



AAA Mediation.org™

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Phoenix, Arizona



Current Employer-Title Sole Practitioner

Profession Attorney

Work History Law Office of Marc Kalish, 2008 – Present; Sole Practitioner and Of Counsel (Contract work), Meyer Hendricks PLLC, 2006 – 2007; Sole Practitioner, 2004 – 2006; Meyer Hendricks & Bivens P.A., 2001 – 2003; Sole Practitioner, Law Office of Marc Kalish, 1996 – 2001; Attorney/Managing Director, Kalish Forester P.C. (f/k/a Kalish, Forrester & Torres, P.C.), 1984 – 1996; Associate Attorney, Fennemore Craig von Ammon Udall & Powers, 1980 – 1984.

Experience LITIGATION EXPERIENCE

As a general civil litigation attorney, extensive state and federal trial and appellate court experience that includes evaluating and litigating disputes in most areas of civil practice other than domestic relations/family law,. Specific examples include:

COMMERCIAL LAW: Disputes governed by the UCC (Articles 2, 2A, 3, 4, 4A, 5, 8, and 9), commercial loan transactions, aviation, antitrust, foreclosure of security interests on real and personal property, commercial and residential leases and purchase agreements, collection and enforcement of judgments, corporate and partnership disputes, violations of securities laws; insurance related coverage issues (auto, professional E&O, liability, health, fire, personal property, aviation).

CONSTRUCTION AND REAL ESTATE: Representing general contractor in disputes with homeowners and subcontractors; disputes with homeowners' associations; construction defect cases against contractors; architectural malpractice; real estate disputes between sellers and buyers; claims against title insurance companies; lien priority and enforceability disputes.

TORT LAW: Cases involving commercial torts such as interference with business expectancies; products liability; personal injury litigation (for both plaintiffs and defendants); professional liability (including, among others, bank directors, engineers, health care providers, lawyers and accountants); defamation.

APPELLATE: Lead counsel in several reported cases establishing new law including defining the ethical obligations of corporate counsel to investors; providing tort remedies to tenants for a

landlord's violation of statutory standards; elimination of a partnership accounting as a condition precedent to partnership lawsuits; defining the scope of bank directors' fiduciary duties.

JUDICIAL EXPERIENCE

Served as a Judge Pro Tempore in the Maricopa County Superior Court, Civil Division, for nearly 20 years, including one year (1999) as a full-time paid pro-tem judge. Presided over hundreds of cases and conducted more than 75 civil trials (both bench trials and jury trials) involving claims of ERISA-related professional liability; securities fraud; wrongful repossession; wrongful disposition of consigned property; real property disputes; insurance coverage; civil rights violations; personal injuries in a number of contexts; construction-related disputes. Handled numerous pretrial and discovery disputes and provisional remedy matters including requests for TROs and preliminary injunctions.

Mediator Experience

As a mediator and settlement conference judge, over the past 30+ years have mediated numerous personal injury and commercial disputes, including those involving corporate and partnership dissolutions, construction defects, homeowner association and real estate related matters, insurance coverage/benefit issues, securities related matters, breach of contract claims, employment issues (including claims invoking the Americans with Disabilities Act), environmental issues, special education issues, and medical and other professional malpractice disputes. As an arbitrator for the AAA, NASD/FINRA, private parties, U.S. District Court and the Maricopa County Superior Court, arbitrated many personal injury, insurance, and commercial disputes including complex securities transactions (included subordinated tranches of various structured debt obligations); secured loan transactions; disputes involving ownership of partnerships, corporation and limited liability entities; intellectual property disputes; construction defects; and both commercial and real estate contract disputes. A mediator for the AAA, FINRA, and Arizona Board of Realtors. Arbitrator for the AAA and FINRA.

Representative Issues Handled as a Mediator

Many of the real estate and construction cases involved claims of failure to disclose material defects such as mold and termites, inadequate soil compaction and other structural problems, and drainage problems. Personal injury/wrongful death case issues included apportionment of fault, as well as elements of and extent of damages. Issues in commercial contract cases included misrepresentations by franchisors to franchisees, alleged breaches of the covenant of good faith and fair dealing, unfair competition, enforceability of non-competition covenants, and alleged wrongful termination of employment and other types of agreements. One of the most unusual cases was between a court-appointed lawyer handling a death penalty case and the county and involved a dispute over whether the county's funding of the case through a fixed-price contract was constitutional. As a former Air Force fighter pilot, have also mediated cases involving aeronautic issues.

Mediator Style & Process Preferences

I believe that a successful mediator must be creative and flexible. Therefore, while I begin almost all of my mediations in a facilitative style, I almost always transition to a more evaluative style as the mediation progresses and circumstances warrant.

Education

Georgetown University Law Center (JD, magna cum laude-1980); Purdue University (BS-1969)

Professional Licenses

Admitted to the Bar: Arizona, 1980

Professional Associations

American Bar Association (Alternative Dispute Resolution Section; Pro Bono Committee, Past Chair), 1980-2010; State Bar of Arizona (Alternative Dispute Resolution Section); Maricopa County Bar Association; National Association of Distinguished Neutrals

Mediation Rate

\$500 Per Hour

Languages

English

Citizenship

United States of America

Locale

Phoenix, 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.