



AAA Mediation.org™

## FN-8118 MN-8118 LN-8118, Esq.

Aurora, Colorado



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**Current Employer-Title** Gene Commander Inc - President

**Panelist Video** <https://www.adr.org/videoresume?paramName=274149724>

**Profession** Arbitrator, Mediator, ADR Advisor, and Executive-level Business Counselor to the Legal Profession.

**Work History** President, Gene Commander Inc, 2015 - Present; Shareholder, Polsinelli PC, 2000-2015 (formerly known as Polsinelli Shughart PC, 2009-2013, and Shughart Thomson & Kilroy PC, 2000-2009); Member, Hall & Evans LLC, 1981-2000; Associate, Smith Petersen Beckman & Willson, 1977-1981.

**Experience** Over 35 years construction law experience advising owners and developers, design professionals, general contractors, EPC contractors, design-builders, and subcontractors on the business of construction, contract negotiations, and project claims, including litigation and arbitration arising from international projects and commercial transactions. Named Best Lawyers 2016 Denver Lawyer of the Year in field of construction law. Recipient of Engineering News-Record's 2015 Mountain States Legacy Award.

### COMMERCIAL

Experience includes business-to-business disputes between publicly traded, closely held, and family-owned companies - including family feuds in excess of \$70 million from decades of business dealings involving limited partnerships, limited liability companies, family trusts, and probate proceedings - with allegations of breach of fiduciary duty, self-dealing, fraud, collusion, undue influence, conversion, and securities violations seeking damages and equitable relief through UCC Article 9, replevin, foreclosure, bankruptcy, accounting, specific performance, and interpleader proceedings.

### CONSTRUCTION

Experience includes delay, acceleration, lost productivity, cost overrun, design error, construction defect, and supply chain disruption claims.

\* Infrastructure: interstate highway/tollway, bridge, airport runway, railway, earth dam/reservoir,

heavy civil, water/wastewater, and multimodal transit.

\* Industrial: renewable/green/solar/wind and petroleum fired power generation & distribution, wind energy research & development, automated high-grade gold ore milling, computer chip/plastic injection mold/concrete block manufacturing, telecommunications, and data centers.

\* Public/Private: schools, higher education, rapid transit, stadium/sports facilities, zoo, criminal justice/detention facilities, community center, and religious.

\* Commercial: medical, healthcare, high-rise office, retail, mixed use, hospitality, resort, convention center, and hotel.

\* Residential: high-rise apartment and condominium, townhome, custom single-family, and subsidized low income/senior multi-family housing.

#### REAL ESTATE

Experience includes claims from development agreements, purchase agreements, promissory notes, deeds of trust, personal guarantees, property management agreements, listing agreements, commercial leases, HUD audits, appraisals, irrevocable family trusts, jointly owned property separation agreements, contested wills and probate, limited partnership agreements, private offerings, historic preservation tax incentives, surface and storage water rights, reservoir/ditch company agreements, and the Comprehensive Environmental Compensation Liability Act (CERCLA).

#### LAW FIRM OPERATIONS

Experience includes M&A transactions and law firm/partner/shareholder disputes based on decades of leadership/ownership roles and responsibilities in local, regional, and national firms. Served on management team for mid-sized litigation firm. Held leadership positions in rapidly growing construction law practice group in regional firm. Served as managing shareholder in Denver office of Polsinelli PC, an Am Law 100 firm, from 2011-2015, during rapid growth in number of attorneys, breadth of services, revenue, and facilities via successful nontraditional staffing, organic growth, lateral hires, and mergers.

#### INSURANCE & REINSURANCE

Experience includes disputes with London-based syndicates, domestic surplus lines, sureties, and home warranty companies involving claim handling/duty to defend obligations and coverage issues arising under commercial liability, product liability, excess liability, professional liability, and builder's risk insurance policies, and claims under reinsurance treaties, homeowner warranty agreements, and performance, payment, bid, and completion bonds involving contractor and developer defaults.

#### **Mediator Experience**

Experience includes service as the mediator in traditional and customized alternative dispute resolution proceedings, including a med-arb proceeding involving a variety of construction, real estate and commercial disputes.

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

Experience with a variety of claims:

- Bid mistakes, cost overruns, differing site conditions, delays, acceleration, lost productivity and contract termination
- Design and construction defects, and mold abatement
- Prompt payment, trust fund violation, mechanic's lien foreclosure and bankruptcy proceedings, and sales and use tax
- Fraud and misrepresentation.

#### **Mediator Style & Process Preferences**

The settlement of complex construction and commercial disputes requires a thoughtful and proactive approach, which should be customized case by case to meet the unique needs and requirements of the parties. The mediator should be engaged early in the dispute resolution process to (1) become familiar with counsel, the parties, and the key factual and legal issues surrounding the parties' dispute; and (2) identify the availability of insurance coverage, surety bonds, and any other potential sources of recovery. The prompt, good faith pre-mediation exchange of critical evidence (e.g., project and accounting records) followed by open lines of communication between the mediator, counsel, parties, experts, and insurers will help narrow the issues for the decision makers and contribute to a highly productive and cost-effective formal mediation conference. The mediator should be prepared to participate in an evaluative manner, set reasonable expectations and encourage a practical evaluation of the parties' claims, defenses, damages and cost-effective chances of recovery. The mediator must be a good listener with the patience and flexibility to allow the dispute resolution process to evolve through the combined efforts of all participants, and the mediator must

possess the instincts and judgment to envision a path to settlement; even if that requires the development of a new strategy during the formal mediation conference to keep the negotiations working towards a successful conclusion.

