



AAA Mediation.org™

**FN-4854498 MN-4854498 LN-4854498,
Esq.**

Fresno, California



Current Employer-Title Judge Donald Black (Ret.) Dispute Resolution & Consulting - Owner

Professional Summary Eighteen years as a business and commercial litigator, followed by 20 years as a California Superior Court trial judge with a direct calendar civil assignment handling all aspects of civil cases from inception through trial, and, since July, 2019, an ADR professional handling business, commercial and employment disputes in arbitration and mediation settings.

Profession Arbitrator, Mediator, Referee, Hearing Officer, Retired Judge

Work History Owner, Judge Donald Black (Ret.) Dispute Resolution & Consulting, 2019-Present; Judge, State of California Fresno Superior Court, 1998-2019; Partner, McCormick Barstow LLP, 1984-1998; Associate, McCormick Barstow LLP, 1980-1984

Experience As an ADR Professional. Since retirement from the bench practice have focused exclusively on alternative dispute resolution including mediations and arbitrations. Have presided in over 400 arbitrations and mediations in disputes involving a variety of legal claims including wrongful termination, discrimination and wage and hour disputes, business disputes, real estate disputes, agricultural disputes, personal injury, products liability disputes, medical and legal malpractice. Member of AAA arbitration panels for consumer cases, commercial cases, employment cases and construction cases as well as AAA Master Mediator Panel.

As a Judge. While on the bench, from 2003 until retirement in 2019, presided over a direct calendar unlimited civil assignment, managing a wide variety of cases from the pleading stage of the case through trial. At any given time responsible for 800 - 1200 unlimited civil cases. Among the case types handled were personal injury, contract disputes, real property disputes, employment disputes, securities disputes, and complex class action litigation related to wage and hour law, securities law and construction defect law. Over the years conducted hundreds of law and motion proceedings and settlement conferences and tried hundreds of jury and bench trials.

Member of the Fresno Superior Court Appellate Division starting in 2003, and during the last 10 years was the Appellate Division Presiding Judge. During that time participated in hundreds of appeals and wrote hundreds of appellate decisions. For a five month period while on the bench sat as

a Pro Tem Judge on the Fifth District Court of Appeal in Fresno (2017).

Representative Trials:

Employment discrimination case jury verdict of over \$19 million.

Breach of contract/bad faith case filed by real property developer against title insurer regarding insurance for access to property bordering the San Joaquin River

Complicated trust and estate dispute involving estate valued at over \$10 million. Claims of misappropriation, undue influence, fraud. Disputes involving validity and interpretation of trust and amending instruments.

Multiple plaintiff reverse discrimination case tried to plaintiffs' jury verdict of approximately \$5 million.

Investor class action against leasing company and its principal alleging defendant was a fraudulent Ponzi scheme.

Environmental tort case involving allegations that defendant knowingly distributed agricultural products containing the contaminant TCP which leached into groundwater and contaminated the City's wells.

As a lawyer in private practice prior to joining the bench, handled a wide variety of cases related to business disputes. Responsible for all phases of the litigation of such disputes from pleading through discovery, trial and appeal. Participated in a large number of jury trials, bench trials, and arbitration proceedings.

Mediator Experience

Conducted hundreds of mediations and settlement conferences in cases involving employment and discrimination law, wage and hour law, products liability, personal injury, real estate, contracts, construction, agricultural law and issues, eminent domain, sexual abuse of children, probate, trust and estate law, medical malpractice and legal malpractice, securities law and class actions. Most experience in mediations involving employment discrimination and wage and hour claims, followed by business and commercial disputes, including construction disputes, and real estate disputes.

