



AAA Mediation.org™

**FN-5357182 MN-5357182 LN-5357182,
Esq.**

Pelham, New York



Current Employer-Title Donald Rose Dispute Resolution LLC - Sole Member

Professional Summary Former Deputy General Counsel – Litigation and Regulatory Matters for a national “Big 4” audit, accounting and professional services firm with over 37 years of litigation, arbitration and dispute resolution experience, presently serving as a full time mediator and arbitrator in breach of contract and commercial leasing disputes, professional liability and fee disputes, insurance coverage and trademark protection disputes, and partnership rights, employment discrimination and wage and hour disputes. As a party representative/advocate, resolved over 100 actual and threatened litigation matters through direct negotiation or mediation, and where necessary through arbitral award or jury verdict.

Profession Alternate Dispute Resolution and Dispute Prevention Neutral; Licensed Attorney

Work History Sole Member, Donald Rose Dispute Resolution LLC, 2020-Present;
Principal & Deputy General Counsel-Litigation & Regulatory Matters (2006-2019)/Associate General Counsel (1993-2006), KPMG LLP, 1993-2019;
Litigation Associate, Chadbourne & Parke LLP, 1982-1993.

Experience Seasoned ADR professional has mediated and arbitrated dozens of commercial contract and leasing cases, professional liability and fee disputes (Audit, Accounting, Tax, Actuarial and Business Consulting), insurance coverage, premium and claims disputes, trademark disputes, Telephone Consumer Protection Act claims, and employment discrimination and wage and hour suits.

Experienced litigation and risk management professional who has successfully resolved, through direct negotiation and mediation, arbitral award and jury verdict dozens of client and third-party lawsuits, securities and consumer class and mass actions, pre-suit claims, arbitrations and government investigations arising from the provision of accounting, auditing, tax, actuarial and business performance advisory services to firm clients in various industries (including finance, banking, insurance, government contracting, consumer products and manufacturing) and federal, state and local governments, with damage claims from \$100,000 to more than \$1 billion. As in-house counsel and party representative, litigated to arbitral award more than 16 professional negligence, breach of contract and fraud claims, trying others to juries, judges and administrative

judges. Resolved dozens more partnership rights and employment discrimination claims (including Title VII, FLSA, NYLL and NYCHRL), including through arbitral award.

As a law firm litigation attorney, specialized in complex commercial litigation, securities class and derivative litigation, bankruptcy and insurance litigation for clients in the manufacturing, insurance, defense and energy industries.

Areas of Expertise include: Professional Liability (Audit, Accounting, Actuarial, Tax, Business Consulting); Breach of Contract; Business Torts and Unfair Competition; Trademark; Securities Class and Mass Actions; Insurance Coverage and Claims; Data Protection and Use; E-Discovery; Government Contracting and Compliance; Cross-border litigation.

Mediator Experience

Member of the following Mediation Panels: AAA National Roster of Mediators; United States District Courts (USDC) for the Southern District of New York; USDC for the Eastern District of New York; NYS Supreme Court, New York County Commercial and Civil Divisions. Experience mediating breach of commercial contract and leasing claims, professional negligence and billing disputes, trademark protection suits, business tort and fraud claims, employment discrimination and retaliation (race, age, sex, gender, caregiver, ADA under Title VII, NYSHRL, NYCHRL and N.Y.C. Admin Code) and wage & hour (FLSA, NYLL) cases.

Representative Issues Handled as a Mediator

- Settlement of Trademark Litigations including (i) an action by a small family-owned clothing manufacturer against a major motion picture studio seeking declaratory judgment that its first-in-time use of family's maker-mark did not infringe on studio's movie-title and graphic character marks, and (ii) an action by online digital OEM manual and assembly instructions media company action against finance/credit card company over use of corporate name;
- Settlement of suit brought by employee health benefit plan against foreign airline-insured and broker alleging breach of implied contract, fraud, conversion and quantum meruit for diversion and unpaid premiums;
- Settlement of several Insurance Coverage, Premium Payment and/or Claims disputes including failure to defend claims;
- Settlement of international Breach of Contract Claim by Vietnamese clothing manufacturer against NY distributor;
- Mediation of Declaratory Judgment Action by a nationwide telecom provider-lessee against property owner-lessor to compel lessor consent to lessee's application for NY Fire Department rooftop access permit to permit lessee access to upgrade equipment; and
- Mediation and settlement of a variety of Employment Discrimination and Retaliation claims under federal, NY State and NY City laws involving claims of race, age, sex, gender, caregiver, and disability discrimination and wage & hour law non-compliance brought by employees and executives in varied businesses settings including restaurants, a not-for-profit social service organization, municipal police and prison facilities, law firms, university medical centers, construction and publishing companies.

