



AAA Mediation.org™

FN-18930 MN-18930 LN-18930, Esq.

Chappaqua, New York



[View Video](#)

Current Employer-Title Hilfer Law - Principal Attorney
Cowan Liebowitz & Latman - Of Counsel

Panelist Video <https://www.adr.org/videoresume?paramName=773477260>

Profession Attorney, Arbitrator, Mediator

Work History Hilfer Law, 1993 – Present; Of Counsel, Cowan Liebowitz & Latman, 2019 – Present; Of Counsel, Collen IP, 2010 – 2019; Associate/Contract Attorney, Hall Dickler Kent Friedman & Wood, 1989 – 1995; Associate, Rubin Baum Levin Constant & Friedman, 1988 – 1989; Associate, Proskauer Rose Goetz & Mendelsohn, 1987 – 1988.

Experience INDUSTRIES: Advertising/marketing/public relations, art, consumer products (e.g. apparel, auto, cosmetics, food/beverage, design, luxury, packaged, textiles), digital/e-commerce, entertainment, franchise, health, hospitality, licensing, media, publishing, restaurant, retail, social media, sports, technology, telecommunications

COMMERCIAL LAW:

- Resolve business disputes.
- Draft commercial contracts; define duties, rights, risk allocation.
- Advise on strategic partnership, licensing ventures.
- Analyze technology (blockchain/artificial intelligence).

Agreement Types:

Collaboration: manufacturer/supplier, master services, vendor/supplier

Compliance: content curation, licenses, NDA/confidentiality, non-solicitation, social media policies

Customer Engagement: sales representation, service level agreements

Global: cross-border, international relationships, website creation/operation

Operations/Strategy: agency, consulting, distribution, technology, use terms

INTELLECTUAL PROPERTY LAW:

- Resolve disputes about copyright, cybersquatting, domain name, false advertising, Lanham Act, licensing, privacy/publicity rights, royalty, trade dress, trademark, trade secret, unfair competition.
- Counsel on copyright, fair use, takedown/DMCA.
- Advise on acquisition, licensing, maintenance, protection of domestic/international IP portfolios.
- Advise on IP in emerging product categories (artificial intelligence, blockchain, cannabis, NFTs).

Agreement Types:

Branding: trademark license, coexistence

Content/Media: gamification/ virtual reality content license, publishing, releases/waivers, user-generated content

Distribution: blockchain, EULA, hardware sales, licenses (exclusive/non-exclusive/sublicensable); software development/license, SaaS, supplier/reseller, third-party rights acquisitions/releases

Ownership: assignment, sale, trade secret protection, work for hire

ADVERTISING/MARKETING LAW:

- Resolve false/deceptive advertising, comparative advertising disputes.
- Advise on regulatory aspects of commercial speech, customer experience (UX).
- Review campaigns: digital, direct mail, mobile, print/TV/ radio, social media, virtual reality, word of mouth.
- Review copy/disclosures, claim substantiation; advise re use of artificial intelligence.
- Counsel on brand strategies, e.g. ambush marketing, cause marketing, continuous service/subscription, coupons/rebates, direct marketing, email/mobile marketing, endorsements/influencer/testimonials, environmental, loyalty programs, native advertising, pricing, prize promotions (contests/sweepstakes).
- Counsel on industry-specific regulations, e.g. cannabis, healthcare, vitamin/supplements.
- Advise on data privacy compliance.
- Advise on international campaigns, including Australia, Canada, EU, France, Germany, UK.

Agreement Types:

Branding: ad tech, agency/client, loyalty program, NFTs, sweepstakes/contest

Brand Partnerships: affiliate marketing, co-marketing, customer relationship management, payment technology, product placement, prize supplier, sponsorship, vendor

Campaign Management: MSA/SOW, music clearance, production, publicity waiver, talent/model

Influencer Marketing: celebrity spokesperson, testimonial/endorsement

Media: buying, insertion orders, photography, product placement, purchase order

SPORTS:

- Represent(ed) agencies, agents, arenas, event management, intellectual property licensors/licensees, memorabilia, national governing body, teams, technology vendors, trade organizations.
- Negotiate commercial contracts for sports entities.
- Counsel on IP protection.

