



AAA Mediation.org™

**FN-2253445 MN-2253445 LN-2253445,
Esq.**

Philadelphia, Pennsylvania

Current Employer-Title Retired Judge
McElroy Deutsch. – Of Counsel

Profession Arbitrator, Mediator, Appellate Consultant

Work History Judge, Superior Court of Pennsylvania, 2002 – 2009; Judge, Common Pleas Court of Philadelphia, 1972 – 1973 and 1976 – 2001; Attorney, Abrams and Loewenstein, 1974 – 1975; Attorney, various firms including Cozen & Begier, Dilworth-Paxon, and Korn & Cohan, 1964 – 1971.

Experience Serving as Arbitrator and Mediator since leaving the bench in 2010. Served as appellate court judge on Pennsylvania's intermediate appellate court, the Superior Court, for eight years, wrote approximately 2,000 published and non-published opinions and voted on 4,000 more. Prior to that, served as a trial judge in Philadelphia for 28 years since assuming the bench as the youngest judge in Pennsylvania's history. In each court, more than half of time was spent on civil matters. Handled a wide variety of all kinds of civil cases.

As a trial judge, developed new techniques for administering mass torts, serving as supervising judge in the beginning of the asbestos case program. Presided over many medical malpractice, product liability and other personal injury cases. While handling many criminal and personal injury cases, literally hundreds of the cases involved commercial matters, many in the multi-million-dollar range. The variety of commercial cases decided recently in the appellate court include:

Appellate Court cases included contract cases, corporate cases, class action cases, real estate cases, insurance coverage issues, construction issues, bad faith issues, etc.

As an arbitrator and mediator for more than a decade, cases include:

Automobile accident cases - Too numerous to list all.

Bad faith claims

- Many incorporated into personal injury cases

Class action cases

- Question as to whether “all claims to be arbitrated” clause, with no reference to class actions, precluded class action arbitration.

Consumer Cases

- Claim for damages because company did not honor return of items that did not fit.

Contract disputes

- Contractor-subcontractor disputes

Construction cases

- Claim of Consent decree violation after remediation of moisture infiltration.

Consumer cases

Employment Issues

- Issues include non-compete clauses, whistle-blower cases, "sweetheart" contract to associate; etc.

Health Care Issues

- Claim that insurance carrier did not properly pay valid claims for services

Insurance issues

- Include agent failing to notify of drop in coverage; subcontractor obligation to assume defense when no claim filed, under insurance claim for motorcycle under parents' policy; home collapse, etc.

Legal Malpractice

- Claimant alleged counsel failed to note error on date which got case dismissed on statute against developer for improper foundation

Mass tort cases

- Issues involved whether exposure to defendant product enough to establish liability; product identification, time of exposure, "baseball arbitration" cases, etc.

Medical Malpractice

- Cases include necessity of prophylactic mastectomy; broken laparoscope blade; child loss of testicle, etc.

Miscellaneous

- Patron hurt at nightclub, claim of lack of security; cheerleader hurt at workout; etc.

Product liability cases

- Cases include defective brakes; injury at airport turn style, defective tire, assembly line cases, etc.

Premises liability cases

- Multiple slip and fall cases, on defective sidewalks, ice and snow, in supermarket and "big box" stores, casinos, etc.

Real estate issues

- Claim that real estate seller concealed a forbearance contract
- Claim for commission for securing buyer for note secured by real estate – defense that the claimant did not secure the buyer.
- Cable company claimed real estate developer improperly precluded it from servicing customers.
- Claim that contractor improperly tore down part of adjoining homeowner's wall, encroached with its own wall.
- Dispute between contractor and subcontractor as to who should pay for certain improvements.

Wrongful death cases

- Death claimed because doctor over prescribed Oxycodone.

Mediator Experience

Served as a mediator since retiring after 36 years of judicial service in 2010 after 36 years of judicial service.

Served on Philadelphia's trial court for 28 years and the Pennsylvania Superior Court. Mediated all types of cases, including personal injury, employment, contract, and others.

As a trial judge, primarily in civil cases, engaged in the settlement of cases for more than fifteen years.

Served as a supervising judge for the asbestos case program which resulted in the disposition of thousands of cases.

Representative Issues Handled as a Mediator

A case where allegation that a bank sold a loan knowing of the forbearance agreement.

