



AAA Mediation.org™

**FN-2352179 MN-2352179 LN-2352179,  
Esq.**

**Chicago, Illinois**



**Current Employer-Title** Holland & Knight LLP – Equity Partner

**Profession** Attorney, Arbitrator, Construction Litigator & Neutral

**Work History** Equity Partner, Holland & Knight LLP (and predecessor firm), 2001 – Present; Partner, Rosenthal & Schanfield, 1996 – 2001; Partner, O'Brien O'Rourke Hogan & McNulty, 1985 – 1996.

**Experience** As a nationally recognized construction attorney, handles construction litigation matters in state and federal trial courts on a local and national basis, proceedings before governmental and administrative agencies and construction arbitration and mediation proceedings. Legal career has focused on complex construction litigation and the representation of public owners, property developers, underground contractors, construction companies, specialty contractors, commercial banks, corporations, partnerships, and individuals with regard to multi-million dollar conflict matters in the construction industry.

Practice includes: Currently serves as lead project counsel for an owner's construction of a \$200 million 25 megawatt hydroelectric power plant in Texas as well as all project claims; also was recently appointed as special counsel to a receiver in a multiparty mechanics lien matter for the collection of \$35 million in damages from a defaulting data center tenant; has heavy highway construction litigation experience involving complex interchanges and elevated roadwork and bridges; general construction experience includes structuring project delivery methods and reviewing, structuring and negotiating construction, design and construction management contracts; advising clients on contract interpretation and contract and project administration for commercial, institutional, and public building projects and public works projects; claim avoidance counseling; public procurement laws and bid protests; delay and acceleration claims; construction industry labor and employment issues; OSHA matters; change order management; project close-out management; assessment, preparation and defense of claims; power plants litigation and arbitration of construction related disputes; and providing general business advice to premier construction industry clients.

Authored legislation on behalf of the Underground Contractors Association and the Illinois Construction Industry Committee requiring differing site condition clauses in public construction contracts in excess of \$75,000. See 30 ILCS 557/1 et seq. Has significant experience with

geotechnical conflict issues. Co-authored the first ever strategic partnership agreement between OSHA and the Underground Contractors Association which employs a third party administrator to significantly reduce exposure of construction companies and their employees to safety risks. In another recent matter, served as co-counsel for two HVAC contractors, the appellees, in a mechanics lien case before the Illinois Second District Appellate Court. Appellee counsel's collective argument that the receiver has the authority to issue priority certificates for tenant improvements that will supersede mechanics lien claimants prevailed on appeal. The Second District Court ruling is a landmark decision in Illinois for mechanics lien cases where a receiver is appointed.

As Palos Park Municipal Public Works Commissioner, was directly responsible for all executive, legislative, and departmental policies relating specifically to the supervision of public construction contracts and utilities, cable, fiber optic, water, stormwater, sewer operations and projects (multi-million dollar construction projects were in design or under construction during the eight-year term).

## **Mediator Experience**

Mediator specializing in complex construction workouts on behalf of public owners, non-profits property developers, construction companies, underground contractors, commercial banks, corporations, partnerships, specialty contractors and individuals with regard to multi-million dollar construction projects. Has served as a mediator in 60 to 70 mediation matters involving construction disputes, delay claims, differing site condition claims, terminations for default, construction defect claims, mechanics lien cases and geotechnical claims. Certified e-discovery mediator for complex major civil cases and for conflicts involving voluminous discovery. Certified by the Center for Conflict Resolution as a Mediator and the American College of e-Neutrals as an e-Neutral. Also recognized by Chambers USA and Leading Lawyers Magazine for his construction knowledge and dispute resolution abilities in the construction industry. An approved mediator for the Circuit Court of Cook County Major Case Court-Annexed Civil Mediation Program, also serves as an arbitrator in construction disputes for the AAA. Mediations have included cases involving parties such as national physics laboratories, national general contractors, large material suppliers, specialty contractors and sophisticated owners of commercial, retail and public projects, including national developers. Strong industry ties, experience and knowledge are indicated by key positions held in the construction industry, including Past President of the Chicago Building Congress (2011-2013). Holds the distinction of being only the second attorney member to serve as President in the CBC's organization's 80 year history, and as a past general counsel to the Underground Contractors Association.

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

Representative projects include power plants, fast track high rise office and residential buildings, commercial and residential buildings, golf courses, highway construction, wastewater treatment plants, airports, senior housing projects, hospitals, toll way systems, high rise buildings, underground utility, gas, fiber optic and sewer projects, including tunneling, horizontal boring, directional drilling and other specialty work related to infrastructure projects. A thirty five year career in the construction industry includes participation in mediation involving contract interpretation and contract and project administration for commercial, institutional and public building projects, defect claims, delay claims and public works projects. Projects include counseling on power plants, public procurement laws and bid protests, building damage, change order management, project closeout management, assessment, negotiation and resolution of claims, and applying his general business sense to conflicts involving premier construction industry clients. Representative cases also involve disputes involving structuring project delivery methods and re-structuring and negotiating construction contracts through the design phase, through construction management, and ultimately concluding the construction process with claims and dispute resolutions, if necessary.

