



AAA Mediation.org™

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Dresher, Pennsylvania

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Current Employer-Title William G. Frey ADR Services – Attorney, Arbitrator and Mediator,

Panelist Video <https://www.adr.org/videoresume?paramName=272777932>

Profession Construction and Commercial Litigation Attorney, Arbitrator, Mediator

Work History Attorney/Arbitrator and Mediator, William G. Frey ADR Services, 2021 – Present; Director (Business & Commercial Litigation Group, Construction Team), Gibbons P.C., 2009 – 2020; Partner, Wolf Block, 1991 – 2009; Associate, 1985 – 1990; Counsel, CIGNA Corp., 1983 – 1985; Associate, Reed Smith, 1978 – 1983.

Experience More than 35 years of experience in all aspects of civil and commercial litigation and dispute resolution frequently involving the construction industry (75%). Represented public and private owners, developers, contractors, suppliers, manufacturers, architects, engineers and construction managers. Extensive experience handling multi-million dollar claims for delay, acceleration and other time related claims, construction failures, design and construction defects, contractor termination and contract closeout disputes. Has tried, arbitrated or mediated construction disputes involving office buildings, recreational and resort communities, hospitals and out-patient surgical centers, mixed-use projects, hotels, co-generation power plants, industrial /warehouse facilities, resource recovery facilities, waste-to-energy facilities, wastewater treatment plants, incinerator and solid waste recycling plants, residential subdivisions, shopping centers and strip malls, bridge and highway projects, parking garages, high-rise and garden style multi-family dwellings, and distribution/warehouse centers. Design and construction issues have involved design errors in civil, mechanical, structural and electrical engineering disciplines and construction defects in all types of public and private works. Served as lead counsel in cases involving construction failures, contract termination (on behalf of both owners and contractors), mechanics liens, surety bond claims, extra work claims, defective work claims, schedule delays, and construction and design defect litigation. Also served as counsel in contract administration disputes for owners, CMs and contractors with regard to unforeseen site conditions, change orders and risk management, indemnity and insurance disputes for ground-up construction projects and extensive renovation projects.

Mediator Experience Served as AAA Mediator since 2011. As a score card, in the last two years has received 10 mediation requests. Was able to reach settlement in seven of those matters.

Also has more than 15-years of experience serving as Judge Pro Tem in the Commerce Court of the Philadelphia County Court of Common Pleas, mediating disputes in cases involving construction and design defect claims; actions relating to the internal affairs or governance, dissolution, or liquidation of business corporations, partnerships, limited partnerships, limited liability companies or business trusts; disputes involving rights or obligations under the Pennsylvania Business Corporation Law, corporate bylaws or other governing agreements; corporate acquisitions; performance and payment bond claims; leases for commercial, real or personal property; restrictive covenant; trade secret or non-compete agreements; business torts;

insurance coverage disputes; insurance bad faith claims by insureds; third party indemnification claims.

Representative Issues Handled as a Mediator

Served as mediator in significant construction disputes, insurance coverage and contract disputes as follows: miscellaneous construction disputes of all types (30); architect/engineers errors and omissions (8); negligent misrepresentation/design (10); lender liability (4); design and construction defects (20); insurance coverage (5); corporate acquisitions and governance (4); suretyship (3); contractor terminations (7); bid protests (3); contract change orders and EWOs (20); building failures (5) and delay damage claims (15).

Mediator Style & Process Preferences

Participates in the mediation process to help parties bracket risk of potentially adverse outcomes and to creatively find solutions to reduce or resolve risk by finding cheaper alternatives to litigation or arbitration.

As a mediator, likes to serve proactively, evaluating the merits of each party's position on each material issue, estimating the range of potential outcomes and likelihood of success. Parties seem more inclined to resolve disputes if they have had an opportunity to be heard and to persuade either the other side or the mediator of their point of view. Likes to conduct mediation to afford parties that opportunity. Resolves disputes based on evaluation of the merits of each party's position and potential time and costs of reaching closure.

