



## **FN-2379 MN-2379 LN-2379, Esq.**

White Plains, New York



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**Current Employer-Title** Farber, Pappalardo & Carbonari – Partner

**Panelist Video** <https://www.adr.org/videoresume?paramName=279569185>

**Profession** Attorney

**Work History** Partner, Farber Pappalardo & Carbonari (and predecessor firms), 1982 – Present; Adjunct Professor of Law (teaching Arbitration and Mediation), Pace University School of Law, 2001 – 2018; Associate Attorney, Moses & Singer, 1978 – 1981; Associate Attorney, Weil Gotshal & Manges, 1974 – 1977.

**Experience** Over 40 years' experience as civil trial lawyer and commercial advocate, negotiator, mediator, and arbitrator in international and domestic proceedings and class actions. Most proceedings related to partnership, shareholder, and employment disputes, restrictive covenants, franchise, energy, construction including integrated facility engineering, building information modeling, photogrammetry, and virtual design and construction, real estate, information technology and software, entertainment, bankruptcy, manufacturing, marketing, product development, publishing, intellectual property rights, financing, banking including structured financial transactions, accounting, securities, insurance (including class actions), heating and photovoltaic solar energy, wind energy and transport of products including shipping and air freight disputes. Also handled disputes involving dissolution of law, accounting, construction, architectural and other professional firms, and medical and dental practices.

Adjunct Professor of Law--Pace University School of Law--2001--2018--teaching International and Domestic Arbitration and Mediation.

**Mediator Experience** Has served as mediator in cases ranging from \$250,000 to \$500 million. These include the following categories (number of cases are in parenthesis):

Construction: (125+) cases among owners and general contractors (25+), construction managers (20+), architects (40+), and subcontractors (25+) and their insurance companies.

Distribution: (35+) including beds, pork, works of art, automobile parts, underwear, baseball equipment, baseball cards, paper products, books, tabloid magazines, flowers, frozen food, office equipment, home furnishings, airplane parts, radio programs, pets, toys, x-ray machines, medical equipment, shoes, ladies' handbags, vitamins, firearms, home building supplies, cosmetics, perfume, wheat, cleaning supplies, wine, diamonds, watches, antiques, bicycles, charcoal grills, hazardous chemicals and cookies.

Employment: (60+) among senior employees or independent contractors in industries involving securities, banking, retail, pharmaceutical, accounting, building, distribution, manufacturing, aviation, employee placement, real estate management, trucking, insurance, energy and finance.

Mergers/Acquisitions/Sales (public or private company): (20+) cases including disputes with "spin-off" groups (5+) and competitors engaging former employees (4+).

Music and Art: (10+) including ownership of a Rembrandt painting and other works or art in museums, auction houses or privately owned, compensation and perquisites to groups of musicians and work conditions issues.

Professional Partnerships: (70+) including lawyers (12), accountants (10), architects (15), doctors (15), engineers (10+) mostly related to breakups of firms.

Real estate: (70+) including cases among owners and neighbors (3+), governmental agencies (3+) universities (4+), school boards (5+), citizen groups (5+), and environmental groups (3), between owners and tenants including hospitals (3), nursing homes (4), retailers (10+), office tenants (15+), embassies (2), billboard advertisers (2+), and move theaters (2+), real estate in Europe, South America, New Mexico, Israel and Japan.

Securities: (30+) including cases among investors and investment advisors, brokers and/or banks.

Specialty Retail: (25+) including disputes among manufacturers, distributors, retailers, designers and investors.

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

Handled representative issues such as: (a) aviation - construction of an airport, supply of airplane parts, sale of fleet of aircraft, lease of landing rights, sale of fractional shares for jet travel, purchase of "consumables" for passenger use, hotel accommodations for airline employees. (b) computer - hardware, software, training, fees, suitability, support services, warranty. (c) construction - non-payment, delay damages, design errors, betterments, hidden defects, mold, and issues unique to private residences, schools, office buildings, a jail, bridges, apartment houses, shopping malls, hotels, museums, a tunnel, power plants, factories, warehouses, parking facilities and a sports arena. (d) distribution - non-payment, geographic scope, renewals, new, competing or defective products, staffing, warranty issues, duty to purchase certain volume of product, delivery deadlines, tax liabilities. (e) employment - definition of "for cause," terms of payouts, compensation, bonuses, reimbursement and/or alleged abuse of expenses, moving expenses, option to buy into ownership, restrictive covenants, return of company property, solicitation of company employees, retirement benefits, buyout terms. (f) energy - pricing, supply requirements, leases of equipment, equipment failures, South American power plants, coal mines, oil and natural gas leases, including royalty payments and duration of leases, service contracts for drilling equipment, effectiveness of oil transport. (g) entertainment - scope of performance, management fees, royalty payments, agency duties and fees, promotion and advertising duties and costs, security, foreign production rights. (h) finance - duty to advance funds, duty to achieve certain milestones, disclosure issues, capital contributions. (i) food - production, transport, product enhancement, USDA issues, packaging, pricing. (j) franchising - royalties, advertising, capital improvements, training, servicing and support. (k) insurance - coverage, notice, policy limits, loss payees, subrogation, re-insurance, policy amendments, exclusions, co-insurance. (l) intellectual property - royalties, buyouts, product variation, infringement, duties to develop, test, obtain approval and market, audit and calculation of fees. (m) international - product distribution, payment of royalties, duty to report, servicing and warranty issues, duty to train and provide capital assistance, compensation and bonus calculation. (n) real estate-buyouts - capital contributions, management, "private" deals, lease defaults, extensions, rent amounts, rent adjustments, repair duties, work-letter, and terms of extension. (o) restaurants, hotels and gaming: ownership interests, distribution of "proceeds," service and supply issues, employment practices, buyouts, investments, hours of operation, noise and pollution. (p)

