



AAA Mediation.org™

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New York, New York



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Current Employer-Title Sole Practitioner

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Profession Attorney, Arbitrator, Mediator, Executive, Consultant

Work History Arbitrator and Mediator, Sole Practitioner, 2006 - Present; Senior Vice President - Labor Relations, Medco Health Solutions, Inc., 1987 - 2006; Associate, Gibson, Dunn & Crutcher, 1985 - 1987; Associate, Cahill, Gordon & Reindel, 1982 - 1985.

Experience An attorney with more than 40 years' experience, first as an advocate and later as a full-time neutral, in litigation and all aspects of labor, employment and employee benefits law. As an arbitrator and mediator since 2006, have heard and/or mediated thousands of cases involving a wide range of issues.

Labor & Employment Law: issues addressed have included, among others: absenteeism; arbitrability; breach of contract; demotions; disability; discipline/discharge; discrimination/harassment/retaliation under all federal statutes and various state and local laws; executive compensation; FLSA; health/safety; incentive compensation; independent contractor status, job classifications; job performance; leaves of absence; management rights; non-competition and other post-employment restrictions; overtime pay/distribution; past practice; pay rates; production standards; reductions-in-force; seniority; sexual harassment; subcontracting; transfers/reassignments; vacation; whistleblower, work assignments; work stoppages; and wrongful termination.

Employee Benefits: cases arbitrated and mediated have concerned such matters, among others as: employee benefit buyouts; fiduciary claims; fringe benefit contribution rates; ERISA; incentive compensation; MPPAA; plan eligibility; retirement benefit payouts; salary deferral contribution

rates; severance benefits; stock options; trustee deadlocks; and withdrawal liability.

Prior to becoming a full-time neutral in 2006, served in both private practice and as an in-house counsel for nearly 25 years, advising and representing clients in a wide range of labor, employment and employee benefit matters, which included providing representation in all phases of judicial, arbitral and administrative proceedings arising under collective bargaining agreements, employment contracts; federal, state and local employment laws; ERISA; incentive compensation plans; MPPAA; severance plans; and stock option plans. Also, negotiated hundreds of collective bargaining agreements; coordinated cross-functional teams to develop and implement comprehensive organization-wide health/welfare and retirement benefits programs; developed labor and employee relations strategies and policies to support business initiatives and promote a progressive work environment and sound labor management relations; served as counsel and advisor to employee benefits committees and plan trustees regarding plan administration and development, including such matters as plan design changes, selection of carriers and providers, retirement plan investment choices, benefit claim appeals and fiduciary/statutory obligations; drafted plan documents and amendments for health/welfare, retirement, incentive compensation and qualified and non-qualified stock option plans; formulated creative compensation arrangements for both management and bargaining unit employees involving such elements as incentive pay and broad-based stock option grants; and provided statutory and regulatory compliance review as to all labor, employment and employee benefit issues.

Clients and/or parties have included those from the following industries: accounting, automotive, broadcasting; building services; construction, entertainment, financial, food services, health care, horse racing, manufacturing, maritime, media; publishing; real estate, transportation and security. Parties have also included public sector employers/unions including police, fire, education and military.

Mediator Experience

An attorney with more than 40 years' experience in litigation and all aspects of labor, employment and employee benefits law; mediated wide range of issues with employment, commercial and other disputes. In the employment context, matters mediated have included: breach of contract, constructive discharge, defamation, disability, discrimination/harassment/retaliation, Equal Pay Act, ERISA, fiduciary claims, FLSA, incentive compensation, leaves of absence, non-competition/post-employment covenants, prevailing wage laws, reasonable accommodations, reductions in force, wages/wage theft, whistleblower and wrongful discharge.

In commercial matters, cases mediated have involved: breach of contract, breach of fiduciary duty, consumer fraud, construction claims, derivative actions, conversion, corporate dissolution, foreclosure, fraud, franchise, insurance subrogation claims, landlord/tenant, professional malpractice, quantum meruit, tortious interference with contract/economic advantage, trade secrets, and warranties. Other disputes mediated have concerned claims of assault, civil rights, dram shop law violations, estate – undue influence/fraud, negligent retention, sexual abuse, and wrongful death.

Mediating parties have included representatives of: advertising, aerospace, agriculture, automotive, banking/finance, chemicals, communications, construction, education, electrical equipment/appliance, food processing/service, healthcare, hospital/nursing home, hospitality, maritime, nuclear energy, petroleum/petrochemicals, pharmaceuticals, plumbing, police and fire, printing/publishing, real estate, remediation, restaurants, retail stores, state and local government, trucking and storage, and utilities.

As a full-time neutral since 2006, have arbitrated/mediated thousands of cases. Listed on the following rosters of mediators: Cornell University, Scheinman Institute on Conflict Resolution, FINRA, New Jersey Superior Court, New York Public Employment Relations Board, New York Supreme Court Commercial Division, Bronx, Queens, Richmond & Suffolk Counties, United States District Court, EDNY and Nuclear Regulatory Commission. Also serve as a contract mediator for the Equal Employment Opportunity Commission.

Developed and conducted mediation training for various audiences including labor management groups and bar associations.

Multi-Party Dispute Resolution Experience

Of the more than 1000 mediations conducted since 2006, many have involved multi-party disputes. In the employment context, such cases have included matters in which claims were asserted against employer and members of its management staff, and employer and a related staffing agency.

