



AAA Mediation.org™

**FN-4975826 MN-4975826 LN-4975826,
Esq.**

El Segundo, California



Current Employer-Title Lawler ADR Services, LLC – Commercial + Insurance Mediator and Arbitrator
Online services available.

Professional Summary After more than three decades in private practice as a commercial litigation and insurance coverage/bad faith attorney - trying cases, arguing motions, drafting contracts and opinion letters, settling cases, providing legal and practical advice to clients, serving as a bar association leader and Managing Partner of an AmLaw 500 law firm with five offices in CA and Nevada - in 2017 left law practice behind to devote 100% of time to helping attorneys and parties resolve lawsuits and pre-suit disputes. ADR practice is international in scope and substantively diverse, including a wide range of matters. Am ranked AV-Preeminent, a SoCal SuperLawyer, and a Diplomat member of the National Academy of Distinguished Neutrals.

Profession Attorney, Mediator, Arbitrator

Work History Mediator/Arbitrator, Lawler ADR Services LLC, 2017-Present;
Senior Partner/Managing Partner, Murchison & Cumming LLP, 1985-2016;
Private Practice, 1979-1985.

Experience Lawyer for 40+ years, 37 of them in private practice. Became an independent Neutral in January 2017, mediating commercial, insurance and civil litigation. Began arbitrating as a Neutral in 2021 through AAA.

Prior to becoming a full-time Neutral in 2017, was a Senior Partner and Managing Partner (January 2008 through December 2013) of a mid-sized California based firm, Murchison & Cumming, LLP, representing North American, European, UK and Asian corporations, non-profits, professionals, individuals, and insurers in a broad range of matters, at trial and on appeal.

When in practice, either as party counsel or monitoring/coverage counsel, handled a wide variety of matters, including complex civil litigation and matters involving insurance coverage and/or insurance bad faith claims arising out of underlying lawsuits such as defective products in the US and abroad, fraud, financial and D&O claims arising from the 2008 banking collapse, condo and homeowner association lawsuits, including D&O and construction defect related claims,

construction defect actions, habitability/slumlord cases, cemetery malpractice cases, cyber/data breach losses, equine cases, farm/agriculturally based lawsuits, including crop issues, employment issues such as wrongful termination/hostile work environment and employee/independent contractor issues, sexual harassment and clergy abuse cases, professional liability lawsuits (attorneys, real estate/insurance agents and brokers, architects and engineers, miscellaneous E&O), environmental cleanup actions in California and Nevada, including underground storage tanks, toxic tort chemical and pesticide exposure cases, homeowner fire and water damage losses, 17200 unfair business practices claims, misappropriation of style of doing business and trademark infringement cases involving a wide range of words, images, and products, consumer rights, breach of contract and fraud cases, class actions, wrongful death, defamation, ADA, and even a declaratory relief action and appeal involving a murder for hire situation.

Recognized expertise in insurance, with a deep knowledge of the insurance industry, insurance policies and the risks they insure against (primary, excess, reinsurance, program, surplus lines, London Market, and international insurers), involving a wide variety of policies and legal issues involving both domestic and international claims. Handled coverage, declaratory relief and bad faith litigation, including at trial and on appeal, provided coverage opinions, and worked with underwriters, providing advice and drafting insurance policy forms and endorsements.

Honored to be a past-president of the Federation of Defense & Corporate Counsel and a founding Regent and Fellow of the American College of Coverage Counsel.

Is also a Certified Information Privacy Professional (CIPP/US), certified by the International Association of Privacy Professionals in 2020. When practicing law, co-chaired law firm's Cyber and Privacy Law practice group, handling any number of matters arising out of losses due to data breaches, phishing, ransomware demands, Internet of Things, and privacy violations in general. As a mediator, have mediated a number of matters arising out of similar issues, including matters involving cyber insurance (and related insurance products) issues. As an arbitrator, am arbitrating several matters involving technology claims regarding privacy issues.

Mediator Experience

Full-Time mediator since January 2017 at Lawler ADR Services, LLC. Have served as a mediator for the United States District Court for the Central District of California since 2017 and for the 2nd Appellate District of California mediation panel since 2018. Joined the American Arbitration Association Commercial Mediation Panel in January 2021. Have mediated 400+ matters, including extensive experience in conducting online mediations since March 2020.

Representative Issues Handled as a Mediator

AMERICAN DISABILITIES ACT (ADA):

Lawsuits regarding a wide range of alleged accessibility issues and architectural barriers at various types of business establishments open to the public, including nursing homes, care facilities, hotels/motels, medical/dental offices, restaurants, fast-food locations, gas stations, retail stores (including luxury stores), shopping malls, grocery stores, and small/local businesses. ADA lawsuits regarding website accessibility. Alleged ADA Accessibility, Sexual Harassment, Fraud/Misrepresentation, Tortious Interference, Emotional Distress arising out of lodging facilities and healthcare issues as to a veteran.

