



AAA Mediation.org™

**FN-4073632 MN-4073632 LN-4073632,
Esq.**

Pacific Palisades, California



Current Employer-Title LundbergADR – Principal
Burford Capital – Managing Director

Profession Lawyer; Arbitrator, Mediator; Litigation Financier

Work History Managing Director, Burford Capital, 2018 – Present; Associate and Partner, Latham & Watkins LLP, 1982 – 2017; Law Clerk, US Court of Appeals DC Circuit, 1981 – 1982.

Experience Former litigation partner of Latham & Watkins. Thirty-five years of practice at the firm focused in the areas of insurance coverage and civil appeals. Chaired the firm's Insurance Coverage Practice Group for 15 years and its Los Angeles office Litigation Department from 2000 to 2005. Experience also includes the defense of mass environmental tort and product liability litigation. Insurance coverage practice often involved working in partnership with defense counsel and insurers to settle significant D&O, employment, securities, product liability, cyber liability, environmental and similar complex liability claims.

Experience in the coverage area includes:

- Fluor Corp. v. Superior Court, in which the California Supreme Court overruled its 2003 ruling in Henkel v. Hartford that had strictly construed consent-to-assignment clauses in insurance policies. Identified a forgotten 1872 statute, overlooked by the parties and courts in Henkel, which led to the ruling.
- Ford Motor Company v. INA and related actions, believed to have been the largest environmental insurance litigation in the United States at the time of their resolution in 1998.
- Travelers Casualty Ins. & Surety Co. v. Superior Court, which addressed issues of first impression concerning California's mediation privilege. Ultimately negotiated a \$49.9 million insurance contribution to the \$100 million global settlement reached by the Diocese of Orange in 2004 -- then the largest contribution ever made by insurers to a sex abuse settlement.

Litigated dozens of coverage actions in state and federal courts nationwide, and resolved many more

through negotiation and mediation. Listed as a “Leading Individual” in each edition of Chambers & Partners’ America’s Leading Business Lawyers. From 2007 to 2017, Chambers has annually named one of the top dozen policyholder attorneys in America.

Counseled clients on a broad variety of insurance issues involving the pharmaceutical, chemical, biotech, manufacturing, consulting, energy, sports, entertainment, real estate, educational and financial fields. Clients included Chevron, Ford Motor Company, Amgen, Allergan, Montrose Chemical, Fluor, Guidant Corporation, America Online, Avery Dennison, Ernst & Young, Meritor, American Airlines, America West Airlines, US Airways, GlaxoSmithKline, Beckman Coulter, Nalco, Omnicom, the City of Hope, PG&E, Southern California Edison, Detroit Edison, Sempra Energy, and the Los Angeles Dodgers.

Since 2018, has been a Managing Director of Burford Capital, the world's leading litigation financier. In 2020, named to Lawdragon's inaugural Global 100 Leaders in Legal Finance.

Mediator Style & Process Preferences My background -- initially as a toxic tort and product liability defense lawyer, then for the bulk of my litigation career as policyholder (and so, typically, plaintiff’s) counsel, and as a participant in many three-sided settlements among a plaintiff, a defendant and the defendant’s insurer -- has given me the chance to see disputes from all sides’ perspectives. I have also seen how the frequently shifting sands of a three-sided dispute, where liability issues intersect with coverage issues, and each side often feels that the other two are allied against it over the course of the negotiation, create complexity -- but also multiply the number of possible solutions for parties, who sometimes need a mediator’s help to appreciate them.

Accordingly, my approach to mediation, as an advocate and now as a mediator, is to focus on identifying all the settlement permutations matter offers, and avoid committing to the seemingly obvious path to settlement in a way that forecloses returning to other possibilities if that path is blocked. Even disputes that present themselves as zero-sum, “a buck is a buck” propositions can benefit from the mediator’s suggestion of different approaches to identifying “the number” through negotiation, and different ways of structuring the resolution that may identify hidden win-win opportunities.

Education Harvard Law School (JD, with honors, Editor, Harvard Law Review-1981); Stanford University (BA, With Distinction, Philosophy-1978).

Professional Licenses California State Bar (1983 - present); District of Columbia Bar (1985 - 2018); various federal trial and appellate court admissions, including United States Supreme Court (1992).

Professional Associations American Bar Association; California State Bar; Los Angeles County Bar Association; Chancery Club of Los Angeles.

Recent Publications & Speaking Engagements "10 Surprises that May be Lurking in your D&O Policy," Directorship (March/April 2014) [<https://www.nacdonline.org/Magazine/Article.cfm?ItemNumber=9817>]
"The Forgotten California Statute that Overrules Henkel," Law360 (online) (August 22, 2011) [<https://www.lw.com/thoughtLeadership/californiainsurance-statute-actually-overrules-henkel>]
"Directors & Officers Liability Insurance," presentation to UCLA Anderson School of Business Director Education and Certification Program -- 2010, 2011.

Mediation Rate \$1,250 Per Hour

Languages English

Locale Pacific Palisades, CA

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.