



AAA Mediation.org™

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Scottsdale, Arizona

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Current Employer-Title Don Bivens, PLLC - Founder & Managing Partner

Panelist Video <https://www.adr.org/videoresume?paramName=819126283>

Profession Arbitrator, Mediator

Work History Founder & Managing Partner, Don Bivens PLLC, 2021-Present; Equity Partner, Snell & Wilmer LLP, 2006-2021; Partner, Bivens & Nore PA, 2006; Partner, Meyer, Hendricks & Bivens PLLC, 1995-2006; Partner, Meyer Hendricks Victor Osborn & Maledon PA, 1977-1995.

Experience

General Commercial Disputes:
Forty years of broad experience in business litigation, including real estate, construction, environmental law, employment law, eminent domain, defamation, hospital law and credentialing, Medicare reimbursement, election law, bankruptcy, lender liability, professional negligence (legal, medical, architectural), franchise law, and immigration law.

Intellectual Property Disputes:
Handled complex patent and trade secret cases involving chemistry, engineering, fixed wind and rotary aeronautics, software development, digital controls, medical implants and portable generators used for fracking, among other subjects. Familiar with state and federal statutes that bear on IP issues. Understand claims construction and Marksman issues in the patent arena. Experienced in all aspects of economic damages available in IP cases, including projections of lost profits and reasonable royalties.

Securities, Banking and Financial Disputes, Officer and Director Liability:
Tried securities fraud cases to jury verdict. Represented both Plaintiffs and Defendants in class actions. Familiar with class certification issues and settlement criteria. Led internal investigations into complex financial and accounting matters ranging from stock option backdating, to audit irregularities, to mergers and acquisitions, proxy fights and officer and director liability. Represented consumers and broker-dealers in investment disputes. Represented lenders and borrowers in a host of transactional contexts. Familiar with FINRA and CFPB regulations and enforcement, and matters of mortgage lending and regulatory compliance.

Accounting, Audit and Insurance Disputes:
Well-grounded in GAAP, FASB, and related accounting practices. Handled complex accounting and audit cases in a variety of industries, including healthcare, pharmaceuticals, telecommunications, social media, manufacturing, and franchising. Tried audit and insurance regulatory cases to verdict. Handled coverage disputes for policyholders and insurers alike.

Mediator Experience Participated in over 100 mediations across the country, most involving complex commercial issues,

multiple parties, high stakes and insurance towers. Historically, role has been that of a lawyer representing clients.

Representative Issues Handled as a Mediator

Was recently engaged by law firms in New York and Chicago to mediate a multimillion-dollar dispute over the sale and ownership of turbine engines. Conducted this mediation by Zoom with participants from Chicago, New York, Connecticut, Texas and Arizona. The dispute involved the sale and ownership of turbine engines shipped from the U.S. to Australia. Once delivered in Australia, the engines were swept into a bankruptcy proceeding in which a lending institution claimed ownership of the turbines under a complicated financing agreement. The issues were further complicated by a choice of law issues between the U.S. and Australia.

As a lawyer, mediation experience includes, wrongful death from an airplane crash, sexual molestation of multiple children, theft of trade secrets and intellectual property, medical malpractice, construction and architectural malpractice, accounting and audit malpractice (familiar with GAAP and FASB issues), legal malpractice, employment discrimination, covenants not to compete, violation of biometric privacy rights, securities violations, FINRA arbitrations, complex estate disputes, environmental violation and remediation, officer and director liability, and many other complex, multiple party mediations.

Mediator Style & Process Preferences

Don Bivens is evaluative mediator. He places no restrictions on mediation briefs or exhibits and carefully studies all submissions. Don holds pre-mediation conferences separately with each party. Where appropriate, he holds pre-mediation conferences with insurers. He requests the parties to submit draft mediation agreements as part of their submissions. During the mediation itself Don shares his evaluation confidentially with each party, pointing strengths and weaknesses of their case. When invited by the parties, Don will offer a mediator's proposed settlement. If a matter does not settle on the first day, Don will stick with the case, bring the parties back together and continue to work to resolution.

Technology Proficiency

Skilled at virtual arbitrations and mediations.

Education

University of Texas School of Law (JD, Note & Comment Editor Texas Law Review, Order of the Barristers - 1977); Yale University (BA, magna cum laude with distinction in English Literature - 1974).

Professional Licenses

Admitted to the Bar: Arizona (1977); US District Court: District of Arizona; US Court of Appeals: Ninth Circuit; US Supreme Court.

Professional Associations

Chair, American Bar Association Center for Innovation 2020-Present; Chair, American Bar Association Section of Litigation, 2013-2014; Governor, American Bar Association 2007-2010; President, State Bar of Arizona, 1999-2000; President, Western States Bar Conference, 2002-2003; President, Maricopa County Bar Association, 1989-1990; Patron Life Member, American Bar Foundation; American Law Institute, 2007-Present; Chair, Arizona Supreme Court Committee of Civil Justice Reform 2015-2016; Member, Arizona Supreme Court Task Force on Changes to the Legal Profession, 2019; Member, Arizona Supreme Court Judicial Council 2019-Present; Founding President, Thurgood Marshall Inn of Court, Phoenix.

Recent Publications & Speaking Engagements

Recent Publications:

"A Call To Reform," as Chair of the Arizona Supreme Committee on Civil Justice Reform, 2016;

"Our Members Share Their Secrets for Success," Author, American Bar Association's Litigation, Vol. 40, No. 4, 2014;

"Fourteen Tips to Make You a Better Litigator," Author, American Bar Association's Litigation, Vol. 40, No. 3, 2014;

"Watergate Inspires After 40 Years," Author, American Bar Association's Litigation, Vol. 40, No. 2, 2014;

"Five Traits of the Best Lawyers I Know," Author, American Bar Association's Litigation, Vol. 40, No. 1, 2013;

Speaking Engagements

"Efficiency in Motion: A Convening on Summary Judgment and Dispositive Motions," Institute for the Advancement of the American Legal System, 2017;

"Civil Justice Reform: Implementing Best Practices Based on National Research," National Association of Presiding Judges and Court Executive Officers, 2017;

"Civil Justice Reform," Western Regional Summit of the Conference of Chief Justices, 2017;

"Precision Advocacy: Reinventing Motion Practice to Win", 2017;

"Pending Reforms to the Federal Rules of Civil Procedure", Federal Bar Association, 2017;

"Hot Topics in Civil Litigation," Snell & Wilmer National Corporate Counsel Forum, 2017;

Moderator: "Achieving Civil Justice for All: Recommendations, Next Steps and the Role of Bar Leaders," American Bar Association Mid Winter Meeting, 2017;

"Proposed Reforms to the Arizona Rules of Civil Procedure," Maricopa County Superior Court Civil Judges, 2017.

Mediation Rate	\$750 Per Hour
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.