



AAA Mediation.org™

**FN-2166495 MN-2166495 LN-2166495,  
Esq.**

**Los Angeles, California**



## **Profession**

Arbitrator and Mediator

## **Work History**

Mediator and Arbitrator, Lecturer of Law UCLA Law School (2011-2020); Consultant, Skadden, Arps, Slate, Meagher & Flom (2009 - present); Litigation and International Arbitration Partner, Skadden, Arps, Slate, Meagher & Flom (1986 - 2008); Adjunct Professor of Law, Loyola Law School of Los Angeles (2002-2011); Litigation Associate, Loo, Merideth & McMillen (1983 - 1986); Regional President and Local President, American Federation of Government Employees, Council of Social Security District Office Locals (1977 - 1983).

## **Experience**

Franchise and Distribution Law -

Numerous arbitrations, mediations and nationwide litigation and appellate practice representing franchisors and franchisees regarding franchise system acquisitions and dispositions (values up to approximately \$100 million), disputes regarding franchise relationships issues, third-party liability, products liability, multi-branding, employment law, trade secrets, alternative means of distribution, insolvency, Prop. 65, ADA, contract disputes, encroachment, transactional and regulatory issues arising out of state franchise investment and relationship laws and UFOC and FDD preparation and modification issues. Industries include: beverage distribution, QSR, restaurants, clothing, hotels, Internet sales, motor vehicle manufacturing and sales, educational services and employment services.

Oil and Gas and Construction Matters -

Represented major international oil and gas companies in international and domestic litigation, arbitration and expert proceedings regarding offshore gas sales contracts, redetermination of equity interests in unitized fields, unit operating agreements and unitization agreements, a consortium of international oil and gas companies in litigation and negotiations with a sovereign, disputes over a 3D seismic survey, intra-partnership disputes regarding various upstream production issues, disputes between oil and gas companies and sovereigns regarding royalty payments, oil refineries regarding product pricing and pipeline tariff issues. Represented major construction companies regarding construction and renovation of landfill project and liquefied natural gas terminal. Appeared in multiple international and domestic arbitrations, expert proceedings and before state and federal

court, and various regulatory agencies, including FERC, ADNR, and AOGC. Matters ranged in value from \$40 million to over \$1 billion.

#### Class Actions and Individual Actions Concerning Personal Injury, Employment, Securities and Consumer Matters -

Consumer class actions regarding tax investment scheme, antitrust under federal and state law, ADA and wage and hour actions, bank and credit card fees, securities (including matters involving fraud, fiduciary duties, corporate structure, poison pills, initial offerings, and M&A), and student loans. Individual actions regarding employment terminations, premises liability, vicarious liability, personal injury, wage and hour, food safety, and disputes under a collective bargaining agreement. Class action claims ranged in value from \$10 million to over \$3 billion.

#### Mergers and Acquisitions (M&A) and Joint Ventures -

Acted as advocate in connection with acquisition or disposition of numerous companies, including major nation and international brands.

Consultant and expert witness on international and domestic arbitration law and practice, including enforcement of arbitration agreements and international and domestic arbitration awards and fair valuation of litigation from a mediator's perspective.

### **Mediator Experience**

Full time neutral since 2008 retirement as a litigation and international arbitration partner and member of the franchise law group at Skadden, Arps, Slate, Meagher & Flom LLP. Since that time, has conducted over 280 mediations and over 160 arbitrations. Has mediated disputes between franchisors and franchisees, employment law matters (including wage and hour and wrongful termination matters), contract disputes (insurance coverage, construction, collections, commercial transactions), and personal injury (auto, premises liability, and habitability).

Relying on over thirty years experience representing franchisors and franchisees in both litigation and transactions, successfully mediated domestic and international franchise disputes, including disputes regarding the alleged unlawful termination of quick service restaurant franchises, area development agreements, franchise termination, rescission of franchise agreements, and FDD issues. Experience as an advocate included: Franchise issues in connection with acquisitions of major franchise systems, distribution advice regarding nationwide products; mediations regarding franchise relationship issues, third-party liability cases, products liability, and insurance-related matters; litigation, advice and appellate work regarding a wide range of franchise issues, multi-branding, employment law, trade secrets, franchisee insolvency proceedings, Proposition 65 disclosure issues, and franchisee insolvencies; settlement counsel for ADA class action against a leading QSR franchisor, mediations regarding franchise relationship issues, third-party liability cases, and contract disputes; litigation regarding a wide range of franchise issues, employment law, and trade secrets.

