



AAA Mediation.org™

**FN-2030426 MN-2030426 LN-2030426,
Esq.**

San Francisco, California



Profession

Attorney, Arbitrator, Mediator

Work History

Mediator and Arbitrator, Self-Employed, 2005 – Present; General Counsel, McMorgan & Company Investment Management, 1994 – 2005; Partner, Van Bourg Weinberg Roger & Rosenfeld, 1980 – 1994.

Experience

Commercial Disputes:

San Francisco Police Commission (2017-2020): Served as Mayoral appointee and Commission President 2019-20. Responsible for oversight of all policy and serving on panel for serious disciplinary matters.

Spent 11.5 years as General Counsel of Investment Firm overseeing all legal matters including litigation, arbitration, government regulation, and investments. Participation in complex litigation involving fiduciary issues, real estate, contracts, insurance coverage, securities, corporate law. Direct participation as Counsel in complex Arbitrations and Mediations involving business fraud, real estate developments, fiduciary duties under securities and retirement laws.

Labor Relations: Spent 14 years with a Labor Firm in San Francisco handling litigation, arbitrations, and administrative hearings all focusing on labor relations. These disputes ranged from terms and conditions of employment affecting an entire bargaining unit to individual grievances. Arbitrations covered various issues relating to terms and conditions of employment. Industries covered included construction, education, health care, printing, trucking, investments. Tried cases before Federal and State Courts and have argued a dozen cases to the Ninth Circuit Court of Appeals. Also spent 11.5 years as General Counsel of an investment firm representing management in various employment matters. Currently hears labor and employment cases as a neutral. These matters ranged from terminations to discrimination; subcontracting to changes in working conditions, harassment to wage and hour matters; discipline to seniority issues, fiduciary breaches to unfair practices, etc.

ERISA: Spent much of legal career dealing with the fiduciary duties owed by trustees of Pension and Benefit Plans to the participants and beneficiaries. Has represented Fiduciaries before Federal and State agencies such as the Department of Labor, IRS, SEC, and the Franchise Tax Board. Has

also litigated cases involving withdrawal liability under MPPAA, benefit and vesting claims, and fiduciary investment obligations. Spent 11.5 years advising an investment firm that specialized in the management of ERISA funds and directed all litigation involving client portfolios including security claims. Has participated in extensive ADR proceedings involving investment prudence and commercial and banking fraud.

Discrimination Cases: Has both litigated and presided as a neutral over race and sex discrimination matters. Currently on the roster of EEOC Mediators for the San Francisco Region. Sits on several permanent panels in the Bay Area where discrimination cases are presented through the grievance/arbitration procedure.

Commercial Cases: Mediations & Arbitrations have included Banking Industry Disputes, Corporate Compliance Matters, Partnership Disputes, Breaches of Contract, Real Estate Disputes, Insurance Coverage, Governmental Agency/Private Sector Disputes, and Legal Malpractice Matters.

Mediator Experience

Served the San Francisco Superior Courts, handling a variety of commercial cases (public housing/habitability dispute; business disputes between contractors; attorney/client fee disputes; insurance coverage dispute; employment matters, discrimination claims). Mediates cases for the U.S. District Court (Northern District of California) and the EEOC. Has also mediated complex matters involving public agencies and several labor organizations; employment and wage and hour disputes; EEOC matters (discrimination); commercial disputes (business dissolution disputes, insurance coverage, construction contractors). Also serves as a mediator for the San Francisco Bar Association and by private assignment. Former President, San Francisco Police Commission (Member 2017-2020) - Mediated serious disciplinary matters.

Representative Issues Handled as a Mediator

Construction cases have involved lending practices, construction defects, breach of contract issues, and sales contracts. Employment matters have involved wage and hour issues, race, sex and disability discrimination, wrongful termination, work assignment and jurisdiction disputes, fiduciary breaches, law enforcement disputes. Business matters have involved contract disputes and insurance coverage issues, dissolution of nationally recognized law firm, habitability issues in public housing, and appropriate damage claims.

Mediator Style & Process Preferences

Mediation is a collaborative process which depends largely upon the commitment of the parties to thoroughly explore all reasonable solutions to existing disputes. Mr. Hirsch sees his role as facilitating that process by exploring, often confidentially, the desires of the parties and fostering dialog so that the disputants can reach agreement where once they could not.

The parties are expected to be open, honest, candid--at least with the mediator--and respectful of the other parties and the process. Mr. Hirsch in turn will treat parties with respect and offer evaluations of positions and solutions where appropriate. He works diligently to bring the parties to a resolution where it is possible. "Closing the deal" is extremely important where parties are motivated to resolve their dispute rather than leave the outcome to a judge or jury.

Education

University of California School of Law (JD-1979); Washington University of St. Louis (BA-1976).

Professional Licenses

Admitted to the Bar: California, 1979.

Professional Associations

American Bar Association (Arbitration/Mediation, Litigation, Employment, Business); San Francisco Bar Association (Alternative Dispute Resolution; Employment); California Bar Association (Labor & Employment; ADR).

Recent Publications & Speaking Engagements

Speaker: San Francisco Police Commission 2017 - 2020 (Several Speaking Engagements), "ERISA Fiduciary Duty," Laborers N. California Symposium 2009; "Meet the Arbitrators," National Academy of Arbitrators, June 2009 and June 2008; "Mediation," New College of the Law, April 2008; "Using Labor Capital," Institute of Industrial Relations, U.C. Berkeley, 1999; "High Performance Pensions," Institute of Industrial Relations, U.S. Berkeley, 1997; "Parallel Apprenticeship Programs in California," California Apprenticeship Council, 1988.

Mediation Rate

\$5,000 Per Day

Languages

English

Citizenship

United States of America

Locale

San Francisco, CA

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.