



AAA Mediation.org™

**FN-4024732 MN-4024732 LN-4024732,
Esq.**

Montgomery, Alabama



Current Employer-Title Capell & Howard, P.C. – Shareholder/Attorney

Profession Attorney, Mediator and Arbitrator.

Work History Shareholder/Attorney, Capell & Howard PC, 1985-Present; Associate, Bradley Arant Rose & White, 1982-1985; Law Clerk - Middle District of Alabama, Honorable Truman M. Hobbs, 1981-1982.

Experience Over 40 years experience in commercial litigation. Primary areas of experience include contract disputes, business disputes, banking and financial services, insurance, accounting, estate, property, fraud, governmental, trade secrets, construction, Uniform Commercial Code, and securities litigation. Has represented plaintiffs and defendants in a variety of lawsuits in state and federal courts, including contract disputes, partnership disputes, business and consumer fraud, accounting, antitrust, banking, property, estate, class actions, equipment sales, construction, breach of warranty, government contracts, civil rights, products liability, and insurance litigation.

Listed in Alabama Super Lawyers in the specialties of Alternative Dispute Resolution; Business Litigation; and Commercial Litigation. Listed in Best Lawyers in the practice areas of Arbitration; Mediation; Commercial Litigation; Litigation-Banking and Finance; and Litigation-Securities. Recognized by Best Lawyers as Montgomery "Lawyer of the Year" in Arbitration (2021) and Mediation (2022).

Mediator Experience Has served as private and court-appointed mediator for over 12 years with over 100 cases mediated. Has mediated disputes between business owners/shareholders over ownership and buy-out disputes; commercial disputes arising from breach of contract allegations; estate litigation concerning interest of beneficiaries; litigation between banks and customers relating to loan obligations and guarantees; property disputes between landowners; fraud and suppression litigation; personal injury lawsuits arising from automobile and truck collisions; foreclosures; and appellate mediations.

Multi-party mediation experience includes business disputes involving several owners/shareholders of companies; litigation between banks and numerous individuals relating to loan obligations and guarantees; estate litigation involving numerous individuals and guardian ad litem; and disputes between several adjacent landowners.

Has represented parties in dozens of mediations in business and commercial cases, including representation of plaintiff insurance company in \$30 million lawsuit against auditor; representation of defendant insurance company in \$25 million lawsuit by minority shareholders; representation of defendant oil distributor in antitrust class action lawsuit by consumers; representation of defendant Major League Baseball Player and his agent in lawsuit by promoter; representation of defendant pharmaceutical company in \$100 million lawsuit by state agency; representation of defendant equipment supplier in \$15 million lawsuit by plant owner.

Registered on the Alabama State Court Arbitrator and Mediator Rosters. Serves as a private and court-appointed mediator for numerous business and consumer disputes.

Representative Issues Handled as a Mediator

Representative issues include dispute between building contractor and owner involving breach of contract, fraud/misrepresentation, breach of contract and conversion claims; dispute between financial institutions and borrowers involving loan guarantees and breach of loan provision; dispute between securities broker and dealer involving enforcement of non-compete obligations; dispute between employer and administrator/recordkeeper over 401(k) plan issues; dispute between administrator of estate and beneficiary involving beneficiary's interest in multi-million dollar business; and dispute between adjacent landowners over property rights and nuisance claims.

Mediator Style & Process Preferences

Prior to mediation I become knowledgeable about the parties, issues and potential hurdles to settlement. I request mediation position statements and relevant pleadings, depositions and documents. I have confidential conferences with counsel for each party by Zoom or telephone prior to mediation. During mediation I listen carefully to understand each party's underlying interests and often ask probing questions to assist the parties in evaluating settlement positions and options. I frequently use brackets and decision tree analyzes in appropriate cases. Persistence is important. If a case does not settle during the initial mediation session, I follow up with counsel to explore new ideas and additional settlement options.

Technology Proficiency

Proficient with Zoom online platform. Has conducted numerous mediations, arbitrations, and conferences using Zoom.

Proficient with analytics software program used to create decision tree case analyzes for plaintiffs and defendants. These confidential analyses are often helpful case evaluation tools for lawyers and their clients in mediation.

Education

University of Alabama School of Law (JD-1981); Washington and Lee University (BS-1978).

Professional Licenses

Admitted to the Bar: Alabama (1981); US District Court: Northern, Middle and Southern Districts of Alabama; US Court of Appeals: 11th Circuit; US Supreme Court.

Professional Associations

Alabama State Bar (1981); Chair, Alabama Supreme Court Commission on Dispute Resolution (2021-2022); Board of Directors, Alabama Center for Dispute Resolution; The National Academy of Distinguished Neutrals; Fellow, Alabama Bar Foundation; Alabama Academy of Attorney Mediators; Board of Directors, Montgomery Area Chamber of Commerce (2018-2019).

Recent Publications & Speaking Engagements

Comment, Local Legislation in Alabama: The Impact of *Peddycoart v. City of Birmingham*, 32 Ala. L. Rev. 167 (1980)

Speaker, Alabama Center for Dispute Resolution, Foreclosure Prevention/Mortgage Modification Mediation Update Training (August 3, 2016)

Speaker, "Alabama Dispute Resolution: How are We Using It?" Alabama State Bar Annual Meeting (July 13, 2017).

Speaker, "Recent Trends in Dispute Resolution" Montgomery County Bar Association (August 10, 2017).

Speaker, "Tips for Effective Mediations" Alabama State Bar Section on Dispute Resolution and the Alabama Center for Dispute Resolution (October 20, 2017).

Speaker, "ADR Trends in Alabama" Alabama State Bar Section on Dispute Resolution and the Alabama Center for Dispute Resolution (October 21, 2020).

Speaker, "ADR Trends in Alabama" Alabama State Bar Section on Dispute Resolution and the Alabama Center for Dispute Resolution (April 18, 2022).

Speaker, "Appellate Mediation: How to Get the Best Experience for You and Your Client" Alabama State Bar (October 19, 2022).

Mediation Rate	\$350 Per Hour
Languages	English
Citizenship	United States of America
Locale	Montgomery, AL

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.