



AAA Mediation.org™

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Tyler, Texas



Current Employer-Title William H. Lemons, P.C. - Owner

Professional Summary A very experienced and active Arbitrator and Mediator. Fellow of the College of Commercial Arbitrators and a Member, The Chartered Institute of Arbitrators. Recent experience includes nationwide class and collective actions under the FLSA, both as Arbitrator and Mediator, and being tasked with reviewing and approving numerous global FLSA settlements. Thoroughly enjoying the Neutral practice, with a range far more national than local. Lives in a small East Texas town, and very comfortable with conducting remote hearings and mediations. But three international airports are nearby when travel is required.

Profession Full Time Arbitrator and Mediator – Employment, Commercial, Large Complex Case, Banking and Financial Services, Construction, Insurance, and Real Estate Panels, as well as International Disputes using the ICDR.

Work History Full-time Mediator and Arbitrator, William H. Lemons, P.C. (and predecessor firms), 1997 - Present; Partner, Cox Smith Dykema (and predecessor firms), 1975-1997; In-house Labor Relations Counsel, Braniff Airways, Inc., 1973-1975.

Experience Has arbitrated or mediated, domestically and internationally, in excess of twenty-eight hundred complex employment, commercial, construction, healthcare, oil and gas/energy and banking/financial services disputes. A good number of those mediations involved employment and labor matters, and more recently, large collective and/or class actions under the Fair Labor Standards Act ("FLSA").

Introduced to arbitration when inhouse labor counsel for a major airline in the early 1970's. Old school learning - given a file, several hours to prep witnesses and then went to the hearing. Then was a Partner and the Employment Section Head of a major law firm in Texas. In 1997, after a federal judge ordered the parties to go to mediation, which was a horrible experience – went to formal Mediator training in 1997 and became a very active Mediator in addition to being an Arbitrator on the Employment, Large Complex Case, Commercial Dispute, Banking and Financial Services and ICDR Panels of the AAA. Had the honor of serving as President of the Association of Attorney-Mediators, and then as Chair of the State Bar of Texas Alternative Dispute Resolution Section. Now fully immersed in the ADR field, has been a Neutral on panels for Kraft Foods Global, Inc., Coca Cola Refreshments USA, Inc., Southwest Airlines Co. (IAM, AMFA and TWU panels), Toyota

U.S.A., Inc. and Home Depot. Current forte is mediating and/or arbitrating large collective actions and/or Rule 23 class actions under the FLSA, on a regional or national basis. Often engaged to approve global settlements. Representative past arbitrations include:

Panel Arbitrator in a significant (\$100+ million) patent infringement dispute concerning negative pressure wound treatment technology;

Panel Chair in significant dispute over real estate development in a well-known South Texas golf course community;

Panel Chair in a significant (\$240+ million) ICDR case involving a Spanish corporation and its dispute over the value of assets it acquired in a stock purchase;

Panel Arbitrator in a significant (\$50+ million) attorney fee dispute concerning contingent attorneys' fees from a \$190 million settlement. *Campbell Harrison & Dagley, L.L.P. v. Hill*, 782 F.3d 240 (5th Cir. 2015);

Panel Chair in a number of commercial cases involving the enforcement of commercial guaranties by various secured lenders;

Sole Arbitrator in a number of arbitrations involving breach of fiduciary duty, non-competition agreements, executive employment agreements and claims under the Employee Retirement Income Security Act (ERISA).

Mediator Experience

A large number of mediations have involved matters pending in U.S. District Court. Approximately one-half of mediations have involved some aspect of employment law, including everything from failure to hire to wrongful termination. These cases have generally involved one or more employees, the human relations function, and various attorneys. Generally there have been between four to eight participants. Has also conducted a number of pro se mediations where neither side had counsel. Many of these mediations have involved allegations of sexual harassment or various forms of discrimination. Several mediations have involved employment disputes after trial with the case then on appeal. Has mediated unfair labor practice charges and several cases involving migrant farm workers. Other mediations have typically involved complex commercial disputes, ranging from partnership dissolutions to major bankruptcy/creditors' rights disputes. These cases often involved numerous parties; has handled five, six and seven-party disputes involving millions of dollars. Recently, handled a number of mediations involving professors and other professionals at the college level. One included litigation between a law professor, the law school and its Dean. Has mediated commercial disputes involving diverse subjects ranging from a major land development to a problem with a bass boat. Has also mediated a dozen construction disputes, with about a third between developer and partners, a third between builder and homeowner and the rest between subcontractors. Has mediated a number of very emotional disputes involving fights among family members. Due to the expense and uncertainty of travel, has become experienced and familiar with communications technology, having mediated by teleconference and "live time" through the Internet with one party located in Korea. Prefers not to mediate personal injury, medical malpractice and wrongful death cases.

