



AAA Mediation.org™

## **FN-1641198 MN-1641198 LN-1641198, Esq.**

Scottsdale, Arizona



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**Current Employer-Title** Gerstman Law – Managing Member

Available to conduct virtual arbitrations and mediations on Zoom and other online platforms.

**Panelist Video** <https://www.adr.org/videoresume?paramName=294113004>

**Profession** Attorney, Arbitrator, Mediator

**Work History** Gerstman Law, 2021-Present; Partner, Wells & Gerstman PLLC, 2014 – 2021; Partner, Jaburg Wilk P.C., 2012 – 2014; Gerstman Holden PLLC, 2006 – 2012; Member, Renee Gerstman PLLC, 2004 – 2006; Gerstman & Zdancewicz PC (including prior solo practice or small practice), 1991 – 2004; Associate, Perry Pierson & Kolsrud, 1989 – 1991; Associate, Evans Kitchel & Jenckes, 1986 – 1989; Clerk to Justice Robert Corcoran, Arizona Court of Appeals, 1985 – 1986.

### **Experience**

#### **LITIGATION**

- Extensive experience in commercial disputes including breach of contract, mergers/acquisitions, asset sales, stock sales, business torts, fraud, misrepresentation, unfair competition, trademark, copyright, trade secrets, injunctive relief, intellectual property rights, franchising, employment, and anti-trust
- Business disputes including corporate governance, mergers/acquisitions, operating agreements, fiduciary duties, shareholder agreements, dissolutions of partnerships/corporations/limited liability companies, and joint ventures
- Vendor disputes relating to the manufacture, distribution, sale, lease of goods and the UCC
- Debtor/Creditor disputes, issues involving priority of lien rights, enforcement of promissory notes or other debt and security instruments
- Real estate disputes involving purchase and sale of real property, lease disputes, title, possession/use of land, easements, entitlements, encroachments, adverse possession, subrogation, subordination, eminent domain, restrictive covenants and CC&Rs, trespass, nuisance, foreclosures, and deficiency actions
- Represented the FDIC and RTC in connection with assets held by both as the receiver/conservator

including promissory notes, real estate interests, and FDIC special defenses

- Represent owners, contractors, and subcontractors in state court, federal court, office of administrative hearings, and arbitrations for construction disputes in matters involving licensing, construction contract interpretation, prompt pay act, lien and bond rights, non-payment, termination, and construction defects

#### REAL ESTATE

- Advise clients in connection with the development, sale, and purchase of commercial real estate, and construction-related issues
- Draft, review and negotiate purchase and sale documents and leases and loan documents for commercial projects
- Extensive experience in litigating disputes involving leasing/purchasing/sale, title issues, mortgages, deeds of trust, and land use
- Prepare due diligence and bid packages and related documents for the sale of assets for the FDIC/RTC

#### BUSINESS

- Advise businesses in employment matters, purchase orders, leasing, contracts, vendor contracts, franchising, manufacturing agreements, distributorship agreements, and intellectual property rights
- Assist in the formation of business entities, negotiate and draft shareholder agreements, buy/sell, operating and partnership agreements
- Advise clients regarding fiduciary obligations and corporate governance issues
- Advise/litigate disputes between partners, shareholders, and businesses/customers/clients

#### COMMERCIAL CONTRACTS-TRANSACTIONS

- Negotiate/draft commercial contracts including distributorship agreements, sale/purchase of businesses or personal property, licensing of intellectual property rights, manufacturing agreements, financing agreements, leases, vendor agreements and merger & acquisitions
- Advise/litigate disputes arising out of failed transactions including mergers/acquisitions, purchase contracts, leases, vendor agreements, distributorship agreements, manufacturing contracts, franchise agreements, promissory notes, loans, construction contracts, and securities transactions

#### CONSTRUCTION

- Negotiate and draft agreement, including contracts with/between architects, owners, general contractors, and subcontractors
- Assist clients with bid packages and bonding for private and public works projects
- Advise clients regarding the prompt pay act, construction defects, interpretation of contracts, licensing and mechanic's liens
- Substantial experience in litigation of mechanic liens, construction defects, prompt pay act, contract disputes, Miller Act, Little Miller Act, government projects, private bonds, delay/disruption claims, designer liability, change order disputes, and bid protests.

<b>Mediator Experience</b>	Obtained a 40-hour certificate in Fundamentals of Civil and Workplace Mediation in 2004. Judge Pro Tempore for Maricopa County Superior Court since 2019. Mediations conducted privately and through FINRA, American Arbitration Association, and the Arizona Association of Realtors.
<b>Mediator Style &amp; Process Preferences</b>	My role as mediator is to assist the parties to move beyond the obstacles that prevent them from resolving their dispute. To do so, the parties must have the opportunity to be heard, share their frustrations, anger, concerns and goals. Once the parties have done so, it is my job to help the parties examine and understand the perspective of the other party, the strength and weaknesses of their own positions, and a path that will lead them to resolve the dispute without continued litigation.
<b>Education</b>	Northeastern University School of Law (JD - 1985); Barnard College of Columbia University (BA, Anthropology, cum laude - 1982).
<b>Professional Licenses</b>	Admitted to the Bar: Arizona, 1985.
<b>Professional Associations</b>	State Bar of Arizona (Fee Arbitration Committee 1994-Present, Committee Chair (2012 – 2014); Member, State Bar of Arizona Ethics advisory Group (formerly State Bar of Arizona Professional Responsibility Advisory Panel) (2014 – Present); Past chair of the State Bar of Arizona ADR Section of the State Bar of Arizona; Mediator for FINRA and the Arizona Association of Realtors; Judge Pro Tempore Maricopa County Superior Court 2019/2020 and 2020/2021 terms.

<b>Recent Publications &amp; Speaking Engagements</b>	Frequent Speaker for the Arizona State Bar on ADR, professionalism, fee arbitration, ethics, arbitration, mediation, real estate, construction, and business matters. Presented on conducting mediations and arbitrations via ZOOM for FINRA and the State Bar of Arizona. Faculty member for ABA Mediation Institute and ABA Arbitration Institute.
<b>Mediation Rate</b>	\$500 Per Hour
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	Scottsdale, AZ

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.