



AAA Mediation.org™

**FN-22 MN-22 LN-22, Esq.**

**Menlo Park, California**



**Current Employer-Title** Full-time ADR Neutral

**Profession** Attorney, Arbitrator, Mediator, Referee

**Work History** Attorney/Full-time ADR Neutral (Present); Partner/Associate, Orrick Herrington & Sutcliffe .

**Experience**

CONSTRUCTION: Represented general contractors, subcontractors, specialty contractors, equipment suppliers, owners, developers, public agencies, lenders, and design professionals on public and private industrial, institutional, commercial, heavy engineering/highway, and residential projects in both federal and state courts and arbitration (40%). Matters ranged from extra work and delay claims to design malpractice.

LABOR and EMPLOYMENT: Counseled both union and non-union employers and some employees in various lines of business and represented them in both federal and state courts and arbitration (40%). Matters ranged from wage and hour to wrongful discharge, wrongful references, and various types of discrimination.

OTHER: Represented business clients in securities (stock fraud and customer claims), banking (blanket bond and wrongful termination of credit claims), antitrust (price fixing), and diverse other business matters, including class actions. Instructor in trial advocacy at Stanford Law School.

**Mediator Experience** Mediation experience extends over more than 20 years. Initially served part-time, while also engaged in a conventional law practice. However, has been a full-time ADR neutral since 1996.

Experience includes construction, employment, real estate and other business disputes. Construction cases have included disputes between owners and general contractors; general contractors and subcontractors; disputes involving material suppliers; and disputes involving design professionals. The disputes have involved multi-story steel frame and reinforced concrete structures, low-rise frame multi-family residences and single family residences, as well as heavy engineering and landscaping projects. Both private and public entities have been involved. The majority of cases have involved new construction, but many have arisen from conversion, rehabilitation, modernization or remodeling projects.

Employment cases have included wrongful termination claims; alleged breach of employment contracts; and race, sex, age and religious discrimination claims. Most of them have involved private employers, but some have involved public employers.

Real estate cases have included landlord-tenant disputes, as well as disputes between buyers and sellers of real property and disputes between brokers and principals.

Cases have also included partnership dissolutions, disputes between buyers and sellers of businesses, manufacturers or providers of services and sales representatives, franchisors and franchisees, legal malpractice, attorney-client fee disputes, insurance coverage disputes and dental malpractice claims.

Although most cases have been domestic, some matters have involved French or Philippine firms. Although most of the disputes have involved trial court or arbitration level cases, some have involved cases on appeal.

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

The majority of construction cases have involved disputed claims for extra work or defective work or both. However, many of them have involved disputes over delay compensation claims by contractors or delay or liquidated damage claims by owners or both. Many have also involved claims of design malpractice.

Employment cases have involved disputes over both liability and damages. In some instances, the need for vindication, either on the part of the employer or, more commonly, on the part of the employee has been a major issue.

Many other cases have presented opportunities for classic "orange juice-orange peel" solutions. For example, some of the partnership dissolution cases have involved situations in which one partner wants to continue the business, while the other's interest is in retirement.

## **Mediator Style & Process Preferences**

If Madison were to state his mediation philosophy in one word, it would be businesslike. He is not wedded to facilitating, evaluating or transforming, but is dedicated to doing whatever will best help parties solve whatever problem divides them. His most noteworthy characteristics are patience and tenacity. He believes it is crucial to identify the needs and interests of parties, both financial and psychological or emotional. Timing is also of major importance, both macro---whether a dispute has reached a stage that parties are able to consider resolution realistically; and micro---whether a particular mediation has reached a stage that parties are able to accept resolution. If a case does not resolve at a first mediation conference, but no further conference is scheduled, he will without additional charge follow up by telephone as necessary to keep the parties moving toward settlement. An integral part of his philosophy is that, although he will work as long in any day as he can be helpful, he will not charge for more than seven hours in any one day.

## **Education**

Stanford University (LLB; BS, Civil Engineering).

