



AAA Mediation.org™

**FN-2048263 MN-2048263 LN-2048263,  
Esq.**

**Tuscaloosa, Alabama**

**Current Employer-Title** Rosen-Harwood - Partner

**Profession** Attorney, Arbitrator, Mediator

**Work History** Partner, Rosen-Harwood, 2007 – Present; Justice, Alabama Supreme Court, 2001 – 2007; Judge, Circuit Court of Tuscaloosa County Alabama, 1991 – 2001; Partner, Rosen Harwood Cook & Sledge, 1966 – 1991; Associate, Clement Rosen Hubbard & Waldrop, 1963 – 1966.

**Experience** Over the entire course of 45 years of private law practice (excluding 16 years of judicial service), has been heavily involved in insurance litigation of all varieties, serving as defense counsel retained by insurance carriers, as coverage opinion counsel and counsel for carrier declaratory judgment actions, and also serving as counsel for the insured in matters of coverage and policy construction. Has handled many "bad faith" cases, representing both insurance carriers and insureds; and many cases involving determination of coverage obligations as between different insurance carriers, particularly involving primary versus excess/umbrella coverages and interactions of "other insurance" clauses.

Has prosecuted, or defended many product liability cases.

Has extensive experience in the area of medical malpractice litigation.

As a general jurisdiction trial judge and a justice on the State's highest appellate court has presided over the trial, of, or written/participated in opinions concerning, virtually every type of civil case there is, including class actions, insurance coverage disputes, construction accidents, surety bond coverage, uninsured motorist claims, and tort claims and breach of contract actions of every description.

Also, as general areas of expertise, taught for many semesters a trial advocacy class, and evidence class, and an advanced evidence class of the University of Alabama School of Law; is Chair of the Alabama Supreme Court's Advisory Committee on the Alabama Rules of Evidence; and serves on the Alabama Civil Pattern Jury Instruction Committee.

**Mediator Experience** Mediated numerous wrongful death cases, including those arising out of vehicular accidents, against a drug manufacturer, a seatbelt manufacturer, a coal mine owner and an industrial machine manufacturer. The latter included multiple death and personal injury claims. Has mediated five claims involving law firm dissolution and/or disputes among attorneys over division of fees; a class action against an insurance company by policyholders; a dispute between insurance carriers concerning allocation of loss; a dispute between partners in an automobile dealership; a dispute between the owner and lessor of a shopping mall; a dispute between a commercial client and its former law firm; a dispute charging retaliatory discharge; a dispute involving tort claims against a nursing home for alleged mistreatment of an elderly, mentally-challenged patient; a dispute arising out of the dissolution of a real estate partnership; a suit by a borrower against its lender alleging violation of various federal statutes; two matters involving alleged undue influence in the

procurement of a will and/or mismanagement of an estate; a taxpayer class action; a multi-party multi-lawsuit "toxic tort" litigation; a multi-million dollar property damage products liability action and an associated dispute among various insurance carriers; municipal liability for damage to a home; and a tort action against a funeral home for alleged wrongful disposition of a body.

Has mediated virtually every type of civil lawsuit, or pre-litigation dispute, that there is, excluding domestic relation cases. At least one-third of the mediations involved multiple parties. In all, has mediated over 800 civil cases/disputes.

## **Representative Issues Handled as a Mediator**

Relative rights and liabilities among partners in an automobile dealership, a law firm, and a real estate partnership respectively; products liability issues in personal injury, death and property damage cases; insurance coverage issues relating to the insuring clause, various policy exclusions, primary/excess/umbrella coverage, and claims of bad faith; testamentary capacity and undue influence in procurement of will; mismanagement of estate; standing of, and remedy/recovery available to, class action plaintiff in a tax payer lawsuit; case involving legality of various gaming enterprises; and essentially all issues relating to fraud/suppression litigation, including existence of duty, breach, causation, and entitlement to compensatory/punitive damages.

## **Mediator Style & Process Preferences**

I strive first to be a very patient, engaged listener, so that I may understand everything that is of importance to the respective parties, and I employ open-ended questioning to stimulate that process. I require, and carefully analyze, advance submission of confidential mediation position statements, responding to a variety of topics I ask the parties to address. Sometimes, if the economics of the case justify the added expense, I will schedule separate pre-mediation meetings with the respective counsel (and their clients/client representative if counsel wish) for the benefit such "real-time" exchanges and personal interaction provide, doing so either as a supplement to, or in lieu of, written submissions. Some cases are "simply about the money," such as a dispute between insurance carriers about respective liability for a settled underlying case. Other cases involve a variety of emotional issues and dynamics which must be understood and respected by me as mediator. Based on careful consultation with the attorneys involved (all parties have been represented by counsel in all of the mediation I have conducted), I tailor the structuring of the mediation sessions, and my role in the same, to respond to the particular personalities, interests, damages, etc. at stake. Unique to my situation as a former trial and appellate court judge, however, is the fact that many times the attorneys participating in the mediation will inquire of me, during private caucus, as to my views about certain matters. I am careful and discrete in how I respond to such inquiries, but in a number of case insights I have shared have helped an attorney/party re-evaluate their position, facilitating in the ultimate settlement. Overall, I am what is generally categorized as an "evaluative" mediator.

## **Education**

University of Alabama (LLB, Order of the Coif, top 10% of class, Law Review-1963; BS, Commerce & Business Administration-1962).

## **Professional Licenses**

Admitted to the Bar: Alabama, 1963; U.S. District Court: Northern, Middle and Southern Districts of Alabama; U.S. Court of Appeals: Fifth and Eleventh Circuits; U.S. Supreme Court, 1989.

## **Professional Associations**

American Bar Association; Alabama Bar Association (Litigation Section, Chair); American Bar Foundation; Alabama Bar Foundation (Fellow); Tuscaloosa County Bar Association (President); American College of Trial Lawyers (Fellow); American Board of Trial Advocates (Diplomat); The National Academy of Distinguished Neutrals; and the Litigation Counsel of America (Fellow); University of Alabama Order of the Coif (President 2013-2014).

## **Recent Publications & Speaking Engagements**

PUBLICATIONS: Co-author, ALABAMA APPELLATE PROCEDURE HANDBOOK, Alabama Bar Institute, 1976.

SPEAKING ENGAGEMENTS: Has presented papers and speeches on over one hundred occasions at continuing legal education seminars, judicial meetings, defense lawyer annual meetings, plaintiff's lawyer annual meetings, and insurance company seminars. Topics have been as diverse as insurance policy construction and coverage issues, the law of "bad faith," trial procedure, appellate procedure, tort causes of action, medical malpractice, federal and state rules of evidence, and construction site litigation.

## **Mediation Rate**

\$250 Per Hour

## **Languages**

English

**Citizenship**

United States of America

**Locale**

Tuscaloosa, AL

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.