



AAA Mediation.org™

**FN-16850 MN-16850 LN-16850, Esq.**

**New Canaan, Connecticut**



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**Current Employer-Title** WiechmannADR - Arbitrator/Mediator

**Panelist Video** <https://www.adr.org/videoresume?paramName=268410900>

**Profession** Attorney, Arbitrator, Mediator

**Work History** Principal, WiechmannADR, 2019 - Present; Managing Partner (2007-2010), Executive Committee Member (2003-2010), McCarter & English LLP, 2003-2019; Principal/Board of Directors, Cummings & Lockwood LLP, 1974-2003.

**Experience** Over the past four decades engaged in both civil litigation and arbitrations throughout the country with extensive experience in energy, chemical, professional services, banking, financial, retail and shipping (maritime, trucking and railroads) industries. Energy matters involved electricity, oil/gas, and alternative/renewable energy markets. Represented several multinational oil and gas companies and wholesalers in various lawsuits involving exploration, production (leases, royalties), pipelines, petrochemicals, refining and sales. Alternative energy experience includes wind, solar energy, geothermal, hydro-electric and regulatory energy conservation programs. Past counsel to the New England Alternate Energy Industries Association. Involved in numerous environmental and toxic tort claims for various oil and gas producers, refiners, chemical companies and manufacturers.

Extensive experience as Managing Partner of McCarter & English, LLP and as trial attorney, arbitrator and mediator with matters involving law firms and legal services. Handled for both plaintiffs and defendants claims of malpractice, breach of ethical obligations, breach of fiduciary duty, law firm fee collection actions, and disputes arising out of partnership agreements including the departure of partners and/or hiring of lateral partners. Lead negotiator in departure of 50 plus lawyer from one firm and merger into another. Member of CBA Attorney Fee Dispute Arbitration and Mediation Panels. Also handled claims for and against accounting firms, consultants, architects and insurance brokers.

Extensive experience in antitrust, trade regulation, franchise and consumer suits. Represented both plaintiffs and defendants in trials and class actions throughout the country (price fixing, boycotts,

false labeling, truth in lending, resale price maintenance, dealer termination, patent misuse/monopoly, Robinson-Patman, monopsony). Represented defendants in various federal and state governmental investigations (Healthcare trade organizations, multinational oil companies, food and clothing retailers, construction companies, waste haulers, insurance brokers, retail energy suppliers). Counseled and represented companies dealing with antitrust issues including mergers (HSR, gun jumping, information exchange, successor liability), acquisitions, joint ventures, pricing, distribution, trade organizations and intellectual property. Has been involved with numerous consumer fraud governmental investigations, and private lawsuits involving mislabeling, breach of warranty, fraud, tax and fee overcharge, Truth in Lending claims, and deceptive mortgage and loan practices. Also, represented Native American tribe seeking Federal Recognition.

Litigated, arbitrated and mediated various disputes dealing with mergers and acquisitions, partnership and shareholder disputes and corporate governance actions. These disputes involved escrow funds, post-sale adjustments, tax issues, fraudulent inventory, pension liabilities, securities fraud claims, insider trading, intellectual property, environmental issues and breaches of representations and warranties. Handled numerous, foreign and domestic, breach of contract claims in many different industries.

Served on the Connecticut Law Revision Commission panel, which drafted the Connecticut Evidence Code (1994-2002). Served on the Connecticut Superior Court panels that drafted standard jury charges and Rules of Civil Procedure. Served on the Connecticut Supreme Court Evidence Code Oversight Committee (2002-2019).

## **Mediator Experience**

Mediated both court directed, institutional and private referral cases in Connecticut, New England, and New York City Metro area (SDNY Panel of Mediators, CT Attorney Trial Referee, USDC Connecticut Settlement Master), for the past 25 years. While the cases and issues handled vary, a substantial portion of the matters involve the following areas:

- **Environmental - Energy Claims:** Has mediated various cases dealing with contamination and/or cleanup of properties, environmental consulting agreements, real estate disputes involving environmental issues, personal injury claims from exposure to chemicals and other pollutants.
- **Disputes involving corporate control or dissolution of partnerships or corporations** including violations of securities laws, transfer of assets, tax issues, fraud and breach of shareholder agreements and bylaws.
- **A wide variety of personal injury/property damages cases** claiming negligence, product liability or statutory liability (e.g., FELA, Jones Act, NYS Labor Law § 240). The cases range from drug or medical device claims (Dalkon Shield) to toxic, exposure, to automobile collisions, landlord liability and workplace injuries.
- **Various distribution and sales contract claims** involving wholesalers, distributors, franchises, and sales agents. The claims involved breach of contract, violation of franchise or similar statutes, state unfair trade practice and antitrust claims.
- **Construction claims** involving construction defects, construction delays, design professionals, contractor/subcontractor payment disputes, responsibility for personal injury/property damage, insurance coverage, and release of retention allowances.
- **Employment cases** involving claims of wrongful termination, discrimination, retaliation, ADA and FLSA claims.
- **Intellectual Property Cases** including trademark, copyright and design patent disputes.

