



AAA Mediation.org™

**FN-4530293 MN-4530293 LN-4530293,
Esq.**

New York, New York



Current Employer-Title Michael Starr Mediation Services and M Starr ADR, LLC – Principal

Profession Attorney, Mediator, Arbitrator

Work History Principal, Michael Starr Mediation Services/M Starr ADR LLC, 2019 – Present; Partner, Holland & Knight LLP, 2009 – 2019; Partner, Hogan & Hartson LLP, 2002 – 2009; Partner/Chair of Employment Law, Squadron Ellenoff Plesent & Sheinfeld LLP, 1997 – 2002; Counsel, Parker Chapin Flattau & Kimpl, 1988 – 1997; Attorney, Kaye Scholer Fierman Hays & Handler, 1980 – 1988.

Experience A practicing lawyer for over 35 years, before becoming a full-time neutral. Handled complex litigation, nationwide, related primarily to labor and employment law, often handling cutting-edge legal issues of substantial client significance. For 20 years, was a regular employment law columnist for The National Law Journal and was an editor of the Yale Law Journal.

Before entering private practice, served as a law clerk to the Honorable Abner J. Mikva, circuit judge for the U.S. Court of Appeals in Washington, D.C.

COMMERCIAL: Practice included commercial disputes, typically contract-related matters, including disputed real-estate appraisals, shareholder agreements of closely-held corporations, disputes arising under franchise agreements; trademark, trade secrets, and unfair competition matters, antitrust matters, and matters related to real estate development transactions and to corporate acquisitions and divestitures.

EMPLOYMENT: Practice encompassed federal labor law, FLSA and state wage-hour laws; employment discrimination and workplace harassment (including reasonable accommodation, equal pay and retaliation); breach of employment contracts, non-competition and restrictive covenants, confidentiality agreements, breach of fiduciary duties, misappropriation of trade-secrets, and defamation; executive employment contracts (including incentive compensation plans and misappropriation of corporate opportunities), employee benefits, and ERISA.

INDUSTRY FOCUS: Worked in all industries with significant involvement in hospitality (hotels

and restaurants); media (broadcast and print), and financial services (both global and regional banks).

Mediator Experience

Twenty-five years of experience as court-appointed neutral in the federal and state courts in New York City, while maintaining a law practice as a litigator of complex civil matters focusing on labor and employment law. Conducted over 200 mediations.

WAGE-HOUR MATTERS: Resolved disputes (and trained other mediators to mediate disputes) arising under the FLSA and related state wage-hour law, including nonpayment or underpayment of wages, minimum wages, prevailing wages and overtime; employee misclassification issues (e.g., employee/independent contractor and exempt/non-exempt status); joint-employer/common enterprise issues, and the NYS hospitality wage order. For example, assisted parties to settle a multi-million dollar prevailing-wage claim and several wage-hour class/collective actions.

EMPLOYMENT MATTERS: Resolved disputes related to federal and state employment discrimination law, including reasonable accommodation for disability in employment and public accommodations, sexual harassment and other workplace harassment, employee benefits, restrictive covenants, non-competition and non-disclosure agreements, executive severance, as well as those related to ERISA, employee benefits and civil rights.

COMMERCIAL MATTERS: As a member of the mediation panel on the Commercial Division of the State Supreme Court, helped to resolve contract disputes among insurance companies, health care professionals, condominium boards, retailers and construction contractors and subcontractors. Also resolved commercial landlord/tenant disputes, cooperative apartment purchase agreements, professional fee disputes, buy-outs and dissolution of closely held businesses.

Conducts both in-person and online/virtual mediations.

Representative Issues Handled as a Mediator

Resolved disputes related to federal and state minimum wage and overtime law, including with respect to misclassification issues (e.g., employee/independent contractor and exempt/non-exempt status), joint-employer/common enterprise issues, and the NYS hospitality wage order; claims for employment discrimination, harassment and retaliation; ADA claims for reasonable accommodation for disability in employment and public accommodations; ERISA and multiemployer pensions; executive employment, and civil rights.