Mediator Style & Process Preferences

I have over 100 hours of formal mediation and conflict prevention training in facilitative mediation and the use of evaluative techniques. But in reality, how I mediate is equally influenced by a pragmatic approach shaped by my extensive litigation and mediation experiences over a 37-year career as outside litigation counsel, in-house litigator and, ultimately, my role as a Deputy GC-Litigation and risk manager for a Big 4 multi-disciplinary professional services firm. For over two decades, I mediated as an advocate/party representative resolving dozens of complex, high-stakes litigation matters in cost-effective and creative ways, often in mediations conducted by many of the nation's pre-eminent mediators. Tasked with cost-effective resolution of the firm's litigation portfolio, I was a driver of the firm's adoption of a two-step ADR provision in all client and vendor contracts and implemented a protocol for disciplined early claims investigation, assessment and valuation and early mediation of claims based on a clear and unbiased understanding of the facts, applicable law, costs to win and the risk of loss at trial. Using this process, litigation and insurance costs were reduced by 40% over ten years. Now, as a mediator, I draw on those experiences to address the particular needs of the parties in each unique dispute I mediate, sometimes repurposing or refining methods, techniques or unique solutions that successfully resolved the most difficult cases.

I believe preparation is key to success in mediation - for both the parties and the mediator. I work hard to be as prepared as I can be and to understand the critical facts underlying the parties' dispute and each party's interests and needs that will affect how the case can be resolved. I work to help

each party recognize critical facts and legal principles and to assess, objectively and realistically, the impact they have on the party's likely litigation outcomes. The most critical determinant of whether a settlement can be reached is the degree to which the parties have conducted an unbiased and comprehensive analysis not only of the strength of their case, but equally its weaknesses - and thoughtful consideration of acceptable solutions.

In terms of process, I normally conduct a preliminary conference with counsel to be briefed on the background and status of the case, the principle legal and factual issues, the degree of information exchange between the parties likely to occur ahead of mediation, any logistical issues and to set the schedule for pre-mediation actions and the mediation itself. I request the parties submit mediation statements sufficiently ahead of the mediation session to enable thorough review. I schedule separate pre-session meetings with each party and its counsel in which I pose questions raised by my review of the parties' mediation statements, to gain more information about the party's interests and needs affecting resolution, to start to build relationship and rapport with the parties and counsel, and, if needed, to request additional information ahead of the mediation session. These pre-session meetings greatly increase the efficiency of the formal mediation session and the chances of resolution.

I then hold the mediation session. Where agreement cannot be achieved by the close of the mediation session, I may ask if the parties will entertain a mediator's proposal, which I tailor to present terms which I believe might be accepted by all parties. I have also settled several difficult cases by facilitating post-mediation dialogue after an "impasse" had been declared.

Technology Proficiency	Proficient conducting mediations and arbitrations on Zoom Videoconferencing and Teams Platforms.
Education	Columbia University School of Law (JD - 1982); University of Rochester (BA - 1979).
Professional Licenses	Admitted to the Bar: New York, First Appellate Department (1983); U.S. District Court: Southern and Eastern Districts of New York (1984); U.S. Court of Appeals: Second Circuit (1990); U.S. Supreme Court (1991).
Professional Associations	Chartered Institute of Arbitrators - Fellow, North American Branch, New York Chapter; Centre for Effective Dispute Resolution (CEDR) - Accredited Mediator; American Arbitration Association - Panel Member, Commercial, Consumer and Mediation Panels; USDC SDNY Mediation Panel; USDC EDNY Mediation and Arbitration Panels; NYS Unified Court System, Supreme Court, Commercial and Civil Division Mediation Panel; New York State Bar Association – Dispute Resolution Section – Domestic Arbitration and Ethics Committees; American Bar Association - ADR Section.
Recent Publications & Speaking Engagements	Panelist, 'Arbitration War Stories Roundtable: Cautionary Tales from Panel, Counsel and Client Perspectives,' presented by the New York State Bar Association, Dispute Resolution Section and Domestic Arbitration Committee, December 2023
Locations Where Parties Will Not be Charged for Travel Expenses	New York City metropolitan area; Philadelphia, PA; Rochester NY
Mediation Rate	\$700 Per Hour
Languages	English
Citizenship	United States of America
Locale	Pelham, NY

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.