



AAA Mediation.org™

FN-16564 MN-16564 LN-16564, Esq.

Tempe, Arizona



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Current Employer-Title The Lassiter Law Firm – Attorney/Principal

Panelist Video <https://www.adr.org/videoresume?paramName=294114076>

Professional Summary Arizona (active) and California (inactive) AV Preeminent® rated attorney in his 40th year of practice in the areas of business, real estate, construction, technology, and organizational dispute resolution and transactions. Southwest Super Lawyer® in Alternative Dispute Resolution (“ADR”), one of Arizona’s Finest Lawyers™, and one of Arizona’s Top Rated Lawyers from 2014 to the present in the areas of ADR, Business and Commercial law in LEGAL LEADERS. Commercial arbitrator since 1991. Fellow, College of Commercial Arbitrators. Arbitrator on the panels of the American Arbitration Association (“AAA”), the International Centre for Dispute Resolution (“ICDR”), and the National Academy of Distinguished Neutrals (“NADN”).

Profession Attorney, Mediator, Arbitrator

Work History Attorney, Mark E. Lassiter P.C. d/b/a “The Lassiter Law Firm”, 2012 – Present; Partner/Management Committee Member/Department Head: Commercial Litigation and Dispute Resolution Section, Davis Miles McGuire Gardner PLLC, 2009 – 2012; Founder and Managing Member, THE LASSITER LAW FIRM, P.L.C. (and predecessor law firms), 1998 – 2009; Attorney, Roberts & Rowley, 1995 – 1997; Special Counsel/Vice President of Special Projects, inVzn (Software) Development Corporation, 1994 – 1995; Attorney, Ivanjack & Lambirth, 1992 – 1994; Attorney, Kerry Garcia & Lewis, 1991 – 1992; Attorney, Mark Lassiter & Associates, 1987 – 1991; Attorney, Spierer Woodward et al, 1984 – 1987; In-house Counsel, Ryan-McFarland (Software) Corporation, 1983 – 1984.

Experience Over 40 years of practice as a civil trial attorney (and over 32 years of experience as an AAA Commercial Arbitrator) specializing in business, real estate, construction, technology, and organizational dispute litigation (80%) and related transactions (20%), including disputes, arbitration, litigation, trials and transactions arising from claims involving: commercial breach of contract; breach of fiduciary duty; misappropriation of trade secrets; unfair competition; and other business torts; employment compensation and covenant not to compete disputes; business insurance

coverage disputes; church and not-for-profit organization matters, including matters involving alleged pastoral staff sexual abuse and impropriety; business buy-sell and sale of business disputes; dissolutions of corporations, partnerships, and limited liability companies ("LLCs"); "business divorce" disputes among partners, shareholders, members and other business principals; construction contract claims arising from private commercial, industrial, retail and residential construction projects; commercial real estate loan transactions and disputes; disputes arising from real estate purchase and sale contracts, commercial real estate leases, IRC §1031 tax deferred exchanges, escrows, and the co-ownership of real property; technology and software licensing agreements; computer technology and/or software disputes; and securities law violations. Considerable experience and expertise in provisional remedies and emergency relief (e.g., injunctions, receiverships, and pre-judgment asset seizures), and in electronic evidence discovery of Electronically Stored Information ("EED/ESI") matters. Appointed by the Maricopa County (Phoenix) Superior Court as a receiver (2005) to take over the affairs of a law firm embroiled in a dispute amongst its partners and as a special master (2006) in a limited liability company dissolution matter. Principal trial lawyer in commercial real estate fraud case resulting in seven figure jury verdict that was one of the Top 10 Arizona Civil Jury Trial Verdicts in 2017, as reported in ARIZONA ATTORNEY magazine (#10).

Mediator Experience

Mediation of business, real estate and construction disputes including:

- Commercial Landlord-Tenant Disputes (e.g., unpaid rent and tenant improvements);
- Commercial Lending Disputes between Lenders, Borrowers and Guarantors on Loan Deficiency matters;
- Business 'Divorce' Matters, including dissolution proceedings or 'Buy-Outs' of interests in closely held businesses involving principals, shareholders, partners, members and other stakeholders;
- Creditor-Debtor Disputes (e.g., private party loans by family members or non-institutional lenders);
- Disputes between Commercial Lenders, Title Company and Construction General Contractors over title insurance coverage and mechanic's lien attachment and priority issues;
- Disputes between expert witness appraisers and persons alleged to have been damaged by incorrect appraisals.

Representative Issues Handled as a Mediator

Mediation of:

- Commercial Landlord-Tenant Disputes involving balance due on a Class A Commercial Office premises occasioned by the abandonment of the premises by a business tenant before the expiration of the lease term;
- Commercial Landlord-Tenant Disputes between a commercial landlord and a public university tenant involving balance due on a Class A Commercial Office premises occasioned by the failure of a lease to properly describe the number of square feet in the Premises according to BOMA standards where the landlord built out more square feet of tenant improvements than the tenant agreed to lease, but where the tenant relied upon the landlord's space planner's erroneous floor plan in electing to lease the Premises (i.e., the floor plan erroneously represented more square feet than either the landlord or tenant agreed to lease, but the mistake was not discovered until after the TIs were built out and occupied by the tenant);
- Commercial Lending Dispute between residential condominium developer and commercial bank regarding the loan deficiency on a multi-million dollar defaulted loan - including the application of Arizona's 'Fair Value' limitations on such deficiencies;
- Commercial Lending Dispute between residential developer and commercial bank regarding the loan deficiency on a multi-million dollar defaulted loan - including the application of Arizona's 'Fair Value' limitations on such deficiencies;
- Business 'Divorce' Matters, including dissolution proceedings or 'Buy-Outs' of interests in a 20 year old law firm whose partners were separating;
- Creditor-Debtor Disputes involving private party loan by daughter to father, the terms or existence of which were later disputed by the father and his new wife;
- Dispute between Commercial Lender, Title Company and Construction General Contractor over lien priority issues pertaining to a 35 story commercial condominium development involving title insurance coverage and mechanic's lien attachment and priority issues;
- Dispute between business valuation expert witness appraiser divorced couple where Claimant spouse claimed to have settled divorce in reliance upon '7 figure' business appraisal valuation where other spouse that kept the business sold it 8 months later for '8 figures.'

