



AAA Mediation.org™

**FN-2730724 MN-2730724 LN-2730724,
Esq.**

New York, New York



Current Employer-Title GerstelADR, P.L.L.C. - Arbitrator, Mediator & Educator

Profession Attorney, Arbitrator, Mediator, Educator

Work History Arbitrator & Mediator (Principal), GerstelADR P.L.L.C., 2019 – Present; Adjunct Professor, Fordham University Law School, 2013 – Present; Of Counsel/Shareholder, Anderson Kill PC, 1990 – 2019; Associate, Slade & Pellman, 1988 – 1990; Associate, Davis Graham & Stubbs, 1986 – 1987.

Experience Litigation and trial attorney for over 25 years experienced in representing clients and serving as a neutral in domestic and international arbitration and mediation matters. Cases handled have included complex domestic and international commercial litigation, including class actions and disputes arising out of contracts including, employment matters, entertainment, real estate & environmental matters, trusts & estates, secured transactions, bankruptcy, banking issues, antitrust, partnerships, retailing, franchising, manufacturing and consumer products.

Represented clients in landmark class action regarding Holocaust looted assets and slave labor claims; Represented clients in class action concerning corporate responsibility for aiding & abetting violations of International Human Rights.

Represented clients in a broad range of commercial contract disputes involving contract interpretation, delivery of defective goods, failure to pay, misrepresentations, fraud, and breach of warranty matters.

Represented parties in joint venture and partnership agreements concerning, accounting, mismanagement, misappropriation and removal of general partners.

Represented Russian Feminist Protest Punk Rock Group; Represented American singer, songwriter, actress and record producer; Represented American Rock & Blues musician

Represented clients in real estate disputes, including brokers and developers, landlord-tenant disputes and breach of contract of sale.

Represented parties in trusts & estates litigation, representing trustees and income beneficiaries in matters involving breach of fiduciary duty.

Represented parties in franchise-dealership matters, including terminations, failure to support, royalty and non-compete agreements.

Represented clients in financial services sector, secured, unsecured creditors, and creditors' committees.

Represented individuals in closely held family businesses.

Represented policyholders in insurance coverage matters.

Represented creditors' committee in Ponzi scheme matter.

Court appointed fiduciary of multi-million dollar trust after dispute of accounting & fiduciary violations of real estate limited partnerships.

Represented parties in entertainment, manufacturing, textile, hospitality retail & jewelry industry.

Cases handled involved claims or were determinative of transactions ranging in value from a hundred thousand to \$5 billion.

Recent ADR Appointments:

Party Appointed neutral in first party property insurance case for damages to manufacturing facility and alleged broker negligence;

Party Appointed neutral in insurance coverage matter for class action claims against fiber cement manufacturer for defective merchandise

Part Appointed Arbitrator in case by company in the construction industry against insurance company for breach of duty defend product liability claims

Panel Arbitrator in case involving litigation funding joint venture partners alleging breach of contract, breach of fiduciary duties and misappropriation of trade secrets and intellectual property:

Panel Arbitrator in case involving partner of major accounting firm alleging gender discrimination, retaliation and defamation;

FINRA Panel Arbitrator in case by investor against investment advisory firm

Panel Chair of dispute by former law partners for breach of contract;

Panel Chair of dispute between joint venture members for breach of contract and corporate dissolution;

Panel Chair of dispute between international adult entertainment company against advisory consulting company for breach of contract and Know Your Client services;

Sole Arbitrator in Cannabis sector matter by investor in Major Cannabis Public Company with claims concerning valuation of the business;

Sole Arbitrator in dispute by doctor against Medical Practice Partnership for breach of contract, breach of fiduciary duties and misrepresentations

Mediator Experience

AAA Large Complex Commercial Panel; CPR Panel of Distinguished Neutrals; FINRA arbitrator; Second Circuit Court of Appeals Mediator Panel; Southern District of New York Mediation Panel; Mediation Advisory Committee of the Southern District of New York (2015-2018); Eastern District of New York Mediation Panel; Fellow, Chartered Institute of Arbitrators; New York Supreme Court Commercial Division Mediation Panel; Westchester County Commercial Division and Surrogates

Court Mediation Panel

Commercial Contracts: numerous disputes arising out of a broad range of commercial contracts, such as failure to pay for goods and services, defective merchandise, commercial code issues, breaches of warranty, misrepresentations, fraud, and professional fee collection.

Financial: payment defaults, guarantees, private equity; corporate mergers, dissolutions and business valuations, breaches of representations and warranties and non-compete agreements.

