



AAA Mediation.org™

**FN-5201 MN-5201 LN-5201, Esq.**

**Hackensack, New Jersey**



**Current Employer-Title** John R. Holsinger, LLC

**Profession** Arbitrator, Mediator, Counselor at Law - Commercial Disputes

**Work History** Member, John R. Holsinger, LLC, 2006-present; Member, Beattie Padovano, LLC, 1996-06; Partner, Litwin & Holsinger, 1988-96; Partner, Ellenport & Holsinger, 1982-88; Associate, Goldberg & Stark, 1980-82; Attorney, Sole Practitioner, 1977-80; Associate, Proskauer Rose Goetz & Mendelsohn, 1974-77.

**Experience** Thirty nine years of experience as a commercial litigator in environmental, CERCLA and clean water act matters, employment discrimination, executive employment agreements and disputes, employee covenants not to compete, unfair competition, trade secret, antitrust, real estate, securities, and shareholder and partnership matters. Businesses and industries represented include: real estate owners, developers and managers; automobile rental companies; securities firms; stock exchange specialists; title insurance companies; distributorships of various products including beer, motorcycle helmets, and industrial products; franchisors and franchisees; automobile manufacturers and dealers; high technology companies including computer software development, internet marketing and laser manufacturing companies; law firms; physicians; architects; accountants; food service companies; grocery retail chains; brokers; banks; pharmaceutical testing companies; investment bankers; and manufacturers of both industrial and consumer products including food ingredients and chemicals, food products, security systems, furniture, and plastics. Trial and arbitration experience includes numerous multiple week trials in cases presenting complex issues of commercial law. Trustee of the Hackensack Education Foundation and Past President of the Henri Nouwen Society. Adjunct Professor, "Dispute Resolution Processes," Seton Hall University School of Law (2007 - 2009).

**Mediator Experience** Has served as a mediator in about 200 cases. Many cases have involved executive employment agreements, employment disputes including age, race and gender discrimination claims, breach of agreement to pay commissions, disability benefits, and other payments due. Approximately 25 have involved construction disputes, mostly between owners and contractors. Some cases have involved contractor/subcontractor claims. A large number of cases have involved general commercial disputes including the sales of businesses, the provision of services, including printing services, legal services, software development services and other professional services, the operation of restaurant businesses, equipment leasing, landlord tenant disputes, and issues arising between non-

profit businesses about accounting for costs and expenses between them under joint operating agreements. Cases have also involved shareholder or partnership disputes about fraud, mismanagement, theft of corporate opportunities, minority shareholder oppression, and the like in industries ranging from small service-related businesses, to real estate investment partnerships, to restaurants, to computer software development companies, and to manufacturing and distribution businesses.

## **Representative Issues Handled as a Mediator**

The employment cases have involved all aspects of the employment relationships including the causes of the disputes, any underlying agreements of the parties, and questions of the proper calculation of any amounts allegedly due. The issues in the construction cases mediated have included the quality of construction, design problems, delays, extras, subcontractor disputes, lien claims, and the reasonableness of costs to correct problems. In the general commercial cases, the issues have involved the interpretation of the contracts in issue, the quality and timeliness of the services performed, the value of the services, and details of the accounting for the damages claimed. The shareholder and partnership claims have involved various issues arising in the operation of the businesses and the differing judgments of the parties about the management decisions involved. They have included various accounting and financial issues about the operation of the businesses. They also have involved exploration of various ways the parties could either continue to work with each other or to separate their shares of the businesses and continue in operation separately.

## **Mediator Style & Process Preferences**

I approach mediation with flexibility. My basic approach is to act as a facilitator. I do not, even when directly asked, give a specific evaluation of a claim or defense. However, I tell parties and their counsel that during the mediation process they will be evaluating the case and that my questions to them are to assist them. I caution that they should not take my questions to them as reflecting my opinion of the case. I emphasize that it remains their decision as to how to approach a possible settlement.

