



AAA Mediation.org™

FN-28176 MN-28176 LN-28176, Esq.

Scottsdale, Arizona



Current Employer-Title Sacks Tierney P.A. - Shareholder

Profession Attorney

Work History Shareholder, Sacks Tierney P.A., 1984 - Present; Judge Pro Tem, Maricopa County Superior Court, 1993 - Present; Law Clerk, Honorable William C. Canby, Jr., United States Court of Appeals, Ninth Circuit, 1983 - 1984.

Experience Thirty years' experience in commercial litigation with an emphasis on legal issues pertaining to construction, real estate, and insurance coverage regarding Commercial General Liability Policies. Practice encompasses the independent handling, supervision, and control of large, complex commercial litigations, arbitrations, mediations, and appeals. Construction clients include owners, contractors, architects, engineers, and others related to the construction industry. Claims range from \$10,000 to more than \$10 million. Litigated numerous construction-law-related issues including, but not limited to, differing site conditions, defective construction, delay damages, breaches of contract, liens and bonds, insurance coverage, and liquidated damages.

Mediator Experience The mediator conducted a construction mediation on January 23, 2017 between a homeowner and Roofing Contractor. The mediation arose out of a lawsuit filed by the homeowner arising out of a dispute relating to the installation of a metal roof on his residence. Counsel involved were Rick Righi and Mike Thal. While the damages claimed were below \$100,000.00, the personalities involved were difficult and rigid. The case settled successfully at the end of the day long mediation.

The mediator conducted a construction mediation on November 23, 2016, among three corporate entities. The mediation involved the resolution of a pending Arbitration and a separate state court lawsuit. The matter in dispute related to an extensive remodel of a facility to house a metal finishing and aerospace parts business. The purpose of the remodel was to modify and modernize the facility's general industrial space so that it could accommodate the advanced processes of the business and satisfy applicable Code requirements. Counsel involved were Barry Willits and Guy Bluff. Issues involved scheduling, defective work, asbestos remediation, non-performance, forgery, insurance and termination. Damages alleged exceeded \$1.3 million. The mediation resolved the cases successfully.

The mediator conducted a construction mediation on September 16, 2016, involving five parties. This complex mediation involved the resolution of the construction of a custom home for a

homeowner and a dispute between the general contractor and a subcontractor relating to the erection of structural steel on the project. Issues involved a lien foreclosure/lien discharge bond; claims of unjust enrichment and the involvement of a previously entered judgment against one of the parties. The case had been litigated through a motion for summary judgment and an appeal remanding the case for trial, and a related bankruptcy. Counsel involved were Dominica Minore, Guy Bluff and Ivan Mathew. The mediation lasted an entire day and continued with phone conferences for a while thereafter. Ultimately, one of the cases settled at mediation and the other settled shortly thereafter.

Representative Issues Handled as a Mediator

As noted above, the mediator has handled many construction mediations involving payment issues, delay and scheduling issues, wrongful termination issues, defective work issues, lien and bond issues, and insurance issues. As a settlement conference Judge Pro Tem for more than 20 years, the mediator has also mediated personal injury issues, commercial matters such as trade secrets, employment, housing discrimination and general corporate and business disputes.

Mediator Style & Process Preferences

I have been a lawyer practicing construction and commercial litigation for 34 years. I learned long ago that the best way to assist my clients was to resolve their disputes as quickly, efficiently and as cost effectively as possible. My clients are in the business of construction not in the business of litigation and they need to resolve disputes in the same business like way they run their business. It is my job to counsel them to resolve disputes with as little emotion and as much business sense as possible. I approach mediations the same way. It is important for parties in mediation to tell their story, and I listen with empathy. Nonetheless, I communicate quite clearly that while this isn't their last chance to resolve a dispute it is a good and maybe the best opportunity to do so, so long as it isn't premature. Indeed, one of the most important variables in the likelihood of a successful mediation, is to ensure that all parties (and the mediator) are fully prepared and informed. So long as all parties are participating in good faith and with an eye towards a successful resolution, I endeavor to explore all possible opportunities for settlement, encouraging everyone to be respectful, creative and open minded. I not only facilitate but also evaluate the merits of cases and discuss not only factual and legal issues, but the likely consequences of continued litigation/arbitration if no resolution is reached. I am patient, listen well and carefully, and look for every possible avenue to align the parties' interests, maximize similarities and minimize differences.

Education

Arizona State University (JD-1983); University of Georgia (EdS, Psychology-1975; MEd, Psychology-1974); University of South Florida (BA, Psychology and Sociology-1973).

Professional Licenses

Admitted to the Bar: Arizona, 1983.

Professional Associations

State Bar of Arizona (Construction Law Section; Executive Council, Past Chair; Past Treasurer); Arizona Center for Law in the Public Interest (Former Board of Directors; Past President); American Subcontractors Association of Arizona, Former Chair of Legal Council and Former Chair of Government Relations and Advocacy Committee; Chair of Arizona State Contractors' Coalition; Meritas (Firm Contact).

Mediation Rate

\$3,800 Per Day

Languages

English

Citizenship

United States of America

Locale

Scottsdale, AZ

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.