



AAA Mediation.org™

**FN-2123370 MN-2123370 LN-2123370,
Esq.**

Nashville, Tennessee



Current Employer-Title The Mediation Group of Tennessee, LLC - President

Panelist Video <https://www.adr.org/videoresume?paramName=725681016>

Professional Summary Attorney. 1976 to 1990
Judge. 1990 to 2006
Mediator and Arbitrator. 2006 to present

Profession Attorney, Arbitrator, Mediator, Retired Judge

Work History President, The Mediation Group of Tennessee LLC, 2006 – Present;
Judge, Second Circuit State of Tennessee, 1990 – 2006;
Partner, Dodson Parker Shipley & Behm, 1980 – 1990;
Assistant District Attorney, State of Tennessee, 1977 – 1980;
Law Clerk, Circuit Judge North Metro Nashville, 1977.

Experience 2006 – Present: Founder of The Mediation Group of Tennessee. Arranges and serves as mediator and arbitrator for personal injury, breach of contract, franchise disputes, employment and family disputes.

1990 – 2006: Judge of Second Circuit Court, Davidson County Tennessee
Presided over jury trials involving personal injuries such as auto accidents and slip and fall cases. Managed and presided over complicated medical malpractice cases. Managed and presided over complicated products liability cases, such as the 200 breast implant cases (one of three judges in Tennessee), and 80 toxic tort cases, such as the CSX toxic tort cases of brain damage from cleaning fluid cases.

Served as Tennessee representative to the National Mass Tort Committee.

Managed and presided over 30 cases against Trevecca University for breach of contract, etc. for failing to maintain accreditation in their physical therapy program.

Helped develop the use of case management over jury cases, eventually using a special master to handle the preliminary conferences. Instituted the use of settlement conferences for all cases that were not sent to private mediation. By 2006, the actual jury trial load was 50% malpractice cases and the other 50%, personal injury or miscellaneous cases. The number of jury cases had lessened considerably due to the great increase in the use of mediation and good case management.

Presided over approximately 100 settlement conferences from other judges, which ranged from personal injury, to employment to real estate cases. Presided over non-jury family cases for 13 of the 16 years which provided great experience in dealing with high conflict persons. Mediation began in 1995 and particularly in 2000, which helped stem the tide of so much litigation in these cases, helping families have less conflict for their future.

Presided over non-jury cases for three years, a mixture of local government cases involving retirement, employee issues, particularly discrimination and worker's compensation cases.

Wrote approximately 30 trial court opinions per year. Most important civil opinion adopted by the Tennessee Supreme Court was *CSX v. McDaniel*, 955 S.W.2d 257 (Tenn. 1997), which allowed the Supreme Court to set the new standard for expert witness testimony in Tennessee, primarily following *Daubert*. Served on the Civil Court of Appeals as a Special Judge for two sessions. Wrote or co-authored eight appellate opinions.

Mediator Experience

AAA Experience: I have mediated many employment disputes, including age and sex discrimination disputes. Abortion clinic dispute between clinic and protestors as to how far protestors should be from clinic, hours of protest, damages from protestors entering building, attorneys fees. Franchisee and franchisor dispute as to misrepresentation, fraud, damages, breach of contract, numerous employment disputes, age and sex, discrimination suits, medical doctors in practice dispute as to how to break up the practice.

1990 to 2004: Served on the Tennessee Supreme Court Alternative Dispute Resolution Commission, which developed Supreme Court Rule 31, setting standards for mediation and settlement conferences as well as standards and ethics for mediators. Developed with others the Parenting Plan Legislation which requires parents to attend a parenting class and develop a plan for the future of their children. The legislation now mandates mediation for all family cases.

1990 to 2005: Served as Chair of the Alternative Dispute Resolution Committee of the Tennessee Judicial Conference. The committee studied ADR, trained judges, and promoted ADR across the state.

1990 to 2006: Judge of Second Circuit Court, presiding over approximately 100 Settlement Conferences. The cases ranged from personal injury, to landlord, tenant, real estate disputes, to appellate cases. The claims ranged in size from \$75,000 to 4 million. The parties were single plaintiffs and multiple plaintiffs. The defendants were generally insurance companies, sometimes multiple parties, representing insurance companies and under-insured or uninsured parties. Presided over numerous status conferences in both civil and family cases which helped the parties either to resolve the case at an earlier time or go to mediation.

