



AAA Mediation.org™

**FN-2777900 MN-2777900 LN-2777900,  
Esq.**

**New York, New York**



**Current Employer-Title**    ADR Office of Theo Cheng LLC

**Profession**                      Arbitrator and Mediator  
   Adjunct Professor  
   ADR Trainer and Consultant

**Work History**                      Arbitrator and Mediator, ADR Office of Theo Cheng LLC (2018-present)  
   Adjunct Professor (Dispute Resolution Processes & Domestic Arbitration), New York Law School (2020-present)  
   Practitioner in Residence, Center for Intellectual Property x Innovation Policy (C-IP2) George Mason University Antonin Scalia Law School (2022-present)  
   Adjunct Professor (Mediation Clinic Seminar), Fordham University School of Law (2018)  
   Partner, Fox Horan & Camerini LLP (2013-2017)  
   Partner, Yoon & Kim LLP (2011-2013)  
   Senior Associate, Proskauer Rose LLP (2007-2010)  
   Senior Associates, Loeb & Loeb LLP (2006-2007)  
   Senior Associate, Paul Weiss Rifkind Wharton & Garrison LLP (1999- 2000 & 2001-2006)  
   Law Clerk, The Honorable Julio M. Fuentes, Third Circuit (2000-2001)  
   Law Clerk, The Honorable Ronald L. Buckwalter, Eastern District of Pennsylvania (1998-1999)  
   Associate, Orrick Herrington & Sutcliffe LLP (1997-1998)

**Experience**                      Nearly 25 years handling a broad array of business and employment disputes for both individuals and business entities in federal and state courts in industries as varied as high-tech, telecommunications, entertainment (music and motion pictures), consumer products, food and hospitality, retail, and financial services. Practice focused on general commercial and employment law with a focus on copyrights, trademarks, patents, trade secrets, restrictive covenants, non-disclosure agreements, and other intellectual property, licensing, and technology matters. Additional experience in entertainment, corporate investigations, securities, and bankruptcy.

Previously a marketing consultant at MetLife Insurance Company, with experience in personal and group life and health insurance; annuities, pensions, profit-sharing, retirement, and other employee benefits plans; brokerage sales support for highly compensated executives as part of their deferred

compensation, executive bonus, and split dollar life insurance plans; and structured settlements. Obtained Chartered Life Underwriter, Chartered Financial Consultant, and Series 7 General Securities Representative designations.

Representative COMMERCIAL/INTELLECTUAL PROPERTY matters:

- Tried fraud and breach of contract claims on behalf of exploited investor, resulting in \$2.4 million compensatory and punitive damages jury verdict
- Tried patent damages claim on behalf of pharmaceutical company over infringing animal vaccine, resulting in favorable jury verdict
- Defended pharmaceutical company over patents relating to technology for cryosurgical removal of warts and other benign skin lesions, which settled on eve of trial
- Successfully litigated copyright infringement actions brought by classes of songwriters and music publishers against unlicensed Internet file-sharing companies Grokster and Napster
- Briefed and argued appeal before Guam Supreme Court on commercial lease dispute involving worldwide restaurant franchisee, overturning \$9 million jury verdict
- Successfully resolved accusations against on-line retailer of selling counterfeit goods
- Successfully defended software company against allegations of trademark infringement, dilution, and unfair competition brought by purported senior mark owner
- Conducted litigation campaign to enforce telecommunications company's patent relating to data compression algorithms
- Defended health care company in suit alleging claims for patent infringement, trademark infringement, copyright infringement, and theft of trade secrets over design, development, and sale of mass-marketed medical device
- Provided Digital Millennium Copyright Act (DMCA) advice and consultation to multimedia company in connection with potential acquisitions
- Drafted and negotiated non-exclusive licensing agreement of patent rights owned by U.S. technology university (pertaining to ligands for metals and metal-catalyzed processes) to Japanese commercial manufacturer to develop and sell licensed products and processes
- Drafted and negotiated joint research and development agreement between German and U.S. manufacturers of scientific instruments

Representative EMPLOYMENT matters:

- Tried unpaid wages claim on behalf of domestic worker, resulting in sizeable compensatory and punitive damages jury verdict
- Dismissed lawsuit alleging employment discrimination, anti-trust infractions, and RICO violation against major investment bank
- Represented companies and former employees in "raiding," non-compete, and breach of employment agreement suits
- Drafted employment agreements containing intellectual property and trade secret protections, confidentiality provisions, restrictive covenants, and non-compete and non-solicitation clauses
- Negotiated separation and severance agreements.

## **Mediator Experience**

Since 2011, appointed a Panelist for Resolute Systems, LLC, principally serving as a mediator to assist in resolving employment-related, business, and intellectual property/technology disputes.

Since 2011, also appointed to the S.D.N.Y. Mediation Panel, conducting mediations in labor and employment discrimination, Section 1983 police misconduct, and intellectual property cases. From 2013-2015, have served on the S.D.N.Y. Mediator Advisory Committee, providing assistance to the court on various aspects of its program.

