



AAA Mediation.org™

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Lafayette, California



Current Employer-Title Ebe Dispute Resolution – Arbitrator and Mediator (San Francisco Bay Area)

Professional Summary Super Lawyer in Alternative Dispute Resolution, 2015-24, and in Business Litigation, 2007-14, selected by Law and Politics and San Francisco magazines.
The Best Lawyers in America, Franchise Law, selected by peers for inclusion: 2008 - 2025
International Who's Who of Franchise Lawyers, 2010-2014
Member, The Mediation Society of San Francisco
Fellow, Litigation Counsel of America, Trial Lawyer Honorary Society
Legal Services for Children, Pro Bono Advocate Awards: 2008, 2009, and 2011
California Trout, Inc.: President's "Streamkeeper" Award

Work History Partner, Cooper White & Cooper LLP, 2011 – 2015; Partner, Nixon Peabody LLP, 2008 – 2011;
Partner/Associate, Bingham McCutchen LLP (and predecessor McCutchen, Doyle, Brown & Enersen LLP), 1976 – 2008.

Experience Served as a neutral alternative dispute resolution provider -- arbitrator, mediator and evaluator -- for over 30 years while practicing for nearly 40 years as a commercial litigator with major law firms in the San Francisco Bay Area. Now does only ADR.

Appeared as an advocate before state and federal courts, agencies and domestic and international arbitration in a wide variety of industry and practice areas. Practice areas included commercial contracts; antitrust and trade regulation; dealership, franchise, sales representative and other distribution relations (e.g., termination, encroachment, fraud, non-compete covenants, exclusivity, good faith, transfer rights, etc.); business torts; groundwater contamination; employment relations; constitutional; high technology; corporate control; post-acquisition/merger disputes. Certified by State Bar as legal specialist in Franchise and Distribution Law.

Mediator Experience Mediated hundreds of commercial disputes as an advocate for clients, and has mediated as a neutral for over a dozen years, both in Northern California and in forums as distant as Washington, D.C. In addition to serving on the Northern District of California federal court's mediation panel, also serves the Contra Costa County Superior Court as both a Discovery Facilitator and a Settlement Mentor. Has also been an early neutral evaluator, both ad hoc and under the CPR Mini-trial Procedure in connection with a mediation process. Representative examples of neutral mediation experience include:

Distribution and Franchise

- State court claims by pipeline flow meter supplier alleging contract breach, trade secret misappropriation and other business torts by its distributor that began competing against supplier after their contract terminated.
- Different lawsuits in federal court by petroleum dealers suing their franchisors, e.g., for failure to pay fair value for real estate after termination, and for business devastation damages from the franchisor's alleged failure to comply with a facility program resulting in closure of all of plaintiff's businesses.
- Mediator/arbitrator in an agreed evaluator/med/arb process between sophisticated parties attempting to resolve ongoing trade secret litigation.

International

- AAA ICDR international franchise claims by European supplier for contract breach, business tort and antitrust claims over U.S. distribution of torque wrenches and related tools.
- Federal court action by U.S.-based solar products vendor for payment against Italian contractor (who did not speak English) purchasing for installation in Italian utility districts, which counterclaimed for breach of warranty and failure to provide services.
- Federal court action and counterclaim for contract breach and fraud arising from investment by Russian national plaintiff (who did not speak English) in defendant's startup on-line business in U.S. to provide low cost travel.
- Federal court action by the manufacturer of a European brand of clothing suing its distributor in the western United States (a citizen of that European country) for post-termination debts, including issues such as levy against assets including a home in Europe.
- Claims by food importer/exporter for misappropriated trade secrets on laptop taken by terminated ex-employee, including customer list.
- Federal court claims by international financial consultant against European ex-client for breach of contract and misappropriated trade secrets on laptop taken to defendant by plaintiff's terminated ex-employee.

Other Business Disputes

- Trade secret and antitrust claims brought in federal court by Louisiana reseller against California manufacturer and seller of patented routers used by plaintiff in a proprietary wireless network it allegedly designed.
- Dispute pending in three federal court districts involving alleged infringement of two separate groups of patents, antitrust counterclaims, and infringement defenses including a release and covenant not to sue in prior agreement between the parties.
- Claims between ex-partners in motion picture special effects business for return of capital, misappropriated corporate opportunities and lost profits.
- Breach, fraud and other business tort claims between investors in non-California fiber optic start-up company.
- Claims by non-California finance company against advertising agency for failure to pay for leased equipment.

