



AAA Mediation.org™

**FN-1680312 MN-1680312 LN-1680312,
Esq.**

Hingham, Massachusetts



Current Employer-Title Constructive Dispute Resolutions - Owner

Profession Dispute Avoidance and Dispute Resolution Practitioner

Work History Owner, Constructive Dispute Resolutions, 2006-Present; Claims Services Manager, Carter & Burgess Inc., 2005-2006; Senior Counsel/Chief Counsel/Associate Project Director for Claim Resolution, Central Artery/Tunnel Project, 1992-2005; Senior Associate, Hutchins & Wheeler, 1989-1992; Associate and Senior Associate, Palmer & Dodge, 1983-1989; Law Clerk, Wisconsin Supreme Court, 1983-1984.

Experience Attorney for over 39 years with a focus on construction legal issues. Initial practice was as a commercial litigator specializing in complex business disputes, including construction disputes, lender liability disputes, appellate tax board appeals and intra-company disputes. During 13-year tenure with the \$15B Central Artery/Tunnel Project, as Senior Counsel and then Chief Counsel, was responsible for a wide variety of legal and management issues arising on the Project, including negotiation of inter-agency agreements, procurement and bidding issues, construction and design disputes, labor issues, environmental litigation, regulatory issues, insurance issues, civil and criminal investigations, legislation, and other governmental issues. Later became Associate Project Director for Claim Resolution, was responsible for planning and implementing a program to negotiate and resolve thousands of open claims and issues involving hundreds of millions of dollars. Using an innovative program of structured negotiation and mediation, participated in the resolution of the majority of these open issues and claims involving entitlement issues, design issues, constructibility issues, delay/impact/inefficiency issues, constructive acceleration issues, and pricing/compensability issues. These experiences ensured a good understanding of complex, multi-issue commercial, governmental and construction related disputes. Also well versed in handling the process necessary to manage such complex (and often multi-party) disputes in a fair and equitable manner. Since leaving the CA/T Project, has established a consulting practice concentrating on dispute avoidance and dispute resolution techniques on construction projects. Consulting practice includes: Dispute Systems Design (public sector projects); Partnering (public sector projects); Lean Design and Construction (public and private sector projects); and Dispute Review Boards (over 30 DRBs as Member and as Chair). Has also has done numerous AAA arbitrations and mediations involving disputes and claims on all varieties of construction projects and delivery methods. In addition to

practical experience, has delivered dispute resolution training; has written articles and presented at conferences regarding dispute avoidance and resolution techniques; and has participated in research studies regarding dispute resolution topics.

Mediator Experience

1. Has served as a mediator on approximately 50 mediations as part of court annexed mediation programs. These involved primarily smaller claims, involving landlord/tenant issues, small claims, breach of contract claims and tort claims.
2. Has mediated two smaller construction matters one involving a house renovation and the other a restaurant renovation.
3. Acted as a facilitator/mediator in an eight-month mediation involving \$35M in claims on a \$220M project; the mediation involved both technical issues on completing the project and commercial issues for past and future costs.
4. Acted as a mediator on a complex mediation involving claims on a multi-million dollar highway construction project.
5. Has mediated claims on a variety of projects, including a veterinary clinic, a school, a senior residence development, a urban development project, an apartment complex development, and a shopping area development.

Representative Issues Handled as a Mediator

Mediations involving construction matters have included issues of: entitlement, delay claims, impact claims, extra cost claims, constructability, professional liability, construction defect, measure of damages, false claim, negligent representations, owner interference, failure to perform, and surety.

Mediator Style & Process Preferences

I find that most parties in my primary arena, construction, are looking for an evaluative mediation approach. I employ a combination of facilitative and evaluative mediation techniques and tools so that ultimately it is still left to the parties to make fundamental informed choices on whether or not to settle and on what terms. I also emphasize that mediations need to focus initially on the merits of the parties' respective positions rather than just default quickly to a discussion about money - although I realize that in many commercial mediations it ultimately will come down to a negotiation about money issues. I also feel that a mediator should be involved as early in the negotiation process as possible, and at a minimum should do as much preparatory work as possible with the parties before the formal mediation session itself. I have found both as an advocate and a mediator that the better the parties and the mediator are prepared in advance of the mediation, the more productive and efficient the mediation process will be, whether a settlement is reached or not.

Technology Proficiency

Has handled virtual mediations, arbitrations, and Dispute Review Board proceedings on various platforms.

Education

University of Wisconsin-Madison (BA, Political Science, 1979); University of Wisconsin (JD, 1983).

Professional Licenses

Admitted to the Bar: Massachusetts, 1985, Wisconsin, 1983-inactive.

Professional Associations

Chartered Institute of Arbitrators (Past Fellow); Dispute Resolution Board Foundation (Past President of Executive Board of Directors; current Chair of Public Private Partnership Task Force; Co-Chair of Transportation Committee; and member of Model Documents Committee); International Partnering Institute (Certified Practitioner and Member); Transportation Research Board (Past Communications Coordinator, Contract Law Committee); Association for Conflict Resolution (Past Chair of Commercial Section); ConsensusDOCS 300 (Past Chair of Insurance/Surety Working Group); Massachusetts Uniform Mediation Act Working Group (Past Chair Public Sector Committee).

Recent Publications & Speaking Engagements

Co-author of Chapter on Dispute Prevention and Dispute Resolution in the ACEC book "Public-Private Partnerships and Design Build"; co-author of Chapter on "Changes, Claims and Disputes" in the ACEC book; "Mediators as Settlement Process Chaperones: A New Approach to Resolving Complex, Multi-Party Disputes," in the ADR Quarterly of the Michigan State Bar Association; "How and Why the Standing Neutral Dispute Prevention and Resolution Technique Can Be Applied" in Alternatives (CPR Newsletter); "Megaprojects: Challenges and Recommended Practices; author and co-author of numerous articles on DRB best practices in the DRBF Forum; co-author of 'Resolving Megaproject Claims: Lessons from Boston's Big Dig,' in the ABA Forum on the Construction Industry.

Has spoken at numerous conferences, including: American Bar Association, National Public

Contract Law Section Annual Federal Procurement Institute; The Transportation Research Bureau's Legal Conference and Annual Conference; The Construction Management Association's Annual Conference; The American Road and Transit Builder's Annual Conference; the American Bar Association Dispute Resolution Section Annual Conference; American Arbitration Association Conferences; and the Dispute Resolution Board Foundation Annual Conferences.

Locations Where Parties Will Not be Charged for Travel Expenses Boston area

Mediation Rate \$480 Per Hour

Languages English

Citizenship United States of America

Locale Hingham, MA

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.