Based on experience as an advocate in mostly upstream oil and gas and pipeline disputes, successfully mediated international energy dispute.

Based on experience litigating class action disputes concerning wage and hour issues and experience arbitrating employee grievances and representing a public employee union at unfair labor practice hearings, successfully mediated wage and hour disputes concerning alleged unpaid overtime, alleged violation of California wage and hour laws and timekeeping requirements, and wrongful discharge matters. Has mediated contract disputes involving real estate matters, insurance coverage, purchase and sale of businesses, allegations of breach of contract, fraud in the inducement, and other commercial matters.

Litigation practice infrequently involved personal injury matters. Since becoming a full time neutral, mediated dozens of personal injury matters, including automobile accidents, premises liability claims at residences and business (including markets and other public locations), and habitability claims under landlord/tenant law. Frequently mediated matters involving public entities where there have been allegations of personal injury.

### **Representative Issues Handled as a Mediator**

Mediated quick service restaurant franchise agreement disputes (AAA); Postal service franchise termination; health club franchise termination; restaurant franchise termination; restaurant franchise

termination; quick service restaurant franchise termination (AAA); plumbing systems franchise and distribution agreement. Mediated personal injury actions arising out of automobile accidents, and premises liability. Has mediated employment-related matters, including wrongful discharge, wage and hour claims, and allegations of discrimination. Mediated commercial and energy disputes, including breach of contract, collections, fraud, insurance coverage, and intellectual property disputes. The contract and intellectual property disputes have included distribution and franchise-related matters. Mediated disputes arising out of probate-related matters, including claims of breach of fiduciary duty, allocation of assets and liabilities among different classes of beneficiaries, and claims related to estate costs. Has mediated both commercial and residential landlord/tenant disputes, including unlawful detainer and habitability disputes. Mediated disputes arising out of the sale of businesses and consumer-related actions, including Lemon Law cases.

## **Mediator Style & Process Preferences**

Mediation is a consensual alternative to litigation. Accordingly, it is very important for the parties to be satisfied with both the mediation process and the outcome. The parties should retain ultimate control over the mediation process. The typical mediation process encourages parties to build towards agreement beginning at the initial joint session and then in private sessions with the parties. A successful mediation generally requires a detailed assessment of the facts, legal theories and party motivational issues while addressing potential settlement options. Following case analysis negotiations are facilitated among the parties by exploring settlement structures and monetary issues using a variety of tools to break impasses.

Pre-mediation statements that include each party's views on the facts, law, past settlement discussions, and key documents are appreciated..

The durability of any settlements achieved is paramount and, therefore, the parties are encouraged to draft settlement agreements that are enforceable in court and unambiguously resolve the disputes between the parties. When requested, will review draft settlement agreements with the parties to help the parties determine whether a durable and unambiguous settlement agreement has been drafted. Where appropriate for international disputes, will assist the parties in the preparation of consent arbitration awards.

## **Education**

Loyola law School of Los Angeles (JD, cum laude, Loyola Law Review 9th Circuit Editor-1983); University of California at Los Angeles (MA-1978); University of California at Davis (BA, with honors-1974); Advanced Mediation, Straus Institute for Dispute Resolution (2012); Mediating the Litigated Case, Straus Institute for Dispute Resolution (2008).

## **Professional Licenses**

Admitted to the Bar: California (1983); U.S. District Courts: Central (1984), Northern (1987), Eastern (1995), Southern (1996) Districts of California, Eastern District of Wisconsin (1987), District of Arizona (1998); U.S. Court of Appeals: Fourth (2005), Sixth (1993), Eighth (1991), and Ninth (1984) Circuits.

## **Professional Associations**

Fellow, Chartered Institute of Arbitrators (FCIArb) 2012; Former Member, ICC Commission on Arbitration; Former Member, Executive Committee Chartered Institute of Arbitrators North American Branch; Past Chair, State Bar of California (Litigation Section, ADR Committee); State Bar of California (Business Law Section, Past Member of Executive Committee and past Franchise Law Committee, Co-Chair); The United States Council for International Business (Southwest Arbitration Subcommittee, Past Co-Chair); Member, ABA Forum on Franchising; Member, Supreme Court of California International Commercial Arbitration Working Group (2017); Lecturer at UCLA School of Law (2011 to present) (International Commercial Arbitration and International Commercial Arbitration Advocacy).

