



AAA Mediation.org™

FN-20325 MN-20325 LN-20325, Esq.

North Canton, Ohio



Current Employer-Title Hahn Loeser & Parks, LLP – Senior Attorney

Professional Summary Committed to exceptional knowledge and service in legal and personal endeavors. Fair, efficient, and focused.

Profession Attorney
Neutral Arbitrator and Mediator
Project Management Advisor
Dispute Review Board Member
Facilitator

Work History Neutral Services, 1994 - Present

Legal and Professional (1989 - Present):

Senior Attorney, (Construction Team) Hahn Loeser & Parks LLP, 2017 - Present (Part-time since 2020); Founder, Partner and Chairman of Construction Practice Group, Frantz Ward LLP, 2000 - 2017; Partner/Associate (Construction Practice Group), Thompson Hine and Flory, 1989 - 1999

Construction Field and Project Management Experience:

Project Manager, C.J. Natale Inc. (formerly known as Natale Landscaping & Site Development), 1980 - 1988

Philanthropy:

Founder and President of Board, The Andrew J. Natale Family Foundation (2017 - Present)

Experience Over 35 years' experience in a robust, nationally recognized construction law practice representing contractors, design/builders, subcontractors, specialty trades, suppliers, manufacturers, developers, lenders, owners, and design professionals in all aspects of construction law, including arbitration, mediation, and litigation. Advised clients regarding day-to-day risk evaluation and mitigation, construction claims management, claims and dispute avoidance, insurance and surety enforcement, and project documentation.

Extensive, focused experience in construction law, surety law, complex, commercial litigation, insurance coverage and related matters, and construction alternative dispute resolution proceedings.

Understands construction plans, specifications, means and methods, and techniques based on actual field work in building, heavy civil and earthwork, concrete, and underground utility construction disciplines.

Worked closely with client teams on day-to-day construction and contract enforcement issues with deep involvement and understanding of actual work, billings, accounting, and management matters. Negotiated and prepared contract forms for nearly all types of project participants; perfected and enforced security interests, mechanic's lien and bond claims; managed loss prevention matters, construction scheduling, and completion disputes. Significant experience with default and termination matters including surety takeovers and project completion including actual oversight and management of post-termination completion work.

Routinely served as first chair counsel documenting, managing, negotiating, and litigating a wide variety of small to multimillion-dollar construction claims and disputes including: changed and differing condition, breach of contract, defective design and defective work, schedule delay and acceleration, mechanics' lien, default and termination; competitive bidding and surety bond claims and insurance coverage disputes. Handled personal injury and wrongful death claims and public contract law matters. Experienced with owners, designers, and building trades in matters involving defective construction, warranty matters, defective design issues, and extra work disputes, including matters involving foundation and drainage problems, concrete, roofs, landscaping, interior finishes, windows, carpentry, and marble, stone, and brickwork. Further experience with homeowners' associations and condominium claims and common area maintenance and building facades.

Extensive experience with all forms of project delivery methods including, among others, integrated project delivery, general contracting, owners' representative, multi-prime, and SBE and set-aside, federal contracting, task orders, and joint ventures. Frequently involved with risk analyses and management for preconstruction services, design assist, and BIM modeling.

Instructed classroom education, continuing legal and professional, and private client training on contract risks, protecting profitability, BIM, alternative dispute resolution, project documentation, project and construction management, collaborative contracting practices and methods, construction insurance, construction surety, business succession, partnership dispute management, and ethical issues.

Experience working with local, regional, national, and multi-national construction firms and professionals. Extensive representation in complex construction matters involving choice of law and application of other state laws and rules including matters throughout the central, mid-west, northeast, and southeast United States. Appeared in court, arbitration and mediation hearings throughout the country.

Recruited, trained and managed nationally ranked construction law teams including attorneys, construction professionals, and staff as founding member of large construction practice.

Mediator Experience

AAA-trained construction neutral since 1994. Involved with project participants in all facets of construction and Alternative Dispute Resolution (ADR) for over 35 years. Resolved hundreds of claims as a party representative and neutral mediator.

Served as mediator and successfully resolved multi-million dollar, multi-party, and multi-disciplinary issues on large commercial construction projects. Frequently retained to efficiently mediate disputes on residential homes and small building projects.

Extensive experience with public and private institutional projects, school projects, high-rise structures, commercial facilities, natatoriums and swimming pools, stadium and arena projects, parking structures, large site-work packages, infrastructure and heavy civil projects, roadway and highway and bridge improvement projects, and residential and multi-family projects. Experienced with insurance adjusters and surety claims professionals managing construction insurance coverage disputes and performance and payment bond claims, including contested termination, project takeover matters, and project completion claims and issues.

Successfully mediated (as a neutral) over 50 matters dealing with design and construction defects, delay and cost impact claims. Served as a neutral in 35 cases involving disputed insurance coverage, indemnity claims, or project insurance policies.

Worked on and successfully resolved business valuation and partnership disputes, ownership and control, and contested business separation litigation and claims and claims relating to alleged violations of business and asset sales agreements and non-compete agreements.

