



AAA Mediation.org™

FN-2001674 MN-2001674 LN-2001674, Esq.

Pittsburgh, Pennsylvania



Profession

Arbitrator, Attorney, Mediator

Work History

Retired Equity Principal, Jackson Lewis P.C., 1996 – 2017; Owner, A. Patricia Diulus-Myers Attorney at Law, 1989 – 1996; Associate Attorney/Vice President & Legal Counsel, Murphy Taylor & Adams Greater Canonsburg Health System, 1985 – 1989; Associate Attorney, Buchanan Ingersoll Rodewald Kyle & Buerger, 1980 – 1985.

Experience

A former registered nurse and Major in Army Nurse Corps Reserves, began a 40-year litigation practice in 1980, was hired at a large corporate defense firm and tried first case three months out of law school. Continued trial work at a small trial practice and then served as Vice President and Legal Counsel for a health system, also functioning as head of the System's Human Resources Department. There, handled all legal matters including health care issues under new federal Stark laws, physician peer review, union matters, and employee relations.

Then operated a solo law practice for nine years concentrating on litigation and trials of employment and medical malpractice cases, representing primarily plaintiffs and successfully trying numerous cases to verdict before juries and in bench trials.

Went on to practice for 20 years as a principal in a large national labor and employment law boutique firm, where practice focused on litigation and trials of workplace matters, including discrimination, retaliation and harassment, whistleblower, restrictive covenants, trade secrets and ERISA cases in both federal and state forums. Member of the firm's practice groups on restrictive covenants, corporate governance, and trial practice. Knowledgeable and experienced in the False Claims Act, including qui tam actions in healthcare and other industries, as well as claims under SOX and Dodd-Frank. Major client industries included healthcare, pharmaceutical, manufacturing, retail, and distribution. Co-chaired the firm's national Diversity Committee for four years, formed multiple diverse affinity groups within the firm and supported the Minority Corporate Counsel Association.

Having retired from the national employment law firm in 2017, currently in private practice focusing on civil litigation, arbitrations, and mediation of employment and healthcare cases and conducting workplace investigations.

Workplace investigation experience: Holds extensive experience conducting workplace investigations for employers over at least the last 24 of 40 years of legal practice. Performed workplace investigations primarily in situations where employers had received internal (and external) employee complaints regarding discrimination, harassment and/or retaliation on the basis of sex/gender, race, age, national origin, and sexual orientation. Also have provided training to clients and non-clients on how to conduct a prompt, thorough, impartial and unassailable workplace investigation. Such training has included CLE presentations to attorneys on the use of workplace investigations to establish and protect, in the event of a lawsuit, an employer's ability to raise the affirmative defense enunciated in the Supreme Court's decisions in the *Farragher-Elterth* supervisor sexual harassment decisions. Regularly emphasize, among other things, consideration of addressing confidentiality issues in advance; utilizing the Upjohn warning; preparing a proper and accurate report of the investigation and whether or not to make recommendations as a result of the findings; and, since investigations of harassment, and sexual harassment in particular, require sensitive handling, whether immediate removal of one or both parties to another location pending investigation is warranted. Holds the skills, extensive employment law knowledge, and experience necessary to conduct any workplace investigation and prepare the detailed and comprehensive report needed to accurately and fairly address employee complaints.

Mediator Experience

Throughout 36 years of litigating cases, as an advocate both for plaintiffs and defendants, has engaged regularly in alternative dispute resolution. Regularly engages in mediation of cases before other neutrals in both Pennsylvania and West Virginia, and has tried employment cases as well as dispositive motions and proceedings before arbitrators. Participated as a special master in the voluntary Special Masters Program of the Allegheny County Courts - program entailed special masters functioning as neutrals in state court cases and, upon agreement of parties, presiding over the trial of cases before juries. Appointed as a certified mediator and early neutral evaluator for the courts of the U.S. District Court for the Western District of Pennsylvania.

Representative Issues Handled as a Mediator

Mediated numerous civil cases as a special master in the Special Master program of the Allegheny County Court of Common Pleas. Those cases were wide-ranging civil matters from personal injury to contract and land use issues. As a mediator and early neutral evaluator certified by the U.S. District Court for the Western District of Pennsylvania, have been selected for employment law cases pending before this court. They have involved gender discrimination and harassment, age discrimination, employment contract disputes, and STD/LTD entitlement. Also, mediated and conducted early neutral evaluation in healthcare dispute involving physician peer review and discharge case.

Mediator Style & Process Preferences

There is a similar theme throughout most cases in mediation, and that is whether both sides are going into the mediation to settle or to win the case. If it is the latter, the cases simply are more difficult to resolve, as there is no singular objective. Once it becomes clear that it is the former, there is a much better chance for resolution because the goal of each side is a common one. The goal of the mediator is to direct the parties and their advocates toward that common goal.

Other intervening issues that typically surface involve the emotional investment either or both parties have in the case, and the amount of attorneys' fees that need to be covered. Although single plaintiff discharge cases are typically emotional for the plaintiff, restrictive covenant cases typically are very emotionally charged on both sides. Additionally, they are difficult to settle because of the unwillingness of either side to divulge what they deem to be trade secrets in order to effectuate a workable accord. The goal of the mediator needs to be to diffuse the source of the emotion -- a challenging but worthwhile objective.

Education

University of Pittsburgh School of Law (JD, cum laude-1980); University of Pittsburgh (BSN, summa cum laude-1975).

Professional Licenses

Admitted to the Bar: West Virginia (2011), Florida (2011), Ohio (2000), Pennsylvania (1980); U.S. District Court: Southern (2004) and Northern (2011) Districts of West Virginia, Southern (2007) and Northern (2000) Districts of Ohio, Eastern (2002) and Western (1980) Districts of Pennsylvania, Eastern (2009) District of Michigan; U.S. Court of Appeals: 3d Circuit (1996), 7th Circuit (2004).

Professional Associations

Allegheny County Bar Association
American Health Lawyers Association
Fellow of the Allegheny County Bar Foundation

Former chair and long-time member Golf Invitational committee of bar association
Mediation Council of Western Pennsylvania
Immediate past chair and former vice chair of Labor & Employment Council of bar association.

Recent Publications & Speaking Engagements

PUBLICATIONS:

"New U.S. Supreme Court Rules on Workplace Sexual Harassment" Pittsburgh Legal Journal 124 (January 17, 1998) [Author]
"Noncompete Agreements, How the Courts Approach Restrictive Covenants" Smart Business Magazine [Pittsburgh] (June 2006) [Author]
"Avoiding Liability – How to Legally Administer Corporate Wellness Programs" Smart Business Magazine (February 2007) [Author]
"Diversity Best Practices, - What Law Firms are Doing to Attract and Retain Minority and Females" Smart Business Magazine (April 2007) [Author]
"Why Corporate Initiatives to Promote Inclusion Through Selection of Outside Counsel Can Co-exist with Title VII" Minority Corporate Counsel Association (September 2007) [Author]
"The ABCs of ADAAA" Smart Business Magazine [Pittsburgh] (December 2008) [Author]
"Keeping Secrets" Smart Business Magazine [Pittsburgh] (December 2010) [Author]

SPEAKING ENGAGEMENTS:

Lecturer for Pennsylvania Bar Institute and various associations on employment law issues; organizer/planner/lecturer for employment law CLE programs for bar members.

Mediation Rate	\$3,000 Per Day
Languages	English
Citizenship	United States of America
Locale	Pittsburgh, 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.