



AAA Mediation.org™

**FN-4980399 MN-4980399 LN-4980399,
Esq.**

Coral Gables, Florida

Current Employer-Title Pamela I. Perry, P.A. - Shareholder

Profession Attorney/Mediator/Arbitrator/Special Master

Work History Attorney, Pamela I. Perry, P.A. (fka Dresnick, Rodriguez and Perry P.A.), 2006-2017; Shareholder, Kenny Nachwalter P.A., 1998-2006; Partner, Bierman Shohat Loewy Perry & Klein P.A., 1987-1998; Adjunct Professor, the University of Miami School of Law, 1989-1998; Research Assistant, Offices of Honorable Daniel S. Pearson, Third District Court of Appeal of Florida 1984-1986.

Experience Complex Commercial and Professional Liability Litigation:
Complex commercial litigation focused on business and partnership disputes, fraud, breach of contract and RICO actions and antitrust litigation. Extensive professional liability litigation focused primarily on the defense of lawyers, and to a lesser extent, accountants. Spent a long period of time litigating the viability of a Title VII mass action in connection with the defense of a highly publicized legal malpractice action.

Health Care:
Health care matters including actions alleging overpayment, insurance fraud, False Claims Act violations, under-reimbursement, HIPAA compliance, including breaches and breach notification; discharge, guardianship, and end of life issues; actions brought by professional and certifying organizations against providers (experienced in representing both providers and organizations); and co-counsel in disciplinary and peer-review actions against providers. Successfully handled closely watched appeals involving the scope of non-economic and economic damages in Florida's medical malpractice arbitration process and decades of experience handling criminal and related matters on behalf of health care providers in state and federal court.

Mediator Experience Active mediator with experience in complex commercial cases, including contractual, lease and loan disputes; investor, partnership, and shareholder disputes; legal and accounting malpractice actions; first party property actions, principally involving commercial properties and multi-building condominium complexes damaged by wind storm; banking actions, including those alleging fraud within the financial institution; employment actions, including Title VII, ADEA, ADA, FMLA and FLSA proceedings, as well as contractual actions including those alleging violations of noncompete provisions; under-reimbursement proceedings brought by hospitals and health care vendors; qui tam actions involving health care providers, including hospitals; personal injury actions, including several involving alleged sexual abuse perpetuated by persons in a position of trust; medical malpractice actions; actions involving attempted termination of condominiums; defamation and Communications Decency Act actions involving internationally known platforms; antitrust actions involving nationally known companies; Lanham Act actions; mobile home park closures involving numerous residents; and zoning proceedings involving numerous neighbors.

**Representative Issues
Handled as a Mediator** Commercial Matters:
Construction of provisions and availability of defenses in connection with written contracts,

operating agreements, partnership agreements, and loans in light of related correspondence, conversations, conduct and course of dealing; issues involving attempted termination of condominiums, including interplay between voting requirements in declaration, statutes and related case law; sufficiency of evidence to plead fraud and fraud in the inducement; breach of fiduciary duty in matters among partners, shareholders and investors; availability and collectability of non-speculative damages.

Professional Malpractice:

Plaintiff's ability to prove causation in legal malpractice action by demonstrating liability and damages in the underlying "case within the case" and availability of judgmental immunity defense; scope of engagement as affected by initial retainer agreement and course of dealing in legal and accountant malpractice actions; causation and ability to prove damages in accountant malpractice actions.

First Party Property Actions:

Coverage issues; whether damage was caused by wind driven rain; scope of loss, including alleged preexisting damage to structure; alleged bad faith, and defenses including fraud and insufficient notice, including sufficiency of EUO.

Health Care:

Sufficiency of reimbursement from insurers for covered services provided by hospitals and health care vendors, including sufficiency of documentation provided by entity seeking reimbursement and whether prior authorization properly obtained when required; whether billed health care services were provided and medically necessary, and whether payments or other benefits could be considered a kickback, improper benefit, or violation of the False Claim Acts in qui tam actions.

Employment:

Enforceability of noncompete provisions, particularly in medical practices and technology companies; ability of Plaintiffs in Title VII action to demonstrate that proffered reason for adverse employment action was false and that true reason was discrimination; and ability of Plaintiffs in ADA and FMLA actions to demonstrate that employer had notice of alleged disability or qualifying event.

