



AAA Mediation.org™

**FN-335590 MN-335590 LN-335590,  
Esq.**

Shawnee, Kansas



**Current Employer-Title** Henry R. Cox, Attorney at Law – Attorney and Owner

**Profession** Attorney

**Work History** Attorney, Henry R. Cox Attorney at Law, 2002 – Present; Partner, Swanson Midgley LLC, 1998 – 2002; Partner, Blackwell Sanders Peper Martin, 1991 – 1998; Attorney, Linde Thompson Langworthy et al., 1990 – 1991; Labor Attorney, Trans World Airlines Inc., 1986 – 1989; Assistant City Attorney, City of Overland Park Kansas, 1984 – 1986; Assistant City Attorney, City of Topeka, Kansas, 1982 – 1984; Law Clerk, Kansas Court of Appeals, 1981.

**Experience** Over 40 years of complex litigation experience in commercial, personal injury, employment and labor law, in over 30 states and several international jurisdictions: EMPLOYMENT LAW and CIVIL RIGHTS - actively representing both plaintiffs and defendants in hundreds of lawsuits (mostly in federal court) involving EEOC, ADEA, ADA and related federal and state laws regarding civil rights, discrimination, (sex, gender, LGBTQIA+, race, color, national origin, age, and religion), disability discrimination and accommodation, pregnancy discrimination, harassment (gender, sex, race, religion and other), police action, Sec. 1983 actions, government, Section 1981 actions, public accommodations, constitutional rights, veterans' discrimination, (USERRA, VEVRRRA, and Veterans' Affairs), FLMA and paid and unpaid leave laws federal and state, FLSA, wage/hour rules, overtime, wage audits and state wage payment laws, whistleblowing, OSHA, NLRA, ERISA, Class Actions, employment agreements (C-Suite, stock option, sales, technical knowledge, trade secrets, non-competition, non-solicitation and non-disclosure agreements), public employment involving federal workers, state workers, and local government employees. In addition to employment law litigation, drafted numerous employment policy handbooks, industry specific employment procedures/policies and has provided ongoing training to management and employees for various companies.

TRADITIONAL LABOR LAW - includes over 350 labor arbitrations in multiple industries (e.g. airlines, transportation, mining, manufacturing, chemical, healthcare, printing, warehousing, industrial services, professional, and higher education), discipline/discharge, collective bargaining, CBA interpretation, classifications, work rules, work jurisdiction, disability claims, work stoppage, organizing activities, strikes and over 30 unfair labor practice charges before the NLRB. Member of Kansas Civil Service Board 2011-2021, and active neutral panel for the Kansas Department of

Labor since 2002.

COMMERCIAL LAW and PERSONAL INJURY: Litigation, arbitration and ADR practice, beyond employment areas, includes personal injury claims (premises liability, accidents, catastrophic injury), traffic engineering, uniform and local code-enforcement, institutional abuse of minors, tangible and intangible property damage, professional malpractice (medical, pharmacy, accountancy, and legal), contract claims, (including complex commercial contracts, equipment leases, real estate, services, and multiparty ventures), commercial liability, healthcare, insurance coverage, land use issues (leasing, zoning/planning, boundaries, and public use, condemnation and enterprise zones), defamation, First Amendment/free speech/association, construction (residential and commercial - contract, bidding, injury and non-injury damages, incentives and liquidate damages), public financing, bonds, and school financing, securities law, intellectual property (patent infringement, copyright and trademark). Has represented clients before the U.S. Supreme Court (cert. denied), U.S. Tenth and Eighth Circuit Courts of Appeals and various state appellate courts, plus various state and federal administrative agencies and government boards.

## **Mediator Experience**

Has been a mediator since 1992 and was one of the first Court approved mediators by the U.S. District Courts in Kansas and Missouri W.D. and the Kansas Supreme Court. Has developed the first 40-hour, mediator-training course in the region in 1992 through the Kansas Bar Association and I continue to provide Civil Litigation Mediator Training for attorneys and judges seeking court approved training, having provided over 1,000 hours of classroom training.

