



AAA Mediation.org™

**FN-2269655 MN-2269655 LN-2269655,
Esq.**

Haymarket, Virginia



Current Employer-Title SEIU Benefit Funds – Deputy Director and Associate Counsel

Profession Attorney

Work History Assistant Executive Director & Counsel, SEIU Benefit Funds, 2011 – Present; Associate, Proskauer Rose LLP, 2005 – 2011; Contract Attorney, EDS, 2004; Contract Attorney, Walker Sewell LLP, 2002 – 2003; Partner, Henderson-Love Montgomery LLP, 2001 – 2003; Technical Research Consultant, Diversified Investment Advisors, 2000 – 2001; Attorney, Anthony Gulley & Associates, 1997 – 1999; Attorney, Law Office of Ray L. Shackelford, 1996 – 1997; Judicial Intern to Hon. Calvin Botley, U.S. District Court Southern District of Texas, 1996.

Experience Asst. Executive Director & Counsel at National Industry Pension Fund. Practice is ERISA and Labor and Employment.

Assist the Executive Director in the day to day management and administration of three (3) US defined benefit pension funds; two (2) Canadian defined benefit pension funds; two (2) US defined contribution benefit funds; and one (1) US health and welfare benefit fund to ensure that all plans are in compliance with all governing laws and regulations;

Responsible for the review of IRS and DOL filings;
Draft and revise plan documents to incorporate plan design changes and plan amendments;
Managing the Fund's delinquent contribution and withdrawal liability process
Oversee the preparation of Board of Trustees' reports;
Work with outside consultants to ensure efficient operation of the various Funds;
Supervise outside counsel;
Manage litigation matters, including the handling of discovery related issues;
Draft HIPAA Security and Privacy policies and conduct training; and
Draft COBRA policies

Serve as the Chief Negotiator for union contract negotiations between the Funds and the bargaining unit staff;
Responsible for all personnel and human resources matters relating to Benefit Funds staff, including

but not limited to: Investigating internal complaints pertaining to labor and employment issues and draft the Funds' response in accordance with federal and state regulation and relevant case law;
Handle employee grievances and arbitrations;
Draft and revise employee handbook
Draft Settlement Agreements and Severance Agreements;
Draft all policies and procedures related to the Fund staff;
Monitor business processes to ensure optimum functionality of the Fund;
Develop strategies for the recruitment and retention of staff;
Conduct Harassment Training;
Oversee twelve (12) managers; and
Manage outside counsel

PROSKAUER ROSE, LLP

Associate in the Labor & Employment Law Department. Proficient in labor and employment and ERISA litigation fields.

Represented employers in employment disputes in state and federal court and administrative agencies, including but not limited to discrimination, wrongful discharge, FMLA, and non-competition agreements.

Handled a wide range of ERISA cases-both single plaintiff and class actions, including successfully defended companies, fiduciaries, plan sponsors, service providers, and multi-employer plans against the following claims: ERISA breach of fiduciary duty; prohibited transactions; improper denial of claims for benefits; breaches relating to participant investment in employer securities; and delinquent contributions. Co-chaired the Pro Bono Committee for the New Orleans office and was a member of the Firm's Diversity Steering Committee.

Has successfully litigated employment cases involving Title VII, race, sex, and age discrimination, disability, and FMLA. Examples of cases handled include: (1) Litigated a racial discrimination case against a University. The client was wrongfully terminated and replaced by a person of a different ethnic background. The client was also harassed. Discrimination was found but the EEOC opted not to file suit on behalf of the client. As such, a right to sue was issued and litigation proceeded. Written discovery and deposition were conducted and the case was settled. (2) Litigated another race case against a hotel chain. The client was wrongfully terminated and replaced by a person of a different ethnic background. Worked with the EEOC and a right to sue letter was issued. Written discovery was conducted and the case was soon thereafter settled. (3) Litigated a case involving age discrimination, harassment, and retaliation against an oil company. The client was subjected to constant harassment and subsequently terminated when they complained to management. The client was replaced by a younger person. Written discovery and depositions were conducted.

Mediator Experience

Has served as a mediator in family law and employment law cases.

The family law cases dealt with issues surrounding the division of property and child custody. The property disputes ranged from \$20,000 to \$900,000.

Has mediated all aspects of employment law cases, including but not limited to: race discrimination, sex discrimination, sexual harassment, employment agreement provisions, and covenants not to compete. The amounts in dispute ranged from \$3,000 to over a \$1 million.

Has participated in the grievance process as a defense lawyer and now as a Deputy Director of an international union pension fund.

Representative Issues Handled as a Mediator

The issues of the cases mediated involved disputes over community property, child custody, job termination, race discrimination, sex discrimination, sexual harassment, employment agreements, and covenants not to compete.

Mediator Style & Process Preferences

The mediation process is a great way to help clear the court's docket and it is becoming more popular than arbitration. Over 90% of the disputes can be resolved through mediation because it allows the aggrieved party to be heard. Further, the mediation process is less costly than going to court.

My expectation is that all parties, including the mediator, come to the table well-prepared and with an open mind. Further, the mediating parties should be prepared to present all relevant facts and defenses as if preparing for court.

In order for the mediation to be successful, the mediator must be able to communicate effectively and efficiently. The most effective mediator is properly prepared and open to hear all facets of the case.

Education

Temple University, James Beasley School of Law (LL.M, Taxation-2000); Texas Southern University, Thurgood Marshall School of Law (JD-1996); Howard University (BS, Psychology-1990).