## **Mediator Style & Process Preferences**

By engaging in mediation, a party's interests are protected and best served on multiple levels, including: confidentiality, reduced costs, expedited resolution, reduced or eliminated discovery and diminished injury to business relationships. Mediation provides disputing parties with a confidential forum in which to define best interest issues while working carefully with the Mediator and each party to determine the best method for resolution. In the national and regional construction industries, employing a construction mediator with strong industry ties, experience and who has creative and principled negotiation skills can make the most complicated construction disputes become a rather simple procedure. Armed with proper subject matter and construction industry knowledge, construction mediation is basically a matter of two or more sides sitting down to reach an agreement - a solution that, ideally, with leave both sides recognizing the benefits of creative negotiation and mediation.

<b>Education</b>	Illinois Institute of Technology, Chicago Kent College of Law (JD-1983); University of Illinois (BA, English-1978).
<b>Professional Licenses</b>	Admitted to the Bar: Illinois, 1983; U.S. District Court: Northern District of Illinois, Trial Bar.
<b>Professional Associations</b>	Chicago Bar Association (Construction Law and Mechanic's Lien Committee, Immediate Past Chair); Chicago Building Congress (Past President, CBC Current Secretary); Underground Contractors Association (Past General Counsel); Illinois Road & Transportation Builders Association; Builders Association; Illinois State Bar Association; Village of Palos Park (Municipal Board, Past Public Works Commissioner).
<b>Recent Publications &amp; Speaking Engagements</b>	<p>Publications: Makers, Movers and Shakers...2021 Chicago Developers Showcase/Moderator/Chicago Building Congress/February 17, 2021</p> <p>CBC General Contractors' Briefing: A Look Into the 2021 Chicago Construction Market/Moderator/Chicago Building Congress/January 20, 2021</p> <p>Living In a Virtual World: Best Practices for Construction Mediations and Arbitrations/Panelist/Holland &amp; Knight Institute Program/ December 11, 2020</p> <p>Excavation Risks Adjacent to Existing Structures in Illinois and Urban Environments--Identifying and Managing Technical and Legal Issues/ The Magazine of the Deep Foundations Institute/ March 24, 2020</p> <p>Don't Run With Scissors/Dispute Resolution Journal, American Arbitration Association/ June, 2020</p> <p>Running With Scissors; Avoiding Mishaps When Drafting Agreements at the End of Mediation, Holland &amp; Knight Alert, May 15, 2019</p> <p>Economic Summit Eight: New Tax Laws &amp; How They Affect the Construction Industry, Your Business and Your Paycheck, Chicago Building Congress February 21, 2018;</p> <p>Author of PUBLIC CONSTRUCTION CONTRACT ACT, 30 ILCS 557/1 et seq.;</p> <p>"Illinois: Differing Site Conditions Under the Illinois' Public Construction Contract Act," CONSTRUCTION, NEWSLETTER, Second Quarter, 2003;</p> <p>"Differing Site Condition Clauses and How They Save the Taxpayer Money," ILLINOIS MUNICIPAL REVIEW MAGAZINE, April 1999.</p> <p>Builder's Risk Insurance: Resurrecting the Project After the Storm, Holland &amp; Knight Alert, September 14, 2017</p> <p>Cybersecurity in the Construction Industry, Holland &amp; Knight Alert, April 16, 2015</p> <p>Electronic Discovery in Commercial, Construction Disputes Poses Challenges, Law Bulletin Publishing Company Midwest CLE Guide, Spring 2013</p> <p>Electronic Discovery in Construction Disputes, Co-Author, LJN's Commercial Leasing Law &amp; Strategy, July 2012</p> <p>Economic Summit Seven: A Prospective from Chicago's Premier Developers, Chicago Building Congress, September 20, 2017;</p> <p>Economic Summit Six: Engineers Take the Lead, Chicago Building Congress, September 21, 2016;</p> <p>Project Closeout Workshop, COAA Illinois Full Chapter Event, September 24, 2015;</p> <p>Economic Summit Five: The Architect's Prospective, Chicago Building Congress, September 16, 2015;</p> <p>Modularization Benefits That Owner's Want, COAA Illinois, 2015 Spring Chapter Event, April 9,</p>

2015;

Optimizing the Process: Chicago Building Congress' Virtual Construction Panel, Chicago Building Congress March 18, 2015;

Speaking Engagements Moderator, "Mechanic Lien and Construction Issues," Chicago Bar Association Seminar, January 9, 2009;

Chaired 10 Monthly CLE Presentations by the Chicago Bar Association Mechanics Lien & Construction Committee on Construction Mechanic Lien and Mediation/Arbitration Issues June 1, 2009 to July 10, 2010;

"Risky Business: And You Thought It Was Over," The Holland & Knight Institute and RSM McGladrey, Chicago, 2010; Moderator,

"Mechanics Lien and Construction Claims," Chicago Bar Association Full Day Seminar, December 9, 2009;

" Storm Water Issues and Real Estate Development," The Holland & Knight Institute, Underground Contractors Association, Lake Geneva, Wisconsin, 2005;

"You Can't Eat a Lien," Underground Contractors Association, General Membership Dinner, 2000;

" The Public Construction Contract Act," Underground Contractors Association, 29th Annual Convention, Scottsdale, Arizona, 2000;

"Insure It and They Will Sue," Chicago Title and Trust Company, Illinois Claims Department Seminar Discovery and Attorney Client Privilege, 1998.

**Mediation Rate**

\$500 Per Hour

**Languages**

English

**Citizenship**

United States of America

**Locale**

Chicago, IL

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.