BUSINESS/EMPLOYMENT:

Suit involving an IT managed service provider (MSP) following a ransomware attack on its servers that in turn affected its customers' computer networks, to recover ransom that had been paid on behalf of a customer, and other damages. Employment dispute involving status of claimant as either an independent contractor or an employee. Numerous commercial contract disputes. Appeal regarding the characterization of funds provided in connection with an IPO, i.e., loan or investment. Appeal regarding regulatory fees pertinent to material imported and disposed of in conjunction with surface mining operations at a municipal facility. Appeal in favor of a commercial service provider for unpaid invoices. Alleged breaches of commercial contracts in business v. business lawsuits. Lemon Law cases regarding sale of allegedly defective automobiles. Enforceability of Arbitration Agreement in commercial contract. Fraud lawsuits. Law firm partnership dispute. Fair Debt Collection Practices litigation. TCPA privacy litigation. Breach of lease. Arbitration rights under commercial contract. Employment issues re independent contractor v employee status. Sexual harassment in the workplace.

INSURANCE:

Availability, or not, of coverage for employee theft under a Crime Policy. Cyber insurer's

reimbursement action for ransom paid on behalf of its insured. Duty to settle cases where trial court judgments were in excess of the insured's policy limits. Availability of reinsurance to reimburse a municipality for millions of dollars it had collectively paid for multiple settlements arising out of one incident. Numerous lawsuits regarding insurance coverage issues and related claims for declaratory relief, breach of contract, bad faith, and unfair business practices under first and third party insurance policies. Rescission of insurance policies for alleged misrepresentation in the application for insurance. Dispute over ownership of a deceased's life insurance policies and entitlement to life insurance proceeds. Insurance coverage and bad faith regarding reimbursement of defense and settlement amounts paid by insured in connection with an adverse arbitration award, against multiple excess-level indemnity insurance policies. Obligation of a settling defendant's insurer to pay attorney costs and interest attributable to a post-settlement attorney fee arbitration between the attorney and the insured. Declaratory relief regarding right of insurer to recover defense fees and settlement amounts paid pursuant to reservation of rights. Defense mediation with multiple insured defendants and their insurers regarding allocation and funding agreements in preparation for later mediation with plaintiffs in underlying habitability lawsuit. Insurance coverage and allocation issues regarding underlying product liability litigation.

TORT:

Numerous premises liability matters, including suits against various retail stores, grocery stores, a hospital, and the City of Los Angeles. Personal injuries arising out of trucking and auto accidents. Appeals from seven-figure \$\$ personal injury verdicts in favor of injured plaintiffs following trucking accidents. Product liability lawsuits seeking damages for personal injuries.

Mediator Style & Process Preferences

Mediation day is a very important day for the parties and I approach it as such in every single matter. Flexible in my approach, I understand the personal/emotional, business, and insurance issues that can be key components in resolving litigation and am a quick study with the ability to simplify disputes and to not let parties give up during the negotiation process. I am a fan of pre-mediation conference calls, factual clarity, practicality and openness to creative solutions. I respect the parties' right to self-determination. As the mediator, I do not and cannot provide legal advice to any party. In a nutshell, I view my role as helping attorneys and their clients simplify and resolve disputes so that the parties can get on with their businesses and lives unencumbered by the uncertainties, risks and expense of litigation.

Technology Proficiency

Excellent technology proficiency. Zoom, Teams, Adobe, Microsoft 365 business suite to name a few basic apps.

Education

Loyola Law School (JD-1979); Loyola Marymount University (BBA, Finance -1976); Riverside City College, California (AA-1974).

Straus Institute for Dispute Resolution, Pepperdine University Law School, "Mediating the Litigated Case" Mediation Training (42 hours), 2007

Advanced Mediation Training, Edwards Mediation Academy (40 hours), 2017

Advanced Mediation Trainings - U.S. District Court of CA, Central District and the Association of Attorney-Mediators - 2017, 2018, 2019, 2020, 2021, 2022, 2023

CA Lawyers Association & JAMS - International Commercial Arbitration Academy, Los Angeles, 2019.

AAA - Arbitration Fundamentals and Best Practices for New AAA Arbitrators, 2021; Award Writing, 2021; Advanced Arbitration Training, 2022, 2023; Other Miscellaneous Arbitration Training Webinars, 2022, 2023, 2024

Harvard Law School, Program on Negotiation, "Negotiation Master Class", 2022

Professional Licenses

Admitted to the Bar: California (1979); US District Court: Southern, Central, Northern & Eastern Districts of California.

CIPP/US (Certified Information Privacy Professional) – International Association of Privacy Professionals, 2020-Present.

MC3-Certified Mediator, 2019-Present.