## **Recent Publications & Speaking Engagements**

### **PUBLICATIONS:**

“Consumer Click Arbitration: A Review of Online Consumer Arbitration Agreements,” 9 Arb. L. Rev 1 (2017); “Religious Arbitration Agreements In Contracts Of Adhesion,” Penn State Yearbook On Arbitration And Mediation, Vol. 8, pg. 45 (2016); “Is it Time to Awaken the New York Convention’s Dormant General Reciprocity Clause?,” The American Review of International Arbitration, Vol. 26, pg. 542 (2016); International Commercial Arbitration for Law Students (2014); Co-Author, Chapter on Franchising, Business and Commercial Litigation in the Federal Courts (multi-volume treatise)(2011); Chapter III.10-United States, Practitioner’s Handbook on International Arbitration and Mediation, 3rd Ed. (2012); “International Commercial Arbitration,” California Business Law Practitioner, Vol. 26/Number 3 (Summer 2011); Co-Author, “What’s Money Got To Do with It?: How subjective, Ad Hoc Standards for Permitting Money Damages in

Rule 23(b)(2) Injunctive Relief Classes Undermine Rule 23's analytical framework," Tulane Law Review, July 2006; Co-Author, "American Werewolves in London," Arbitration International, Vol. 18, No.2, October 2, 2002.

**SPEAKING ENGAGEMENTS:**

Webinar Panelist, "How to Disqualify an Arbitrator," State Bar of California (2017); Speaker, "Multi-Party Arbitration: A Review of Best Practices," USC-JAMS Arbitration Institute, USC Gould School of Law, 2nd Annual ADR Symposium (2017); Speaker, "Click Arbitration - A Review Of Online Consumer Arbitration Agreements," Penn State Law School Symposium on Controversies in Arbitration (2017); Speaker, "Using a Mock Arbitration to Improve Your Case," ICC Young Arbitrators' Forum (2016); Speaker, "The ABC's of Arbitration and Mediation," 2016 Solo and Small Firm Summit, State Bar of California (2016); Speaker, "Counsel Ethics in International Arbitration: Is Self-Regulation Sufficient?," USC Gould School of Law, 1st Annual ADR Symposium (2016); Speaker, "To Disclose Or Not To Disclose: That Is The Question -- The Whens, Hows, Whats and Ethics of Arbitrator Disclosure Obligations," AAA Roundtable (2016); Speaker, "Enforcement of Religious Arbitration In Contracts Of Adhesion," Penn State Law School Symposium on the Politics of Arbitration (2016); Panelist, "To Litigate or Arbitrate: When is Arbitration the Answer for International Disputes?," California Minority Counsel Program Annual Business Conference (2015); Moderator, "International Arbitration in California," Chartered Institute of Arbitrators, North American Branch, Centennial Conference (2015); Panelist, "Getting the Edge in Arbitration: Fees and 998 Offers," Webinar Presented by the California State Bar, Litigation Section, ADR Subcommittee (2015); Panelist, "Ethics Across Borders: the Standards that Apply in ICC Arbitration and how they are Enforced," Young Arbitrators Forum, International Arbitration: Procedure, Ethics and Neutrality (2015); Moderator, "How to Litigate a Franchise Dispute," Webinar Presented by the California State Bar, Business Law Section, Franchise Law Committee (2015); Panelist, "Effective Advocacy in International Arbitration," California State Bar, International Law Section (2015); Panelist, "Getting the Edge in Arbitration: Fees and 998 Offers," Presentation to the California State Bar Annual Meeting (2014); Webinar Panelist, "Navigating the Rough Seas: When the FAA meets the CAA," California State Bar, Litigation Section, ADR Subcommittee (2014); Panelist, "Ethical Standards for Counsel in International Arbitration," Presentation to the LACBA & ICDR 3rd Annual International Arbitration Conference (2014); Webinar Panelist, "What California Litigators Need To Know About International Commercial Arbitration," California State Bar, Litigation Section, ADR Subcommittee (2014); Panelist, "International Arbitration: The Use of Reliance Documents & Expert Witnesses - Efficiency & Fairness.

**Locations Where Parties Will Not be Charged for Travel Expenses** Southern California.

**Mediation Rate** \$10,000 Per Day

**Languages** English

**Citizenship** United States of America

**Locale** Los Angeles, CA

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.