Professional Licenses

Admitted to the Bar: Louisiana (2005), New York (2004), District of Columbia (1999), Texas (1996); U.S. District Court: Eastern District of Louisiana, Northern, Southern, and Eastern Districts of Texas, Southern and Eastern Districts of New York.

Certified Federal Sector EEO Investigator.

Professional Associations

American Bar Association (Labor and Employment Law; Employment Benefits Committee; Employer Rights and Responsibilities Committee; Equal Employment Opportunity Diversity Subcommittee); State Bar of Texas; District of Columbia Bar Association; New York State Bar Association; Louisiana State Bar Association (Diversity Committee; Governance Committee; Diversity Conclave and Diversity Outreach to Firms and Judiciary Subcommittees).

Recent Publications & Speaking Engagements

PUBLICATIONS:

Robert Rachal and Yolanda D. Montgomery, Plan and Corporate Governance: Protecting Your Directors and Officers From Personal Liability Under ERISA, HR Advisor (Thompson-West, 2005)

Robert Rachal and Yolanda D. Montgomery, Reducing ERISA Fiduciary Exposure In An Uncertain World, 5th Annual ERISA Fiduciary Conference, Glasser LegalWorks, (Thompson/Glasser LegalWorks, June 2005)

Peter Marathas, Robert Rachal, and Yolanda Montgomery, Pay-or Play State Health Insurance Laws and ERISA Preemption, HR Advisor (Thompson Reuter/West. May/June 2008)

Yolanda D. Montgomery and Michael Spencer, Krolnik v. Prudential Insurance Company of America: When Discretion is Gone...Is There Full Blown Federal Discovery, Proskauer ERISA Litigation Newsletter, August 2009

Yolanda Montgomery, State Laws Barring Discretionary Clauses in Insured Plans Pose Difficult Challenges, Bloomberg Law Reports, Vol. 3, No. 13 (Employee Benefits), June 21, 2010

Yolanda D. Montgomery, Third Time's the Charm: Ninth Circuit Finally Adopts Moench Presumption of Prudence, Bloomberg Law Reports, Vol. 3, No. 22, (Employee Benefits), October 25, 2010

Yolanda D. Montgomery, Third Time's the Charm: Ninth Circuit Finally Adopts Moench Presumption of Prudence, Proskauer ERISA Litigation Newsletter, November 2010

Ruben Chapa and Yolanda D. Montgomery, Diversifying Committee Midwinter Meetings, ABA Section of Labor and Employment Law FLASH Newsletter, February/March 2011

Yolanda D. Montgomery, Peabody v. Davis: What Is A Fiduciary To Do?, Bloomberg Law Reports, Vol. 4. No. 10 (Employee Benefits), May 9, 2011

Yolanda D. Montgomery, Peabody v. Davis: What Is A Fiduciary To Do?, Proskauer ERISA Litigation Newsletter, June 2011

Co-Author Chapter 15-Employment Discrimination and Employee Benefits, Employee Benefits Law, Third Edition and 2013 Supplement

Co-Author Chapter 15-Employment Discrimination and Employee Benefits, Employee Benefits

Law, 2014 Supplement

Co-Author Chapter 15-Employment Discrimination and Employee Benefits, Employee Benefits Law, 2015 Supplement

Chapter 13-Exhaustion of Remedies, ERISA Litigation, Fifth Edition and 2015 Supplement

Co-Author, Chapter 15-Employment Discrimination and Employee Benefits, Employee Benefits Law, Fourth Edition

SPEAKING ENGAGEMENTS:

EEOC's Focus on Systemic Discrimination, ABA Committee for Liaison with EEOC, OFCCP, and DOJ, May 17, 2006

ERISA Update-Top 10 ERISA Cases, 2006 ABA Annual Meeting, August 7, 2006

Disaster Strikes! How to Address Labor and Employment Issues in the Aftermath, 2006 ABA Annual Meeting, August 8, 2006

FLSA Basics, Louis A. Martinet Legal Society, Inc. End of the Year CLE, December 13, 2006

2007 Employment Law Cases-Top 10 List-Avoiding Benefits Claim Litigation, 2007 National Conference for the Minority Lawyer, ABA Section of Business Law, June 28, 2007

Update on ERISA Claims Administration and Litigation, ABA Section of Labor and Employment Law, 3rd Annual Conference, November 5, 2009

Labor & Employment Legislation: What Is Congress Contemplating In 2010?, ABA/EEO Committee for Liaison with EEOC, OFCCP, and DOJ, January 20, 2010

Breaking Litigation News, ABA Section of Labor and Employment Law, Employee Benefits Committee Midwinter Meeting, February 18, 2011

Employment Discrimination and Benefits, ABA Section of Labor and Employment Law, Employee Benefits Committee Midwinter Meeting, February 19, 2011

Ethical Considerations in ERISA Litigation, ABA Joint Committee on Employee Benefits, ERISA Litigation, June 8, 2012

Ethics for Benefits Lawyers, ABA Joint Committee on Employee Benefits-A 90 minute Teleconference, December 18, 2012

LGBT Employee Benefits Litigation Issues, ABA Joint Committee on Employee Benefits, ERISA Litigation, May 21, 2013

Ethical Considerations in ERISA Litigation, ABA Joint Committee on Employee Benefits, ERISA Litigation, May 21, 2013

Mediation Rate

\$500 Per Hour

Languages

English

Citizenship

United States of America

Locale

Haymarket, VA

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.