



AAA Mediation.org™

FN-21320 MN-21320 LN-21320, Esq.

Grand Rapids, Michigan



Current Employer-Title Butzel Long, P.C. – Partner

Profession Attorney - Commercial Litigation, Employment Litigation, Construction Litigation

Work History Managing Shareholder, Butzel Long, P.C., 2023 - Present; Founding member, Silver & Van Essen, 2000 – 2022; Partner, Buchanan Silver & Beckering PLC, 1995 – 2000; Chairman (Management Committee), Buchanan & Bos., 1992 – 1995; Shareholder, Clary Nantz Wood Hoffius Rankin & Cooper, 1984 – 1992.

Experience Over 35 years of practicing exclusively as a civil trial attorney specializing in commercial litigation. Areas of expertise include breach of contract cases, shareholder and partnership disputes, fraud, breach of fiduciary duty, covenants not to compete, trade secrets litigation, business torts, defamation, automotive supply disputes, antitrust, real estate disputes, liability of corporate officers and directors, RICO, lender liability, construction litigation, insurance coverage disputes, commission disputes, and a wide variety of employment disputes. Representative clients range from Fortune 500 companies, financial institutions, manufacturers, and a wide variety of closely-held companies of all sizes to individual business owners, shareholders, executives, attorneys, doctors, accountants, and other individuals in state and federal courts throughout Michigan and well over a dozen other states in all types of commercial cases ranging in value from \$100,000 to \$100 million. Listed in "Best Lawyers in America" for Commercial Litigation every year since 2010; Named as a Michigan Super Lawyer in Commercial Litigation every year since 2007; AV rated by Martindale-Hubbell every year since 1997; Selected for inclusion in "Leading Lawyers" for Commercial Litigation and ADR law; Selected as a Fellow in "Litigation Counsel of America"; Member, Million Dollar Advocates Forum; Selected as a faculty member for the Hillman Advocacy Program; Fellow, American Bar Foundation; Selected as a member of the Board of Directors of the International Society of Primerus Law Firms

Mediator Experience Have successfully mediated well over 200 cases where the amounts in controversy have ranged from \$100,000 to well over \$10 million. Cases include breach of contract disputes involving whether machinery performed to specifications, whether goods were fit for their intended purpose, and whether services provided were in accordance with contractual requirements. Shareholder and partnership disputes have included disputes involving family members in closely held businesses, claims for breach of fiduciary duty, liability of corporate officers and directors, and claims of minority shareholder oppression. Employment disputes have included claims for wrongful

discharge, discrimination, commissions owed, breaches of non-compete and non-solicitation provisions, and disclosure of trade secrets and confidential information. Construction cases have included disputes between owners, general contractors/construction managers, subcontractors, and design professionals involving claims for negligence, defective work, delays, cost overruns, and backcharges. Estate and probate cases include disputes between family members involving interpretation of wills and trusts, duties of personal representatives and trustees, and the validity of wills. Have mediated cases involving publicly traded companies, closely-held companies of all sizes, partnerships, joint ventures, manufacturers, governmental entities, banks, general contractors, subcontractors, design professionals, owners, executives, shareholders, officers, directors, attorneys, doctors, accountants, and other individuals. Have been on the approved list of mediators for the United States District Court for the Western District of Michigan since 2003, as well as most Circuit Courts in West Michigan, and regularly serve as an Arbitrator for the American Arbitration Association, as well as in private arbitrations. Member of the National Academy of Distinguished Neutrals.

Representative Issues Handled as a Mediator

Having mediated approximately 1,0000 cases, have successfully resolved cases involving a myriad of issues both pre-suit and in active litigation, including, breach of contract cases, supply chain disputes, UCC Article II cases, employment disputes of every type, product liability cases, class actions, business torts, including fraud, breach of fiduciary duty, and tortious interference, a wide range of shareholder and partnership disputes, severance disputes, securities violations, non-compete and non-solicitation cases, misappropriation of confidential information and/or trade secrets, ERISA claims, environmental cases, civil rights cases, antitrust cases, whistleblower and False Claims Act cases, sex abuse cases, preference claims and adversary proceedings in cases pending in Bankruptcy Court, will contests, and personal injury claims.

Mediator Style & Process Preferences

My overall view of the mediation process is that it is far and away the most effective process for getting cases settled. This is borne out by the fact that almost 90% of the mediations that I conduct result in a settlement. As a result, if the parties to a dispute desire to reach a settlement they should give mediation a chance, even if it appears that a settlement is extremely unlikely due to how far apart the parties are in settlement negotiations and regardless of how inflexible an opponent appears. I have been involved in numerous mediations where the parties and their attorneys thought that settlement was impossible only to be surprised that we were able to reach a settlement after a long day of mediation. My view of the mediator's role is to not only let the parties and their attorneys know that they have been listened to and that their positions and arguments have been considered, but to make sure both sides have a full appreciation for their risks and vulnerabilities. In other words, a good mediator must be able to persuade people that they have more risk than they thought and that it is in their best interests to compromise more than they thought they would coming into the mediation. To carry out that role, a mediator must undertake a detailed review of all of the written material and be thoroughly prepared, must earn the respect of the parties and their counsel, must be able to develop trust and rapport with both sides, and must have the ability to get movement by persuading the parties a settlement is in their best interests. This requires that the mediator be willing and able to have a candid discussion with the parties about the merits of their position. A good mediator must also have an open mind, be a good listener, have a great deal of patience, and a temperament that allows people to feel confident that they are being heard. Additionally, a mediator must be persistent and must never give up or throw in the towel on a mediation. As long as the parties are still at the table and are talking, anything can happen. Likewise, if the mediation session does not produce a settlement, it is critical that the mediator not give up. Rather, the mediator must follow-up with counsel for the parties and continue to help the parties find a path to settlement. Finally, an effective mediator must be skilled at helping the parties break through impasse. Obviously, this is not possible in every case, but it can be done in many cases by mediators who have experience using techniques for breaking through impasse that have proven successful.

Education

Indiana University (JD-1984); University of Redlands (BA-1981).

Professional Licenses

Admitted to the Bar: Michigan (1984); U.S. District Court: Western (1984) and Eastern (1996) Districts of Michigan, Northern District of Illinois (2000); U.S. Court of Appeals, Sixth Circuit (1984).

Professional Associations

State Bar of Michigan; American Trial Lawyers Association; Michigan Trial Lawyers Association; American Inns of Court; American Bar Association (Forum on the Construction Industry; Litigation Section, Business Torts Subcommittee); Grand Rapids Bar Association (Bench/Bar Committee, Chair).

Recent Publications & Speaking Engagements	"Lender Liability: In Search of Good Faith and Fair Dealing," THE MICHIGAN BUSINESS LAW JOURNAL, vol. XI, issue 3, July 1988.
Mediation Rate	\$525 Per Hour
Languages	English
Citizenship	United States of America
Locale	Grand Rapids, MI

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.