Mediator Style & Process Preferences

I believe that mediation is best undertaken as a process, and not merely an "event." Sometimes there's just too much to do in, say, a half day allotted by the parties to do a "mediation." (I have often

seen cases settle after the mediation event because a mediator didn't give up and pursued new ideas not discussed at the mediation). Hence, I make it a point to talk to and get to know the parties and their counsel before the mediation session. While the parties and their counsel usually easily self-identify their positions in the matter, I make a special effort to understand the values and interests that inform and animate the parties' respective positions. I also try to understand and assess the personality types of the various parties and their counsel and how they may militate for or against using particular approaches to my task as a mediator (e.g., facilitative, evaluative and/or transformative) and the kinds and types of information that may impress them to settle.

Generally, my style borders on a combination of facilitation and (where permitted) evaluation of the parties' respective positions, offers, interests and values. I am uncomfortable with merely assuming the role of a "facilitator" (i.e., a mere "messenger" of money offers back and forth between the parties without serious critique or assessment), as I believe such mere "facilitation" never really gets to the "root" or reasons for the parties' positions – without which settlements don't usually occur. (I've seen cases settle for a mere apology, when all of the lawyers had assumed it was all about "the money"). I find that without really understanding the parties' interests settlements are next to impossible.

I also strive for the "Three Satisfaction Ps" of a successful mediation: First, Personal satisfaction (i.e., the parties and their counsel felt like they were treated with dignity and respect); Second, Process satisfaction (i.e., the parties and their counsel felt like they were given an adequate notice and opportunity to understand and prepare for the mediation process, to explain or vet their case, and that their positions, interests and values in the dispute were heard, understood and communicated to the other side, where appropriate); Third, Product satisfaction (i.e., if a settlement is reached or, in the absence of a settlement, an alternative dispute resolution process is adopted for the determination of the matter, it is well documented and capable of being enforced by a court, if necessary).

While I see my role as helping the parties settle their own dispute, if they are unable to do so for any reason then I am not afraid to offer a candid, no-holds-barred, non-binding assessment about how I think a judge, jury or arbitration tribunal would rule in the case, but I normally do so (if at all) at the end of the mediation session if the case has not otherwise settled. I will also usually leverage the goodwill that I have developed with the parties during the mediation process to tell them what I think would be a workable and appropriate settlement, but usually do this only after all other avenues may have been exhausted without success.

Education

Northern Arizona University (Advanced Graduate studies towards MA in Project Management-2012); Loyola Law School (JD-1983); University of California at Los Angeles (BA, cum laude-1980).

Professional Licenses

Admitted to the Bar: Arizona (1995), California (1983-inactive); U.S. District Court: Central District of California (1983), District of Arizona (1995); U.S. Court of Appeals, Ninth Circuit (1983).

Professional Associations

Fellow, College of Commercial Arbitrators; Member, National Academy of Distinguished Neutrals; State Bar of Arizona (Member, State Bar of Arizona's Business, Real Estate, Construction, and Alternative Dispute Resolution Sections; Former Chair, State Bar of Arizona's Technology Committee and Member of its Subcommittees on Cloud Computing & Law Practice Management; Electronic Evidence Discovery & Electronically Stored Information; Data Security & Cyberliability; and Computer Aided Evidence Presentation); State Bar of California (inactive).

Recent Publications & Speaking Engagements

CLE Panelist and Author: "Arbitration 101 - What Every Advocate Should Know" (first AAA on-line Internet CLE Video Program). Has chaired and/or given numerous continuing legal education presentations nationwide to such groups as the Seventh, Eighth, and Ninth Circuit Judicial Conferences; the American Bar Association; the Federal Bar Association; the National Institute for Trial Advocacy; other state and county bar associations; and legal groups entitled: "Arbitration Boot Camp," "Private Arbitration Update," "AAA Arbitration," "What Every Business Lawyer Should Know About Business Insurance," "Locating and Seizing Debtors' Assets Before Judgment," "How to Handle a Commercial Arbitration Case," "Arbitration Strategies and Techniques," "Private Arbitration in Arizona," "The 21st Century Trial Lawyer," "The 21st Century Law Office," "The Use of Technology in Construction Litigation," "Advanced Current Topics In Real Estate And Real Estate Finance," and "Locating Assets During Litigation and After Judgment".

Locations Where Parties Will Not be Charged for Travel Expenses	Will not charge for travel time or expenses for matters where hearings are held in Maricopa County, Arizona.
Mediation Rate	\$550 Per Hour
Languages	English
Citizenship	United States of America
Locale	Tempe, 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.