Types of mediated cases include: Over 20 civil rights cases involving federal, state and local entities as well as private parties in litigation in such areas as equal protection, alleged police abuse, discrimination and sexual abuse – cases have involved multiple parties ranging up to 12 parties; Over 100 cases involving discrimination and harassment mostly arising out of the workplace, including sexual harassment, racial harassment, ADA, religion, national origin, gender, race, age and veteran status; Over 50 cases involving employment litigation, including ERISA, termination grievances, non-compete agreements, proprietary information, stock-distribution agreements and whistleblower issues; Labor cases involving effects-bargaining, residual pension/retirement benefits, post-merger/acquisition representational issues and job classification issues; Over 20 cases involving securities and commodities issues including alleged commodities fraud, broker bad faith and negligence and whistle-blowing; Over 15 cases involving professional malpractice, including medical, accountancy and public licensed professionals; Over 15 cases involving institutional abuse, including clergy, educational and foster care; Five cases involving intellectual properties, including patent infringement, trademark and copyrights; Over 50 cases involving business dissolution, including medical practices, CPA practices, legal practices, publishing, manufacturing, sales and distribution, manufacturing and other businesses; Over 10 cases involving construction liabilities, including payment obligations, failure to perform, workmanship and alleged defect issues; Over 10 cases involving land use issues, including zoning, planning and community disputes; Over 10 cases involving commercial financing obligations and collection; Over 20 cases involving personal injury claims, including premises liability and vehicular accidents.

Alleged damages have ranged between \$50,000 and over \$10 million.

## **Representative Issues Handled as a Mediator**

Representative issues in mediated cases include: civil rights cases involving federal, state and local entities as well as private parties in litigation in such areas as equal protection, alleged police abuse, discrimination and sexual abuse – cases have involved multiple parties ranging up to 12 parties; cases involving discrimination and harassment mostly arising out of the workplace, including sexual harassment, racial harassment, ADA, religion, national origin, gender, race, age and veteran status; cases involving employment litigation, including ERISA, FLSA, termination grievances, non-compete agreements, proprietary information, stock-distribution agreements and whistleblower issues; Labor cases involving effects-bargaining, residual pension/retirement benefits, post-merger/acquisition representational issues and job classification issues; cases involving securities and commodities issues including alleged commodities fraud, broker bad faith and negligence and whistle-blowing; cases involving professional malpractice, including medical, accountancy and public licensed professionals; cases involving institutional abuse, including clergy, educational and foster care; cases involving intellectual properties, including patent infringement, trademark and copyrights; cases involving business dissolution, including medical practices, CPA practices, legal practices, publishing, manufacturing, sales and distribution, manufacturing and other businesses; cases involving construction liabilities, including payment obligations, failure to perform, workmanship and alleged defect issues; cases involving land use issues, including zoning, planning and community disputes; cases involving commercial financing obligations and collection, and;

cases involving personal injury claims, including premises liability and vehicular accidents, including premises defects, negligent maintenance, duty of care, slip and fall, respondeat superior, prior injury or existing medical condition, medical evaluations, future medical costs, structured settlement, settlement trusts.

**Mediator Style & Process Preferences** The mediator fundamentally allows a process where the parties in conflict can reengineer the conflict placing it in a format of issues and interests where mutual settlement can be attained. Parties and attorneys come to the mediation process with their own sense of goals, interests and expectations. The mediation provides an opportunity to take those individual expectations and derive mutual grounds for settlement. The parties drive the issues, positions and interests, while the mediator drives the mediation process to capture those party interests and generate communications to facilitate a settlement opportunity.

The mediator also plays an important role in the efficiency of conflict resolution by being able to assist the parties to communicate and exchange a vast amount of information in a short period of time where it would otherwise take weeks or months for the parties to exchange a similar amount of information. The mediator also has the opportunity to assist the parties in articulating value and meaning to the exchanged information for settlement purposes.

Although parties and attorneys can be hesitant to participate in joint session discussions, the mediator can facilitate a highly beneficial dialogue between the parties even when there are highly contentious, sensitive or emotional issues involved. Joint discussions promote self-determination goals in mediation and avoid miscommunications and filtering by the mediator. Private meetings are highly useful and are more productive when used to focus on party-confidential issues such as undisclosed information, risk assessment and potential ranges for monetary settlement factors.