With respect to commercial matters, helped parties to resolve contract disputes among insurance companies, health care professionals, condominium boards, landlord/tenants, limited partners, retailers and for breach of fiduciary duty and disclosure of confidential information. Mediated disputes concerning M & A earn outs, limited partners' rights in sale of real estate, rights to return of deposit to proposed coop apartment buyer who refused to close, and distribution of partnership assets of dissolving business.

Mediator Style & Process Preferences

My mediation philosophy is shaped by 35 years of experience in labor relations, collective bargaining and mediation of labor disputes. In such matters, there is no right or wrong, but rather a focus of forward-looking workable solutions.

In mediating litigated disputes, I assure all parties that I am not a decision-maker and do not attempt to assess which party has the “better” case, but rather I assist the parties to reach a mutually-acceptable resolution of their dispute based on their own assessments of the likelihood of success, risk tolerance, and collateral business and personal objectives. (See Michael Starr, “In Mediation, Right Is Irrelevant,” NYLJ, May 23, 2018).

I create an atmosphere conducive to settlement by being respectful, patient, calm and persistent; by helping each side effectively, and without hostility, communicate its rationale for settlement and range of acceptable outcomes and, using my litigation experience, by helping each side better assess the evidentiary and discovery obstacles to success at trial, which makes settlement without trial the more realistic and beneficial alternative. My goal is not to help the parties achieve their preconceived idea of a “good” settlement, but to achieve resolution that is, all things considered, a better alternative than continuing to litigate. My maxim is that, in the practical affairs of life, there is no such thing as good and bad, only better or worse than the alternative. Ultimately, my goal is to earn the trust of the parties as to what negotiation strategies are most likely to achieve acceptable responses from the other party and as to what is realistically achievable from the other party at that

particular.

Education

Yale Law School (JD–1979); University of Michigan (PhD, Philosophy–1976); Binghamton University (BA, summa cum laude–1970).

Professional Licenses

Admitted to the Bar: New York (1980).

Professional Associations

Fellow, College of Labor and Employment Lawyers; Fellow, American Bar Foundation; New York State Bar Association, Dispute Resolution and Labor & Employment Law Sections (co-chair of subcommittee on mediation advocacy for practitioners); American Bar Association, Labor & Employment Law Section; Association of Attorney-Mediators.

Recent Publications & Speaking Engagements

"Making the Most of Workplace Mediation," North Eastern Human Resources Ass'n (October 15, 2020)

"Overview of the FLSA" and "Impasse Breaking in Employment Mediation," Advanced Mediation of Employment and Wage-Hour Disputes, Program Organizer, NYC Lawyers Ass'n (August 11-14, 2020)

"Ethics in Alternate Dispute Resolution," Moderator, New York State Bar Association, Labor and Employment Law Section (January 31, 2020)

"How Mediation Differs," New York Law Journal (August 4, 2019)

"In Mediation, Right is Irrelevant," New York Law Journal, May 23, 2018

"Workshopping Mediator Ethics," Instructor, Federal Bar Association, Eastern District of New York, November 17, 2017

"Mediation Advocacy: Strategies for Effective & Ethical Lawyering," Speaker, Practicing Law Institute, November 15, 2017

"The Muddle of 'Motivating Factor': Using the Logic of Human Action to Inform Employment Discrimination Law," 35 Hofstra Lab. & Employ. Law J 89 (Fall 2017)

"FLSA Mediation Training," Panelist, Federal Bar Association, Eastern District of New York, June 15, 2016

"A Multinational Bind: Applying Corporate Codes of Conduct in the EU," New York Law Journal, May 22, 2006

"Sex Stereotyping in Employment: Can the Center Hold?" The Labor Lawyer (Winter/Spring 2006)

"Who's the Boss? The Globalization of United States Employment Law," 51 Bus. Lawyer 635 (May 1996).

Locations Where Parties Will Not be Charged for Travel Expenses

New York City metropolitan area

Mediation Rate

\$650 Per Hour

Languages

English

Citizenship

United States of America

Locale

New York, NY

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.