Professional Associations

National Academy of Distinguished Neutrals, inducted January 2022;
Arbitral Women;
American Bar Association, Women in Dispute Resolution, Cyber, Dispute Resolution and TIPS Committees;
International Association of Privacy Professionals;
American College of Coverage Counsel, Fellow & Founding Regent;
Federation of Defense & Corporate Counsel, Past President;
Beverly Hills Bar Association;
Association of Attorney Mediators;
Southern California Mediation Association;
Women Lawyers Assn. of Los Angeles;
Consumer Attorneys Association of Los Angeles - Affiliate Membership for Mediators;
Assn. of Southern CA Defense Counsel - Affiliate Membership for Mediators.

Recent Publications & Speaking Engagements

Host, "ROADS TO Resolution~Closure~Certainty" Podcast and YouTube Videos (2022 - present)

Cybersecurity Litigation Trends - Mediation, American Bar Association (TIPS) Cybersecurity Data Privacy Conference (March 2024)

Heroes of Mediation - Part III - The Negotiations a/k/a The Back & Forth, FDCC Winter Meeting (February 2024)

"Risk Transfer: Indemnification for Damages Arising Out of Data Breaches and Cyber Incidents" (to be published by ABA as a chapter in the TIPS book "A Business Guide to Dispute Resolution of Cybersecurity & Data Privacy Claims")

"ADR in Cyber, Privacy and Data Breach Related Disputes" (to be published by ABA as a chapter in the TIPS book "A Business Guide to Dispute Resolution of Cybersecurity & Data Privacy Claims")

"Things Excellent Lawyers Do in Mediation" (October 11, 2023)

"Three of the Biggest Mistakes that Lawyers Make in My Mediation Room"(as published in FDCC's Insights Magazine, July 24, 2023)

Money, Money, Money - Pursuing Cyber Liability Subrogation Claims Against Third-Party Service Providers, Article, CLM Magazine (May 2023)

Tailoring the Dispute Resolution Mechanism to the Dispute, American College of Coverage Counsel Annual Mtg. (May 2023)

Heroes of Mediation - Preparation and Pre-Mediation Planning, FDCC Winter Meeting (February 2023)

Mediating Data Breach, Privacy, Ransomware & Cyber Insurance Claims, Will Work for Food: The New Possibilities Hour Presentation (April 2022)

Arbitration and Appraisal: Getting Past Splitting the Baby, panelist FDCC Winter Meeting (March 2022)

Cyber/Privacy Insurance Webinar, Panelist Live Webinar, FDCC (February 2022)

Protecting Your Privacy - When it comes to mediations, confidentiality isn't guaranteed. - Article, CLM Magazine (February 2022)

Mediating Data Breach, Ransomware, Cyber & Privacy Lawsuits, Panelist Live Webinar, The CLM (November 2021)

Let's Talk Privacy! Impacts of Privacy Legislation + Lawsuits on our Practices, Clients + Firms, Live Webinar, FDCC (May 2021)

Is your Mediation Really Confidential? Live Zoom Discussion, 360° ADR – Midweek Talk (March 2021)

9/11 Litigation and Mediation Lessons Learned, Panelist Live Webinar, FDCC (February 2021)

Mediating Cases Involving Liability When There is No Coverage - Part II: Cases with Both Covered and Non-Covered Claims, Live Webinar, The CLM (December 2020) and Will Work for Food: Mediation - The New Possibilities Hour (December 2020)

Coverage Issues Related to Data Breaches, National Law School of India University, Law & Technology Society, Live Webinar (October 2020)

Settlement and Assignment Following Breach of the Duty to Defend, American College of Coverage Counsel Annual Meeting (September 2020)

Online Mediation Confidentiality, Association of Attorney Mediators (July 2020)

Online Mediation: Prepare for Settlement Success – A Zoom Webinar for Attorneys, Live Webinar, Southern California Mediation Association (June 2020)

Mediating Cases Involving Liability When There is No Coverage - Part I: Americans with Disabilities Act (ADA) Cases, Live Webinar, The CLM (April 2020)

Faculty, Insurance Coverage Training Academy: CGL Boot Camp, Federation of Defense & Corporate Counsel Winter Meeting, Scottsdale, AZ (March 2020)

Data Breach Litigation in the 2020 Landscape: Practical Tips and Strategies to Avoid the Pitfalls, Live Webinar, The Knowledge Group (January 2020)

Mediating Before and After Judgment, Federation of Defense & Corporate Counsel, Annual Meeting, Sun Valley, ID (August 2019)

Legal Analytics, Big Data and You: The Future of Litigation Management, How We Practice Law & Evolving Ethical Considerations – Tomorrow's Tools Today, Association of Defense Trial Attorneys Annual Meeting, Austin TX (April 2018)

Locations Where Parties Will Not be Charged for Travel Expenses No charge for travel in the United States.

Mediation Rate \$8,000 Per Day

Languages English

Citizenship United States of America

Locale El Segundo, 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.