Mediator Style & Process Preferences

Mediations should initially focus on the merits of the dispute, rather than the money at issue, because the parties' perceptions of the outcome of the disputed legal and factual issues create the context for the ensuing negotiations. To ensure that each side can properly assess their respective strengths and weaknesses, the mediator must be well versed in the law, facts, and dynamics of the case prior to the mediation session. That way, with the permission of counsel, the mediator can help each side to critically examine – and if necessary reassess -- their chances of prevailing on disputed issues before the mediation session begins. Although litigants should be reminded of the advantages of settling common to most cases — preserving resources, eliminating risk and achieving closure — most parties – especially those with the funds to "go to the distance" -- are more likely to settle when the mediation helps them focus on their strong points and vulnerabilities, rather than solely on the expense of fighting on. A prepared mediator can help the parties to critically examine the possible outcomes of key issues, so that they can assess the risks of trial, and what they are willing to give up to avoid a protracted battle, or worse, an adverse result. Relatedly, mediation is a process, not a session. The process should begin by preparing the mediator but need not necessarily end at the close of the scheduled session. Instead, if significant new issues arise during the session, the mediator should adjourn the mediation and follow up once the parties have been afforded the opportunity to expeditiously investigate the unforeseen issues. The mediator's job is to settle cases when possible and the process requires, preparation, education, patience, and persistence.

Education

University of Miami School of Law (JD, with Honors-1984); Brandeis University (BA, Politics, with Honors-1980).

Professional Licenses

Admitted to the Bar: Florida (1984); US District Court, Southern/Middle District of Florida; US Court of Appeals: 11th Circuit; US Supreme Court.

Florida Supreme Court, Certified Civil Circuit Mediator (2004); Florida Supreme Court Certified Appellate Mediator (2011); US District Court: Southern/Middle District of Florida, Certified Mediator; Florida Supreme Court Certified Arbitrator

Professional Associations Florida Association of Criminal Defense Lawyers, Miami Chapter, Member, 1990-Present (past-president); Dade County Bar Association, Member 1988-Present (past-board member); Spellman-Hoeveler Inns of Court, 2002-Present; University of Miami School of Law Alumni Association (past and present board member); Florida Association for Women Lawyers, 1986-Present; National Association of Criminal Defense Lawyers, 1988-Present; Miami-Dade County Charter Review Task Force, 2012; Judicial Nominating Commission for the Eleventh Judicial Circuit of Florida, 1999-2003 (served as chair).

Recent Publications & Speaking Engagements

Publications:
“Using Living Wills to Start the (Other) Tough Conversation With Mom and Dad,” Daily Business Review, 2018.
“The Elephant Not In The Room,” Daily Business Review, 2015 (co-authored with retired Circuit Judge Ellen Leesfield; column focused on outside communications during the mediation session.)
“Lawyers Must Get Hip to HIPAA: Avoiding the ‘Wall of Shame,’” Daily Business Review Board of Contributors, 2014 (co-authored with Mark Dresnick).
“Mediator Responds to Rodent: Present Your Case, Not Just Your Number,” Daily Business Review, 2012.
“Counsel Should Prep Mediators on Principle Issues, Dynamics of Case,” Daily Business Review Board of Contributors, 2011.

Speaking Engagements:
Panel Member, Webinar, From Inception to Approval: Successfully Mediating Class and Mass Actions, 2023
Panel Member, "Successfully Mediating Your Case," Spellman-Hoeveler Inns of Court Bench and Bar Conference, 2022
Panel Member, “Successfully Mediating Your Case: Advice from Mediators and Counsel,” Spellman-Hoeveler Inns of Court Bench and Bar Conference, 2019.
Panel Member, “Legal Malpractice and Professional Liability Roundtable Series,” sponsored by the University of Miami School of Law and Center for Ethics and Public Service, 2018.
Panel member, Second Annual Professional Liability Symposium sponsored by the University of Miami School of Law and the Center for Ethics and Public Service, 2017.
Panel Member, “Florida Lawyers’ Professional Liability Seminar,” University of Miami School of Law, 2016. (panel focused on early mediation of legal malpractice claims).
Moderator, “Perfecting Your Argument in Mediation” Panel, Dade County Bar Association, Bench and Bar Conference, 2014.
Panel Member, “Mediation and Alternative Dispute Resolution,” Dade County Bar Association Bench and Bar Conference, 2013.
Keynote Speaker, “Mediating for Success,” The Spellman-Hoeveler American Inn of Court South Florida Trial Lawyer Luncheon, 2012.
Panel Member, “Top Ten Mistakes We’re Making in Mediation & Did Not Even Know It.” ABA Section of Litigation & Criminal Justice Annual CLE Conference, 2011.
Participated in an ethics orientation for incoming students at the University of Miami School of Law for several years, with last appearance in 2019.

Mediation Rate \$600 Per Hour

Languages English

Citizenship United States of America

Locale Coral Gables, FL

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.