



AAA Mediation.org™

## **FN-9519 MN-9519 LN-9519, Esq.**

**Tampa, Florida**

**Current Employer-Title** Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis, P.A. - Shareholder (Chair, Construction and Government Contracting Practice Teams)

**Profession** Attorney - Construction Law and Litigation/Federal Government Contracting and Claims

**Work History** Attorney Mediator and Arbitrator, Trenam Kemker Scharf Barkin Frye O'Neill & Mullis P.A., 1981-Present; Retired Colonel, U.S. Air Force Judge Advocate General's Department (Reserve), 1982-2005 (reserve) & 1974-1981 (active).

**Experience** Full-time mediator and arbitrator with 80% of practice in construction disputes; 20% in federal government claims and disputes.

Forty-year construction dispute trial attorney with building failure, design error, road and bridge, power plant, pipeline, airport, amusement park, structural and MEP experience including lift stations and wastewater treatment plants, energy plants, electrical transmission lines and substations, and micro-tunnels: in 2018 lead attorney successfully defending an ENR 50 engineering firm in a \$42M design malpractice claim in a 5-week jury trial over the design of a micro-tunneled gravity sewer and lift station; in 2019 successfully defended a Fortune 200 design and construction firm in an airport design build project over the design of an Automated People Mover with elevated bridges and stations for \$36M that went to a 6-week arbitration; lead attorney who obtained a \$40.6M judgment for a public utility against an ENR 50 engineering firm in a one-month non-jury trial over the breach of an EPC contract for two Combined Cycle Gas-Fired Turbine power plants with HRSGs; obtained an \$85.75M settlement against a team of designers for a public authority over the collapse of an elevated highway bridge; settled at mediation the contractor's claim against a design team over a major performing arts center project with three theaters; successfully tried a one-week trial over the erection of a complex building/ride at EPCOT; successfully settled a contractor's claim for extra work and interference over the erection of a ride at Busch Gardens Tampa; successfully settled a contractor's claim for extra site work arising out of a project at Universal Studios Orlando; successfully settled a mechanical contractors claims for extra work and change order pricing for several rides and the Central Energy Plant at EPCOT. Familiar with FDOT, AASHTO and LFRD standards for bridge design.

Federal Government contracting experience as a 18-year USAF Reserve Government Contracting Attorney at US CENTCOM, US SOCOM and the Air Armaments Command Eglin AFB, FL. Civilian procurement and government contracting attorney at Trenam Law representing major federal government contractors, SDVOSBs, WMBEs, and individuals in general procurement services including drafting of, and resolution of disputes involving, Non-Disclosure Agreements, Teaming Agreements, Joint Venture Agreements, Operating Agreements, and subcontracts. Represented clients in numerous bid protests to agencies and the GAO; and representation of clients in disputes involving REAs and Certified Claims to agencies and USACE, including litigation before the Armed Services Board of Contract Appeals for an ENR 50 engineering firm involving design build projects for a dormitory and aircraft tower; representation of a SDVOSB in a Civilian Board Contract Appeals claim against the VA for a parking garage project; successfully defended a WMBE in federal court on a \$70M "bet the company" whistleblower qui tam fraud claim achieving an involuntary dismissal on the third day of trial; successfully progressed and settled with a major

health care provider a qui tam whistleblower claim for a doctor assisting the federal DOJ in obtaining a \$48M settlement. Successfully defended three different armaments manufacturers in three lawsuits: one for a \$500M whistleblower claim for alleged fraud over the manufacture of medium caliber ammunition that was dismissed for discovery sanctions; one in a subcontractor dispute over depleted-uranium penetrator tank rounds; and one for theft of trade secrets in a \$100M practice bomb contract.

## **Mediator Experience**

Began mediating cases before 2010, and has been a Florida Supreme Court Circuit Civil Certified Mediator since June 2013. Selected by attorneys to be a mediator in primarily construction disputes, additionally have occasionally mediated commercial disputes. Mediated two multi-party cases this year, where, in one case the dispute was pending in two separate courts, one state and one federal. In addition, have settled five cases in a row, four of which the attorneys advised beforehand would not be settled. Cases mediated range from a dispute over the supply and installation of the new pre-Superbowl lighting system at Raymond James NFL stadium in Tampa, Florida, to a dispute between heavy civil contractors on a Florida DOT project. Also mediated construction defect, design malpractice, and foundation/soils subsidence cases.

Particularly adept at doing Zoom and hybrid mediations.

## **Mediator Style & Process Preferences**

After having been a trial lawyer for 40 years and being involved in countless mediation as an advocate, I believe that the most effective mediators are evaluative. While Florida law does not permit me to offer a personal or professional opinion about a party's case, I am as evaluative as the law allows, constantly challenging the parties about the strength and weaknesses of their case and guiding them to evaluate their case for settlement.

