



AAA Mediation.org™

**FN-2089534 MN-2089534 LN-2089534,
Esq.**

Orlando, Florida



Current Employer-Title Law Offices of H. David Luff, P.A. – Shareholder and Owner

Profession Attorney, Arbitrator, Mediator

Work History Shareholder and Owner, Law Offices of H. David Luff P.A., 2001 – Present; Shareholder, McEwan, Martinez, Luff, Dukes & Ruffier P.A., 1981 – 2001; Associate Attorney, Gurney Gurney & Handley P.A., 1979 – 1981; Associate Attorney, Adams Best and Sears P.A., 1978 – 1979.

Experience Represented both plaintiffs and defendants in a wide variety of litigation. Prior to devoting practice entirely to mediation and arbitration, obtained substantial litigation experience in many areas including medical malpractice, legal malpractice, personal injury and wrongful death, products liability, commercial and construction litigation, employment disputes, insurance claims and coverage disputes.

Consumer Law:

Extensive experience in consumer litigation involving allegations by consumers against automobile dealerships, lenders, debt collectors, financial institutions and other entities, that pertain to unfair and deceptive trade practices, truth in lending violations, Fair Credit Reporting Act violations, TCPA, Fair Debt Collection Practices Act and other statutory and common law claims. In trial practice, at least 10 such cases class representation was asserted.

Commercial Litigation:

Substantial experience in commercial litigation involving business disputes between companies or between shareholders. Larger cases include a shareholder derivative action involving a large group of physicians, and a \$40-million-dollar breach of contract/specific performance claim against a large beer wholesaler. Considerable experience with litigation involving business disputes, breach of contract and collection matters.

Employment Law:

Represented management in a number of employment claims typically relating to sexual harassment, discrimination and the creation of a hostile work environment.

Professional Liability:
Represented Physicians and Attorneys in malpractice cases.

Construction Litigation:

During the first 15 years of trial practice, was often involved in construction litigation. These matters involved cases in which there were typically allegations of failure to pay in lien foreclosure actions when other issues such as delay, poor workmanship and a failure to follow plans and specifications were involved in defense of the foreclosure actions. Represented an owner of a shopping center in protracted litigation related to improper and untimely completion of the work. Represented a roofing contractor on multiple occasions on both large condominium projects and residential properties in which it was alleged that the roofer had not properly performed the work and water leaks resulted. Represented a surety on a condominium project in which it was alleged that the principal did not properly perform the work in compliance with plans and specification. Represented a surety in a "workout" situation where the principal, a paving contractor, simultaneously defaulted on approximately 25 paving projects throughout the State of Florida.

Mediator Experience

Served as the mediator in numerous cases involving each of the following areas:

- 1) Consumer litigation that involves allegations of unfair and deceptive trade practices, false advertising; truth in lending violations; Fair Credit Reporting Act claims, TCPA, Fair Debt Collection Practices Act and other similar statutory and common law claims.
- 2) Personal Injury and wrongful death actions, including automobile negligence, medical malpractice and product liability claims.
- 3) General business and commercial litigation involving disputes between businesses. This includes breach of contract, enforceability of non-compete agreements and dissolution of closely held businesses.
- 4) Insurance disputes including coverage determination under general liability policies, PIP policies and automobile policies as well as bad faith claims.
- 5) Construction litigation between general contractors and subcontractors regarding failure to pay, disputes as to how much is owed, non-performance or improper workmanship, the need for corrective work and resulting setoffs and the issue of damages.
- 6) Professional Liability-Legal Malpractice and Accounting Malpractice.
- 7) Estate and Probate litigation. This includes not only will contests, but Elder mediation involving family disputes as to management of assets and care for aging parents or family members.

**Representative Issues
Handled as a Mediator**

Given the large number and variety of case mediated, it is not practical to identify the issues involved other than to say they are the typical issues associated with cases of a particular category. As an example, issues in personal injury and wrongful death cases, whether related to medical malpractice, product liability, automobile negligence or other cases involving injury, include evaluation of liability, comparative negligence and damages. Issues in consumer litigation cases typically involve review of purchase orders or retail installment sales contracts regarding compliance with applicable law, assessment of damages and attorney fees. Issues in employment cases typically relate to a pattern of conduct that must be evaluated to determine if it is discriminatory or such that a hostile work environment has been created, and if so, potential recoverable damages. Construction litigation cases often involve issues as to failure to perform, adequacy of change orders, delay damages, adequacy of plans and specification, set-offs for corrective work and damages.

**Mediator Style & Process
Preferences**

Mr. Luff's mediation philosophy is rooted in the knowledge that all cases must sooner or later come to an end and that it is most often in the best interest of the parties to control their destiny by resolving disputes on their own terms. Parties to the mediation conference often lack an appreciation for the risks and uncertainty of proceeding to trial or arbitration. During the mediation it is imperative that the parties recognize and assess the risk of proceeding so that unrealistic expectations can be diminished and not serve as obstacles to settlement. In order for the mediation process to work effectively, the parties must have absolute confidence in the experience and neutrality of the mediator so that he can begin to effectively assist the parties in evaluating the issues

and objectively assessing the risks of going forward without settlement. The parties must come to understand that a mediation conference is not a time to litigate all their differences or determine who is right or wrong. The parties must be led to understand that they do not need to agree on the facts or the law in order to have a case settle. However, with the assistance and experience of the mediator, the parties and their counsel should be able to objectively assess their positions, recognize and appreciate the risk and uncertainty of proceeding to trial, and come to reasoned decisions that will move the dispute towards settlement. Mr. Luff appreciates confidential case summaries from the parties submitted before the mediation conference that set forth the basic issues, the history, if any, of settlement negotiations and potential obstacles to settlement.

Education	University of Florida College of Law (JD-1978); University of Florida (BA, Political Science-1975).
Professional Licenses	Admitted to the Bar: Florida, 1978; U.S. District Court: Middle District of Florida, 1980. Certified Circuit Civil Mediator: Florida Supreme Court, 1997; Certified Mediator, U.S. District Court: Middle District of Florida Court Annexed Mediation Program, 2002.
Professional Associations	The Florida Bar; Florida Circuit-Civil Mediator Society; National Academy of Distinguished Neutrals; Florida Supreme Court qualified Arbitrator
Mediation Rate	\$450 Per Hour
Languages	English
Citizenship	United States of America
Locale	Orlando, FL

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.