Representative Issues Handled as a Mediator

Has participated in mediations involving complex matters and lengthy proceedings pertaining to stock purchase agreements, trusts and fiduciary obligations, partnership dissolutions, refining, offshore drilling technology, environmental, intellectual property, software and technology disputes. Knowledge in the area of oil, gas and other minerals includes matters pertaining to leases and disputes between the operator and surface owner, executive rights, royalty, working interests and division orders, competing water rights and suspension of production revenue. Extensive experience in construction disputes, ranging from fabricated homes to significant residences to large commercial and investment properties. In the healthcare and medical areas, experience includes cases involving physician/hospital service/employment agreements, physician practice agreements, non-competition and confidentiality agreements, partnership and/or practice group dissolutions, nursing home negligence and standard of care cases, healthcare provider/insurance company payment/billing disputes, and other matters pertaining to the provision of healthcare-related intellectual property/technology disputes. Experience in the banking and financial services areas is extensive, involving secured transactions, mortgages, lender liability, breach of loan commitment allegations, guaranties, violations of the automatic stay and other wrongful foreclosure matters. In

the employment area, has mediated or heard numerous cases (600+) involving statutory employment claims, equal employment opportunity/discrimination/retaliation disputes, collective actions under the Fair Labor Standards Act, matters involving the Americans with Disabilities Act, the Age Discrimination in Employment Act and the Family Medical Leave Act, among others. Has also has broad experience in traditional labor organization/management issues. Issues in oil and gas cases have typically involved competing rights between the surface owner and the oil & gas operator/developer. Has mediated a number of proprietary information cases involving copyrights, trade dress and other general intangibles. Bankruptcy cases have typically involved allegations of fraudulent conveyances or preferences, lien priorities between competing secured lenders as well as setoff, interpleader, secured and unsecured loans, indenture trustees, as well as farm and ranch/agribusiness matters. Has been involved in a number of large and very emotional cases involving disputes among business partners and perceived breaches of fiduciary duties. Familiar with professional fee applications, professional fee disputes, fee forfeiture actions and legal and CPA malpractice litigation.

Mediator Style & Process Preferences I understand that I am only the mediator and that the actual settlement is owned by the participants. I work very hard to settle, but I understand that those few cases that do not settle probably have good reasons for not settling. My client is not the economics or the fee, but rather the dispute resolution process itself. I believe in responsible dispute resolution, and the touch-word is "do no harm." I want participants to come to me not because they have been ordered to mediation, but rather because they want to settle their dispute. I always learn the case in detail, but will allow counsel a chance to work. I will assist any way that I ethically can.

Education University of Houston (BBA, Management Science-1970); University of Houston Law Center (JD, with highest honors-1972). Chartered Institute of Arbitrators (London) (Degree in International Arbitration - 2014).

Professional Licenses Admitted to the Bar, Texas, 1973; U.S. District Courts: Northern (1973); Western (1975) and Southern (2001) Districts of Texas; District of Arizona (1991); Western District of Pennsylvania (2016); U.S. Court of Appeals: Fifth (1977) and Eleventh (1981) Circuits; U.S. Supreme Court (1980).

Professional Associations Fellow, College of Commercial Arbitrators; Fellow, Chartered Institute of Arbitrators (London); Member, National Panel of Distinguished Neutrals; Member, Association of Attorney-Mediators (Past National Board Member and President); State Bar of Texas (ADR Section, Past Chair); Institute for Responsible Dispute Resolution (Charter Member); Smith County Bar Association; Bar Association of the Fifth Federal Circuit; Texas Bar Foundation (Fellow); Smith County Bar Foundation (Fellow); Credentialed Distinguished Mediator - Texas Mediator Credentialing Association; Certified Professional Mediator - International Mediation Institute (The Netherlands).

Recent Publications & Speaking Engagements Contributing Author, Guide to Best Practices in Commercial Arbitration (College of Commercial Arbitrators, 5th Ed.); Member, Task Force on Mass Arbitrations (Panel member/presenter at the University of Houston Law Center Program (November, 2011) entitled "Managing Your First Arbitration" - to emphasize "Reducing Cost and Delay in Arbitration - Introducing the CCA Protocols"; Lead facilitator at the national 2010 AAA/ICDR Neutrals Conference (Orlando, November 5-6, 2010) in the program "Arbitrators: Are You What They're Looking For" which introduced the CCA Protocols for Expeditious, Cost-Effective Commercial Arbitration. Facilitator at the AAA Neutrals' Program "ADR Strategies That Save Time and Money" (San Antonio, February 26-27, 2010) followed by the AAAU Webinar "How International Arbitration Techniques Can Benefit Domestic Arbitration" (October 15, 2010); Course Director, State Bar of Texas ADR Section and Texas Bar CLE Annual Seminar: "Alternative Dispute Resolution Course" (January 29, 2010 - San Antonio); Speaker and Author: State Bar of Texas ADR Section Seminar: Arbitration Roundtable (January-February, 2010, November, 2009, April, 2007); "How to Participate Effectively in Arbitration (National Employment Lawyers Association," 9th Annual Seminar, June, 2005); "Arbitration Advocacy" (TexasBarCLE Webcast, November, 2006); "Arbitration Advocacy for Attorneys: A Guide to Case Preparation & Presentation in Arbitration" (American Arbitration Association, Austin and San Antonio, 2004-2005); "Nuts and Bolts of Arbitration for Lawyers" (South Texas College of Law-Advocacy Skills for Resolving Disputes, October, 2004).

Mediation Rate \$3,600 Per Day

Languages English

Citizenship

United States of America

Locale

Tyler, TX

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.