Parties should avoid creating artificial constraints on settlement discussions such as time limits, flight schedules, or other issues needing attention. The persons with actual settlement authority should be in attendance during the mediation. While this is sometimes unavoidable, a common reason for settlement not occurring is the absence or intermittent participation of the person with actual settlement authority.

Parties who seek a biased mediator to be evaluative, endorsed their position and strong arm an opposing side are missing the benefits of the mediation process and are often disappointed with the results, or lack thereof. A mediator should assist the parties in evaluating their positions, risks and potential outcomes without attempting to influence the outcome in a quasi-arbitrator's role of what the mediator believes the resolution should be. The mediator should typically provide evaluative input only when specifically invited into that process, where the parties have mutually defined an evaluative process such as early assessment, or when a clear irrational or perhaps abusive position is prohibiting the negotiation from moving forward.

Parties should be allowed not to settle a dispute and to rely on the trial process. Most parties realize that settlement can be reached and do reach settlement especially when an effective, non-biased mediation process is afforded. Mediation is a valuable process for the parties even if immediate settlement is not reached. The success of a mediation is not always found with a settlement agreement. Self-determination is the primary goal of the mediation process, where often times the mediator is able to guide parties, using their positions and expectations in arriving at a self-determined, negotiated outcome.

**Education** Washburn University School of Law (JD, Order of Barristers, Moot Court President-1981); Baylor University (BA, Anthropology and Journalism-1978).

**Professional Licenses** Admitted to the Bar: Missouri (1990), Kansas (1982); U.S. Court of Appeals: Eighth (1998) and Tenth (1995) Circuits.

**Professional Associations** Kansas Bar Association (Alternative Dispute Resolution Section, Past President); Kansas City Metropolitan Bar Association (Dispute Resolution Section, Past President); American Bar Association (Committee on the Law of Collective Bargaining, Past Appointed Member).

**Recent Publications & Speaking Engagements** PUBLICATIONS: "Discipline and Discharge in Arbitration," BNA and American Bar Association, 1998; contributor, "Employment Issues - Diagnosis, Prognosis and Preventative Maintenance," PHYSICIANS' SURVIVAL GUIDE, American Bar Association and American Medical

Association, 1991; "Due Process and the Car: Towing, Towing Gone," KANSAS BAR JOURNAL, Kansas Bar Association, 1983. FICTION NOVELS: Deceit of the Soul: Saving the World from COVID-19: Before the Pandemic (2020); Deceit of the Earth - Heavy Metal (2021).

SPEAKING ENGAGEMENTS (partial list): "Depositions that Settle Cases: Positioning Your Client for Successful Mediation/Arbitration," UMKC School of Law, 2009; "Negotiating for Dollars: Distributive Bargaining Techniques in Monetary Settlements," Associates in Dispute Resolution LLC, 2009; "Ethical Issues in Discrimination Claims with Administrative Agencies," and "The Gordian Knot for Leaves of Absence with ADAAA, FMLA, Title VII and Workers' Compensation," National Business Institute, 2009; "The ADAAA of 2008 Overview and Summary," and "Ethical Issues in ADAAA Cases," National Business Institute, 2009; "Civil Mediation Training," Johnson County Community College, Center for Business and Technology, Continuing Education, March, July, and October 2008 and March and October, 2009; "The Law of Labor Relations, Collective Bargaining Provisions, The Language of the Agreement," National Business Institute, 2008; "Using Mediation When Negotiations Don't Work, Ethical Considerations in Reaching Settlement," National Business Institute, 2008; "Exploring ADR and Understanding Your Options, Distinguishing Dispute Resolution Options, Current and Forecasted Trends in ADR," National Business Institute, 2008; "Employment Issues in a Paperless Workplace and New Rules of Discovery," National Business Institute, Kansas, 2007. Civil Mediator Training (24-hour course) 1992-present; Conscientious Negotiating, Missouri Association of Mediators, 2019, Civil Case Mediation for the Newer 1st Chair, UMKC Law School 2019; Mediator Ethics, Kansas Bar Association, 2018; Emotional IQ in the Law - Implicit Bias, Diversity and Inclusion (2020, Univ. of Missouri KC School of Law, Johnson County Bar Association, Civil Mediator Training JCCC).

<b>Mediation Rate</b>	\$275 Per Hour
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	Shawnee, KS

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.