



AAA Mediation.org™

**FN-1854349 MN-1854349 LN-1854349,
Esq.**

Cleveland, Ohio



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Current Employer-Title	Foley Jones Dispute Resolution, LLC - Founder
Panelist Video	https://www.adr.org/videoresume?paramName=822006304
Profession	Arbitrator, Mediator; Private Judge
Work History	Foley Jones Dispute Resolution, LLC, 2020 - Present; Principal, Thrasher Dinsmore & Dolan LPA, 2019 – 2020; Partner, Giffen & Kaminski LLC, 2006 – 2019; Partner, Judicial Resolution, 2005 – 2006; Judge on the Ohio Eighth District Court of Appeals and Cuyahoga County Common Pleas Court, 1993 – 2005; Attorney, Peggy Foley Jones, 1988 – 1993; Attorney, Cuyahoga County Public Defender, 1984 – 1988.
Experience	<p>In the past 15 years has had Judicial and ADR experience. Helped Clients nationwide to resolve litigation, troubled business relationships and other disputes through private and practiced methods. Serves on AAA's Employment, Commercial and Judicial panels. Has served as an Arbitrator/ Mediator in well over 1,000 disputes in the following areas:</p> <p>Employment: wrongful termination, harassment, discrimination (race, disability, sexual orientation, gender, religious beliefs and age), retaliation, hostile work environment, wage disputes, FLSA matters, class actions, severance agreements, EEOC complaints, breaches of non-compete and non-solicitation provisions;</p> <p>Business/ Contract: breach of agreements involving commercial leases, employment agreements, non-compete and non-solicitation agreements, sale of goods, tortious interference, coercion, misrepresentation, franchises, and fraud;</p> <p>Insurance: general commercial liability, professional E&O claims, fraud and bad faith, D&O liability disputes, business interruption and property loss, product liability claims, residential property damage and construction defects;</p>

Unfair Trade Practices: Lemon law and Consumer Sales Practices Act cases; Medical negligence and nursing home abuse: failure to diagnose, medical errors, surgical errors, neglect, infection, and other serious injuries;

Personal Injury/Torts: negligence (slip and falls, car and trucking accidents, dog bite cases), wrongful death, intentional torts, and strict liability, sexual assault, defamation, slander, and libel;

Estate, Trust and Probate: removal of executors and trustees, mismanagement/concealment of assets, breach of fiduciary duty, disputes between beneficiaries, third-party claims and trust contests;

Products liability: defective manufacture and design, failure to provide warnings; accounting malpractice; legal malpractice; medical malpractice; construction; consumer and class actions of all types.

Mediator Style & Process Preferences

Mediation is an opportunity for Parties to come together in an informal setting to try to understand each other's point of view and develop a resolution to their dispute. In the words of Lou Holtz, "I never learn anything talking. I only learn things when I ask questions." As the Mediator, I am a good listener and have an ability to get people to open up and talk about the issues that "truly" concern them. I help parties clarify their issues, confront their risks and fears, and explore creative solutions.

I think two of the most important qualities in a Mediator are patience and perseverance. We must keep the parties taking and at the negotiation table. As a retired trial judge, I am willing to give an evaluative assessment if the parties want it. I will not tell them what to do or put a number or value on the case, but I will use my judicial experience to help them reevaluate their position and consider their risks and emotional and financial costs of going forward on the litigation track. If the parties are unable to reach a reasonable settlement range, I oftentimes will propose using the bracket approach to get them closer to a resolution. If an impasse occurs, I am willing to suggest a Mediator's double-blind proposal. If a case does not settle at the mediation, I will continue to work with the Parties and/or their counsel by having follow up phone conferences or meet over coffee. Sometimes mediation is the beginning of a process that later leads to settlement. There are also many benefits to mediation if the case doesn't settle: an exchange of information without formal discovery, assessment of the strengths and weaknesses of your case and the other side's case, improved attorney communication, meeting the other parties for the first time, and obtaining an impartial assessment of your dispute.