He expects parties to meet with their counsel beforehand to assess the merits of their positions, review the mediation statements of all parties submitted in advance of the mediation, and have a representative with authority attend the mediation. At mediation, parties should plan to meet separately with the mediator and at times with the adverse parties without counsel if the mediator believes it will be productive.

Requests parties submit mediation statements and a separate, short, confidential summary of the history of settlement negotiations and problems holding up settlement, if desired.

If multiple parties are involved, prefers to start with everyone present, work long days, schedule back-to-back days or multiple sessions depending on the parties' location and travel arrangements.

Education

Villanova University School of Law (JD, Articles Editor, Villanova Law Review-1978); Brown University (BA, magna cum laude with honors-1975)

Professional Licenses

Admitted to the Bar: Pennsylvania, 1978; U.S. District Court: Eastern, Western and Middle Districts of Pennsylvania; U.S. Court of Appeals, Third Circuit.

Professional Associations

American Bar Association;
Pennsylvania Bar Association;
Philadelphia Bar Association;
Forum Committee on The Construction Industry;
Philadelphia Bar Association (Appellate Courts Committee, Past Co-Chair);
ASHRAE Task Force for General Legal Education.

Recent Publications & Speaking Engagements

PUBLICATIONS:

"Pennsylvania Superior Court Upholds Pennsylvania Choice-of-Law Provision in Restrictive Covenant Dispute Involving California Employee," Business Litigation Alert, January 23, 2014

"Contractor's Violation of Pennsylvania's HICPA Registration Requirement Does Not Bar Quantum Meruit or Mechanics Lien Claims," Business Litigation Alert, September 30, 2013

"Prejudgment Interest on Claims for Consequential Damages for Breach of Contract are not Recoverable as of Right Under Pennsylvania Law," Business Litigation Alert, August 27, 2013

"Performance of Corrective Work Does Not Extend the Deadline to File Mechanics' Lien Claims in Pennsylvania," Business Litigation Alert, May 3, 2013

"Copyrighted Designs Afford Basis for Federal Court Claims for Infringement by Architects Seeking Payment for Their Design Drawings," Business Litigation Alert, March 27, 2013

"Pennsylvania Appellate Court Finds No Bad Faith When Insurer Demands Examination Under Oath of Insured's Indicted Principal," Business Litigation Alert, December 13, 2011

"Architect Malpractice: Expert Testimony That the Architect Violated an Unwritten Custom or Practice Among Design Professionals May Be Used to Support Liability," Construction Group Newsletter, January 3, 2011

"Pennsylvania Statutory Protections for Unpaid Contractors, Subcontractors Suppliers and Designers," Construction Group Newsletter, January 3, 2011

"New Amendments Enacted to Pennsylvania Mechanics Lien Law," In-Sites, August 17, 2009 (William G. Frey, Alfred R. Fuscaldo)

"Vouchers, Tuition Tax Credits and Scholarship-Donation Tax Credits: A Constitutional and Practical Analysis," 31 Stetson L. Rev. 165, 2002

SPEAKING ENGAGEMENTS:

- "Minimizing Risks of Ethical Dilemmas at Arbitration", American Arbitration Association, 2017 Construction Conference, New York City;
- "Construction Contracting in Traditional and Alternative Project Delivery Systems: Design-Bid-Build; Design-Build, Contractor Let Joint Ventures; Construction Law Seminar, Allentown, PA, November 7, 2014
- "Killer Clauses: Effective Dispute Management for Field Staff," Sterling (CLE), KCI Technologies, March 31, 2011
- "Construction Law from A-Z - Insurance and Bonding," Sterling (CLE), December 2009
- "Significant Changes in the 2007 AIA Contract Documents," Philadelphia, PA, October 2009
- "Pennsylvania Contractor & Subcontractors Payment Act Issues," Philadelphia, PA, May 2005
- ASHRAE Annual Meeting, "Standard of Care in Architects & Engineers Liability Claims," June 2001.
- "Construction Contracting for Public Entities in Pennsylvania," Lorman (CLE), November 1999.

Mediation Rate	\$430 Per Hour
Languages	English, French
Citizenship	United States of America
Locale	Dresher, PA

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.