2006 to present: Founded The Tennessee Association for Professional Mediators - Served as Organizing Chair, President, and Past President. Provides quarterly and annual meetings for mediators to provide CLE and support. President of The Mediation Group of Tennessee, LLC

2006 to present: Mediated approximately 110 civil cases involving nursing home negligence, personal injury, franchise disputes, real estate disputes, mortgage company disputes and family matters. The claims ranged from \$150,000 to 2 million dollars. Arbitrated 12 cases involving government employees and real estate matters. Investigated a case for an employer. Marketed, trained and made arrangements for mediations and arbitrations for 15 mediators and arbitrators through The Mediation Group of Tennessee. Presently arrange and mediate and arbitrate cases in my sole capacity.

Representative Issues Handled as a Mediator

Issues handled in mediations and settlement conferences have included: negligence of a nursing home; damages for family in wrongful death action; amount of compensation for franchisor from franchisee; negligence of physician in malpractice suit; damages of patient in malpractice suit;

negligence of driver in auto accident case; damages for personal injury in auto accident case; division of assets in divorce case (similar to partnership); alimony for wife; custody issues in family case; liability of owner for premises slip and fall case; liability of parent for minor's accident; liability for personal injury accident; damages for personal injury in accident; damages for negligent construction of house; liability of government nursing home for malpractice concerning bed sores; damages that are capped by government limit; and damages for wrongful death.

Mediator Style & Process Preferences

When I approach a mediation, I know I must serve multiple interests. I see my role as helping the parties negotiate a resolution which will serve them all very well, whether they are the parties, insurance companies, attorneys or associates of the parties.

Preparation for the mediation is very important. Most seeds of impasse are found in poor preparation either by the mediator or the parties. I find it helpful to have a pre-mediation conference call in every case. During that short conference, I learn who will appear, arrange logistics for ultimate deciders are not present, consider any outstanding discovery or subrogation issues, decide the time frame of the mediation, and get to know the parties a bit better. I will also inquire as to the amount of hostility between the parties and the need for an opening statement. I believe that much work can be done with both parties present.

If I determine that it would be useful to meet with each party individually by phone or in person before the mediation as it saves waiting time, I will make those arrangements during that conference call. I find it is important to really understand the positions and history of all the parties. I try to involve the party as much as the attorney. It is important to build rapport and trust with all the parties. This may serve well at crunch time during the mediation.

At the beginning of the mediation, I explain the mediation process, go over the Mediation Agreement, and try to make the parties comfortable. I will often meet with the parties initially together to make sure that we totally understand the non-confidential facts of the dispute itself. Once I have understood the parties and conveyed that understanding, I use that information, if agreed, to help the other side see the validity of the other party's position.

Then true negotiation begins, usually in separate sessions. If the parties are susceptible to assistance in the way they negotiate with each other, the negotiations will go a little easier. If not, then, it will simply require more patience. I operate in a very optimistic matter. I do not hesitate to do reality testing, but I do not threaten the parties, nor pound the table. My method is to understand the parties point of view and help them effectively negotiate with each other. I move easily from facilitative to evaluative styles depending on what is needed. I believe strongly in the theories of Jackson Little, Making Money Talk, as the money is the only communication each party has. My job is to make that sum move the parties along. Although I obviously have considered how the case might be settled, I do not impose my opinion on the parties, until I have totally run out of all tools in my toolbox. At that point, I will only give an opinion when there is a request. As experienced advocates know, that is only a one-time possibility. If there is not sufficient consensus for that opinion, then each party has two adversaries, their counterpart and the mediator, which is a sure path to impasse.

I believe strongly in listening to the parties' perception of how they could resolve the dispute. Creative solutions, when possible, are really rewarding and make this process worthwhile. It allows parties to come to a resolution which does not prevent further business dealings.

If a mediation does not settle the day of the mediation, I ask the parties whether they wish to schedule a subsequent mediation. If not, I follow up within two or three weeks to keep any momentum going at no further charge. Amazingly enough, parties often settle the formal mediation. Many times, the parties then have the tools to settle the case on their own, which is of course the goal - to take the mantle of conflict off the shoulders of the parties.

