



AAA Mediation.org™

**FN-2154221 MN-2154221 LN-2154221,
Esq.**

New York, New York



Current Employer-Title Law Offices of Jonathan T.K. Cohen, PC, New York NY - Managing Director

Available for service as an arbitrator and mediator of business disputes conducted through: 1) in-person hearings and conferences ; 2) video and audio conferencing; or 3) a hybrid mix of live and electronic means.

Profession Attorney, Arbitrator, Mediator

Work History Managing Director, Law Offices of Jonathan T.K. Cohen PC, 2006 - Present; Director and Shareholder, McCusker Anselmi Rosen & Carvelli, 2001 - 2006; Partner, Fishbein Badillo Wagner & Harding, 2000 - 2001; Counsel, Friedman and Siegelbaum, 1996 - 2000; Associate, Lowenstein Sandler, 1989 - 1996.

Experience Arbitrator, Mediator, and business attorney, with extensive and diverse experience handling complex commercial litigation, arbitration, and commercial transactions, including service as commercial and construction panel arbitrator for AAA since 2010 and as a mediator of disputes involving commercial, financial service, real estate, construction, and other business related disputes since 2005.

Commercial litigation experience includes representation of national and regional financial institutions and banks, commercial loan borrowers and developers, business and property owners, professional service and design companies, non-profit organizations, restaurant and hospitality entities, manufacturers, distributors, and other types of businesses and individuals involved with business contract, purchase, sale, loan agreement, shareholder, and partnership related disputes, commercial real estate, construction and design disputes, valuation and appraisal disputes, creditor-debtor conflicts, entertainment-related agreements, brokerage fee disputes, commercial leasing, land use, zoning, loan workouts, restructures and bankruptcy related disputes, and eminent domain and condemnation disputes, with substantial first-chair experience in all areas of complex commercial litigation, including trial, pretrial, and appellate practice.

Transactional experience includes extensive service as lead transaction attorney in numerous complex commercial, finance, and real estate related matters, including purchase, sale,

finance, and lease related transactions, secured and unsecured lending, zoning, construction, and land use matters, business formations, development, construction and design professional agreements, professional service contracts, brokerage related agreements, and condemnation related matters. Representative litigation and arbitration matters include:

- Numerous disputes involving commercial real estate loans, loan restructures, foreclosure, and bankruptcy, including matters involving office, retail, industrial, and mixed-use and multi-unit residential properties and substantial representation of both lenders and borrowers.
- Partnership and shareholder disputes involving buy-sell, management, leasing, valuation, and governance-related conflicts between adverse owners.
- Litigation involving major international growers, manufacturers, and distributors of fruit products and major US juice company involved with production, quality, and contract disputes.
- Numerous valuation and appraisal disputes involving property owners, tenants, and lenders regarding office, industrial, retail, mixed-use, and multi-family properties.
- Litigation between national shopping center owner and anchor tenant involving construction, rent, and design-related disputes.
- Estate and trust disputes between adverse family members involving complex financial and commercial property assets.
- International arbitration between NYC consulting firm and foreign food-beverage company involving marketing agreement for US retail operations.
- Multi-party party litigation between lender, property owner, and municipal authorities involving suburban shopping center property with zoning, development and construction related disputes.
- Trial and appellate litigation involving fraud and fraudulent transfer claims between lender, developer, and borrowers.
- Multi-party disputes between non-profit organization, developers, and local government involving design, construction, land use, and joint venture issues.
- Brokerage and fee referral disputes involving brokerage firms, licensed brokers, agents, and consulting firms.
- Defense of lender-liability claims related to financing of automobile dealerships and consumers alleging joint liability for product defects.
- Commercial landlord-tenant and leasing disputes on behalf of both landlords and tenants.

Mediator Experience

Served as a mediator of over 100 litigation and arbitration disputes involving various business contracts, real property, construction, and other commercial disputes. Representative matters where comprehensive settlements have been achieved include:

- Multi-party party litigation between retail businesses, property owners, and utility company involving eminent domain rights, commercial leasing, business and real property valuation, and construction issues in dispute.
- Multi-party litigation involving wine distributor, foreign vineyard owners, and wholesale US wine sellers regarding contract breach claims, partnership disputes, and product quality issues.
- Litigation between builder/developer of 100,000 SF multi-use NYC building and adjoining owners involving construction disputes.
- Multiple disputes between law firm partners involving partnership agreement and substantial compensation allocation disputes.
- Dispute between wholesale manufacturer/seller of luxury home products and retail store owner/purchaser of goods.
- Litigation involving construction-related claims between large multi-building NYC co-op, contractors, and design professionals.
- Multi-party family business conflict involving NYC wholesale food business and property development issues.
- Multi-project and multi-venue litigation between builder/developer of town home projects and mill-work contractor.
- Litigation between country's largest mall owner and Tenant involving monetary claims and property condition counterclaims.
- Claims and Counterclaims between luxury home builder and owners related to design, construction and payment issues.
- Litigation between large residential rental building complex and security company re. fees and service counterclaims.
- Litigation between adjoining NYC Building owners involving seller and purchaser of luxury condominiums involving alleged off-site conditions.
- Litigation between owner of 10,000+ SF newly constructed luxury homes and HVAC contractor.
- Multiple disputes between project developers and architect related to payment disputes and alleged

professional negligence; and

- Multiple matters involving disputes between NYC property owners and architect or professionals.

