



AAA Mediation.org™

**FN-158153 MN-158153 LN-158153,
Esq.**

Cincinnati, Ohio



Current Employer-Title	Gurney Dispute Resolution LLC - Owner
Profession	Arbitrator & Mediator
Work History	Owner, Gurney Dispute Resolution LLC, 2020 – Present; Partner, Frost Brown Todd LLC, 1997 – 2019; Associate, Frost Brown Todd LLC, 1992 – 1997; Associate, Taft Stettinius & Hollister, 1986 – 1991.
Experience	<p>Thirty-year career as construction attorney representing project owners, developers, construction managers, general contractors, design-build contractors, home builders, trade and specialty contractors, design professionals and suppliers in all phases of construction from contract drafting to dispute resolution.</p> <p>Frequent lecturer and author on construction law and alternative dispute resolution topics.</p>
Mediator Experience	As a mediator, helps resolve construction disputes efficiently and fairly, whether during the project, at project closeout, or during litigation. Issues include payment disputes, mechanics' liens; delay, acceleration, and disruption claims; and design/construction defect claims. Experienced in on-line mediation.
Representative Issues Handled as a Mediator	<p>Condominium construction defect claims involving owner, developer, contractor, and liability insurance carrier.</p> <p>Online mediation between project owner (chemical production company) and plumbing/HVAC specialty contractor relating to design, scope, delay, and payment issues on new production line project.</p> <p>Online mediation between national general contractor and plumbing/HVAC contractor relating to scope, delay and payment issues on industrial project.</p> <p>Online mediation between general contractor and interior/exterior finishes contractor regarding delay, disruption and acceleration claims on exterior and interior metal framing, insulation, drywall,</p>

acoustical ceilings contract on hospital project.

Mediator Style & Process Preferences

Protracted disputes are a major concern for the construction industry where time truly is money. Most disputes settle before the trial or arbitration hearing, but often only after months or years of expensive and distracting “discovery” and other pre-trial activities. Since most disputes eventually settle, companies and their attorneys should focus on resolving disputes as early as possible, before the costs, disruption, and risks mount. I am a big proponent of planned early dispute resolution where the mediator works actively with the parties and their attorneys well before the mediation to help create conditions for a successful mediation. This includes assuring that key claims and issues are pinned down, adequate documentation and other information is exchanged, necessary decision-makers are identified and available, and other potential obstacles are addressed before the mediation to create a sweet spot for settlement.

Most parties and attorneys want and expect the mediator to provide some evaluative feedback on the merits of the dispute. That is often why they retain mediators with substantive experience in the type of issues involved in the dispute. However, if the parties are making good progress, the mediator should resist the temptation to evaluate; parties can be turned off by mediators who jump to an early or premature conclusion, then spend most of the mediation trying to drive the parties to their idea of a good settlement. The best mediators give the parties reasonable time to argue their cases, exchange information, and do some haggling before offering explicit opinions on pivotal issues. Of course, if it is getting late and the parties are still far apart, the mediator will likely have to provide more explicit opinions and evaluation.

I work with the parties and attorneys to help structure the mediation to fit their needs and situation. For example, while some parties may benefit from having their “day in court” by summarizing their “case” to the mediator and the other side in an opening joint session, other parties are better served by going directly to separate caucus sessions.

Technology Proficiency

Experienced in online mediation and arbitration using Zoom platform.

Education

Indiana University School of Law (JD-1986); Indiana University (BA, English Literature-1983).

Straus Institute for Dispute Resolution at Pepperdine University (Certificate -Mediating Complex Construction Disputes; Certificate-STAR: A Systematic Approach to Mediation Strategies).

Professional Licenses

Admitted to the Bar: Ohio (1986-inactive); Kentucky (2013-inactive).

Professional Associations

American Bar Association (ABA) - Section of Dispute Resolution (Mediation, Arbitration, Online Dispute Resolution committees); American Bar Association (ABA) - Forum on the Construction Industry, Construction Litigation Section; Construction Lawyers Society of America (CLSA), Fellow.

Recent Publications & Speaking Engagements

"Case Studies on Construction Litigation, Arbitration and Mediation" - University of Cincinnati, College of Engineering (Const. Mangmt.) - 2018 - 23
“Planned Early Dispute Resolution - The Why and How” - AGC of Ohio Convention (Isles of Palms, SC 2023)
“Show Me the Money – Now! Tips & Case Studies on Resolving Complex Construction, Surety & Insurance Disputes Quickly & Effectively” — AGC Surety Bonding & Risk Management Conference (Bonita Springs 1/20)
"Bourbon, Scotch or Beer? Case Studies on Construction Litigation, Arbitration and Mediation"—AGC of Ohio Convention (Captiva Island 2/20)
“Planned Early Dispute Resolution - The Why and How”—Tennessee Association of Construction Counsel (TACC) (Nashville 11/19)
“Planned Early Dispute Resolution - The Why and How”—Construction Lawyers Society of America (CLSA) Colorado Springs 9/19)
"Case Studies on Construction Litigation, Arbitration and Mediation"—Construction Users Roundtable (CURT)(Cincinnati 4/19)
“When (and How) Should a Mediator Evaluate the Case?”—American Arbitration Association, Dispute Resolution J. (DRJ), Vol 74, No 2 (2019); ABA Forum on Construction Law, Under Construction (Winter 2018)
Offsite Construction (2018 IRMI Conference - Indianapolis, IN)
Design-Assist Subcontracting (2016 AGC Surety Bonding & Risk management Conference -

Naples, FL)
Alternative Project Delivery (2015 CFMA Buckeye Conference - Cincinnati, OH)

Mediation Rate	\$450 Per Hour
Languages	English
Citizenship	United States of America
Locale	Cincinnati, OH

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.