



AAA Mediation.org™

**FN-1806825 MN-1806825 LN-1806825,
Esq.**

Denver, Colorado



Current Employer-Title Arbitrator and Mediator

Profession Independent Arbitrator, Mediator, Retired Judge

Work History Arbitrator and Mediator, Self-employed, 2006 – present; Adjunct Professor, Rutgers, Seton Hall and Fordham Law Schools; Judge, United States District Court, 1991 – 2006; Judge, Superior Court of New Jersey, 1988 – 1991; Partner, Carton Nary Witt & Arvanitis, 1984 – 1988; Partner, Evans Koelzer Osborne & Bassler, 1983 – 1984; Partner, Labrecque Parsons & Bassler, 1970 – 1983.

Experience More than 40 years of dispute resolution experience. Fifteen years as a United States District Court Judge in the District of New Jersey and before that as a Superior Court Judge of the State of New Jersey.

Developed the ability to quickly learn new subject matter and to adjudicate it in a competent manner. Substantive areas included: administrative law, antitrust, bankruptcy, business and commercial law, civil rights, employment, environmental, insurance and reinsurance, intellectual property (copyright/patent/trademark infringement), international, maritime/admiralty law, license agreements partnerships, personal injury/torts, professional liability, real property, and securities. Before becoming a judge in 1988, engaged in the general practice of law for 24 years, specializing in trusts and estates, real estate, business and municipal law.

In addition to mediating and arbitrating since leaving the bench, has engaged in moot arbitrations, as well as an expert witness and discovery master in sports arbitration and ad hoc disputes.

Mediator Experience Since leaving the federal bench in 2006, have been engaged principally in domestic and international arbitrations, but also have from time to time participated in mediations both ad hoc and as a panelist on various arbitral panels. Currently serve on the AAA's Mediation Advisory Committee.

As can be seen from the list of representative issues, mediations include a broad range of cases from mundane landlord tenant cases to esoteric class action cases involving improper cellular telephone billing.

Routinely take courses on mediation sponsored by the American Arbitration Association.

IMI Certified Mediator.

Representative Issues Handled as a Mediator

- Mediated Hatch Waxman dispute between brand pharmaceutical company and generic which stipulated to patent infringement and its defenses of anticipation and unclean hands.
- Mediated multi-million-dollar claim by discharged employee against former employer, a pharmaceutical company, for alleged violation of NJ Conscientious Employee Protection Act (CEPA) and qui tam action alleging violations of False Claims Act.
- Mediated dispute between landlord and tenant over interpretation of CPI clause in long term lease, hold-over rent, option to purchase.
- Mediated multi-million-dollar class action claim against cellular telephone service provider for alleged misleading plans resulting in improper customer billing.
- Mediated claim by bank against insurance company for coverage claim against directors.
- Mediated claim by American corporation against German corporation for breach of contract to sell machinery.
- Mediated claim by garment manufacturer (before and after Markman hearing) that competitor infringed patent directed to a particular method of making fabric. Issues involved validity, infringement and enforceability.
- Mediated multi-million dollar claims by manufacturer against distributors for the unauthorized diversion to the domestic market of goods intended to be sold exclusively in the international market and claims of copyright and trademark infringement.
- Mediated dispute by expert for claim for services rendered to class action law firm for failure to pay for balance of contracted fee.
- Mediated dispute between owner of apartment complex and insurer where the issue was the cause of the boiler's failure to function.
- Mediated claim against insurance company for property damage loss and issue of whether there was sufficient proof of mailing requirements for cancellation of policy.
- Mediated claim by major university for patent infringement.
- Mediated claim by class against investors against mutual funds group.
- Mediated claim of infringement of patent for storm windows.
- Mediated claim by Israeli company for infringement of patent for prison video surveillance equipment.
- Mediated patent infringement case between innovator drug company and generic.
- Mediated dispute between partner and deceased partners estate over ownership of works of art.
- Mediated claim in excess of \$4 million by property owner against insurance company for damages from fire loss.
- Mediated dispute between owner and insurance company over losses due from land shift.
- Mediated claim by condo association against member for damages for breach of condo rules and regulations.
- Mediated claim for violation of copyright.
- Mediated claim by SEC for violations of Securities Laws.
- Mediated claim against insurance companies for injuries to children due to lead poisoning.
- Mediated claim by small company against generic for Lanham Act claims.

Mediator Style & Process Preferences

My general approach is to assist the parties to identify mutual interests that will serve as an incentive to resolve the dispute. In other words, I adopt a facilitative approach. However, there are times, as well as cases, where the parties expect that as a former federal judge I will address the merits or indicate the likelihood of success at trial. In those circumstances I do not hesitate to adopt an evaluative approach. I firmly believe that the process itself often stimulates a creative solution to the dispute.

Prior to the formal mediation session I will reach out to counsel individually to better understand the case and to probe settlement options.

I expect counsel and the parties to be thoroughly prepared as I am and to enter the mediation in good faith with an expectation of settlement. To that end I conduct an extensive pre-mediation conference call and issue pre-mediation requirements to improve the efficiency and effectiveness of the process and enhance the potential for settlement.

