



AAA Mediation.org™

**FN-1535209 MN-1535209 LN-1535209,
Esq.**

Rochester, New York



Current Employer-Title Modica Law Firm - Founding Partner

Profession Arbitrator, Attorney, Mediator

Work History Founding Partner, Modica Law Firm, 1995 - Present; Founding Partner, Dolin & Modica P.C., 1993 - 1995; Associate Attorney, Blitman & King LLP, 1990 - 1993; Staff Attorney (Bureau of Consumer Protection), United States Federal Trade Commission, 1988 - 1989; Judicial Law Clerk, New York Supreme Court Appellate Division Fourth Department, 1986 - 1988.

Experience Private law practice for more than 34 years handling: labor and employment (including union and employment contract disputes; discrimination; unpaid wages; enforcement of non-compete, etc.); civil rights; whistle blower (focused on NY False Claims Act); disability benefit (focused on Social Security and the NYS Retirement System ["NYSRS"]); workers' compensation ("WC"); and personal injury cases (exclusively representing plaintiffs).

Represented clients in state and federal court proceedings (trial and appeal), labor arbitration and NY Civil Service Law hearings, mediations and before many governmental agencies, including Social Security, NY WC Board, the US Equal Employment Opportunity Commission, the National Labor Relations Board, the NYS Division of Human Rights, the NY Department of Labor, NYSRS and the NY Public Employment Relations Board. Represent individuals, unions and employers in labor and employment law cases.

Represent injured workers and alleged uninsured employers in New York WC cases. This experience has been invaluable when arbitrating and mediating personal injury cases arising from job accidents.

Prosecuted and defended unlawful discrimination and other employment law cases including, but not limited to, wage/compensation disputes, employment contract disputes, whistle blower/qui tam and post-employment restrictive covenant cases.

Tried an employment discrimination case in federal court on behalf of an employer which resulted in a verdict that the plaintiff had no cause of action.

Tried a civil rights case in federal court on behalf of an inmate which resulted in a verdict that the inmate had no cause of action.

Tried an employment discrimination case before the NYS Division of Human Rights on behalf of an employer which resulted in a verdict that the plaintiff had no cause of action.

Tried a union activities discrimination case before the New York Public Employment Relations Board on behalf of three employees which resulted in a verdict that the employer had unlawfully discriminated against the employees. That verdict was overturned by the NY Public Employment Relations Board and was affirmed on appeal to the New York Appellate Division, Third Department.

Mediator Experience

Private mediation practice since 1999.

Mediated disputes on behalf of the United States Equal Employment Opportunity Commission ["EEOC"] from 1999-2012 as a contractor. Received an award from the EEOC in 2007 for distinguished service as a mediator.

Selected for the first panel of mediators for the mandatory ADR program of the United States District Court for the Western District of New York ["WDNY"] which began in the Fall of 2012. Since that time (excluding private mediations) have mediated >230 federal court cases involving a broad variety of legal issues. A significant percentage of these cases have settled which is unusual because these mediations occur typically before any discovery is done. Received the Robert H. Jackson Special Achievement Award from the WDNY in 2017 for distinguished service as a mediator.

Selected for the first panel of mediators for the ADR program of the New York State Unified Court System (7th Judicial District) for Civil/Commercial (including Tort) and Surrogate's Court cases.

Total cases mediated to date exceed 375.

Represented individuals, unions, non-profits, private businesses, and municipal governments in cases that used mediation for dispute resolution. In some of these cases, our client was the party making a legal claim; in others, our client was the person or entity who was claimed to be liable.

Other significant experience as a neutral includes serving as a AAA Arbitrator (employment panel), Hearing Officer in New York Civil Service Law and law enforcement disciplinary proceedings, Labor Arbitrator (resolving disputes under collective bargaining agreements and under the New York General Municipal Law), Referee, Special Master in class action litigation, and as guardian ad litem in many different types of cases.

Representative Issues Handled as a Mediator

Commercial disputes (including breach of contract and insurance coverage disputes), employment and housing discrimination (with emphasis on sexual harassment and disability discrimination), enforcement of post-employment restrictive covenants (including non-compete agreements), wage and hour law disputes (individual and class action cases), false claim/whistleblower claims, intentional torts, negligence, medical and legal malpractice, actions under consumer protection statutes, other civil rights cases, etc.

Mediator Style & Process Preferences

A phone conference with counsel and written submissions from each party will be requested in advance of the initial mediation session. General approach is to conduct an initial joint session and allow participants the opportunity to speak and then conduct separate sessions to assist the parties toward resolution. I have extensive experience handling in person and virtual mediations. I am very comfortable with the technology for virtual sessions.

I approach each mediation as if it were my first by attempting to learn all I can about the dispute and the people involved before the initial session. The seven principles that guide my work as a mediator are: (1) listen carefully to all participants; (2) demonstrate empathy; (3) be patient with all participants; (4) prepare appropriately; (5) make all participants comfortable; (6) help counsel if their client is the problem/help the client if their counsel is the problem; and (7) close the deal at the mediation session.

My advice to counsel about how to make the most of the mediation process is: (1) select an effective mediator; (2) evaluate all aspects of the case (including damages); (3) prepare your client properly; (4) prepare an effective written submission; (5) come to the mediation with a plan but be flexible; (6) respect all parties and their counsel; (7) respect the mediation process; (8) ask the mediator for help if needed; and (9) prepare to finish the deal at mediation.

Education

Syracuse University (JD, cum laude-1986; Master of Public Administration-1986); State University of New York at Albany (BA, summa cum laude-1983).

Professional Licenses

Admitted to Bar: New York (1987); US District Court: Western District of New York (1987), Northern District of New York (1990); US Court of Appeals: 2nd Circuit (1993).

Certified Mediator, United States District Court, Western District of New York (2012). Approved Mediator, New York State Unified Court System (7th Judicial District), Civil/Commercial (including Tort) and Surrogate's Court matters (2022).

Professional Associations

Chairperson, 7th Judicial District Attorney Grievance Committee, NY Supreme Court, Appellate Division, 4th Department (2018-2024); National Employment Lawyers Association; National Organization of Social Security Claimant Representatives; Injured Workers Bar Association; New York State Bar Association and Monroe County (NY) Bar Association (served as the 119th President of the Monroe County Bar Association from July 2014 to June 2015).

Recent Publications & Speaking Engagements

Write biweekly column (entitled "Did You Know?") for the Rochester Labor News and write quarterly column (entitled "Your Counsel") for the New York Daily Record about employment, workers' compensation, disability benefit, personal injury and related legal issues.

Author of published articles in the Syracuse Law Review, the New York State Bar Association Journal and the Journal of the Monroe County (NY) Medical Society.

Frequent speaker and teacher of continuing legal and other educational programs on many topics including mediation, sexual harassment prevention, changes in wage and hour laws, the New York False Claims Act, legal issues in the workplace related to social media, and presentations to community nonprofit organizations about civil rights and disability benefit issues for people with disabilities.

Quoted regularly in the "Managers at Work" column of the Rochester Business Journal. Column addresses questions posed by members of management about difficult labor and employment law issues.

Locations Where Parties Will Not be Charged for Travel Expenses

Rochester, New York

Mediation Rate

\$500 Per Hour

Languages

English

Citizenship

United States of America

Locale

Rochester, 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.

