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FN-20918 MN-20918 LN-20918, Esq.

Phoenix, Arizona



Current Employer-Title Shawn Aiken, PLLC

Profession Attorney - Civil Trial Law; Arbitrator, Mediator; Special Master

Work History Attorney, Shawn Aiken PLLC, 2016 - Present; Shareholder, Aiken Schenk Hawkins & Ricciardi P.C. 1990-2016; Associate, Beus Gilbert & Morrill, 1984-1990; Associate, O'Connor Cavanagh et al., 1983-1984.

Experience Over 35 years' experience as trial lawyer and over 25 years' experience as neutral in business litigation and arbitration, especially misrepresentation, unfair competition, business tort, intellectual property, and contract cases, including buy-sell and operating agreements, commercial leases, secured transactions, and related agreements. Handled wide variety of complex civil litigation for both plaintiffs and defendants in state and federal courts, and before the American Arbitration Association, in cases involving civil rights, partnership and closely-held shareholder disputes, especially covenants not to compete, officer and director liability, misappropriation of corporate opportunity, mismanagement, breaches of fiduciary duty, fraudulent transfer and other similar aspects of liability; breach of contract; crop insurance; tribal and Indian affairs; medical partnership claims; and, fraud, misrepresentation, antitrust, RICO, interference with contract, inducing breach of contract, trade secrets, patent, trademark and copyright infringement cases, including injunction practice on behalf of business clients. Represented taxpayer classes before specialty state tax court in class actions.

Service in employment, medical, trade secret and similar matters involving e-discovery issues includes management and resolution of disputes over search, cost-shifting, and production of electronically stored information; served as special master in state court matters involving discovery and disputes over electronically stored data, including claims of spoliation, access to private hardware, and resolution of claims of privilege; disputes over search terminology; and, related issues.

Extensive experience in both mediation and arbitration with cannabis industry matters, including closely-held disputes, breach of contract, and breach of fiduciary duty claims.

Mediator Experience Served as mediator in over 600 business and construction disputes. Mediated wide variety of business disputes including those involving shareholders, partners, and members of limited liability

companies; medical marijuana / cannabis industry; software and licensing agreements; and, many, many other areas of business. Cases frequently involve insurance coverage questions. The issues range from breach of contract and business torts to intellectual property claims. Construction cases involve residential and commercial projects, including disputes between owners and general contractors, subcontractors and general contractors, and multi-party disputes.

**Representative Issues
Handled as a Mediator**

Construction cases have included the full range of issues, including mediation of the following: architectural design errors, insurance coverage, design and construction defects in residential and commercial property, and delay damages. Commercial litigation issues have included lost profit damages, breach of real estate and other business contracts, mitigation of damages, restrictive covenant, trade secret, lease, and similar claims.

**Mediator Style & Process
Preferences**

The parties require some mix of facilitative and evaluative skills from the mediator. The mediation of complex, litigated, business cases requires consideration of both monetary and non-monetary solutions, including preparation before the session and hard work from the parties and counsel in joint and private sessions. The mediator should serve as confidant and sounding board during the session.

Parties often come to impasse (or believe that they have come to impasse). At that point, the mediator must consider creative solutions, including med-arb proposals (high low, baseball, etc.) and other solutions (e.g., mediator's number, double blind offer, etc.). If the case does not settle at the mediation session, the mediator must be ready to work in the following days and weeks to ensure agreement.

Technology Proficiency

Available in person or via Zoom for mediation sessions and arbitration hearings.

Education

Arizona State University (JD-1983); St. Olaf College (BA, cum laude-1980).

Professional Licenses

Admitted to the Bar: Arizona, 1983; U.S. District Court: District of Arizona, 1983; U.S. Court of Appeals: Ninth Circuit, 1983; U.S. Supreme Court, 2010.

Professional Associations

Fellow, American College of Trial Lawyers; Fellow, College of Commercial Arbitrators; Fellow, American College of Civil Trial Mediators; Fellow, Academy of Court-Appointed Masters.

**Recent Publications &
Speaking Engagements**

"Arbitration Talks: Preparing for the Participating in the Arbitration Hearing" (panelist), State Bar of Arizona Annual Convention, June 2017; Mediation Panelist, "4th Annual Insurance Law Institute," State Bar of Arizona, June 2017; "Honey, I Shrunk the Documents": Developing Best Practices for Purchase Agreements that Get Deals Done" (co-presenter), State Bar of Arizona CLE, May 2017; "Breaking Impasse in Mediation" (Small Group Discussion), 14th Annual Advanced Mediation and Advocacy Skills Institute, American Bar Association, October 2016; "Innovative Trial Preparation and Presentation: Opening Statements/Closing Arguments" (co-presenter), American College of Trial Lawyers, Phoenix, April 2016; "Best Practices in Commercial Arbitration" (webinar co-presenter), American Arbitration Association, April 2016; "Neutrals' Roundtable: Motions and Award Modifications" (panelist), American Arbitration Association, Denver, September 2015; "Research and Investigations: The Arbitrator's Authority," American Arbitration Association, September 2014; "Ten Worst Mistakes Lawyers Make in Mediation of Litigated Commercial and Business Disputes, and How to Avoid Them" (webinar), ASU Sandra Day O'Connor College of Law, June 2014; "Recent Cases that Govern Drafting an Enforceable Arbitration Clause" (co-presenter), State Bar of Arizona Alternative Dispute Resolution Section CLE, May 2014; "Principled Deliberations: Decision-Making Skills for Arbitrators," American Arbitration Association, May 2014; "Native American Sovereign Nations and Arbitration: The Skywalk Case," College of Commercial Arbitrators 13th Annual Meeting, October 2013; Arizona College of Trial Advocacy, Faculty Member and Presenter, 2013; "Direct and Cross-Examination of Parties and Witnesses," Arizona College of Trial Advocacy, July 2013; "Managing a Successful Arbitration" (panelist), American Arbitration Association University, April 2013; "Private Arbitration Update" (faculty member), State Bar of Arizona, 2008-2012; "Court-Assigned Arbitration: A Step-by-Step Guide Through the Process" (faculty member), State Bar of Arizona, 2012; "2012 Private Arbitration Update: Advanced Arbitration Practice" (faculty member), State Bar of Arizona; "Consolidation of Separate Arbitration Proceedings," Private Arbitration Update, State Bar of Arizona, 2009, 2010, and 2012; "Mediation as a Part of the Construction Claims-Solving Process" (chapter author), Arizona Construction Law Practice Manual, Second ed., 2011; "The CPA's Role in ADR," AICPA National Fraud and Litigation Services Conference, 2008;

"Electronic Discovery and Offers of Judgment" (faculty member), State Bar of Arizona Trial Practice Section, 2008; "Discovery in Arbitration" (panel member), State Bar of Arizona ADR Section, 2008.

Mediation Rate	\$795 Per Hour
Languages	English
Citizenship	United States of America
Locale	Phoenix, AZ

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.