## **Professional Licenses**

Admitted to the Bar: California, 1960; U.S. District Court: Northern, Central, Eastern, and Southern Districts of California; U.S. Court of Appeals, Ninth Circuit; U.S. Supreme Court.

## **Professional Associations**

California State Bar Association (ADR Committee, Past Chair); Bar Association of San Francisco (ADR Section, Arbitration Committee, Past Chair); San Mateo County Bar Association (ADR Section); American Bar Association (Litigation and Dispute Resolution Sections); National Academy of Distinguished Neutrals; Silicon Valley Arbitration and Mediation Center (Tech Panelist); Fellow, College of Commercial Arbitrators (Chair, Ethics Committee; Past Member, Board of Directors); Dispute Review Board Foundation; American Society of Civil Engineers; California Dispute Resolution Council (Past President); The Mediation Society.

## **Recent Publications & Speaking Engagements**

Co-author "Appointment, Disclosures, and Disqualification of Arbitrators," "Determining Jurisdiction and Arbitrability," "Post Award Matters," and "Class Arbitration," chapters in THE COLLEGE OF COMMERCIAL ARBITRATORS GUIDE TO BEST PRACTICES IN COMMERCIAL ARBITRATION (Juris Net, LLC, 4th Edit. 2017); "Arbitrator Ethics," chapter, CONSTRUCTION ADR (American Bar Association 2014); "New Arbitrator Ethics Standards," CALIFORNIA LITIGATION, Vol. 24, No. 3, November 2011; "Everything You Need to Know About Authority to Settle a Mediation," DISPUTE RESOLUTION JOURNAL, May-July 2008; "Arbitrator Immunity," CALIFORNIA LITIGATION, Vol. 19, No. 3, November 2006; "California Supreme Court Upholds Confidentiality in Mediation," ADR CURRENTS, September-November 2001; "Is Mediation Confidential? A Critique of the Olam and Foxgate Decisions," ADR CURRENTS, June-August 2000; "Pre-Dispute Employment Arbitration Agreements Face Legal Uncertainty," NORTHERN CALIFORNIA HUMAN RESOURCES ASSOCIATION BULLETIN,

February 2000; "A Side Issue: Examining Party-Appointed Arbitrator Clauses," SAN FRANCISCO DAILY JOURNAL, January, 10, 1996; "On Further Review: When May Arbitration Awards Be Vacated," SAN FRANCISCO DAILY JOURNAL, September 27, 1995; chapter on suitability of ADR for construction disputes, ADR: A PRACTICAL GUIDE TO RESOLVE CONSTRUCTION DISPUTES, AAA, 1994; "Remedies Available in Arbitration" and "Arbitration of Construction Disputes," chapters, THE ALTERNATIVE DISPUTE RESOLUTION PRACTICE GUIDE, Lawyers Cooperative, 1993, West Group, 2005; "Drafting the Arbitration Clause," "Vacating the Award," and "Drafting Mediation Agreements" chapters, CALIFORNIA ADR PRACTICE GUIDE, McGraw-Hill, 1992, Lexis, 2004; chapter on mediation of employment claims, MEDIATION AND ARBITRATION, A HANDBOOK FOR ATTORNEYS AND THEIR CLIENTS, AAA, 1991; "In Search of a Standard for Judicial Review of Legal Error in Commercial Arbitration Awards," GOLDEN GATE UNIVERSITY LAW REVIEW, vol. 2, p. 245, 1991; articles on affirmative action WESTERN CITY MAGAZINE, September 1989, September 1987; "The Employee's Emerging Rights to Sue for Arbitrary or Unfair Discharge," EMPLOYEE RELATIONS LAW JOURNAL, vol. 6, p. 422, 1980; various others. Faculty, Arbitration Training Conference, ABA, February 18-21, 2009.

**Locations Where Parties Will Not be Charged for Travel Expenses** Parties will not be charged for travel expenses within the Greater San Francisco Bay Area

**Mediation Rate** \$500 Per Hour

**Languages** English

**Citizenship** United States of America

**Locale** Menlo Park, 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.