## **Representative Issues Handled as a Mediator**

- **Intrafamily disputes** over ownership and operation of several partnerships and businesses involved in the landscape, construction and garden center industries resulted in several lawsuits brought in state court by two brothers and one of their spouses claiming, inter alia, breach of contract, theft, tax fraud, breach of fiduciary duty and bankruptcy claims. The cases were approaching either trial or dispositive motions when they were referred to mediation. After an initial mediation session and several follow-up meetings and communications, all lawsuits and related claims were settled.
- **Mediation arising out of several Federal lawsuits** involving the contamination of and multimillion

dollar cleanup of an industrial site and surrounding residential properties. Parties included three owners, five railroads, two utilities, and six abutting properties.

- Multimillion dollar dispute between international shipping company and major US food processor over payments for shipping products to Asian destinations.
- Breach of contract lawsuit pending in state court between the owner of an oil distribution business and related oil storage terminal who alleged that an environmental consulting firm which had been involved in the purchase of the facility and subsequent remediation had breached their contract and performed malpractice as it had misrepresented both the extent of contamination of the property and the level of remediation required under various governmental regulations.
- Multimillion dollar dispute involving several municipalities and an energy aggregator over the pricing of electricity involving the state's renewable energy program (SREC).
- Theft of trade secrets case involving two publishing houses.
- Series of mediations involving various cases arising out of the construction of a high school
- Federal lawsuit involving both individual and derivative shareholder claims of corporate management, breach of fiduciary duty by CEO, violations of corporate by-laws and board of director procedures and securities fraud. After several mediation sessions and follow up communications the parties agreed to restructure the board and management teams and reestablish appropriate by laws, financial reporting protocols and board processes.
- Action brought by a music publisher against a music instruments maker for copyright infringement arising out of defendants use in their videos of music from plaintiffs website with Lanham Act counterclaims.
- Legal malpractice claim pending in Federal court arising from the alleged mishandling of employment discrimination action and the failure to initiate a lawsuit against a prior attorney.
- Mediation of various employment discrimination claims based on gender, nationality, religion, race and retaliation and ADA claims.
- A multi-million dollar dispute between a European manufacturer of large electric generators and an American distributor of their generators that were pending in both the United States District Court and in arbitration. The claims arose out of the termination of the distributor's agreement involving both breach of contract and a violation of the Connecticut Franchise Act claims.
- Mediation of various disputes involving educational institutions including claims of personal injury, wrong teacher termination, gender discrimination, construction disputes, and alleged sexual abuse of students.
- Mediation of dispute between foreign manufacturer and US distributor involving scope of distribution agreement, and trademark issues.
- Appointed the mediator in Connecticut for claims against the Dalkon Shield Trust and have sat as a court appointed mediator in both Connecticut State and Federal Courts and the Southern District of New York. Also a Connecticut Bar Association Attorney Fee Dispute program mediator.

## **Mediator Style & Process Preferences**

Mediation should be a process that should involve the parties not just a shuttle settlement discussion. I try to add value to the parties by acting as a facilitator for the parties as I focus on my 5 Ps. These steps are especially true with the advent of remote mediations.

### **Preparation:**

One of the most common complaints one hears about mediation is the mediator was not prepared for the mediation. I believe it is important to understand and appreciate the legal and factual issues raised by the parties in their submissions and pre-mediation communications, the status of settlement talks and the interaction between the participants. If I do not fully understand the arguments or positions raised, I will contact the parties before the sessions to discuss them. Preparation allows me to better steer the discussion at the mediation and bolsters my credibility with the parties and their

attorneys.

**Planning:**

Mediations are more successful when there are few surprises. It is important the all of the necessary parties will attend the mediation with appropriate authority. All participants should know of and commit to the schedule for the day. Each side should be aware of how the other will approach the process (i.e. will formal presentations at the opening session be made?). I try to work all of these issues out in pre-mediation communications with the parties.

**Patience:**

A frequent criticism of mediators is they want to get to the demand and offer stage too quickly and turn the exercise into nothing more than a settlement negotiation. I find time must be spent explaining the process and my role to the parties and listening to parties about their feelings, issues, goals and objectives and letting them appreciate the strengths and weaknesses of both parties positions. As mediation is one of the only times the parties control the process and outcome of a litigation this effort is necessary if I am to facilitate a resolution amongst the parties. It takes time and effort to let them feel comfortable with the process.

**Privacy:**

Mediation is generally confidential. Positions and information disclosed cannot be used at trial or disclosed to third parties. I insist that all participants sign a confidentiality agreement to support the protections afforded by most jurisdictions. As such, I emphasize it is a perfect time to exchange enough information about ones case to allow for an educated discussion about the issues. I urge the parties to exchange their pre-mediation statements and other pretrial discovery to allow each side to better evaluate their positions. While I respect the confidentiality of information discussed with me in caucus, I will frequently request that all or part of it be shared with the other side. The better the communication, the greater chance of success.