Representative Issues Handled as a Mediator

The issues mediated have generally included alleged breach of commercial contract of some type, and common law and statutory business tort claims for damages exceeding \$1 million, in a variety of industries, including torque wrenches, pipeline flow meters, petroleum distribution, imported meat, financing of fiber optic venture, investment in a venture for international trade in cement, U.S. distribution of European clothing, web-based stamp trading, and expert accounting services.

Mediator Style & Process Preferences

Mediation is a valuable tool for resolving otherwise costly disputes.

I trust parties to participate in good faith. Informed decision-makers with realistic authority should attend, and they should be willing to listen to the other side.

Mediators should try to achieve settlement through facilitation. But I also believe most parties to complex commercial litigation want their mediator to be prepared with an evaluation of the case, and to share it honestly as seems appropriate and constructive during the process.

There are few disputes which antagonistic parties cannot resolve in this way.

Education

University of Chicago (JD, cum laude, Order of the Coif, Associate Editor of Law Review-1976);

DePauw University (BA, with distinction-1973).

Professional Licenses	Admitted to the Bar: California (1976); U.S. District Courts: Northern, Central and Southern Districts of California; U.S Court of Appeals: Ninth and Federal Circuits; U.S. Supreme Court. Certified specialist in Franchise and Distribution Law (2009 - 2019).
Professional Associations	Member, California State Bar select Alternative Dispute Resolution Committee (2013-2016); Commissioner, California State Bar Franchise and Distribution Law Advisory Commission (2010-2013); Past Co-Chair, Franchise Law Committee, Business Law Section, California State Bar; Past Member, Executive Committee, Business Law Section, California State Bar Member; ABA Franchise Forum; Contra Costa County Bar Association ADR Committee.
Recent Publications & Speaking Engagements	<p>Has written and spoken extensively on a variety of ADR topics.</p> <p>PUBLICATIONS: "Results and Observations: How a Multistep Med-Arb Produced a Fast(er) Settlement," (Part 2 of 2), ALTERNATIVES Newsletter (International Institute for Conflict Prevention & Resolution), Vol. 29, No. 4, April 2011; "A Different Approach to Conducting Med-Arb In Complex Commercial Litigation Matters" (Part 1 of 2), ALTERNATIVES (International Institute for Conflict Prevention & Resolution), Vol. 29, No. 3, March 2011; "New Arbitration Ordinance Issued in Hong Kong Attracts Attention From International Arbitration Community," Asia Pacific Alert, December 15, 2010; "Fundamentals Of Arbitrating Before CIETAC," Contract Law and International Trade Law, LAW 360, September 9, 2009; co-author, "Radisson and the Potential Demise of the Sealy-Barnes-Hinton Rule," FRANCHISE LAW JOURNAL 3, vol. 27, no. 1, Summer 2007; co-author, "Making U.S. Courts Accept Foreign Arbitration," INTERNATIONAL FINANCIAL LAW REVIEW, September 2005; "The Nuts and Bolts of Arbitration," FRANCHISE LAW JOURNAL 85, vol. 22, no. 2, Fall 2002; past contributing editor in business litigation, BUSINESS LAW REPORTER; past contributor, OF INTEREST, ABA Antitrust Section, Franchise and Dealership Committee.</p> <p>SPEAKING ENGAGEMENTS: "Collaborating on Mediations and Arbitrations: Some Lessons Learned From the Field," co-presented with Wm. C. Norman on March 30, 2012 to LAW (Lawyers Associated Worldwide) 2012 Americas Regional Meeting in San Francisco, CA; "E-Discovery, and Choosing an Arbitrator, in International Arbitration," presentation at program sponsored by Yulchon firm, Seoul, Korea, October 2009; "International Arbitration," Nixon Peabody CLE program, January 2009; "Ownership, Protection and Use of Customer Data - Yours, Mine or Ours?," ABA Franchise Forum, October 2007; "Drafting International Arbitration Clauses," Primer on International Commercial Arbitration and Mediation, California State Bar Annual Meeting, October 2002; "Franchising and Distribution in the Automotive Industry," ABA Franchise Forum, October 1999; "Hot Topics in Franchise Litigation," California State Bar Annual Meetings, 1995 and 1996.</p>
Locations Where Parties Will Not be Charged for Travel Expenses	San Francisco, San Mateo, Alameda, Contra Costa and Marin counties
Mediation Rate	\$625 Per Hour
Languages	English
Citizenship	United States of America
Locale	Lafayette, CA

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.