Partnership & Joint Ventures: entitlement to payouts, removal of the partner, breach of fiduciary duties, mismanagement and accounting.

Franchises & Distributorships: terminations, claims for failure to provide contracted support, failure to pay royalties and breach of non-competes.

Insurance: property & casualty, malpractice, business interruption, D&O, professional & accountants' liability, Storm Sandy insurance property losses, concerning, wholesale produce distributors, food catering businesses, car dealers, retail stores, fitness centers, accountants, and lawyers.

Employment: wrongful termination, severance, non-competes, and a wide range of statutory claims including: Title VII of the Civil Rights Act (race, color, national origin, gender & religion); Section 1981; American with Disabilities Act; Age Discrimination in Employment Act; Family & Medical Leave Act; Fair Labor Standards Act; New York State & City Human Rights Law; New York Labor & Whistleblower Law.

Intellectual Property: IP Licensing, R&D, ownership disputes, patent infringement, trade secrets misappropriation, trademark infringement.

Mediation Experience as an Advocate

Representative Issues Handled as a Mediator

Recent Representative Matters:

Americans with Disabilities Act: Action by disabled plaintiff under the ADA against landlord and restaurant owner for failure to remove certain physical barriers

Financial & Investment Advisory Services: Plaintiff sought recovery of \$3.75 million investment advisory fee under a contractual provision triggered by the sale of a company to Big Pharma Company. District Court granted the plaintiff's motion for summary judgment. Mediated after defendant's appeal.

Franchise, Joint Venture & Intellectual Property: Plaintiffs, former franchisees filed a complaint seeking \$ 50 million in damages for breach of contract, fraud and false advertising under Lanham Act. The company filed a counterclaim alleging breach of contract and trademark violations. Court granted defendant's motion for summary judgment. Mediated on appeal.

Music and Entertainment Industry- Action by songwriter for breach of contract for failure to pay royalties and accounting against music publishing company

Construction: Action by subcontractor for public construction project for outstanding balance under subcontract and defendant's counterclaims for back-charges. Appeal of District Court decision to confirm arbitration award. Mediated on appeal

Personal Injury & Negligence: Plaintiff filed a complaint against Major Aircraft Carrier alleging negligence and personal injuries damages sustained from an alleged malfunction of an aircraft door at JFK. Plaintiff appealed after a jury returned a verdict in favor of the defendant. Mediated on appeal.

Insurance: business interruption and property damages under an insurance policy.

Intellectual Property: Complaint against clothing manufacturer for trademark infringement, unfair competition and dilution of trademark. Mediated on appeal.

Employment Discrimination: Complaint by an employee for age discrimination against non-profit social service agency. Summary judgment granted to defendant. Mediated on appeal.

Complaint by hospital employee under Title VII for employment discrimination based on religion and retaliation against major NYC hospital based on his refusal to get a flu vaccine

Numerous cases under the Fair Labor Standards Act , including claims in the manufacturing, retail and hospitality sectors

Executive Contracts, Trade Secrets & Employee Raiding: Complaint filed by the manager under an employment contract for alleged breach of fiduciary duties.

Breach of employment contract & theft of trade secrets involving executive.

Action brought by financial brokerage firm against international real estate company to recover commission under an Exclusive Debt & Equity Advisory Agreement.

Mediator Style & Process Preferences As a mediator, I enjoy facilitating the parties in their efforts to resolve business disputes in a meaningful, constructive consensual fashion ultimately resulting in a written agreement reflecting the parties' needs and interests.

I am effective and earn the respect of the parties by conveying impartiality, fairness, planning and managing the mediation process, engaging in facilitative and analytical evaluative mediation approaches, honoring confidentiality requirements and expectations, promoting constructive communication, asking probing questions with sensitivity, understanding differences between parties' positions and their interests, listening actively, intervening when appropriate and injecting humor occasionally to overcome hurdles.

Whether my approach leans more heavily on a facilitative or evaluative style varies in each case, depending on the parties and the dispute. I believe the two most important qualities for a mediator are integrity and the capacity to listen.

Education Temple University Law School (J.D. - 1986); Barnard College - Columbia University (B.A. magna cum laude – 1983).

Professional Licenses Admitted to the Bar: New York (1988), Connecticut, District of Columbia.

