



AAA Mediation.org™

**FN-4742089 MN-4742089 LN-4742089,
Esq.**

Wilmington, Delaware



Current Employer-Title	Young Conaway Stargatt & Taylor, LLP - Partner
Profession	Attorney
Work History	Partner, Young Conaway Stargatt & Taylor, LLP, 1990-Present; Associate, Young Conaway Stargatt & Taylor, LLP, 1985-1989; Associate, Potter Anderson & Corroon, 1983-1985; Law Clerk to The Honorable Daniel L. Herrmann, Chief Justice of the Delaware Supreme Court, 1982-1983.
Experience	Over 40 years of experience representing clients in corporate and commercial counseling, litigation, and ADR proceedings. Serves as an arbitrator and a mediator. Also serves as an expert witness and as a court-appointed neutral.
Mediator Experience	Have successfully mediated disputes pending in the Delaware Court of Chancery, the Delaware Superior Court, the Delaware Court of Common Pleas, and the United States Bankruptcy Court for the District of Delaware. In addition, have successfully mediated disputes that have not yet ripened into litigation or arbitration.
Representative Issues Handled as a Mediator	Corporate governance disputes, post-merger/sale of stock or assets disputes, and other complex commercial breach of contract disputes.
Mediator Style & Process Preferences	<p>My goal as a mediator is to assist parties and their counsel (and sometimes insurance carriers) to achieve creative win-win resolutions and, where appropriate, positive future relationships.</p> <p>My style or approach as a mediator is to do my best to listen more and talk less. From the outset, I seek to establish trust and rapport with the participants. This ranges from information gathering before and during the mediation to exploring possible outcomes, depending upon the participants' core interests. I am facilitative, evaluative, or both depending upon the circumstances.</p> <p>As to process preferences, I typically request that parties and their counsel join me in entering into a brief written Agreement to Mediate. That Agreement emphasizes the critical importance of confidentiality. In addition, the Agreement contains a schedule for the mediation session and for the submission of two sets of pre-mediation documents: (i) exchanged mediation statements, and (ii) ex</p>

parte side letters that share with me strengths and weaknesses of the parties' positions, costs to date, anticipated costs should the matter not resolve; any settlement negotiations history, and current settlement authority. I am also open to receiving whatever other information the parties and their counsel believe will helpfully inform me in advance of the mediation session. Relatedly, I invite (but do not require) pre-mediation calls and/or in-person meetings – joint or ex parte.

At the start of the mediation session, I typically convene a plenary “meet and greet” gathering. There are no substantive presentations during those meetings. Instead, I encourage brief self-introductions. In addition, I stress the opportunity for the parties and their counsel to work together in good faith to achieve a resolution with all of the attendant benefits. And I reiterate the obligation on the part of all to maintain confidentiality before, during, and after the mediation session. Finally, I point out that this will be hard but rewarding work, and that patience and perseverance throughout the process will be key.

I strive to conclude every mediation with a signed term sheet, and I confirm my continued availability to assist if definitive settlement documentation will follow. If for some reason the dispute has not been resolved by the end of the mediation session, I confirm my availability to continue to assist the parties and counsel with getting to closure – “getting to ‘yes.’”

Education

Washington and Lee University School of Law (J.D. - 1982); Colgate University (A.B., English - 1979).

Professional Licenses

Admitted to the Bar: Delaware (1982); U.S. District Court: District of Delaware (1983); U.S. Court of Appeals: Third Circuit (1991); U.S. Supreme Court (1991).

Professional Associations

American Bar Association (Past Chair, Business Law Section; State Delegate from Delaware to the House of Delegates); American Bar Foundation (Past State Chair); American College of Business Court Judges (Honorary Member); American Counsel Association (Past President); American Judicature Society (Past President); Delaware State Bar Association (Past President; Past Chair, ADR Section); Delaware Volunteer Legal Services, Inc. (pro bono attorney).

Recent Publications & Speaking Engagements

Select Publications:

William D. Johnston, “The Advantages of Mediating Fiduciary Duty and Other Business Governance Disputes,” *Alternatives to the High Cost of Litigation*, Volume 34, Number 10 (International Institute for Conflict Prevention and Resolution) (Nov. 2016); William D. Johnston, et al., *Indemnification and Insurance for Directors and Officers*, 54-3rd Corporate Practice Portfolio Series (BNA) (2017); William D. Johnston, *Examination of the Financial Expert Witness at Trial: Some Nuts and Bolts – Delaware Law and Practice*, presented at the Fall Meeting of the ABA Business Law Section (Nov. 22, 2013).

Select Speaking Engagements:

Presenter- “Commercial Arbitrator Training Seminar” (Delaware State Bar Association ADR Section, April 20, 2022); Presenter – “Current Trends in Alternative Dispute Resolution” (Delaware State Bar Association ADR Section, Apr. 10, 2018); Program Co-moderator – New York Law School/ABA Business Law Section Symposium: ADR and Diversity (New York, NY Jan. 17, 2018); Moderator – “The Business Case for Diversity in Business Dispute Resolution,” New York Law School/ABA Business Law Section Symposium: ADR and Diversity (New York, NY Jan. 24, 2017); Panelist – “Training Today’s Lawyers to Resolve Tomorrow’s Disputes,” New York Law School/ABA Business Law Section Symposium: ADR and the Young Lawyer (New York, NY Jan. 29, 2016); Moderator – “ADR Contractual Provisions: Best Practices and Recent Developments” (DSBA ADR Section Feb. 12, 2014); Panelist – “Examination of the Financial Expert Witness at Trial,” ABA Business Law Section (Washington, D.C. Nov. 22, 2013).

For a complete listing of publications and speaking engagements, please see bio at www.youngconaway.com.

Mediation Rate

\$1,098 Per Hour

Languages

English

United States of America, Ireland

Citizenship

Locale

Wilmington, DE

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.