



AAA Mediation.org™

FN-1726 MN-1726 LN-1726, III, Esq.

Washington, District of Columbia



Current Employer-Title Peckar & Abramson, P.C. - Of Counsel

Profession Attorney

Work History Partner, Peckar & Abramson P.C., 2006 – Present; Partner, Bastianelli, Brown & Kelley, 1982 – 2006; Partner, Bastianelli Thomas Reifel & Lyon, 1978 – 1982; Partner/Associate, Hudson & Creyke, 1972 – 1978; Law Clerk, U.S. Court of Claims, 1971 – 1972; Civil Engineer, Construction Division U.S. Corps of Engineers, 1966 – 1971.

Experience Fifty years in private practice of construction law; 45+ years as an ADR neutral including as an arbitrator, mediator, and DRB member; five years as a civil engineer with a government agency engaged in heavy construction, and one year as a law clerk for a court with jurisdiction over government contract claims. Negotiated, resolved, or arbitrated/litigated over 1,000 construction claims involving most types, elements, and issues in construction. Arbitrated and mediated in a virtual (Zoom/Teams) format.

Mediator Experience Mediated in excess of 300 construction disputes including more than 25 involving Federal, State, or local governments. The mediations include more than: 25 condominiums, 20 office buildings, 10 manufacturing plants, five airport facilities, five power plants (including a nuclear plant), five hospitals, five hotels, five schools, five professional sports stadiums, five houses, three parking garages, three prisons, museums and cultural centers, laboratories, malls, casinos, hospitals, convention centers, universities, parking facilities, roads and bridges, public works facilities. The mediations include more than: owner/contractor disputes, contractor/subcontractor disputes, disputes involving the surety, disputes involving design professionals, and disputes involving insurance carriers. Mediated numerous non-construction cases. Mediated in a virtual format (Zoom).

Representative Issues Handled as a Mediator The subject matter of the mediations have included the following issues: contract scope, contract interpretation, changes, differing site conditions, delay, acceleration, scheduling, pricing, termination for default and convenience, construction defects, mold, warranty work and latent defects, defective design, errors and omissions, limitations of liability, products liability, property damage, design-build, construction management, accidents, trespass, UCC, negligence, Prompt Payment Act, surety, insurance, and fraud.

Mediator Style & Process I use the Guided Choice approach to mediation. I prefer a robust premediation phase during which I

Preferences

attempt to ensure the parties have a sufficient exchange of information to allow for a settlement at the mediation, without an expenditure of an unreasonable amount of money. I also use the premediation phase to develop a relationship, educate the parties, and design the best mediation process for the particular dispute. I view myself as first a facilitator to help the parties explore and focus on the reasons for settlement including their business interests, the issues, and the alternative if a settlement is not reached. If facilitation does not work, I engage in evaluative mediation. I attempt to educate each party as to the other party's arguments and how the trier of fact might view the issues. I review the cost of litigation and arbitration, including the non-legal costs and potential damage to business interests. I look for innovative ways and opportunities to help both parties' achieve their goals. I use closing techniques that are appropriate for the circumstances of each case to break an impasse and reach a settlement, including a mediator's proposal. However, it is the parties' choice on whether and on what terms to settle. The parties ultimately control the decision to settle.

Education

University of Louisville (JD-1971); Purdue University (BS, Civil Engineering-1966)

Professional Licenses

Admitted to the Bar: District of Columbia (1973), Kentucky (1972-inactive); U.S. Court of Appeals: Federal Circuit, Fourth Circuit; U.S. Court of Federal Claims; U.S. Supreme Court. Registered Professional Engineer, Kentucky #7830 (1971-inactive)

Professional Associations

Washington Building Congress (Past President); American Bar Association (Forum on Construction Law, Past Chair; Public Contracts Law Section; TIPS; Litigation Section); American College of Construction Lawyers (Fellow; Board of Governors; Past Co-Chair, Dispute Resolution Committee; Chair Public Contracts Committee); Professional Women in Construction, Capital Region (Past Board of Directors); The Construction Group Advisory Board for Thomson/West; Dispute Review Board Foundation (Past Regional Representative); District of Columbia Bar Association; Associated General Contractors; Associated Builders and Contractors; National Association of Surety Bond Producers (Advisory Committee).

Recent Publications & Speaking Engagements

"Alternative Alternative Procedures to Resolve Construction Disputes," JOURNAL OF AMERICAN COLLEGE OF CONSTRUCTION LAWYERS, 2021; Contributor DB MANUAL, 2020; "Question: A Single Arbitrator or a Three Arbitrator Panel? Answer: A Two Arbitrator Panel Editor and contributor," 2020; "Is it Live or Is It Virtual," BEST LAWYARE, 2020; "Strategies for Successfully Navigating Cultural Difference in Construction Negotiation and Mediation," THE CONSTRUCTION LAWYER, 2020; How Experts Are Affected by the Disputes Resolution Forum and Words of Advice from Those Who Have Served as Arbitrators Hearing and Giving Proper Weight to Expert Witness Testimony," FORENSIC EXPERTS IN CONSTRUCTION, ABA FORUM ON CONSTRUCTION LAW, 2019; Editor and contributor, CONSTRUCTION ADR, American Bar Association Forum on Construction Law, 2014; Editor, THE JOURNAL OF THE AMERICAN COLLEGE OF CONSTRUCTION LAWYERS, 2006-2008; contributor, MARYLAND CONSTRUCTION LAW DESKBOOK, 2012, 2017, 2023; editor, THE CONSTRUCTION LAWYER, associate editor/editor 1997-04; STATE BY STATE GUIDE TO CONSTRUCTION CONTRACTS, Aspen, DC Chapter; editor and contributor, FEDERAL GOVERNMENT CONSTRUCTION CONTRACTS, American Bar Association Forum on Construction Law, 2003 and 2012.

SPEAKING ENGAGEMENTS: The New AAA DARB Rules – Changes and New Opportunity, AAA, 2023; Arbitrators' Impartiality: The Cannons Are Only the Starting Point, AAA, 2022; A Global Perspective on the Need and Benefits for Mandated Dispute Boards and Adjudication, Ankura, 2022; Price Escalation & Supply-Chain Disruptions!, AGC, 2021; How to Effectively Deal with the 300 Change Order Dispute, AAA, 2020; Virtual Arbitration (P&A Webinar 2020); Virtual Mediation (P&A Webinar 2020); Virtual Mediation, American College of Construction Lawyers 2020; What's New Pussycat in International ADR, American College of Construction Lawyers, 2020; Consequential Damage Waivers and Limitations of Liability: Can Fraud and Bad Faith Overcome Them (Construction SuperConference 2019; Cross Culture Construction Negotiations, ABA Forum on Construction Law, 2019; Innovative Ways to Avoid Construction Disputes; DRBs and Their Application, Federal P3 Conference, 2018 and 2019; Lessons Learned: Building a Better DRB, DRBF, 2019; Can We Steal from International Arbitration to Improve Domestic Construction Arbitration American College. of Constr. Lawyers, 2019 and The Society of Construction Law, 2019; The Art of Living Together, How Owners Can Improve Their Chances for a Successful Project, ABA Forum on Construction Law, 2018; What Arbitrators Expect from Schedule and Damage Experts, AAA, 2018; Navigating the Unique Aspects of Construction Arbitration,

Construction SuperConference, 2017.

Locations Where Parties Will Not be Charged for Travel Expenses Within 75 miles of Washington DC.

Mediation Rate \$595 Per Hour

Languages English

Citizenship United States of America

Locale Washington, DC

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.