Professional Associations American Bar Association (Dispute Resolution Section- Educational Programming Officer); Women in Dispute Resolution (New York City Regional Chair); ADR Inclusion Network Founding Member, Educational Co-Chair; Arbitral Women; New York Bar Association; New York City Bar Association Women in the Courts Committee; Association of Arbitrators of the Civil Court of the City of New York; Children's Law Center, Board of Directors (2012- 2016); Baron De Hirsch Fund, Trustee (1995-Present); Columbia University Women's Leadership Council (2014-Present); Sharsheret Board of Directors (2008-2015).

Recent Publications & Speaking Engagements Publications: Virtual Reality of Sexual Harassment Related Claims, New York Law Journal (April 7, 2023); Life Sciences and Cannabis Arbitrations :Reaching New Highs, New York Law Journal (January 11, 2021); Mandatory Mediation of Commotion/Riot Related Insurance Claims , New York Law Journal (July 6, 2020); Co-author, General Counsel Guidelines For Navigating in the World of Virtual ADR, (NYSBA, Inside , Summer 2020); Don't Let a Crisis Go To Waste: Time To Explore Expansion of ODR for ADR, New York Law Journal (March 17, 2020); Is It A New Era For Arbitrator Disclosures For Repeat Players ?, New York Law Journal (February 5, 2020); "Stop ADR Diversity From Falling Through the Cracks: A General Counsel Checklist Manifesto", NYSBA, Inside (Spring/ Summer 2019)(vol.37, No. 1); "Building a Safe Place for Mediation in Arbitration Proceedings", New York Law Journal(August 5, 2019); "The Role of Arbitration Counsel In Ensuring Legitimacy and Efficiency" (co- author with John Feerick), New York Law Journal (May 29, 2019); "RBG and Jay Z: A Twelve Step Recovery Plan for Increasing Diversity in ADR ", New York Law Journal (January 25, 2019); "The Under-utilization of Mediation in New York and What Should Be Done About it?" (Co-Author with John Feerick) NY Dispute Resolution Lawyer (Fall, 2018); "Blurred Lines: Rethinking the Issue of Consent by Non-Signatories", New York Law Journal (August 3, 2018)

Speaking Engagements: Panelist, Arbitration Training Institute (ABA, 2023); Panelist, Comprehensive Commercial Arbitration Training for Arbitrators and Counsel , NYSBA (July 2021); Moderator, ADA Workplace Accommodations- Managing the Maze (ABA DR Section)(February, 2021);Moderator, From Life Sciences to Cannabis Disputes- Is ADR the Best Option?(ABA DR Section)(January 2021);Writing Reasoned Awards in Commercial Arbitration: Beyond the Basics(ABA DR Section)(November 2020); Panelist, Mediating Civil Commotion/Riot Insurance Claims(ABA DR Section) (September 2020)Trainer, CPR Employment Arbitration, Pathways Training for New Arbitrators(June, October 2020); Panelist, The Business of Arbitration & Mediation: How Arbitration and Mediation Will and Should Look in the Future : Ethics Panel (NYSBA) (June 30, 2020); Moderator & Panelist, Exploring New Virtual Platforms for ADR, (Webinar, West/Thomas Reuters , May 2020); Moderator & Panelist, Innovative Strategies for Developing an Inclusive Mindset For ADR ,(ABA Dispute Resolution Section Annual Conference , Webinar , May , 2020); Panelist, A Roadmap To A Career in ADR , Panel Talk from the Trenches, (AAA, November 2019); Advanced Trademark Law Seminar Series: Perspectives on Mediation in Trademark Cases(Kilpatrick & Townsend , 2019); Speaker, Webinar, Fundamentals of Arbitrating and Mediating Intellectual Property Disputes (Clear Law Institute) (September 2019); Speaker & Moderator, "Is Jay-Z An ADR Champion?" (Association for Conflict Resolution of Greater New York, New York Law School (June 4, 2019); Speaker & Moderator, Time's Up for Increasing ADR Diversity: The Role of In-house Counsel and Outside Counsel in the Diversity Mosaic (ABA Dispute Resolution Spring Conference, April 2019); Speaker, Webinar, Mediation Advocacy Skills and Best Practices for Putting Aside Your Trial Gloves (Clear Law Institute) (June 2018); Panelist, Mediation Advocacy, New York Law School, Lawline webinar (2017); Facilitator, ADR & Diversity Symposium, New York Law School (2018); Instructor, Arbitration Clinic, Catholic University (Ghana); Marian Conflict Resolution Center, trained new arbitrators (2013).

Mediation Rate	\$700 Per Hour
Languages	English
Citizenship	United States of America
Locale	New York, 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.