education** University of Kansas (JD, Order of the Coif-1983); Kansas State University (BA, Architecture, magna cum laude-1980).

**Professional Licenses** Admitted to the Bar: Kansas (1983); U.S. Court of Appeals: Tenth Circuit (1985); U.S. Claims Court: (1988).

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| <b>Professional Associations</b>                      | Fellow, American College of Construction Lawyers; American Bar Association; ABA Forum Committee on the Construction Industry; The Jefferson Society; Kansas Bar Association; Wichita Bar Association; American Institute of Architects.   |
| <b>Recent Publications &amp; Speaking Engagements</b> | "Design Professional Liability," Kansas Bar Association Construction Law Handbook, 2000; co-author, "Liability of Engineers for Structural Design Defects," VILLANOVA LAW REVIEW, vol. 30, p. 304, 1985; "Regulatory Revisions to the Surface Mining Control & Reclamation Act," Kansas Law Review, vol. 31, p. 279, 1983; "Architects' Liability for Construction Site Accidents," University of Kansas Law Review, vol. 30, p. 429, 1982. |
| <b>Mediation Rate</b>                                 | \$400 Per Hour  |
| <b>Languages</b>                                      | English   |
| <b>Citizenship</b>                                    | United States of America  |
| <b>Locale</b>   | Wichita, 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.