



AAA Mediation.org™

**FN-1732832 MN-1732832 LN-1732832,  
Esq.**

**New York, New York**



**Current Employer-Title** Greenberg, Trager & Herbst, LLP - Of Counsel

**Profession** Attorney

**Work History** Partner/Associate, Greenberg, Trager & Herbst, LLP (and predecessor firm), 1979-present; Law Assistant, Appellate Division of the Supreme Court, Second Judicial Department, 1976-1979.

**Experience** Currently working at a firm that was founded over 90 years ago, which continues to be a leading specialist in all phases of construction law, including construction and design contracts, preparation and presentation of claims, litigation, arbitration, asbestos litigation defense, mechanic's liens, and surety bonds. Practice has included the representation of owners, developers, general contractors, design professionals, subcontractors, material suppliers and sureties in numerous state court proceedings, the United States District Courts for the Southern, Eastern and Northern Districts of New York, and in proceedings before the American Arbitration Association. Have also had an extensive appellate practice in the construction field, and have successfully argued appeals in the First, Second, Third, and Fourth Judicial Departments of this state, the New York Court of Appeals, and the United States Court of Appeals for the Second Circuit.

**Mediator Experience** Experience has included the mediation of a number of disputes in the construction field, including two proceedings on behalf of the American Arbitration Association. Examples are as follows.

A non-profit community based housing organization filed a demand for arbitration with the American Arbitration Association against its project architect. The subject matter of the claim involved the transformation of a former school and a 1911 tenement into 86 units of affordable housing for low and moderate income families. The projects consisted of new construction within the existing structural shell of the two buildings. Claimant alleged that there were multiple errors in the mechanical, electrical and plumbing design and engineering services on the part of engineers hired by the architect, resulting in extra and additional work and delays to the project. Damages were claimed in excess of \$1.4 million.

At the first preliminary hearing, the parties requested an initial attempt to mediate the dispute before proceeding with arbitration. The mediation was successful, and the case was settled. Settlement

included the resolution of both the subject arbitration proceeding, and a separate lawsuit that the housing organization had commenced against the architect. At the request of the parties, also provided the initial draft of the settlement agreement.

A second mediation on behalf of the American Arbitration Association involved a claim by a subcontractor against a general contractor for labor and materials furnished at a forensic biology laboratory at a hospital center. The Owner of the Project was a dormitory authority. The claims sought damages for contract balances and change orders, and totaled in excess of \$154,000.00

At the commencement of trial, the parties requested that there be an initial attempt to mediate the case. The mediation was successful, and the case settled. At the request of the parties, also prepared the settlement documents.

A private mediation involved claims between a doctor and a general contractor in connection with the remediation of office space. The doctor alleged that he was entitled to damage totaling \$250,000 as a result of negligent work, repairs to deficient work, and delays to the project. The contractor alleged that there was a contract balance due of \$142,500.00. The mediation was successful, and the case settled.

Also handled the mediation of disputes between two business partners that were also brothers. The mediation addressed the terms of a buy out of the assets of a software company, which were valued in excess of \$4 million. The mediation successfully concluded in the resolution of all disputes.

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

1. Whether there were errors or omissions in the mechanical, electrical or plumbing designs in connection with new construction of the existing shell of two buildings;
2. Whether the project architect failed to properly oversee and implement the design of a project for new construction of the existing shell of two buildings;
3. Whether errors and omissions in engineering plans led to extra costs for change orders and additional work, and the value of those costs;
4. Whether deficiencies in design services resulted in project delays, and the nature and value of those delays;
5. The value of labor and materials provided by a subcontractor to a general contractor on a public construction project;
6. Whether a subcontractor was entitled to change orders from the general contractor on a public construction project, and the value of those change orders;
7. Whether there were deficiencies in the work of a general contractor on a private construction project, and the value of the corrective work;
8. Whether there were delays on the part of a general contractor on a private construction project, in addition to the nature and value of the delays;
9. Whether there was a contract balance due the general contractor from the owner on a private construction project;
10. The valuation of the assets of a privately held software development company;
11. The logistics of the sale of the assets of a privately held software company from one partner to the other.

## **Mediator Style & Process Preferences**

I am a highly evaluative mediator, and make every effort to get the parties working together towards the common goal of resolving their dispute with as little cost as possible. Careful study is made of each of the parties' interests, and creative solutions are explored so that those interests are taken into account in the resolution of the dispute.

## **Education**

New York University (BA, Mathematics and Philosophy-1973); Brooklyn Law School (JD, cum laude-1976)

<b>Professional Licenses</b>	Admitted to the Bar, New York, 1977; U.S. District Court, Eastern, Southern and Northern Districts of New York, 1978; U.S. Court of Appeals, Second Circuit, 1994.
<b>Professional Associations</b>	American Bar Association; New York State Bar Association
<b>Mediation Rate</b>	\$3,325 Per Day
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	New York, NY

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.