securities - churning, suitability, non-disclosure, extent of discretion, duty to report alleged breach of representations regarding performance, sales, production, extent of due diligence. (q) telecommunications - telephone and e-mail equipment, service issues and fee payments. (r) textiles and consumer products - manufactured to specs., delivery, defects, warranties, secondary markets, licenses.

- Mediator Style & Process Preferences** It is critical that counsel and party representatives with authority to settle (including insurance company representatives) be present. I am a highly evaluative mediator. I ask for detailed pre-mediation submissions including all pertinent documents; so we can immediately focus on the issues, analyze the risks and engage in serious and honest negotiations. Counsel and party representatives should be as prepared as possible regarding the facts and applicable law and be prepared to work hard and into the night in a good faith attempt to settle. They should be open-minded and creative in an attempt to resolve all (or some) of the issues.
- Technology Proficiency** As of April 2023, have mediated 93 mostly complex commercial and construction cases totally by ZOOM and similar platforms. Also mediated 26 hybrid mediations--some participating live, some by ZOOM.
- Education** New York University (BA, Phi Beta Kappa-1970; JD, Root-Tilden Fellow-1973)
- Professional Licenses** Admitted to the Bar: New York, 1974, U.S. District Court: Southern and Eastern Districts of New York, 1974. Certified to appear before Japan Commercial Arbitration Association, 1984
- Professional Associations** --American Arbitration Association --Board of Directors, Council--Chair Arbitrator Committee--Member-Law and Practice Committee  
--College of Commercial Arbitrators, President 2012-2013 (previously President-Elect; Vice President; Secretary; Board of Directors); Chair--Education Committee Chair  
--American Bar Association--ADR Section--Chair of Arbitration Committee--2013-2015  
--American Bar Association--Arbitration Institute--Chair--Advanced Arbitrator Training--2013-2017--faculty--2019.  
--New York International Arbitration Club  
--National Association of Distinguished Neutrals
- Recent Publications & Speaking Engagements** PUBLICATIONS:  
--Guide to Best Practices in Commercial Arbitration, Juris Publishers, 2d and 3d Editions--co-author, chapters on Motion Practice in Arbitration and Class Arbitrations;  
--"The Role of the Neutral in Party-Appointed Arbitrations," NEW YORK LAW JOURNAL, September 13, 2002;  
--"Arbitration - Commercial Cases in Japan," NEW YORK LAW JOURNAL, January 6, 2000;  
"Arbitration Law Practical Points for Being Fair, Fast, Frugal & Final," NEW YORK LAW JOURNAL, November 7, 1996.
- SPEAKING ENGAGEMENTS:  
--Chartered Institute of Arbitrators for International Arbitration--Creator and Presenter of "The Preliminary Hearing" and "The Arbitration Hearing" --2015-2021  
--College of Commercial Arbitrators--Practicum-- Sole Creator and Presenter of Complex Problems for Arbitrators in Large and Difficult International and Domestic Arbitrations--2009--2021  
--Faculty for Training New American Arbitration Association Arbitrators--1998--2021  
--American Bar Association---The Arbitration Fairness Act with Congressman Johnson--2019  
--The Oprah Winfrey Show--At the request of the President of the American Arbitration Association, conducted a live televised arbitration of a banking dispute  
--Chair, "Managing Your First Arbitration," and "Managing an Successful Arbitration" College of Commercial Arbitrators, 29 programs, 2009-2017  
-- ABA Arbitration Training Conferences, Co-chair, annually 2009 through 2015--Faculty Member through 2019; "Managing Complex Class Arbitrations and Managing Class Arbitrations,"  
--American Bar Association--2011-2014 "Party Appointed Arbitrators and the Requirement of Neutrality  
-- has spoken on arbitration and mediation in bar association seminars in Tokyo, Caracas, New York, New Jersey, Oklahoma, Indiana, Texas, California, Illinois and Florida regarding every aspect of arbitration
- Locations Where Parties** No charge for time of travel and no charge for the expense of travel within 50 miles of the

**Will Not be Charged for Travel Expenses** metropolitan New York area.

**Mediation Rate** \$825 Per Hour

**Languages** English

**Citizenship** United States of America

**Locale** White Plains, NY

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.