I try to determine at the outset the parties' and the attorneys' preparedness for the mediation session. I explore whether they have sufficient information to evaluate the case and possible settlements. Occasionally there is some key information in the possession of the other party that is essential for the mediation and we arrange to exchange that early in the process. I generally ask for a short mediation statement about the case, particularly in more complex matters, to assist me in the preliminary conference call to understand the nature of the case and the positions of the parties. I do not require that the statements be exchanged, but I suggest that the attorneys do so if they believe an exchange will help the process. I encourage attorneys to continue their own discussions about possible settlement, if the discussions have already begun and if they believe that continued discussions would be fruitful. I also occasionally conduct separate ex parte caucuses or phone calls with one side or another or both, particularly in more complex cases, to begin the exploratory process before the actual mediation session. For example, in one complex construction case, I conducted extensive separate caucuses with plaintiff and its representatives on the one hand and with the multiple defendants on the other before the joint mediation session took place. This helped prepare the parties for the eventual joint mediation session. This is particularly important where the attorneys need to go through a process with their clients to get authority to offer or accept a particular amount of money and if that process requires more time than is generally available at a mediation session. It is also helpful where there is a board, such as a board of a condominium association or a municipality that will need to consider, vote on and approve a particular action, a process that normally cannot be done at a mediation session. I prefer private caucuses with parties and their attorneys after an initial joint mediation session, but that depends on the case. If the parties freely engage in constructive conversation, my practice is to allow them to continue that in a joint session as long as that seems fruitful. I will end the joint session and move to caucuses when I believe the tone or substance of the discussion develops in a way that suggests the issues will be better handled in caucus. Not infrequently the situation is such that I will dispense with the joint session or hold only a brief one.

## **Education**

University of Notre Dame (BA, magna cum laude-1969); New York University (JD, cum laude-1974).

## **Professional Licenses**

Admitted to the Bar: New Jersey, 1975; New York, 1975; U.S. District Court: Southern and Eastern Districts of New York, 1975; District of New Jersey, 1975; U.S. Court of Appeals: Second (1975), Third (1983), and Fifth (1990) Circuits; U.S. Tax Court, 1988; U.S. Court of Federal Claims, 1989; U.S. Supreme Court, 1998.

## **Professional Associations**

College of Commercial Arbitrators (Fellow); American Bar Association (Dispute Resolution

Section; Litigation Section; Antitrust Section); New Jersey State Bar Association (Dispute Resolution Section, Director and Past Chair; Antitrust Section); Bergen County Bar Association (ADR Committee, Past Chair; General Equity Committee); Marie Garibaldi ADR Inn of Court (Former Officer and Board Member); New Jersey Supreme Court (Committee on Complementary Dispute Resolution); New Jersey Supreme Court (Arbitration Advisory Committee); International Mediation Institute Certified Mediator.

## **Recent Publications & Speaking Engagements**

Arbitration Ethics, NJ ICLE/AAA/others (ADR Day), April 2004; Best Practices in Arbitration, AAA and Buchanan Ingersoll, June 2005; Best Practices in Arbitration, AAA and McCarter & English, August 2005; Best Practices in Arbitration, AAA and Cole Schotz, October 2005; Best Practices in Arbitration, AAA and Orloff Lowenbach, February 2007; Making Practical Use of Arbitration, NJ ICLE/AAA/others (ADR Day), April 2007; Online Dispute Resolution, NJSBA Annual Meeting, May 2007; Arbitration Ethics, NJ ICLE/AAA/others (ADR Day), June 2007; Hall Street, Inn of Court, January 2008; Complex Financial Issues in ADR, NJ ICLE/AAA/others (ADR Day), June 2008; Arbitration - The Flexible Alternative, NJ ICLE/AAA/others (ADR Day), June 2008; The Newest Ideas in Arbitration, NJ Society of CPAs, January 2009; NJ Court-Annexed Mediation Practice, Inn of Court, November 2009; Case Management in Arbitration, NJSBA Midyear Meeting, November 2010; Streamlining Arbitration -- It's What Your Client Wants, NJSBA Annual Meeting, May 2011; Making Arbitration More Effective, NJ ICLE/AAA/others (ADR Day), June 2011; Decision-Making by Arbitrators and Judges, NJ ICLE, February 2012.

## **Mediation Rate**

\$435 Per Hour

## **Languages**

English

## **Citizenship**

United States of America

## **Locale**

Hackensack, NJ

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.