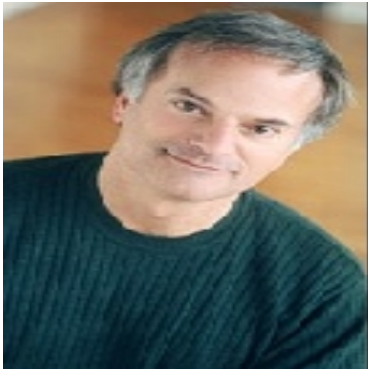




AAA Mediation.org™

FN-6118 MN-6118 LN-6118, Esq.

Cleveland, Ohio



Current Employer-Title McCarthy Lebit Crystal & Liffman – Principal

Profession Attorney - Contract Disputes, Professional Liability, Employment, Construction, Products Liability

Work History Principal, McCarthy Lebit Crystal & Liffman, 1993 – Present; Partner, Benesch Friedlander Coplan & Aronoff, 1984 - 1993; Associate/Partner, Guren Merritt Feibel Sogg & Cohen, 1974 - 1984.

Experience Litigation practice involved construction cases primarily representing owners/developers, some sub and specialty contractors and suppliers/manufacturers, involving private (commercial and residential) projects with a value of \$50,000 to \$10 million. Has lectured on arbitration and mediation of construction claims. Most of practice for the last few years is ADR. Prior to that, it was in contract litigation and professional liability, together with labor and employment law, representing employers and employees/plaintiffs. Early practice involved litigation of FLSA cases on behalf of employers, and current practice involves, to a lesser extent, FLSA issues. Early practice also involved representing consumers in many different types of cases, e.g., land swindles, car and house deals, and construction cases. Throughout career, has handled much litigation involving executive employment contracts containing covenants not to compete, covenants not to solicit, confidentiality provisions, and non-disclosure provisions. Has been on both sides of this type of litigation, and claims have ranged from approximately \$150,000 to \$20 million. Cases have involved executives and non-executive employees from manufacturing, steel, executive search, recruiting, public and private universities, human resources professionals, facilities planning and others. Experienced in numerous wrongful discharge cases involving allegations of age, race, or sex discrimination claims made under federal and Ohio statutes. Has lectured on wrongful discharge under Ohio law issues.

Mediator Experience Successfully served as a mediator involving a complaint of wrongful discharge by an unrepresented female African-American against a well-known national corporation. Because Claimant was unrepresented, this mediation presented some unique challenges. Recently successfully mediated two FMLA interference cases. Have mediated cases involving dissolution of medical practices and law firms. Was the mediator in a multi-state personal injury/insurance coverage dispute with litigation in five different courts and successfully mediated all of the cases simultaneously. Served as a mediator in numerous employment disputes, primarily involving claims of age and sex discrimination, together with breach of contract, including violations of covenants not to compete, covenants not to solicit customers, and covenants not to solicit employees. These mediations have

involved several industries, including fast food, manufacturing, oil and gas, professional practices, medical equipment, and sales. Has also served as a mediator in personal injury and wrongful death cases (in and outside the work place), product liability and insurance coverage, numerous construction cases primarily between sub-contractors and general contractors, sometimes between general contractors and owners, and somewhat frequently between architects and owners. Served as a mediator in at least three cases involving product liability claims under the "economic loss" doctrine, together with its related theories. One of these was in the plumbing manufacturing industry. Served as a mediator in securities claims, primarily those by retail customers against a broker and his/her current or former employer. These claims typically involve breach of fiduciary duty and failure to supervise. Also has served as a mediator in several legal malpractice actions.

Served as an advocate in many mediations commencing in approximately 1986. With a general litigation practice, the types of cases are wide-spread, including but not limited to, breach of contract, employment, FMLA, construction, patent, trademark infringement, slip-and-fall, trip-and-fall, premises and product liability and professional liability. Handled approximately 60 cases with amounts in dispute ranging from \$100,000 to \$20,000,000.

Mediated numerous complex cases, over approximately 25 years, one involving 10 parties, several involving five-seven parties and several involving three-five parties. The 10 party case involved alleged fraudulent conduct by a third-party administrator of a health care benefit fund. Two of the other cases involved subrogation claims related to substantial property damage arising out of fires. Another case involved two parties and two insurance companies in connection with a \$10,000,000-\$15,000,000 claim arising out of defective manufacture of toilets. Each party and each insurance company was represented by at least one attorney and sometimes two. The mediation lasted more than two days and did result in a settlement. Has mediated numerous three-four party construction claims.

References available upon request.

Representative Issues Handled as a Mediator

Served as a mediator in numerous employment disputes, primarily involving claims of age and sex discrimination, together with breach of contract, including violations of covenants not to compete, covenants not to solicit customers, and covenants not to solicit employees. Have also served as a mediator in personal injury and wrongful death cases (in and outside the work place), product liability and insurance coverage, numerous construction cases, primarily between sub-contractors and general contractors, sometimes between general contractors and owners, and somewhat frequently between architects and owners. Served as a mediator in numerous cases involving product liability claims under the "economic loss" doctrine, together with its related theories. Served as a mediator in securities claims, primarily those by retail customers against a broker and his/her current or former employer. These claims typically involve breach of fiduciary duty and failure to supervise. Has also served as a mediator in cases involving consumer sales practices claims.

Mediator Style & Process Preferences

Believes that a good mediator has to be more than a facilitator, i.e., he or she has to be thoroughly prepared and willing to communicate views and judgments as to the merits of the dispute. He/she has to also be willing to, tactfully, try to move parties away from their positions and, perhaps most importantly, to avoid an impasse. I typically have a pre-mediation conference call with counsel to discuss proper procedures during which, among other things, I request mediation statements. As to whether they are exchanged or confidential, I ask the lawyers their opinion and usually reach a consensus. On a macro level, I try to balance getting to the point and being patient.

Education

Case Western Reserve University (JD-1974); Northwestern University (MA, Economics-1971); Miami University (BS, Cum Laude-1970).

Professional Licenses

Admitted to the Bar: Ohio (1974); U.S. District Court: Northern and Southern Districts of Ohio, Eastern District of Wisconsin; U.S. Court of Appeals: Sixth Circuit; U.S. Supreme Court.

Professional Associations

The National Academy of Distinguished Neutrals, John M. Manos Inn of Court (Cleveland Chapter, Founding Member); Sixth Circuit Judicial Conference (Life Member); Eighth District Judicial Conference (Life Member); International Association of Defense Counsel.

National Institute for Trial Advocacy, Instructor 1988-2015

Fellow, Litigation Counsel of America (Trial Lawyer Honorary), 2009-Present

The Best Lawyers in America©, 2003-Present
Inside Business Magazine, Cleveland's Top Litigators, 2002-Present
Super Lawyers, Cleveland's Top 50 Lawyers, 2003, 2007-2010, 2014-Present
Ohio Super Lawyers Top 100 List, 2004-2011, 2014-Present
Case Western Reserve University School of Law, Adjunct Professor, Alternate Dispute Resolution, 2019-Present;
Instructor, Federal Civil Procedure 1977

Recent Publications & Speaking Engagements	Author of books and articles on alternate dispute resolution, depositions, jury trials, evidence, business torts, and civil procedure.
Mediation Rate	\$310 Per Hour
Languages	English
Citizenship	United States of America
Locale	Cleveland, OH

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.