Since 2014, appointed to the AAA's Mediation Panel. Since 2014, also appointed to the E.D.N.Y. Mediation Panel. Since 2015, appointed to the New Jersey Civil Mediation Roster.

Received a 2013 AAA A. Leon Higginbotham, Jr. Fellowship, which offers the full breadth of AAA and ICDR resources, including training, mentorship, and networking opportunities, to up and coming diverse ADR professionals who have historically not been included in meaningful participation in the field of ADR. Since 2015, a Board member for both the AAA Board of Directors and the Board of the Justice Marie L. Garibaldi American Inn of Court for ADR.

Long-time member of various ADR and intellectual property committees and organizations,

including American Bar Association Dispute Resolution Section, New York International Arbitration Center, New York State Bar Association Dispute Resolution Section, New Jersey State Bar Association Dispute Resolution Section, New Jersey Association of Professional Mediators, American Intellectual Property Law Association, New York Intellectual Property Law Association, and Copyright Society of the U.S.A. Regularly speak and publish on various ADR topics.

**Mediator Style & Process Preferences** I generally practice a facilitative approach/orientation to mediation. But I also possess the ability to be evaluative, particularly in commercial and intellectual property disputes where I have had extensive prior litigation and transactional experience. I am guided by what the parties need and flexibly adapt to the circumstances.

As to what the parties can expect after selecting me, I typically hold a brief pre-mediation call with counsel (clients are, of course, welcome) to go over logistics and housekeeping, including setting the mediation session date, the pre-mediation submission, scheduling ex parte pre-mediation calls, etc., which I memorialize in a recap e-mail for everyone's convenience.

As to the mediation session itself, I generally have everyone gather together initially in one room where I will provide welcoming remarks (largely for purposes of housekeeping, tone-setting, and managing expectations). The parties are invited to give opening remarks (not statements) of their own, and, if it makes sense, I might facilitate a joint discussion (about, for example, an agenda or other clarifying issues) while everyone is together in a single room. Eventually, it will likely make sense to separate into caucus rooms, in which case, I would go back and forth as necessary. We might gather together again jointly; we might not. I see how the day progresses and play it by ear. Additionally, absent some constraint from one of the participants, I usually reserve the entirety of the day for the mediation.

**Technology Proficiency** Available for arbitration hearings and mediation sessions held in person, remotely, and in hybrid formats, subject to appropriate health and safety protocols where applicable.

**Education** New York University School of Law (J.D. - 1997); Harvard University (A.B. cum laude Chemistry and Physics - 1991).

**Professional Licenses** Admitted to the Bar: New York (1998), District of Columbia (1999), New Jersey (2012)  
Chartered Life Underwriter (CLU) (1993-Present)  
Chartered Financial Consultant (ChFC) (1994-Present)  
Series 7 General Securities Representative (1993-1994)

**Professional Associations** American Arbitration Association (Council Member, 2016-2025; Board Member, 2015-2016)  
American Bar Association (Dispute Resolution Section)  
American Intellectual Property Law Association  
Asian American Bar Association of New York (Recording Secretary and Director, 2004-2007; Chair, ADR Subcommittee (2014-2018); Co-Chair, Judiciary Committee (2011-2014); Chair, Federal Judiciary Subcommittee (2009-2011); Co-Chair, Litigation Committee (2001-2004))  
Asian Pacific American Lawyers Association of New Jersey (Director, 2016-2017; President, 2015-2016; President-Elect, 2014-2015)  
Association for Conflict Resolution Greater New York Chapter (Director, 2016-2019)  
College of Commercial Arbitrators (Fellow, 2022 - present)  
The Copyright Society of the U.S.A. (Treasurer, 2020-2022; Secretary, 2018-2020; Trustee and Executive Committee Member, 2016-2018; New York Chapter Co-Chair, 2015-2017)  
Federal Bar Association (Alternative Dispute Resolution Section)  
Federal Bar Council (Second Circuit Courts Committee, Secretary, 2010-2013)  
Justice Marie L. Garibaldi American Inn of Court for ADR (President, 2018-2023; Secretary/Treasurer, 2017-2019; Board Member, 2016-2017, 2023-2024)  
National Academy of Distinguished Neutrals (Member, 2019-present)  
National Asian Pacific American Bar Association  
New Jersey Association of Professional Mediators  
New Jersey State Bar Association (Dispute Resolution Section, Director, 2016-2019)  
New Jersey Supreme Court Arbitration Advisory and Complementary Dispute Resolution Committees (2014-2017)  
New York City Bar Association (Federal Courts Committee; Task Force on ADR in NYC Courts; Copyright & Literary Property Committee)

New York Intellectual Property Law Association (2007-2016)  
New York State Bar Association (Dispute Resolution Section, Chair (2019-2020), Chair-Elect (2018-2019), Vice-Chair (2017-2018); Mediation Committee Co-Chair, 2016-2017)  
Silicon Valley Arbitration & Mediation Center  
S.D.N.Y. Mediator Advisory Committee (2013-2015)

