



AAA Mediation.org™

## **FN-164035 MN-164035 LN-164035, Esq.**

Lexington, Kentucky

**Current Employer-Title** Jackson Kelly PLLC

**Profession** Attorney, Mediator, Arbitrator

**Work History** Attorney, Jackson Kelly PLLC, 2004 – Present; Attorney, Stites & Harbison, 2001 – 2004; Member, Frost Brown Todd LLC, 1988 – 2001.

**Experience** Litigator since 1988. Involved in or handled numerous construction matters as part of practice. Area of expertise is in construction (70%) and commercial (30%). Of construction practice, 40% is representing owners/developers/engineers, 40% representing general contractors, and 20% representing sub- and specialty contractors. Projects have ranged in value from \$200,000 to \$100,000,000. Represented painting contractor, subcontractor and surety in contract dispute with the Commonwealth of Kentucky; family-owned coal company in NEPA action; turnkey contractor of a cogeneration power plant located in Newark Bay, New Jersey; international supplier and erector of pollution control equipment in contract dispute; general contractors in North Carolina and Tennessee in cases involving EIFS; owner in multi-party, multi-arbitration dispute involving disputes over alleged delays, extras, and design/management errors and omissions. Represented several consumers in Federal Fair Credit reporting cases. Represented businesses in cases involving claimed violations of state consumer protection laws.

**Mediator Experience** Mediated over 100 construction cases involving claims asserted by and against just about every conceivable participant in a construction project, ranging from small residential disputes to multi-party, multi-claim commercial and industrial disputes. Mediated numerous employment cases, primarily involving harassment and discrimination claims by employees against employers. Has mediated numerous commercial cases involving claims ranging from breach of contract to professional negligence. Mediated numerous personal injury cases, most of which have been motor vehicle claims, but which have also included premises liability, defamation, and wrongful death claims.

**Representative Issues Handled as a Mediator** Construction cases mediated have included the following issues: construction defects; water intrusion; delay damages; design errors; contract interpretation; performance and payment bond issues; indemnification; fraud and negligent misrepresentation; code violations; owner interference; lost profits and other consequential damages; mechanics' liens and Miller Act claims; product liability; and others. Employment cases mediated have included the following issues: harassment, discrimination, wrongful termination, retaliation, employee misconduct, and interpretation of employment contracts. Commercial cases mediated have included the following issues: professional negligence; breach of contract; equine agreements; tortious interference with contractual relations; and misrepresentation. Personal injury cases mediated have included the following issues: motor vehicle accidents; products liability; defamation; premises liability; and wrongful death.

**Mediator Style & Process Preferences** Mr. Hays believes that mediation makes sense, because the parties involved in a dispute have the most interest in how it is resolved. As a mediator, Mr. Hays encourages the parties and their counsel to participate in the process fully and to be creative in thinking of ways to resolve it. Although Mr.

Hays will not tell parties how to resolve their disputes, he is an evaluative mediator and will engage in frank conversations with the parties in caucus about the strengths and weaknesses of their positions. Mr. Hays expects the attorneys involved in mediation to play a positive role in the process, and he is careful not to come between a party and his or her attorney.

<b>Education</b>	University of Kentucky (JD, with distinction-1988); Princeton University (BA, History-1985).
<b>Professional Licenses</b>	Admitted to the Bar: Kentucky, 1988.
<b>Professional Associations</b>	Kentucky Bar Association (ADR and Construction and Public Contract Law Sections); Fayette County Bar Association
<b>Recent Publications &amp; Speaking Engagements</b>	<p>PUBLICATIONS: "Construction Defect Claims Against Design Professionals and Contractors," THE CONSTRUCTION LAWYER, Spring 2003; "Prompt Payment Acts: Recent Developments and Trends," THE CONSTRUCTION LAWYER, vol. 22, no. 3, Summer 2002; "Mediating Construction Disputes," BENCHMARK, vol. 26, issue 1, Spring 2001; co-author, "A Trap for the Unwary Architect or Contractor," THE CONSTRUCTION CONTRACTOR, November 2, 1998; co-author, "Admissibility of Expert Testimony under the Daubert Standard," CONSTRUCTION BRIEFINGS, June 1997.</p> <p>SPEAKING ENGAGEMENTS: "Professional Conduct for Professional Engineers," Louisville, Kentucky, October 2005; "Proving the Structural Engineer's Standard of Care with CASE Guidelines," 2004 Risk Management Program Convocation, Reston, Virginia, 2004; "Still Looking for WMD's? Try Your Contracts and Office Practices," 2004 ASCE Structures Congress, Nashville, 2004; "Multi State Practice and Unauthorized Practice of Law Rules," 2000 Biennial Midwest/Construction Law Institute, University of Kentucky College of Law.</p>
<b>Mediation Rate</b>	\$450 Per Hour
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	Lexington, KY

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.