## **Education**

Yale Law School (National Endowment for the Humanities Scholar-1980); University of Michigan (LLM, International Law-1979); Duquesne University Law School (JD-1974); University of Pittsburgh (BA-1971).

## **Professional Licenses**

Admitted to the Bar: Florida (1981), Pennsylvania (1974); U.S. District Court: Western District of Pennsylvania, Middle and Southern Districts of Florida; U.S. Courts of Appeals: Third (1974), Fifth (1981), and Eleventh (1981) Circuits; U.S. Court of Military Appeals (1975); U.S. Court of International Trade (1986); U.S. Court of Federal Claims (2012); U.S. Supreme Court (1980). Florida Bar Board Certified in Construction Law (2006).

## **Professional Associations**

American Bar Association (Forum on the Construction Industry, Past Governing Committee Member); Division Chair, International Construction; Litigation Section; Construction Litigation Committee (Past Co-Chair); International Construction Sub-Committee (Co-Chair); Construction Trials Subcommittee (Co-Chair); Trial Practice Committee; Lender Liability Subcommittee (Chairman); Florida Bar Association (Military Aid to Service Members' Committee); Hillsborough County (Florida) Bar Association (Construction Law Committee, Co-Founder, Past Co-Chair; Military Liaison Committee, Founder); Tampa Bay Hispanic Bar Association, Legal Counsel, Sant' Yago Education Foundation.

## **Recent Publications & Speaking Engagements**

### **PUBLICATIONS:**

Co-Author (with Patrick Poff), Fifty-State Lien and Bond Law Manual, Florida Chapter and Forms and Updates, Aspen Law Publishing, 2000-present. Co-Editor, Federal Government Construction Contracts, 2nd Ed, ABA Forum on the Construction Industry, 2010; Co-Author, "Discovery Outside the United States," Chapter 8, DISCOVERY DESKBOOK FOR CONSTRUCTION DISPUTES, ABA Forum on the Construction Industry, 2006; "International Discovery Checklist," CONSTRUCTION CHECKLISTS, ABA Forum on the Construction Industry, 2008; "Florida Chapter and Annual Supplements," FIFTY STATE CONSTRUCTION LIEN AND BOND LAW MANUAL, Wolters Kluwer, 1994-Present; Curriculum Materials, Florida Bar Continuing Legal Education Programs, 1982-2014; "Keys to a Successful Design-Build Project," SOUTHEAST CONSTRUCTION MAGAZINE, Florida ed., October 2001; "Handbook on Contingency Contracting and Fiscal Law," United States Air Force Judge Advocate General's School, 2005; "Admissibility of Computer-Generated Evidence," THE CONSTRUCTION LAWYER, August, 1994; "Protection Under Soldiers' and Sailors' Civil Relief Act for U.S. Military and Activated Reservists," THE FLORIDA BAR JOURNAL, February, 1991; "International Contracts Can Specify Where a Lawsuit Must be Brought," TRADELINE, March 1987; continuing legal education materials on pre-trial motion practice, The Florida Bar, 1982-84; "LAIRD v. TATUM, Chilling Effect on First Amendment Rights," 11 DUQUESNE LAW REVIEW 419, Fall 1973.

**SPEAKING ENGAGEMENTS:**

Speaker and Paper Co-Author: "Negotiating Claims with the Federal Government," ABA Forum on Construction Law, Summer Meeting, 2022. Speaker, "Damages for Construction Defects and Delay Claims," The Florida Bar Real Property, Probate & Trust Law Section Webinar, September 2018. Panelist, "The Future is Now: AAA Arbitrator Facilitated Roundtable on Arbitration Trends, Management and Case Law Updates," American Arbitration Association Roundtable, May 2018. Presenter, "Difference between Private and Public Construction Projects And Prompt Pay Acts," The Florida Bar Advanced Construction Law Certification Review Course, March 2017 "Terminations for Convenience Under the Federal Acquisition Regulations," National Association of Contract Administrators, December 2008; "Dealing with Mid-Course Adjustments in Project Planning and Resultant Claims," Meeting of the Forum on the Construction Industry, Fall 2007; "Liability for Construction Defects," Florida Bar Basic Construction Law Course, 2005, 2006; Co-Chair, Annual Meeting of the Forum on the Construction Industry, 2006. Lecturer, Florida Bar Construction Certification Exam Review Course, March, 2014 - March 2022.

<b>Locations Where Parties Will Not be Charged for Travel Expenses</b>	Mileage will not be charged for travel to the following Florida counties: Hillsborough.
<b>Mediation Rate</b>	\$650 Per Hour
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	Tampa, FL

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.