



AAA Mediation.org™

**FN-4738419 MN-4738419 LN-4738419,
Esq.**

Staatsburg, New York

Current Employer-Title Lupo Law, Arbitration & Mediation PLLC - Managing Member

Profession Arbitrator, Mediator, Attorney, Professor

Work History

Professor of Law, Marist College, School of Management, 2021-present

Managing Member, Lupo Law, Arbitration & Mediation PLLC, 2004-present

Judith S. Kaye Fellow, Historical Society of the New York Courts, George Jackson Academy, 2017-2018

General Counsel and Secretary, NYC Technology Development Corporation, 2017 (Secondment)

Senior Counsel, John Gore Organization/Broadway.com (f/k/a Broadway Across America), 2011-2012 (Secondment)

Vice President, Chief Legal Officer and Secretary, eDiets.com, Inc. (NASDAQSCM: DIET), 2001-2004

Adjunct Professor of Law, Law Touro Law School, 2001-2005

Vice President, General Counsel and Secretary, DietSmart, Inc., 1999-2001

Senior Litigation Associate, Montfort Healy McGuire & Salley LLP, 1996-1999

Law Clerk, Law Office of Jonathan Scott P.C., 1992-1995

Assistant Publicist, Jacksina Company, 1988-1990

Assistant Stage Manager, Vietnam Ensemble Theater Company, 1988-1990

Production/producer's assistant, several independent film, music video, industrials, and t.v. production companies, 1985-1992

Experience

Creative problem solver who has sat in every seat at the dispute resolution table in a nearly 30 year legal career. Has handled dispute resolution from every angle having been party, attorney and neutral in nearly 500 arbitrations, mediations, negotiations, and litigations. Brings zero practice-area bias to ADR work. Has worked in mid-sized law firm and as a general counsel to private, public/private not-for-profit, and public companies. Has represented both plaintiffs and defendants ranging from large multinational corporations (foreign and U.S.-based) to individuals. Has advised clients on matters pertaining to financing, mergers and acquisitions, core contracts, shareholder/member matters, employment, labor, vendor relations, intellectual property, finance, information technology, soft and hardware development.

Representative client industries: Information Technology; Fintech; Energy Tech; Ecommerce; Vcommerce; Technology Consulting, Entertainment (Theater and Film); Literary Publishing, Magazines, Consumer Products; Fashion; Fashion Licensing; Food; Hospitality; Personal Care; Borrowed Personnel; Retail; Architecture and Engineering.

Has held multiple non-legal positions in public relations, film and theater production and financing, and academia.

Mediator Experience

The following list stipulates the types of matters where served as a mediator:

Business disputes
Business divorce
ADA Titles: II, III & IX
Civil Rights: Titles: VI, IX, Rehabilitation Act, Pregnancy
Civil Rights: Section 1983
Commercial
Contract
Corporate
Defamation
Discrimination
Divorce
Ecommerce
Employment
Entertainment Sector
Family Businesses
Information Technology
Insurance
Intellectual Property (Trademarks/Patents/Copyrights)
Internet
Media & Communications
Medical Devices
Partnerships
Rights of Publicity
Sexual Harassment
Shareholder/Member Disputes
Software and Hardware development
Trusts & Estates
Unfair Competition
VCommerce
Wage & Hour (NYS)/FMLA.

Representative Issues Handled as a Mediator

EMPLOYMENT:

Hostile work environment and retaliation matter involving employee allegations of widespread harassing and male-dominated culture at bank resulting in discrimination and a conspiracy among management employees to retaliate against female employees; assessment of extent of permissible 'me-too' discovery could be admissible if action did not resolve in mediation.

Denial of severance benefits under an ERISA plan matter in connection with change of control of company.

Whistle blower and retaliation (failure to promote) brought against large multinational corporation.

Class action FLSA/NYLL/NYCHRL, discrimination and retaliation claims brought by terminated employees of medium sized public company.

Age discrimination claims in connection with reduction in force at subsequent to acquisition of local business by national competitor.

INSURANCE:

Multi insurer/party dispute arising from adverse weather, fire and rioting at outdoor multi-day music festival.