Representative Mediations:

Employment discrimination cases with allegations of disability, race and gender discrimination and retaliation

Individual and representative action alleging violations of California Labor Laws

Personal injury actions related to auto accidents and claims of premises liability

Real estate development dispute involving purchase and sale agreement with intent to develop property

Contract dispute related to sourcing, delivery and pricing of liquid anhydrous ammonia for agricultural uses

Eminent domain actions involving California High Speed Rail project, particularly with regard to takings of agricultural property

Claims by a founder of a start-up company for conversion and fraud related to stock forfeiture and termination

Trust dispute involving allegations of undue influence and fraud

Unfair competition cases alleging theft of trade secrets and breach of fiduciary duty

Legal malpractice case alleging breach of fiduciary duty and conflicts of interest in connection with business sale

Crop loss cases alleging improper harvesting of almonds, improper application of agricultural chemicals and other alleged wrongdoing

Representative Issues Handled as a Mediator

Wrongful termination and employment discrimination disputes, including claims of discrimination and harassment based on race, ethnicity, gender, sexual orientation and disability, retaliation, failure to accommodate and failure to engage in the interactive process

Individual and Representative Wage and hour claims, including exemption issues, overtime, meal and rest period claims and other issues

Construction disputes, including issues related to workmanship, timeliness and bonding issues

Contract disputes related to construction, real estate, aviation, motor vehicles, and employment issues

Agricultural and crop loss disputes related to pesticides and other causes

Personal injury and wrongful death disputes including claims of negligence, intentional torts and products liability

Corporate and partnership disputes

Unfair competition disputes including trade secrets and claims of breach of fiduciary duty

Real estate and development disputes including issues related to leasing exclusivity, CC&R's, and commission disputes

Eminent domain including issues related to compensation for severance damages and business losses

Legal malpractice disputes

Medical malpractice disputes

Mediator Style & Process Preferences

The mediator is a facilitator who helps the parties resolve their dispute amicably and on their own terms rather than through the litigation or arbitration process. Most importantly, through a careful process of give and take involving the mediator and the parties and their counsel, the mediator promotes the parties' goal of controlling the end result of their dispute rather than allowing the dispute to be resolved by a third party or parties such as an arbitrator, judge or jury. The most successful mediations occur where the parties come to the mediation with complete information about the facts pertinent to the dispute and the law that will govern the dispute so that the mediator can assist the parties in determining the true value of their dispute and the benefits of resolving it themselves.

Generally, an evaluative approach is followed, though the process itself is important and so parties and/or counsel are allowed considerable time to discuss their position in the dispute. Most work is done in caucus, rather than joint session. Though my approach is not confrontational in the traditional sense, I do try to challenge the parties and counsel where necessary regarding certain aspects of their cases and positions to emphasize the risks and expense attendant to proceeding with the case rather than resolving it.

Mediations can be conducted in person, remotely, or partly in person and partly remote in the sense that some participants may be present in person and some remotely.

A pre-mediation hearing or call may be scheduled in certain types of cases and briefs detailing the nature of the case, discovery, and pertinent facts and law are required in advance of the mediation.

Technology Proficiency

Proficient in the use of Zoom and other platforms for remote hearings, including arbitrations and mediations

Significant experience addressing issues related to electronically stored information in the context of

discovery in litigated and arbitrated disputes including developing search terms and identifying custodians and otherwise managing protocols for the production of such information

Education	Santa Clara University (JD-1980); Middlebury College (AB, cum laude, Economics and Political Science-1976).
Professional Licenses	Admitted to the Bar: California (1980); U.S. District Court: Eastern District of California.
Professional Associations	California State Bar Association Fresno County Bar Association Association of Business Trial Lawyers (ABTL), Board Member
Recent Publications & Speaking Engagements	<p>As a lawyer, judge and now ADR professional, have presented on a number of occasions related to a number of different topics to lawyers and other groups including the Fresno County Bar Association, the Fresno County Young Lawyers, the Association of Business Trial Lawyers, Central California Legal Services, judges of the Fresno County Superior Court, and local banks, real estate brokers, escrow officers and title insurance officers. Topics presented include trial and litigation practice, including trial procedure and evidence, in limine practice and effective advocacy, pretrial issues related to pleading, discovery and dispositive motions, and issues related to the real estate industry including conflicts of interest and fiduciary duties.</p> <p>Have published opinions as while sitting pro tem on the Fifth District Court of Appeal and as presiding judge of the Appellate Division of the Fresno County Superior Court.</p>
Locations Where Parties Will Not be Charged for Travel Expenses	Fresno, California Monterey, California
Mediation Rate	\$600 Per Hour
Languages	English
Citizenship	United States of America
Locale	Fresno, 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.