Have served as first-chair litigation attorney in financial service, commercial real estate, and construction-related disputes, with representative matters including:

- Representation of shopping center owner in three-party dispute with national anchor tenant and prior property owners re. alleged structural defects and commercial lease related disputes.
- Representation of international grower/distributor of apple products in litigation against juice manufacturer involving contract, product quality, and litigation issues.
- Representation of industrial business and property owners involved with condemnation, valuation, and business relocation issues.
- Numerous disputes involving restaurant properties, restaurant leases, and restaurant partnership related disputes.
- Multi-party litigation involving investment bank clients and shopping center property involved with zoning and historic preservation restrictions, construction claims, and development agreement dispute with local government, property owner and tenants.
- Representation of property owners, developers, and contractors involved with New York City and New Jersey development and construction disputes.
- Trial and appellate litigation involving fraud and fraudulent transfer claims between financial institution, borrowers, and construction companies.
- * Multi-party party litigation between retail businesses, property owners, and utility company involving eminent domain rights, commercial leasing, business and real property valuation, and construction issues in dispute.

Representative Issues Handled as a Mediator

- * Comparative monetary and non-monetary claims and counterclaims between movie producer, director, and distribution company involved in multi-party disputes involving contract interpretation, distribution rights, and payment/nonpayment conflicts.
- * Liability and damage issues regarding alleged construction defects, when no written contract language address how alleged defect or negligence claims should be defined, measured, or resolved.
- * Comparative rights, obligations and contributions of parties involved in product quality, payment, distribution rights, and internal partnership disputes of multi-party and multi-issue dispute involving international wine distributors, wine-vineyard growers, and purchasers/retail sellers of wine products.
- * Comparative rights and liabilities between property owner and contractor when owner terminates a contract based on proven construction flaws, but with procedures that violate contract.
- * Potential liability of business parties when alleged contractual obligations are inferred through conduct instead but not written contract terms.
- * Issues related to a developer's duty to exercise diligence and care in pursuing development and building approvals.
- * Issues related to determination of fair-market rent during lease option term(s) in connection with retail, office and ground lease properties.
- * Disputes between Law Firm partners regarding division of fees, ambiguous or non-existent contract terms and practical concerns of parties to maintain ongoing relationship.
- * Disputes involving commercial landlord's right to keep security deposit funds based on alleged property defects at time of a Lease's expiration.
- * Disputes involving monetary claims and alleged product defects related to luxury home products.

Mediator Style & Process Preferences

I believe out-of-court settlements are possible with most mediation proceedings after parties are encouraged to gradually consider alternative points of view and the pros and cons of a possible negotiated settlement verses the risk, uncertainty, and costs (both monetary and personal) of continuing conflict through a more time-consuming litigation or arbitration proceeding.

Since the primary dynamics of a pending conflict can be anticipated, but usually not predicted, I approach each matter with patience and an open mind about each party's different views, sensitive to the fact that different parties may have very different styles and timing in the ways they communicate, listen, or become able to accept a negotiated, compromised resolution. I begin each mediation proceeding by initially reviewing each party's most relevant claims, documents and adverse positions that are presented before or after an initial phone conference takes place and also through brief written summaries in many, but not all, matters.

As I learn about each party's positions during open caucus meetings and private confidential meetings with each party I periodically reassess how to best facilitate additional dialogue and

negotiations with each party. My experience has included proceedings that have resulted in comprehensive settlements with a significant level of direct communication between all counsel and sometimes parties to matters that could only be resolved with virtually no direct contact between adversaries. While many of my matters have involved court-ordered proceedings, with parties who are often skeptical about the mediation process, I continuously strive to remain patient, flexible, and persistent, even when working with parties who may initially appear unable or unwilling to negotiate a compromised settlement.

While my substantive experience with business, real estate, and construction related issues (as both a trial and transaction attorney and as a business owner and manager) helps me to better understand the adverse legal and business issues of most conflicts that I mediate, I am also adapt at understanding and addressing, when necessary, less obvious personal factors that may impact a conflict.

Education

University of Pennsylvania Law School (LLM, Commercial Law Concentration: 1989); City University of New York Law School (JD: 1988); State University of New York at Albany (BA, Magna Cum Laude: 1982).

Professional Licenses

Admitted to the Bar: New York (1989), New Jersey (1989). Admitted to practice in Federal and State Courts of New York and New Jersey.

New York State Licensed Real Estate Broker.

Professional Associations

Commercial and Construction Panel Arbitrator and Mediator for American Arbitration Association; Fellow of The Chartered Institute of Arbitrators ("FCIArb"); Member of American Bar Association and ABA Committee on Alternative Dispute Resolution; Member of New York State Bar Association and the NYSBA Committee on Alternative Dispute Resolution; Member of New York City Bar Association; Member of Valley National Bank Professional Advisory Council between 2005 and 2015; Board of Director Member of NYC co-op corporation between 2014 and 2022 and of Eastern Long Island Homeowners Association between 2017 and 2021.

Recent Publications & Speaking Engagements

Commercial Mediation Training Facilitator for New York State Rule 146 Mediation Training Program, 2022 and 2021; APPRAISAL INSTITUTE, New York Long Island Chapter and NEW YORK MORTGAGE BANKERS ASSOCIATION, Feature Speaker for joint annual program addressing arbitration and mediation of valuation and bank litigation disputes, October 2016; APPRAISAL INSTITUTE, Northern New Jersey Chapter, Feature Speaker on Arbitration and Mediation of valuation and appraisal disputes, December 2011; Author of Article titled "Determining Maximum Compensation in Business Condemnations," CORPORATION COUNSEL MAGAZINE, June 2004; Author of Article titled: "Assignments of Rent Before and After Bankruptcy," NEW JERSEY LAW JOURNAL, January 1994.

Locations Where Parties Will Not be Charged for Travel Expenses

Local travel time is not billed, defined as travel time that occurs within 25 miles of Manhattan NY Office and up to one hour of travel time each way.

Mediation Rate

\$600 Per Hour

Languages

English

Citizenship

United States of America

Locale

New York, NY

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.