Resolved homeowner association and condominium property claims involving alleged defective design and/or construction and increased maintenance costs and property value loss. Assisted parties in formulating alternative repair plans to save costs and avoid protracted and expensive litigation.

Resolved claims relating to roof, building curtain wall and envelope claims, condensation, water and mold, and HVAC matters in natatoriums, hospitals and healthcare facilities, arenas, multi-family housing units, office buildings, office condominiums, and residential housing. Extensive experience with construction work scope and extra cost claims, schedule delay disputes, and compression and disruption claims.

In addition to involvement as a construction neutral, served as counsel and represented parties in mediation of claims totaling nearly \$1 billion aggregate on public and private projects for additional work and extras, schedule impacts, material defects, workmanship and warranty claims, differing and changed conditions, defective design and construction, and surety and completion cost disputes.

Representative Issues Handled as a Mediator

Over 30+ years, have mediated disputes involving contractor and subcontractor entitlement, additional compensation, disputed change orders and back charges, contract or subcontract termination, design liability, insurance coverage, performance deficiencies and non-conforming work, schedule delay and disruption, loss productivity, differing and changed conditions, design defects, shop drawing approvals, submittal disputes, remediation cost claims, indemnification, additional cost claims, work scope disputes, defective specification claims, specific performance, and contract interpretation matters.

Contract termination and project completion cost claims, including surety takeover and tender, and related claims relating to insurance coverages, builders' risk and property insurance, and indemnity obligations.

Project design and preconstruction services, performance specifications, construction budgeting, value engineering, constructability reviews, owners' representative responsibilities, testing and inspection and design-assist obligations, risks and corresponding liabilities.

Project cost reimbursement and contingency, shared savings, and cost-plus accounting issues.

Condominium property defect and maintenance disputes, water intrusion and mold and water damage remediation.

Concrete construction and slab performance, cracking, warranties, remediation and replacement.

Precast structures, prestressed beams, and structural steel design, construction, and performance.

Curtain wall, windows, and building envelope design and construction defects and remedial cost allocations and insurance coverage.

Manufacturing and heavy industrial plant construction including design-build mechanical, electrical, and HVAC performance, including project component performance claims.

Residential property owner and constructor claims regarding workmanship, project scope changes and total costs, design and site grading and drainage.

Homeowner and property owner association maintenance, budgeting, and board disputes.

Federal government contract disputes involving prisons, airports, and military installations.

SBA, disadvantaged business, and minority and female-owned business matters including surety-related indemnities and claims.

Heavy highway, road and bridge construction disputes and related issues concerning foundations,

drainage, sewer and water line placement, existing utility interference, differing and changed conditions, soil and rock excavation, dewatering, caisson construction, jet grouting and soil stabilization, maintenance of traffic and concrete and asphalt performance, design and warranty obligations.

Water treatment and wastewater treatment plant construction, renovations, and maintenance.

Property damage and personal injury claims and related claims for indemnity and insurance coverages including matters relating to primary, secondary, excess, and project wrap-up insurance coverage(s) and allocations by or among insurers in multi-party disputes.

Property valuation relating to eminent domain actions involving land, buildings and business operations.

Disputes between business owners and joint venture partners.

Business succession and family disputes regarding valuations, terminations, cross-indemnities, enterprise and business control, ownership, and operations.

Mediator Style & Process Preferences

General:

Based on my 35+ years working as a party advocate, and my 30+ years of work and training as a neutral with the AAA, I recognize and value the need to be a strong, active catalyst for meaningful settlement discussions. I have worked with many neutrals and participated in hundreds of ADR sessions where I learned effective techniques to guide parties in mediations and how to avoid pitfalls, counterproductive discussions, and settlement sabotage. I respect and appreciate the work of the parties and counsel, their level of emotional investment, financial interests, and personal and business needs. I effectively manage a wide variety of personalities to avoid premature impasse. I remain focused on the process and protocol to control and promote a free, fair, and fruitful exchange of information essential for productive settlement dialogue. I am committed to listening and understanding the participants and permit them to share information in joint and private caucuses. I am passionate, work tirelessly, and commit all required time including long, multiple days if necessary. I master the documents, issues and facts, evaluate the opposing arguments, positions and controlling law, and strategically structure meaningful discussion of key issues to facilitate risk assessment and settlement alternatives. I confidentially advise parties in private caucus regarding strengths and weaknesses of a position or claim, in-depth evaluations of damage computations, liability positions, and evidentiary and legal issues. I encourage follow-up sessions with task-focused recesses to develop and assess alternative repair and remediation options resulting in significant cost savings and eventual settlement. In the event that mediation does not succeed, I remain available and willing to assist with further efforts at resolution of the dispute, in whole or in part.

Presentations / Joint Caucuses:

I recognize the importance of information sharing and detailed presentations that not only permit the identification and clarification of evidence but also provide an unfiltered information exchange with the true decision-makers including insurance adjusters, surety representatives, secured parties, lenders, and business owners. When appropriate, I encourage in-person expert presentations. I recognize the obligation to control dialogue in joint sessions and prevent a free-for-all approach that can prevent meaningful information exchange. For that reason, I work with the parties on protocol and process in advance of the hearing and manage expectations and decorum.