Fraud and breach of contract action commenced by insurance company against its insured and the insurance broker.

Primary & Excess insurance carrier dispute.

CORPORATE:

Breach of partnership agreement and fiduciary duty by fashion company creative director partner.
Shareholder derivative breach of contract and fiduciary duty action brought by celebrity in connection with consumer products business.

INTELLECTUAL PROPERTY:

Infringement and counterfeit goods action brought by luxury goods brand.

TORT:

Charges of defamation on social media and other platforms.

BUSINESS TORT:

Malware attack subsequent to a failed M & A transaction.

PATENT:

Dispute between university and professor (chemistry). Infringement business process patent.

Dispute between co-creators of medical device.

Dispute between medical device patent holder and counterparty to NDA.

Copyright and breach of contract of a software development dispute between regional hospital system and software developer.

CIVIL RIGHTS:

42 USC Section 1983 matters; Title IX; Title III; Rehabilitation Act; pregnancy & other matters; ADA (class action matter regarding access to public accommodation); website access; reasonable accommodation.

BUSINESS:

Breach of contract, software development, equitable estoppel, and unjust enrichment.

CONTRACT:

Breach of contract, unjust enrichment.

Customs Agent breach of contract action.

Breach of Covenant of Good Faith and Fair Dealing.

LLC member dispute, breach of duty of fidelity, fiduciary duty, conversion, and fraud.

Shareholder derivative action - breach of fiduciary duty, books and records, conversion by certain members of corporate assets, constructive trust.

Colocation agreement for IT cloud hosting "hotel".

Breach of investment banking agreement.

IT - software development for ecommerce website.

Mediator Style & Process Preferences

Each mediation is unique to the participants, their counsel and me. Therefore, I employ the techniques I have learned studying different mediation disciplines (e.g. facilitation, evaluation, and transformation) to craft the mediation experience the participants need to help them resolve their dispute.

Education

Touro College (JD, with honors & dean's list 1995); SUNY Stony Brook (MS, Political Science 1991); Bard College (AB, Film 1988).

Professional Licenses

Admitted to the Bar: New York (1996), Connecticut (inactive);
U.S. District Court: Southern and Eastern Districts of New York.

U.S. Court of Appeals Second Circuit Mediator; Southern and Eastern District Court Mediator.

Professional Associations

FINRA Arbitrator; American Bar Association Dispute Resolution Section; Association for Conflict Resolution: Greater New York Chapter; New York State Bar Association Dispute Resolution, Commercial & Federal Litigation and Labor & Employment Sections.

Recent Publications & Speaking Engagements

NYSBA Fall Meeting 2022 Early Mediation in Commercial and Employment Cases

NYS Council on Divorce Mediation Annual Meeting 2022 Impasse Breaking Skills

NYCLA: Starting and Maintaining a Successful ADR Practice

Clear Law: ADR and ODR: The Old New Standard for Dispute Resolution

ACR-GNY Annual Conference Panelist (Arbitrator Selection)

NYSBA ADR Advocacy Clinic, Instructor

NYSBA Bus. L. Sec. Diversity and Inclusion CLE

NYSBA Fall Meeting Panelist (Mediation Advocacy)

NYSBA Dispute Resolution Section Annual Meeting (Arbitrator Ethics)

NYSBA Dispute Resolution Section Fall Meeting (Mediation Impasse)

NY Women's Bar Assoc./NYSBA/OCA (ADR in NY Courts)

NYSBA Dispute Resolution Section Fall Meeting Panelist (Arbitration and Mediation Ethics)

NYSBA and NYCBAR: Mediation Training Instructor

NYCBAR: Co-Chair: Mentorship versus Sponsorship Program

"The Hustle: Email Scams Targeting Attorneys and their Escrow Accounts"

"NYC Council Passes Act Limiting Use of Criminal History in Employment"

Locations Where Parties Will Not be Charged for Travel Expenses New York City & Dutchess County, New York

Mediation Rate \$530 Per Hour

Languages English

Citizenship United States of America

Locale Staatsburg, 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.