**Persistence:**

I find that many mediations settle after the initial mediation session. Many times parties need to digest what was learned at the mediation and evaluate the offers being made against future costs and uncertainties of trying the matter. Also, many times the parties need to focus on a specific issue that was obstructing the settlement process. If complete agreement cannot be reached at a mediation I will attempt to set up follow-up meetings or calls before the parties leave to maintain any momentum achieved during the session. As long as the parties can keep their focus on the mediation process, there is a good chance of success.

**Technology Proficiency**

Have attended conferences and courses on remote mediations and AI and ADR. Have handled and hosted numerous remote video mediations and arbitrations using various platforms. Have written on cybersecurity and attended various training courses on the subject.

**Education**

Cornell University (JD-1974); Hamilton College (BA-1970)

**Professional Licenses**

Admitted to the Bar: Connecticut (1974), New York (2011), District of Columbia (1979-2019-resigned); U.S. District Courts: District of Connecticut, Southern and Eastern Districts of New York, District of Columbia; U.S. Court of Appeals: Second, Fifth, Tenth, and District of Columbia; U.S. Supreme Court (1978).

**Professional Associations**

American Arbitration Association – National Commercial, Large and Complex Disputes, Energy, Consumer and Mergers, Acquisitions, Joint Venture Arbitration Panels, National mediation panel; Fellow-College of Commercial Arbitrators; Member National Academy of Distinguished Neutrals; FINRA-arbitrator and Mediator; American Bar Association(Dispute Resolution Section); Connecticut Bar Association (Alternative Dispute Resolution Section and ; Energy Committee Past Chair); Court Rules Advisory Committee Past Chair; NYSBA Dispute Resolution Section; New England Alternative Energy Industries Association-outside general council; International Society of Barristers; International Association of Defense Counsel; American Chemistry Council; Ct Rivers Boy Scout Council (Past Trustee); American Bar Foundation (Life Fellow); Connecticut Bar Foundation (Life Fellow).

**Recent Publications & Speaking Engagements**

Connecticut Legal Conference Speaker 'Art of Successful Mediation" and "Exploring the Dispute Resolution Toolbox" (2022) "ADR in the Age of Cybersecurity", co-author Steve Certilman, New York Dispute Resolution Lawyer (2019) updated 2020 New Jersey Lawyer and 2021 CT Lawyer,

"A Brave New World- How Courtroom Attorneys Can Flourish in Arbitration", co-author Roy DeBarbieri, CT Lawyer Magazine (2020)" The Mediation Gameplan" CBA Litigation Section (2018-2019)Panelist "A Practical Guide to Arbitration in Connecticut" CBA Seminar(2019) "Tips on Arbitration Advocacy", Parts I,II,IIIand IV, Connecticut Law Tribune (2017)Connecticut Legal Conference-"Effective Advocacy in Arbitration"Speaker (2017) "The Arbitration Prehearing Conference" CBA ADR Section presentation (2017) "A+ Arbitration- How to Most Effectively Present Your Case and Protect It From Later Court Challenge" IADC webinar (2017) "Questions for In House Counsel to Ask Litigation Counsel in Anticipation of Mediation", Practical Law (2016) "Subjects for Trial Counsel to Discuss With the Client In Anticipation of Mediation Checklist" (2016)"Ten Pillars to a Productive Mediation: An Attorney's Guide" Alternatives (2015) "Mediation the Complex Case-How In-house counsel "The Pillars of a Productive Mediation" Connecticut Law Tribune (2014) "Effective Court Connected Mediation" Panelist CPR Annual Meeting (2014) "Mediation Early and Often" Connecticut Law Tribune In House Counsel Lecture" (2013)"Mind Your Ps & Qs in Mediation" (Terralex Connections 2013); IADC Corporate Counsel College "Mediating the Complex Case- How In-House Counsel Can Drive More Effective Results" Speaker (2015) Connecticut Law Tribune-In House Counsel CLE series "Mediation-Early and Often (2013); "Combining Firms Successfully: Matching Cultures and Strategies" Current Issues & Trends In Law Firm Mergers & Acquisitions (Aspatore 2008)"Guilty by Associations: Trade Associations, Liability, and Protections," THE BRIEF-Tort and Insurance Practice Section, vol. 30, no. 2, Winter 2001; Guest Lecturer Quinnipiac Law School Arbitration Course.  
Judge-Fordham Vis International Commercial Arbitration  
Coach-New York City Bar Association Advanced Commercial Arbitration Training  
Judge/Mediator-ABA Representation in Mediation Law School Regional Competition

**Locations Where Parties Will Not be Charged for Travel Expenses** For any live hearing that does not require overnight stay and is less than a 2-hour drive.

**Mediation Rate** \$450 Per Hour

**Languages** English

**Citizenship** United States of America

**Locale** New Canaan, CT

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.