Information Exchanges:

I carefully orchestrate cost-effective document, expert and information exchanges in advance of the hearing. As an advocate, I appreciated the cost savings and benefits of early neutral facilitation that avoided significant pre-mediation discovery expenses, and I developed best practices for participants to exchange information and efficiently mediate the disputed issues.

Seasoned Construction Law Experience:

My vast experiences representing construction project participants on more than \$1 Billion in public and private construction improvements throughout the United States, including extensive involvement in nearly all facets of development, design, construction, management, maintenance and repair of buildings, roads, bridges, and facilities, provides valuable insights for parties and counsel. I effectively manage the process, party expectations, and personalities. I have worked

extensively with choice of law and application of governing law in specific project locations and understand the direct and indirect costs, risks, stress, and benefits of litigating and arbitrating matters having personally tried and arbitrated hundreds of millions of dollars of construction claims and resolved hundreds of claims through mediation and structured settlement dialogue.

Technology Proficiency

Proficient with efficient electronic document storage and management. Over 25 years managing, evaluating, negotiating, litigating and resolving all types of construction claims and project issues, including management and organization of related project information for efficient use and recall.

Experienced with electronically stored information ("ESI") protocol and related discovery exchanges, including negotiation of ESI document productions. Experience working as sole arbitrator, panel chair, and as panel member to manage ESI discovery.

Detailed, working understanding of construction plans and specifications and electronic mechanisms for use and conversion. Trainer, Building Information Modeling ("BIM") with Associated General Contractors' approved course materials.

As a neutral, works with parties to accommodate preferences on document exchanges and document storage and management for use as exhibits at hearing; focused on assisting parties and counsel control costs consistent with the objectives of the AAA rules and spirit of ADR as a true alternative to costly and protracted litigation.

Able and willing to conduct hearings, and take testimony (in whole or in part), via Zoom, LoopUp, and/or GoToMeeting based on the agreement(s) of parties and consistent with the spirit and intent of the ADR rules and procedures.

Education

University of Cincinnati (Juris Doctorate, 1989); University of Dayton (Bachelor of Arts, Political Science, 1986); Cleveland Benedictine High School (1982).

Professional Licenses

Admitted to the Bar: Ohio (1989); U.S. District Court Northern District of Ohio (1989); U.S. Court of Appeals Sixth Circuit (1999); U.S. Court of Federal Claims (2004).

Professional Associations

American Bar Association, Forum on the Construction Industry
Construction Employers' Association
Associated General Contractors of America
Cleveland Bar Association
Ohio Contractors' Association
Surety Association

Recent Publications & Speaking Engagements

"Contracting Issues for 2022," July 2022
"Ohio Supreme Court Rules That Statute of Repose Applies to Contract Claims," July 2019
"Ohio Court of Appeals Confirms Applicability of Statute of Repose to Contract Claims and Sureties," May 2019
"Contract Risk for Escalation Costs," May 2019
"Owners and Contractors Beware! Electronic Payments in Construction Are Subject to Increased Fraud," April 2019
"Ohio Court of Claims Decision Puts Public Works Bond Sureties Directly Behind the Eight Ball," February 2019
"Protect Your Bottom Line on Ohio Construction Projects," October 2018

Frequent lecturer on wide variety of construction law, project management, and alternative dispute resolution topics, including the following recurring seminars, industry association programs, and in-house client presentations: "Riding the Collaborative Construction Wave"; "Construction Insurance and Coverage"; "BIM and Related Legal Issues"; "Ohio Construction Issues"; "Legal Perspectives on Design/Build"; "Construction Claims, Damages and Liability Theories"; "Construction Claims Management and Avoidance"; "Ohio Mechanics' Lien Law"; "Ohio Construction Contracting for Public Entities"; "Construction Law for Attorneys"; "Ohio Construction Law - Can This Job Be Saved? Creative Strategies for Project Completion and Litigation Avoidance"; "Alternative Dispute Resolution in Construction"; "Construction Litigation"; "Ohio Public Code and Competitive Bid Compliance"; "Construction Law, What to do When?"; "Ohio Lien and Bond Law"; "Ohio Mechanics' Lien Law - Private Sector Update"; "Construction Performance and Payment Bonds"; "Surety Bond Claim Management"; "Surety Completion Options - Pay, Takeover or Tender";

"Contract Risk Transfer and Avoidance"; "Differing and Changed Condition Claims and Liability Theories"; "Federal Government Contracting"; SBA Program Requirement and Prohibitions"; "Joint Venture Contracting and Risk Considerations"; "Ohio Public Construction Reform"

Locations Where Parties Will Not be Charged for Travel Expenses Cleveland, Ohio
Columbus, Ohio

Charleston, South Carolina
Columbia, South Carolina
Kiawah, South Carolina
Hilton Head, South Carolina

Mediation Rate \$445 Per Hour

Languages English

Citizenship United States of America

Locale North Canton, OH

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.