Where a mediation session has not resolved in a settlement, I will continue to engage with counsel at

no additional costs in an effort to reach closure.

Technology Proficiency	Am comfortable conducting zoom arbitrations and mediations.
Education	University of Virginia Law School (LLM, Judicial Process-1995); New York University Graduate School (LLM-1969); Georgetown University Law Center (JD, Law Review Staff-1963); Fordham University (BA-1960); Harvard Law School Mediation Workshop Program on Negotiation (2006).
Professional Licenses	Admitted to the Bar: New Jersey (1967-inactive) New York (1981-inactive).
Professional Associations	American Arbitration Association (Board of Directors (2013-2023); AAA-ICDR Foundation Ambassador(2023-Present); College of Commercial Arbitrators (Fellow Emeritus; Member of the American Law Institute
Recent Publications & Speaking Engagements	<p>PUBLICATIONS:</p> <p>"The Symbiotic Relationship between International Arbitration and National Courts," IBA Dispute Resolution International (Vol. 7 No. 2, November 2013); "Challenges to Collegiality," reported in submissions at ASA's Annual Conference in Zurich (February 2013); co-author, "A Primer on Taking Evidence Abroad," Mealey's International Arbitration Report, June 2011; co-author, "Mistakes Mediators Make," New Jersey Lawyer Magazine (a publication of the New Jersey State Bar Association), April 2011; co-author, "Reasons for Mediating International AAA University's " Cut to the Chase Environmental Tort Claims in the Shadow of the Alien Tort Claims Act," ABA Section of Dispute Resolution, January 2009; co-author, "Are the Halcyon Days of Patents Over," BLOOMBERG CORPORATE LAW JOURNAL, Spring 2008; co-author, "How to Select the Best Seat for Your International Arbitrations," MEALEY'S INTERNATIONAL REPORT, January 2008; "Hitting the Mark: Fundamentals of Preparing For and Conducting an Effective Markman Hearing," 189 NEW JERSEY LAW JOURNAL, July 30, 2007; "The Importance of Predictability in Maritime Disputes," 38 THE ARBITRATOR, January 2007; co-author, "Cert. Granted: The Practical and Philosophical Reasons Why New Jersey Should Adopt a Certification Procedure," 29 SETON HALL LAW REVIEW 491, 1998; "Thomas More: A Man For This Season," Vital Speeches of the Day, March 1998; "The Federalization of Domestic Violence: An Exercise in Cooperative Federalism or a Mis-Allocation of Federal Judicial Resources," 48 Rutgers L. Rev. 1139, 1996; "Lost Cause or Last Chance for Civility," NJL.J., July 18, 1995.</p> <p>SPEAKING ENGAGEMENTS: "Arbitration -- "Emergency Relief" Fordham Conference on International Arbitration, November 2015 The Role of the Courts," New Jersey Judicial College, 2013; "Arbitration: A View From the Bench," CCA Annual Meeting, New York 2012; "Muscular Arbitration: What Corporate Counsel Can Do to Shape Up Arbitration," ACC Annual Meeting, Orlando 2012; "Who Is Responsible and Who Is Accountable," West Legalworks Fourth Annual eDisclosure Forum, London, 2008; panelist, "Why and How To Educate your Non-US Clients about Electronic Discovery," ABA Section of Int'l Laws Fall Meeting, Brussels, 2008; "Bench Perspective: Trying a Pharmaceutical or Biotech Patent Case," PLI's Developments in Pharmaceutical and Biotech Patent Law, New York, 2008; panelist, "Ensuring & Enforcing Ethics in Arbitration," ABA Annual Meeting, New York, 2008; panelist, "Perspectives on Universal Jurisdiction, Extraterritoriality and the Future of Alien Tort Statute Litigation: Talisman and Other Recent Cases," ABA Section of Int'l Law Spring Meeting, New York, 2008; panelist, "View from the Bench: Judicial Views on Paragraph IV Litigation," American Conference Institute 2nd Annual Conference on Paragraph IV Disputes, New York, 2008; panelist, "Introduction to Mediating the Complex Case," New York State Bar Association, Commercial and Federal Litigation Section, 2008; "Building Judicial Integrity: A Training Program for Combating Judicial Corruption," CEELI Institute Course, Prague, 2007; "Litigating Employment Cases: Views from the Bench," Georgetown University Law Center's CLE Programs; "A View from the Bench," Law Seminars Int'l's Patent Claim Construction, 2007; panelist, "Where to Arbitrate," ABA Section of Int'l Law Fall Meeting, London, 2007; panelist, "How to Prepare & Conduct Markman Hearings," Practicing Law Institute, New York, 2007 and San Francisco 2006.</p>
Locations Where Parties Will Not be Charged for Travel Expenses	Colorado, Massachusetts, D.C., New York and New Jersey.
Mediation Rate	\$550 Per Hour

Languages	English
Citizenship	United States of America
Locale	Denver, CO

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.