Commercial cases involving multiple parties have been wide ranging with represented matters including: breach of contract and warranty by a retailer and manufacturer; consumer fraud claim involving a sale of a used automobile in which dealer; former owner and vehicle history vendor were defendants; insurance subrogation action asserting negligence by contractor, subcontractor, equipment manufacturer and supplier; breach of contract for professional services brought by subcontractor against contractor and principal; action for breach of fiduciary duty and corporate dissolution involving three principals; claim for compensation due on asset sale asserting breach of contract, fraud and professional malpractice by corporate principals, related entities and outside counsel; conversion claim against lessee and automobile dealer for failure to return leased vehicle; and action for property damage against a homeowner and contractor. Other representative multi-party cases have concerned: civil rights claims against a municipality and other agencies, wrongful death action naming homeowner and two other parties, and sexual abuse claim against an organization and staff and parent-body.

Representative Issues Handled as a Mediator

Mediations conducted through the EEOC and Nuclear Regulatory Commission involved early ADR with limited discovery. Such matters presented claims of discrimination and retaliation arising under all of the federal anti-discrimination statutes, including: Age Discrimination in Employment Act, Americans with Disabilities Act, Equal Pay Act, Genetic Information Nondiscrimination Act, Pregnancy Discrimination Act and Title VII, as well as the Energy Reorganization Act of 1974.

Employment mediations in other settings have involved the following issues: breach of contract, constructive discharge, defamation, disability, discrimination/harassment/retaliation, Equal Pay Act, ERISA, fiduciary claims, FLSA, incentive compensation, leaves of absence, multi-employer benefit fund contributions, non-competition/post-employment covenants, prevailing wage laws, reasonable accommodations, reductions in force, wages/wage theft, whistleblower and wrongful discharge.

Commercial matters mediated have concerned disputes relating to: breach of contract, breach of fiduciary duty, consumer fraud, construction claims, derivative actions, conversion, corporate dissolution, foreclosure, fraud, franchise, insurance subrogation claims, landlord/tenant, professional malpractice, quantum meruit, tortious interference with contract/economic advantage, trade secrets, and warranties.

Other mediated disputes have included claims of assault, civil rights, dram shop law violations, estate – undue influence/fraud, negligent retention, personal injury, sexual abuse, and wrongful death.

Mediator Style & Process Preferences

I am trained in a variety of mediation styles, including evaluative, facilitative and transformative, and in practice, employ an approach that is an amalgam of these styles. My philosophy is that mediation is the parties' process. As such, my role, as a mediator, requires that I adapt my style and techniques to the needs of the parties' and the particular case in which I am serving. I assess each case individually and tailor my approach accordingly.

My expectation of the parties is that they engage in the process in good faith and involve the requisite individuals to support a fruitful mediation, including a decision maker with settlement authority. I encourage the parties to be as candid as possible and to focus on interests over positions, as my experience has shown that doing so maximizes the opportunity for success.

I begin the process with a pre-mediation conference to address scheduling, necessary attendees and logistical issues, such as outstanding discovery matters. Mediation statements will be requested in advance of the mediation session, summarizing each party's respective view of the case and prospects for resolution.

Mediation, as a voluntary process, should support the parties' right of self-determination. To this end, mediation should ensure that the parties achieve a clear understanding of the relevant facts, including the matters in dispute, and the controlling law and legal principles. The process should aid the parties in recognizing and weighing the value of a mutually agreed upon resolution against the risks and rewards of proceeding with litigating or arbitrating the underlying dispute, including the transactional costs of doing so.

Technology Proficiency	Having conducted hundreds of virtual arbitrations and mediations, proficient in the use of various videoconferencing platforms, including Zoom, Webex and Microsoft Teams. With the parties' agreement, am willing to conduct/host hearings and conferences using these systems.
Education	New York University, School of Law (JD, cum laude, order of the coif, Vanderbilt Medal-1982); Siena College (BA, Political Science, summa cum laude, political science award-1979)
Professional Licenses	Admitted to the Bar: New York (1983), New Jersey (1988); U.S. District Court, Southern District of New York (1983), Eastern District of New York (2019), and Northern District of New York (2019)
Professional Associations	National Academy of Arbitrators, Member; American Bar Association (Labor & Employment Law & Dispute Resolution Sections); Association for Conflict Resolution (Workplace Section); Labor & Employment Relations Association; New Jersey Association of Professional Mediators; New Jersey Bar Association (ADR and Labor & Employment Law Sections); New York City Bar Association (Labor & Employment Law Section); New York State Bar Association (Dispute Resolution and Labor & Employment Law Sections); and New York University School of Law Center for Labor & Employment Law, Advisory Board Member.
Recent Publications & Speaking Engagements	<p>Publications: Contributor, State and Local Public Sector Committee Annual Report, National Academy of Arbitrators (2020 & 2021); Proceedings of the NYU 59th Annual Conference on Labor: Employee Benefits & Executive Compensation (David J. Reilly, editor, 2010); Contributor, Barbara T. Lindeman & Paul Grossman, Employment Discrimination Law (4th ed. Cum supp. 2010).</p> <p>Speaking Engagements: "Labor Arbitration in a Time of Economic Crisis," AAA, 2009; NYU 58th Annual Conference on Labor, 2005; "Employment Law Mediator Skills," NYU School of Law Labor & Employment Law Center, 2001; "Employment Law for Federal Judges," NYU School of Law Labor & Employment Law Center, 2001.</p> <p>As a member of the Advisory Board of the New York University School of Law Labor and Employment Law Center serve regularly as a moderator/speaker at the Center's programs, including its annual conference on labor.</p>
Mediation Rate	\$400 Per Hour
Languages	English
Citizenship	United States of America
Locale	New York, 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.