



AAA Mediation.org™

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Seattle, Washington



Current Employer-Title Skellenger, Bender, P.S. - Shareholder

Profession Attorney - Construction Litigation, Design Professionals, Environmental Issues, General Commercial Litigation

Work History Of Counsel, Skellenger, Bender, P.S., Shareholder from 1979-2016; Federal Public Defender, U.S. District Court, Western District of Washington, 1975-1979; Director, Constitutional Litigation Clinic, Rutgers University, School of Law, 1970-1975.

Experience More than 40 years experience as a trial lawyer. Since 1979, practice has emphasized construction, design professional representation (architects, engineers, and environmental professionals), contract disputes, and general commercial litigation. Clients have included municipal and private owners, contractors, suppliers, and design professionals in a wide range of matters with claims valued to the multimillion-dollar range. Projects have covered a broad spectrum from custom single family residences to nuclear power plants, dams, tunnels, roads, buildings, bridges and municipal water and waste water facilities. Specific experience with geotechnical engineering issues, including soils issues, pilings, mass excavations, deep foundations and retaining structures; steel and concrete construction, project scheduling and accounting issues, and delay and acceleration claims. Environmental matters include RCRA and CERCLA clean ups and cost recovery matters and toxic tort cases. Served as lead claims counsel for owner constructing nuclear power plants. Cases involved all aspects of thermal power plant construction, including mechanical, mass concrete, electrical, heavy steel and ASME pressure vessels the nuclear steam supply system and related regulatory and qa/qc issues.

Mediator Experience Experience as a mediator has included: part-time, diverse practice, including NASD securities industry mediations; constitutional law, such as class action mediations for litigation between the State of Washington and constituencies regarding state institutional practices, including services for the deaf and mental health treatment (cases involved both damages claims and injunctive and declaratory relief); and numerous cases under the Federal District Court Mediation Program, involving securities law, personal injury damages claims, civil rights claims, and construction law disputes.

Representative Issues Handled as a Mediator Has handled class action mediations involving constitutional challenges to state programs where the goal of mediation was to develop a comprehensive consent decree modifying state programs for

institutional constituencies. These cases also included class action damage components. Constitutional law and personal injury mediations under the Federal Court Mediation Program have included cases with damages in the six and seven-figure range. Construction cases have included: cost overruns and change orders, delay damages, and design and construction defect issues.

Mediator Style & Process Preferences	There are several ingredients to a successful mediation. These include complete flexibility on the part of the mediator to understand the needs of the parties and their counsel and to then design a mediation process that is respectful and responsive to the unique needs of the participants and the circumstances of the particular dispute; the ability by the mediator to absorb the important details of the matter in a balanced and fair manner; to provide opportunity for all parties to be heard; to be willing to stay involved and to explore resolution, even if an initial mediation does not produce closure. "One size fits all" formula approaches to mediation are rarely successful. There is room for both facilitative and evaluative techniques in mediation. In some mediations, face-to-face negotiations are fruitful or even necessary. In others, face-to-face sessions are counterproductive. It is also important to look for imaginative solutions. Cases are not always just about a final dollar value. A successful mediation often includes recommending solutions the parties have not yet considered. Finally, successful mediation requires the highest level of trust in the mediator by the parties and their counsel. The mediator must keep the confidences of the parties and be seen as completely credible in providing and sharing information. Absent this level of trust, the mediation will not be successful.
Education	Rutgers University (BA-1963; JD-1968)
Professional Licenses	Admitted to the Bar: New Jersey (1968 - retired) ; Washington (1975); U.S. District Court: District of New Jersey (1968); District of Washington (1975); U.S. Court of Appeals: Second, Third, Fifth, Seventh, and Ninth Circuits; U.S. Supreme Court
Professional Associations	American Institute of Architects (Professional Affiliate Member); Federal Bar Association (Western District of Washington; Ethics and Practice Committee, Past Chair); American Consulting Engineers Council (Counsels Forum); American Council of Engineering Companies of Washington (Supporting Member); Seattle-King County Bar Association; Washington State Bar Association.
Recent Publications & Speaking Engagements	"Limitation of Liability in Design Professional Contracts," ENVIRONMENTAL AND ENGINEERING BRIEFINGS, February 1996; "Differing and Concealed Site Conditions," "Defective Plans and Specifications," "Disputes Resolution," NATIONAL BUSINESS INSTITUTE, July 1992. Editor, "Architectural/Engineering Contracts - Risk Management Guide," ZURICH INSURANCE CO. Additional recent publications online at www.skellengerbender.com .
Mediation Rate	\$4,000 Per Day
Languages	English
Citizenship	United States of America
Locale	Seattle, WA

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.