Agreement Types:

Advertising: advertising placement, sponsorship, licensing

Facility: exhibition, construction, rental, naming, sponsorship

Technology: NFT, fantasy sports, video games

AV (Martindale-Hubbell), Super Lawyers (Media & Advertising-NYC Metro Area), Best Lawyers (TM-Westchester)

Mediator Experience

AAA Mediator; Special Master, Appellate Division of the 2d Judicial District of New York; NYS Part 146 Mediator for 9th, 10th, 13th Judicial Districts; Neutral Mediator for World Intellectual Property Organization; Private/Self-Administered Mediation.

Representative Issues Handled as a Mediator

Breach of contract issues regarding a variety of issues: past-due payments for signing bonus/commissions on funding, non-disparagement & confidentiality, equity stake in company, etc. Intellectual property rights: ownership, royalties, licensing obligations. Real estate brokerage commission and valuation disputes. Breach of fiduciary duties. Multi-contract and multi-party litigations. Appellate standards of review.

Mediator Style & Process Preferences	<p>I bring to mediations over thirty years' experience in private practice and dispute resolution. I use a transformative and facilitative approach to mediation that helps the parties and their attorneys understand better their interests and resolve their disputes. When requested by the parties, I also employ evaluative techniques. At the outset, I prepare carefully to understand the parties' conflict. Through pre-mediation conferences, I come to understand the parties' positions and interests as well as the history of any settlement discussions. From the first interactions, I create an atmosphere of trust that encourages cooperation and honesty. Stressing that it is the parties' process, I deploy tools tactically and always with the parties' consent. These tools include active listening, questioning, reality testing, and risk-reward analyses. I stress that the parties own the dispute and will have to live with any solutions or failure to reach a mediated settlement. As such, I believe there is great value in hearing from the parties when they are comfortable as well as their legal representatives. Whether in a joint session or caucus, my focus is a neutral and confidential facilitation. I am a determined mediator; I do not give up on the parties. My job is to uncloak the parties' own abilities to remove obstacles and discover opportunities for resolution. Along the way, I check in frequently with the parties to determine how the process is serving each side's goals. It is the parties' dispute, and only they can deliver solutions. At the same time, my omnipresent hope is that with my patient, unbiased, and diligent assistance, the parties may unearth creative and workable results.</p>
Technology Proficiency	<p>Available for arbitrations and mediations by videoconference or teleconference as well as in person. Conversant in online platforms such as Zoom, Microsoft Teams, LoopUp, BlueJeans, GoToMeeting. Uses bespoke video conference protocols for each matter, working with parties' needs. Willing and able to work with online case management and document sharing platforms, including AAA WebFile, and electronic documents and exhibits. Encourages use of technology to augment hearing efficiency while not compromising confidentiality or ethics. Signatory of the Green Pledge of the Campaign for Greener Arbitrations. Employs effective cybersecurity protections, including VPN, anti-virus/antimalware software, and multi-factor authentication. Completed AAA-ICDR's cybersecurity training in 2020.</p>
Education	<p>Harvard University (JD, cum laude-1987); Yale University (BA, History, summa cum laude, Phi Beta Kappa, with distinction-1984).</p>
Professional Licenses	<p>Admitted to the Bar: New York (1988).</p>
Professional Associations	<p>American Bar Association: ADR Section, Business Law Section New York State Bar Association: Co-Chair, ADR Committee of Entertainment, Arts and Sports Law Section; Member ADR Section Westchester County Bar Association: (previous) Board of Directors and Executive Committee member, Chair, Business & Commercial Law Committee; (current) Alternative Dispute Resolution Committee; Business & Commercial Law Committee; Intellectual Property Committee; Cannabis Law Committee. The Intellectual Property Strategist Law Journal (Board of Editors 1995-2023). Westchester County Fair Campaign Practices Committee (Member, hearing disputes regarding political candidates' campaign practices).</p>
Recent Publications & Speaking Engagements	<p>ARBITRATION PUBLICATIONS: "How Did Your Virtual Arbitration Hearing Go?", NYSBA Dispute Resolution Section's Resolution Roundtable 6/2020; "Discovery in Arbitration," Westchester County Bar Assn (WCBA) 10/2014; "A Practical Guide to Arbitrating IP Disputes," The Intellectual Property Strategist 5/2004; "Arbitration Gains Acceptance as a Means of Resolving Intellectual Property Disputes," The Intellectual Property Strategist 5/2004.</p> <p>OTHER PUBLICATIONS (Sampling): "NFTs and Loyalty Programs: Business Opportunities Twinned with Legal Risk," EASL Journal, NYSBA Summer 2023; "Five Advertising and Marketing Law Trends to Take You Through 2020," Inside, NYSBA Summer 2020; "Photographs on the Internet: Circuit Courts Examine Copyright Infringement," The Intellectual Property Strategist, June, 2019; "Social Media: How to Avoid Trouble with the Law and the FTC," Interview subject, www.Forbes.com, August 2017; "Manufacturers vs. Exclusive Distributors: Who owns the trademarks?" The Intellectual Property Strategist, August, 2017; "Copyright Challenge to 'We Shall Overcome' Proceeds," The Intellectual Property Strategist, February, 2017; "Native Advertising: FTC Guides Brands to Avoid Deceptive Commercial Speech," INSIDE, NYSBA Spring/Summer 2016; "Crazy for Fair Use," The Intellectual Property Strategist, November, 2015; "Supreme Court Upholds Lanham Act Claim In Juice Wars," The Intellectual Property Strategist,</p>