## **Recent Publications & Speaking Engagements**

### **SELECT PUBLICATIONS**

"A New Way to Resolve Small-Value Copyright Claims," NYSBA EASL Journal (Fall/Winter 2021)  
"Virtual Mediation: Key Issues and Considerations," Practical Law (Jul 2021)  
"A Neutral's Perspective on Using Remote Proceedings to Resolve Disputes During the Pandemic and Beyond," NYSBA Bright Ideas (Jun 2021)  
"Pre-award and Post-award Interest: Requesting and Awarding in Domestic Arbitration Proceedings (U.S.)," Lexis Practical Guidance (May 2021)  
"Nonparty Discovery in Domestic Arbitration Proceedings (U.S.)," Lexis Practical Guidance (Oct 2020)  
"Whether And How To Compel Remote Arbitration," Law360 (Sep 15, 2020)  
"Conducting a Preliminary Hearing in U.S. Arbitration," Lexis Practice Advisor (Jul 2020)  
"Considering Arbitration or Mediation for Licensing Disputes," Federal Lawyer (May/Jun 2019)  
"Preparation is the Key to a Successful and Rewarding Mediation," NYSBA NY Litigator (Spring 2019)  
"Providing for Neutrals with Industry, Legal, and Business Expertise," NYSBA EASL Journal (Fall/Winter 2018)  
"When Experts Come From Different Planets: Finding the Difference Driving Seemingly Irreconcilable Expert Evidence in Arbitration," NYSBA NY Litigator (Fall 2018)  
"Sometimes Less is More (and Vice Versa): A Primer on Pleading Practice in Arbitration," NYSBA NY Litigator (Spring 2018)  
"Developing Skills to Address Culture in Arbitration and Mediation," Dispute Resolution Journal (Winter 2017)  
"Baseball Arbitration," NYSBA Labor & Employment Law Journal (Fall 2017)  
"Merits-Based Review of Arbitration Awards: A Potentially Appealing Option," NYSBA NY Litigator (Fall 2017)  
"Resolving Fair Use Disputes Through Mediation and Early Neutral Evaluation," FBA The Resolver (Fall 2017)  
"Maintaining Confidentiality in Arbitration," NYSBA EASL Journal (Summer 2017)  
"Making an Appearance: Being Present and Engaged at the Mediation Session," FBA The Resolver (Winter 2017)  
"Words Matter: Being Mindful of Language in Mediation," The Federal Lawyer (Oct/Nov 2016)  
"Using Alternative Dispute Resolution to Address Your Entertainment Disputes," NYSBA EASL Journal (Spring 2015)

### **SELECT SPEAKING ENGAGEMENTS**

Panelist, "Getting to Maybe: The Intersection of ADR and Adult Learning," NYLS ADR Skills Program Series (Sep 20, 2022)  
Panelist, "Options for Preventing, Managing and Resolving Healthcare Disputes," ABA 2022 Physicians Legal Issues: Healthcare Delivery & Innovation Conference (Sep 17, 2022)  
Panelist, "When to Consider Mediation and How to Identify Opportunities for Settlement," CPR Institute (May 19, 2022)  
Panelist, "Getting It Right – Choosing the Right Arbitrator," NY Arbitration Week (Nov 18, 2021)  
Panelist, "Using Alternative Dispute Resolution to Address Intellectual Property Rights in the Employment Context," NYSBA L&E Law Section Fall Meeting (Oct 16, 2021)  
Panelist, "Virtual Lawyering – Practical and Ethical Concerns in Litigating and Resolving Disputes in the Age of Covid-19," NYSBA IP Law Section Annual Meeting (Jan 20, 2021)  
Panelist, "Dispute Resolution in the Arts and Entertainment Industries," NYSBA EASL Section Annual Meeting (Jan 19, 2021)  
Moderator, "Mass Arbitration of Wage Theft Claims: Panacea or Plague?," ABA 14th Annual Section of L&E Law Conference (Nov 11, 2020)  
Interview, "Arbitration Conversation #11: Theo Cheng on Intellectual Property Arbitration" (Jul 13, 2020)  
Panelist, "Tactical Decisions that Counsel and the Client Must Often Make While Participating in

Mediation – Part 2,” NYSBA Dispute Resolution Section (Jun 29, 2020)  
Panelist, “Virtual ADR from A to Z,” Labor and Employment Relations Association (Jun 2, 2020)  
Panelist, "Yes, We Are Talking About Arbitration Again!," PLI Wage & Hour Litigation and Compliance 2020 (Jan 28, 2020)  
Panelist, "Ethics in ADR: The Ultimate Guide for New Jersey Attorneys," NJICLE (Nov 7, 2019)

**Locations Where Parties Will Not be Charged for Travel Expenses** There will be no charges for time or lodging-related expenses for any hearing/session held within two (2) hours travel time from Princeton Junction, NJ

**Mediation Rate** \$900 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.