



AAA Mediation.org™

**FN-1800312 MN-1800312 LN-1800312,  
Esq.**

**Oakland, California**



**Current Employer-Title** SMTD Law, LLP - Partner

**Profession** Arbitrator, Attorney, Mediator

**Work History** Partner, SMTD Law, LLP, 2012 - Present; Arbitrator/Mediator/Special Master, JAMS, 2008 - 2012; Owner, Timpane ADR Services, 2003 - 2008; Founding and Managing Partner, Wolkin & Timpane LLP, 1995 - 2003. Partner, Knecht, Haley, Lawrence and Smith, LLP, 1992-1995, Associate 1984-1992.

**Experience** Has extensive experience in resolving complex construction matters, including cases involving all manner of claims, such as competing claims for delay, for disputed change orders, inefficiencies and liquidated damages, and all manner of projects, including large public and private projects ranging from hydroelectric facilities, prisons, schools, and public buildings of all kinds, to claims involving single family homes.

Has resolved more than 800 cases serving as a mediator, and has now served on many more as a AAA arbitrator, as a court-appointed referee, or as a special master. Also has experience as a project neutral and has served on dispute review boards.

Has been a trial lawyer specializing in construction, surety, construction defect, real estate, insurance coverage, and complex commercial litigation matters for 38 years, and has been providing professional ADR services since 2003.

**Mediator Experience** 2022- Successful mediation, single session with follow up and mediator proposal, involving owner, general contractor and AE firm. Competing claims for payment and alleged drainage and inflow protection issues on 64-acre waterfront development.

2022- Successful one-day mediation between general contractor and prime civil sub, involving \$6 million renovation of a historic bridge.

2021- Successful one-day mediation between school district, general contractor and pool

subcontractor, involving \$12.5 million pool complex.

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

Mediated competing claims for delay and compensation between State DWR and general contractor, issues involved design and construction of renovated control and power for three pump stations, disputed change orders, delay and disruption claims by the general contractor and liquidated damages by the owner.

Special Master/mediator for payment, defect and delay disputes involving 36 parties and \$73 million new high school. Initially presided over case management, documents and information exchange, proceeded to function as Special Master for accountings of all subcontracts and the general contract where the general contractor had left the project prior to completion.

### **Mediator:**

Settled dispute arising from the construction of a forward operating base in Helmand Province, Afghanistan between US general contractor and Jordanian subcontractor, resolved dispute and revitalized business relationship.

Retained to mediate and then perform an early neutral evaluation (ENE) with respect to \$7 million of claims arising from Hurricane Katrina clean-up work in the 9th Ward. At issue is whether the COE and its first-tier contractor took actions which justified a REA by the second and bankrupt third tier contractors, with ancillary federal contracting and bankruptcy issues.

Settled dozens of cases arising from partially constructed subdivision improvements, usually involving large claims by utilities or sitework contractors against subdivision payment bonds, bank set-asides or title carriers based on mechanic's liens and priority issues.

In dispute between large community church and general contractor, after initial session with lawyers did not produce a settlement, convened a session between principals of church and contractor on site which produced a full settlement of payment, completion and alleged defect claims.

Settled case where large public building apparently heaved upwards by 2-3" during construction due to large rainfalls and swelling of subsurface soils, resulting in significant damage to already-installed waterproofing system.

### **Mediator and Early Neutral Evaluator:**

Provided early neutral evaluation of complex schedule issues, then successfully mediated public university dormitory construction case with contract value of \$85 million and claims in excess of \$15 million.

## **Mediator Style & Process Preferences**

My mediation philosophy is to be a master of all techniques, both facilitative and evaluative, and utilize those which fit the dispute before me. At the end of the day, however, I try to make sure that, if needed, my evaluative skills are used, to make sure that mediation participants get the value of my experience and expertise. I am hired to push a bit in my view, not just ferry communications.

## **Education**

Boalt Hall School of Law (JD-1984); University of Virginia (BA-1981).

## **Professional Licenses**

Admitted to the Bar: California, 1984.

## **Professional Associations**

Co-chair, ABA Dispute Resolution Section Teleconference Committee, 2010-2012.  
Member, ABA Section for Dispute Resolution, Arbitration Committee, 2005-2011.  
Member, Forum on the Construction Industry, Fidelity and Surety Law Committee, Insurance Coverage Litigation Committee-ABA Tort and Insurance Practice Section, 1988-Present.  
Member, Dispute Review Board Foundation, 2005-2012.  
National Bond Claims Association, 2012-Present.

## **Recent Publications & Speaking Engagements**

Author and Speaker, "The Law of Performance Bonds, Chapter 3", presented at FSLC meeting January 2019.

Guest lecturer, Hastings School of Law, both mediation and arbitration classes, 2010-2016.

Speaker, "Detecting Lies in Negotiations," Construction SuperConference, 2010.

Author and Speaker, "Putting the 'DR' back in 'ADR'" and "Advanced Mediation Advocacy," Pearlman Conference, 2009-2010.

Author and Speaker, "Bringing ADR Forward", address to Midwestern EPC contractors general counsel, 2010.

Author and Speaker, "Real-Time Resolution Process of Construction Projects," Construction SuperConference, 2009.

Author and Speaker, "Payment Clauses and the Surety: If or When?" presented at the Construction SuperConference, 1997.

Co-editor, "California Fidelity and Surety Bond Practice," California Continuing Education of the Bar, 1991 Supplement.

<b>Mediation Rate</b>	\$11,500 Per Day
<b>Languages</b>	English, French
<b>Citizenship</b>	United States of America
<b>Locale</b>	Oakland, CA

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.