July, 2014.

DISPUTE RESOLUTION SPEAKING ENGAGEMENTS: : "High-Profile Arbitration & the Press: What about Confidentiality?: NYSBA 5/2024; "Why is Arbitration Ideal for Resolving Cannabis Industry Disputes," NYSBA, 9/2023; "Permanent Injunctions in Arbitration: Functus Officio Doctrine Dilemmas," AAA, 4/2023; "How a Mediator helped reach Settlement in Dominion v Fox," Mediator in the Middle Podcast, 4/2023"; Ready to Resolve: Preparing for Mediation," WCBA 3/2023; "Tough Calls and Recovery Practices in Arbitration", NYSBA 12/2022; "Best Practices: Roundtable on Different Approaches to Arbitration," NYSBA 9/2021; "Online Commercial Mediation and Arbitration Best Practices-The Neutral's and Advocate's Perspectives," Practicing Law Institute Studio Briefing 7/2021; "Lessons Learned from Online Mediation/Arbitration in Commercial Cases," WCBA 3/2021; "Hot Topics in Dispute Resolution from the NYSBA Resolution Roundtable Blog," NYSBA 2/2021; "Intellectual Property & ADR: Resolving Disputes Out of Court," ACR-GNY 6/2019; "New Paradigm for ADR in Intellectual Property Litigation," WCBA 6/2019; "Advocacy and Civility in Arbitration – Do They Go Hand in Hand," WCBA 4/2017.

OTHER SPEAKING ENGAGEMENTS (Sampling): "Prize Promotion Essentials", ACI Advertising Claims Substantiation, 4/2024; "The NFT Marketplace: Philosophy, Legal Issues, and Risk", presented at PLI, NYSBA and ALM throughout 2022; "Using Consumer Content in Advertising," PLI Hot Topics in Advertising Law , 6/2021; "Hot Topics in Advertising and Marketing," PLI Advanced Trademark Conference, 3/2021; "Legal Challenges Facing Restaurants During and After a Pandemic," NYSBA, 11/2020; "Differentiating Substantiation Requirements for Manufacturers and Retailers," ACI Advertising Claims Substantiation, 1/2020; "NYC Restaurant Law: Are You Ready for Business?", NY County Lawyers Assn, 3/2019; "Fundamentals of Advertising Law: How to Create Legally Compliant Campaigns that Protect Your Intellectual Property", Clear Law Institute, 1/2018; "Understanding the Role of Each Member of Your Claims Substantiation Team" ACI Advertising Claims Substantiation, 1/2018; "Design Meets Intellectual Property", BDNY, 11/2017.

Locations Where Parties Will Not be Charged for Travel Expenses	Midtown New York City, Westchester County, other locations within 60 minutes commuting time from neutral's offices. Outside of these areas or for multi-day hearings regardless of location, charges are in arbitrator discretion.
Mediation Rate	\$625 Per Hour
Languages	English
Citizenship	United States of America
Locale	Chappaqua, 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.