In order to get prepared for the meditation, I have a pre-mediation phone conference with counsel and/or the parties to talk about the following issues: matters in dispute, case status, style of mediation, mediation summary (confidential or mutual exchange), participants at mediation, opening statements, and status of negotiations. If a resolution is reached at the mediation, the parties will fill out a Mediation Settlement Agreement setting forth the terms they agreed to and everyone will get a copy to take home. I have found that most parties walk out of the mediation feeling satisfied when their case resolves, even if they didn't get everything they wanted. This is because all of the parties had at least some of their interests met and had control over the outcome of their dispute.

Education

Cleveland Marshall College of Law (JD-1984); Macalester College (BA, Political Science, cum laude-1980).

Professional Licenses

Admitted to the Bar: Ohio, 1985; U.S. District Court: Northern District of Ohio, 1985.

Professional Associations

American Bar Association (Dispute Resolution Section, Mediation Committee); Cleveland American Employment Inn of Court; Supreme Court of Ohio, Commission on Dispute Resolution; American Inns of Court (Master); Cleveland Metropolitan Bar Association (Alternative Dispute Resolution Section, Past Chair; Women in Law Committee; Mediation Association of Northeast Ohio.

Recent Publications & Speaking Engagements

"Zooming Your Way to Successful Mediations" Cleveland Metropolitan Bar Association, May 2020; "Handling Mediation Unruliness" ABA Section Dispute Resolution Virtual Spring Conference, May 2020; "Succeeding in Arbitration" Cleveland Employment Lawyers Association, September 2019; "Discovery Challenges in Non-Union Employment Arbitration" Labor and Employment Relations Association (LERA), June 2019; "Overcoming Anchoring and Impasse by

Effectively Using the Mediator's Proposal" ABA Section Dispute Resolution Conference, 2018-2019; "Ethics and Fitness: Protecting the Integrity and Quality of the Arbitration Process" AAA/ICDR/AAA Mediation.org Panel Conference, March 2019; "Top Ten Ways to make ADR more Cost Effective for your Client" American Bar Association's 2018 Professional Success Summit, November 2018; ABCs of ADR: Best Practices Guide for Litigators & Neutrals, Cleveland Metropolitan Bar Association, October 30, 2018; "Mediation Demonstration: Sustaining Mediation Core Values in High Stakes Cases" 2018 Supreme Court of Ohio Dispute Resolution Conference, March 2018; "Repositioning Your Case: Differentiating Arbitration and Mediation Techniques from Litigation Strategies" American Conference Institute Long Term Care Conference, Miami, Florida, January 2018; "Effective Use of Financial Experts in Mediation and Arbitration," Cleveland Metropolitan Bar Association, November 2017; "Faulkner and Reaching Higher in Today's ADR World" Cleveland Metropolitan Bar Journal, October 2016; "Mock Mediation of Employment Case" Northern Ohio Labor Employment Law Conference, April 2016; "Benefits of an Effective Joint Session in Mediation" Cleveland Metropolitan Bar Association, January 2015; "Mediation: Staying in Control to Achieve Business Driven Outcomes" Association of Corporate Counsel-America, Northeast Ohio Chapter, June 2013; "Before It Hits the Fan: Using Neutrals When Negotiating Agreements" Bar Journal of Cleveland Metropolitan Bar Association, August 2012; "Making the Most of Mediation" Federal Bar Association Labor & Employment Law Seminar (2012); "Top Ten Considerations for Successful Mediation" Cleveland Metropolitan Bar Association Labor & Employment Conference, Mediation Panel (2012); "ABA's Got Talent! Using ADR Service Providers and ABA Section of Dispute Resolution to Grow Your Practice" American Bar Association, ADR Section (2012); "Ethics" Littler Mendelson (2012); "Current Trends in Mediation" CATA Seminar Series (2011); "Effective Negotiating Techniques for Law Firm Leaders" Association of Legal Administrators (2011); "Discrimination-Getting to Know the Law and Your Responsibilities" (2011); "EEOC Mediation: Win/Win Approach" EEOC Cleveland Office (2010); "Who Wants to be a Millionaire? Marketing Your ADR Practice" American Bar Association (2010); "Using ADR Effectively and Ethically" Cleveland Metropolitan Bar Association (2010); "Trust the Process," Bar Journal of Cleveland Metropolitan Bar Association.

Mediation Rate	\$500 Per Hour
Languages	English
Citizenship	United States of America
Locale	Cleveland, OH

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.