If the matter is settled, it is important to memorialize the agreement. The agreement m

Technology Proficiency

Proficient with any program on Apple Computer, Zoom.

Education

Nashville School of Law (JD-1976); University of Kansas (MAT-1969; BA-1967).
Many mediation training seminars, collaborative law training seminars, AAA arbitration trainings.

Professional Licenses

Admitted to the Bar: Tennessee, 1976

Professional Associations	American Bar Association; Tennessee Bar Association (Family Law Section, Chair); Nashville Bar Association (Ethics Committee, Co-Chair; Pro Bono Committee, Chair); Napier Looby Bar Association; Lawyer's Association for Women (Past President); Tennessee Lawyer's Association for Women (Past President); Tennessee Association of Professional Mediators (Founder and Past President); Association of Conflict Resolution; Middle Tennessee Collaborative Practice Association ; International Collaborative Law Assn.
Recent Publications & Speaking Engagements	Trainer for Lipscomb University RULE 31 Family Training, 2008, 2009, 2011, 2012; "Ethics in Civil and Family Mediations," Tennessee Association for Professional Mediators, Nashville, Tennessee, December 2008; "Rule 31 Crossover Civil to Family Law," Lipscomb University, Institute for Conflict Resolution, Nashville, Tennessee, December 2008; "Mediation in the Context of the Court System," Lipscomb University, Institute for Conflict Resolution, Nashville, Tennessee, October 2008; "Ethics at the Mediation Table," M. Lee Smith Annual Family Law Seminars Memphis, Nashville and Knoxville, Tennessee, Fall 2008 (three seminars); "How to Prepare for a Mediation," Paralegal Convention, Nashville, November 2008; "Mediation Advocacy," Greenberg Traurig Law Firm, Denver, Colorado, July 2008; "Arbitration Clauses and Recent Arbitration Cases," Corporate Counsel Section Nashville Bar Association, June 2008; "Effective Mediation Techniques, Ethics in Mediation, Construction and Employment Mediation," Tennessee Assn. for Justice, Destin, Florida, May 2008; "How Mediation Can Assist Environmental Concerns," Tennessee Solid Waste Conference, Gatlinburg, Tennessee, May 2008; "Mediation in the Context of the Court System," Lipscomb University, Institute for Conflict Resolution, Nashville, Tennessee, March 2008; "Rule 31 Family Law 40 Hour Training," Lipscomb University Institute for Conflict Resolution, March & April 2008; "Use of Mediation for Municipal Law Departments - Personal Injury, Employment and Construction," Brentwood, Tennessee, February 2008; "Ethics in Mediation from the Movies," Tennessee Association of Professional Mediators, Nashville, Tennessee, December 2007; "How to Make the Most Out of your Mediation," Fed Ex Legal Department, Memphis, Tennessee, December 2007; "Successful Techniques for Family Mediation," M. Lee Smith Annual Family Law Seminar, Memphis and Nashville, Tennessee, Fall 2007; "Governmental Use of Mediation," National Association of Municipal Attorneys Annual Convention, Nashville, Tennessee, October 2007; "Effective Techniques for Mediation and Arbitration," NPI Seminars, Nashville, Tennessee, August 2007; "Mediation Advocacy," to various law firms and bar associations, including: Bass, Barry & Simms; Boulton, Cummings & Connors & Berry; King & Ballow; Clarksville Bar Association; Sumner County Bar Association; Winchester Bar Association; Rutherford County Bar Association; and Williamson County Inns of Court, 2006-2008; "Recent Cases in Mediation," Nashville Bar Association, Nashville, Tennessee, Spring 2006, Recent Changes in Family Law, Rutherford Co. Bar Assn. 2023.
Locations Where Parties Will Not be Charged for Travel Expenses	325 miles from Nashville anywhere in Tennessee, Arkansas, Alabama, Kentucky, St Louis, Missouri, Indianapolis, Indiana, Atlanta, Georgia, Cincinnati, Ohio, Asheville, North Carolina. Reasonable hotel and food costs will be charged if stay is overnight. June 15 to August 15 if personal appearance for hearing is necessary. 300 miles from Park City Utah, anywhere in Utah, Jackson Hole Wyoming .
Mediation Rate	\$400 Per Hour
Languages	English
Citizenship	United States of America
Locale	Nashville, TN

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.