Claim that employee discharged because of whistleblowing; counterclaim that lied about credentials.

The case where an employee claimed improperly refused to make accommodation so she could care for the sick husband.

Ten passengers injured when the truck hit a church van.

A Claim of a rehabilitation facility which required a patient to over exercise, further harming their knee.

Claim that fracking polluted homeowners' water supplies.

The claim that law firm improperly handled wrongful termination case after the new firm received \$100,000 more.

Claim that receiver mishandled assets in his care.

The case of a house Foundation collapsing questioned whether the seller should have known because of cracks.

Worker burned by acid - question whether he was a "loaned employee."

Question whether Workers' Compensation case barred tort claim because of collateral estoppel.

The issue whether \$350,000 of water damage was due to tenant failure to maintain heat.

The issue regarding the sale of a company making glucose measurement machine.

Question whether fast food chain defaulted on an agreement to franchise stores in the United Arab Emirates.

Estate mediation where sisters were arguing over who gets mother's houses.

Question about whether one party was doing more than allowed by the easement.
 Issue whether a member of neighborhood group was defamed by the Board of the Association.
 Products liability case when a guard came off of an electric drill, and he lost ends of two fingers.
 The issue of whether the employee was dismissed for filing workers' comp case or for yelling at the boss.
 The issue of whether majority partner of real estate mortgaged property to pay preexisting loans.
 Woman injured knee when hit by the drawer of a slot machine in a casino.
 Death case where the claim was that airbag did not deploy.
 Multiple automobile accident cases.
 Multiple slip and fall and other premises liability cases.

Mediator Style & Process Preferences Mediation should be a voluntary process which belongs to the parties. The mediator should be a facilitator and not dominate the process. He or she should at all times show respect to the parties and their counsel. The mediator needs to analyze the situation and fit the process to the situation before him or her. To be effective, the mediator must be prepared and know the case as well as counsel. Since mediation involves "caucuses" with the parties individually, confidentiality is vital, and the mediator must earn the trust of the parties. Of course, it is the mediator's role in individual caucus to point out the weaknesses in each side's case and the strengths of their opponent's. At the same time, this must be done with respect. The mediator must be patient, as the process must run its course and often takes a good deal of time. The mediator needs to be a good listener. The mediator should be able to think "outside the box" to come up with creative solutions. The mediator must be able to look beyond the specific issues of the dispute to find what may be the REAL interests of the parties. The mediator should realize that even a "failed" mediation may lead to a future settlement. The mediator should be prepared to follow up after an unsuccessful mediation, either by telephone or otherwise. Sometimes it takes more than one meeting for the parties to recognize the reality of the situation. The mediator should make sure to reduce any agreement to writing, so there will not be disputes later over what was said.

Education Harvard Law School (JD, with honors-1964); Amherst College (BA, Phi Beta Kappa, Magna Cum Laude-1961).

Professional Licenses Admitted to the Bar: Pennsylvania, 1964.

Professional Associations Philadelphia Bar Association (ADR Committee, Co-Chair; Civil Litigation Committee); Pennsylvania Bar Association (ADR Committee; Plain English Committee, Founding Co-Chair; Appellate Advocacy Committee; Member, Nation Online Courtroom Project; Pennsylvania Futures Commission (Vice-Chair; Alternate Paths to Justice Task Force, Co-Chair).

Recent Publications & Speaking Engagements PUBLICATIONS: Co-author, TRIAL COMMUNICATION SKILLS, 2nd ed., West Publishing; and multiple articles for bar publications.

SPEAKING ENGAGEMENTS: Wrote and presented multiple CLE programs dealing with mediation, including,
 How to Represent a Client at Mediation
 Ethics in ADR
 A Guide to ADR Choices
 The Do's and Don'ts of Mediation
 Appellate Mediation

Served as the education leader for legal study tours since 1986, visiting over 20 countries. Lectured on the law of those countries as well as arranging for and presiding over meetings with foreign colleagues. The meetings were with law firms, judges, law school deans and professors, court visits, etc. Countries include Russia, China, South Africa, Argentina, Chile, France, Thailand, Singapore, Vietnam, Poland, Hungary, the Czech Republic, Egypt, and Morocco.

Mediation Rate \$495 Per Hour

Languages English

Citizenship United States of America

Locale

Philadelphia, PA

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.