<b>Technology Proficiency</b>	Available for in-person and virtual hearings.
<b>Education</b>	University of Iowa (JD, with distinction-1977); Iowa State University (BA, Architecture-1975).
<b>Professional Licenses</b>	Admitted to the Bar: Iowa (1977), Colorado (1981); U.S. District Court: District of Colorado (1981); U.S. Court of Appeals, Tenth Circuit (1981).
<b>Professional Associations</b>	<p>College of Commercial Arbitrators (Fellow and Subcommittee Co-Chair, Associates Mentorship Program, Standing Committee on Diversity); Dispute Resolution Board Foundation; Associated General Contractors of Colorado; Construction Education Foundation of Colorado (Board of Directors); American and Colorado Bar Associations; Colorado Women's Bar Association; Colorado LGBT Bar Association; Colorado Hispanic Bar Association; Sam Cary Bar Association; Asian Pacific American Bar Association of Colorado; National Conference of Women's Bar Associations; and Center for Legal Inclusiveness.</p> <p>Also has distinguished resume of prior community engagement, including Mayoral appointment to Denver Urban Renewal Authority (Board of Commissioners); and Chairperson, Downtown Denver Partnership.</p>
<b>Recent Publications &amp; Speaking Engagements</b>	<p>Has written numerous articles for construction industry publications on legal and ADR topics over the years, including Engineering News-Record, Colorado Construction, Colorado Real Estate Journal, and On-Site, a publication of the Associated General Contractors of Colorado, and for legal industry publications, including Colorado Lawyer and Law Week Colorado.</p> <p>Has also spoken at construction industry conferences and graduate school programs on legal and ADR topics over the years, including the Executive Leadership Academy presented by Construction Education Foundation of Colorado, and the Sturm College of Law and Franklin L. Burns School of Real Estate and Construction Management in the Daniels College of Business at the University of Denver, as well as law firm retreats and legal industry symposiums and continuing education programs.</p> <p>Recent Business of Law Publications:</p> <p>Dismantling the Obstacles Facing Mothers in Law Firms, Law Week Colorado (June 27, 2024). Supporting and Retaining Mothers in Law Firms, Law Week Colorado (May 27, 2024). Adjusting to the Hybrid Work Paradigm, Colorado Lawyer (April 2024, Vol. 53, No. 3). Announcing the State of the Solo Survey Results, Law Week Colorado (March 29, 2024). Strategic Slowness: A New Planning Lens for Colorado Law Firms, Law Week Colorado (March 6, 2024). Building Successful Hybrid Workplaces in Colorado Law Firms, Law Week Colorado (November 28, 2023). Talent Strategies for the Well-Being of Colorado Law Firms, Colorado Lawyer (November 2023, Vol. 52, No. 9). Building a Foundation for Growth in 2024, Law Week Colorado (October 12, 2023). A Laudable Approach to Promoting Diversity in the Legal Profession, Law Week Colorado (August 15, 2023). Announcing the State of the Law Firm Survey Results, Law Week Colorado (June 30, 2023). Women Lawyers in Colorado Grow in Ranks, Law Week Colorado (June 5, 2023). Introducing the State of the Law Firm Survey, Law Week Colorado (May 18, 2023). Staying Ahead of the Talent Curve- Part 2, Colorado Lawyer (April 2023, Vol. 52, No. 3). Staying Ahead of the Talent Curve- Part 1, Colorado Lawyer (March 2023, Vol. 52, No. 2). Smart Growth in Action: M&amp;A 101, Law Week Colorado (March 15, 2023). Smart Growth in Action: Law Firm M&amp;A, Law Week Colorado (February 17, 2023). Succession Planning: Time is of the Essence, Law Week Colorado (November 25, 2022). Protecting Law Firm Investments in Human Capital, Law Week Colorado (August 8, 2022). Staying Ahead of the Succession Planning Curve, Colorado Lawyer (April 2022, Vol. 51, No. 8).</p> <p>Recent Arbitration Publications</p>

SCOTUS Decision Applies FAA to Empower Businesses and Arbitrators, Colorado Lawyer (Aug/Sept 2019, Vol. 48, No. 8)  
Making the Economic Case for Mandatory Binding Arbitration, Colorado Lawyer (May 2018, Vol. 47, No. 5).

More complete list of publications is available through [www.genecommanderinc.com/blog](http://www.genecommanderinc.com/blog).

Recent Business of Law Speaking Engagements:

Speaker, Colorado Attorney Mentoring Program (July 2024).  
Keynote Speaker, Rocky Mountain Bankruptcy Conference, American Bankruptcy Institute (June 2024).  
Moderator, Solo/Small Firm Panel, Law Week Colorado (April 2024).  
Speaker, Pitkin County (Colorado) Bar Association (January 2024).  
Speaker, 5th Annual Colorado Solo-Small Firm Institute, CBA-CLE (September 2023).  
Speaker, Inaugural Symposium for Colorado Supreme Court Well-Being Recognition Program, CBA-CLE (September 2023).  
Panelist, Rock Star Mentors Program, Colorado Women's Bar Association (August 2023).  
Panelist, GOOD Guys Program, National Conference of Women's Bar Associations (August 2023).  
Speaker, Valuing Human Capital for Law Firms and Other Professional Practices, National Association of Certified Valuators and Analysts, Colorado/Wyoming Chapter (September & December 2022).

**Locations Where Parties Will Not be Charged for Travel Expenses** Charges for travel expenses waived in all cases with a minimum of five in-person hearing days conducted in Arizona, California, Oregon, Washington, Hawaii, and Alaska.

<b>Mediation Rate</b>	\$550 Per Hour
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	Aurora, CO

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.