



AAA Mediation.org™

## Marc J. Goldstein, Esq.

New York, New York

**Current Employer-Title** MJG Arbitration – Founder

**Profession** Arbitrator, Mediator

**Work History** Founder, MJG Arbitration & Mediation, 2007-Present; Leader of International Arbitration Practice, Hodgson Russ LLP, 2004 – 2007; Proskauer Rose LLP (Leader of International Arbitration Practice, 1999-2003), 1980 – 2003.

**Experience** Practice entirely dedicated to service as arbitrator and mediator since 2016. Arbitral practice as advocate alongside litigation practice from 1980 to 2016.

Chair, Sole Arbitrator, Co-Arbitrator, Emergency Arbitrator, and Focus Group Mock Arbitrator in international or domestic commercial arbitrations under various arbitral institution's Commercial/Large and Complex Case Rules. Mediator of international and US domestic commercial disputes.

Subject matters of cases as arbitrator: accounting, accountant liability, aviation (aircraft design/engineering, purchase and sale); breach of contract, commercial banking, China, commercial contracts, construction, consumer electronics, consultant compensation, currency trading, deceptive trade practices, Delaware corporation law, derivatives, distribution, employment, energy, engineering, fiduciary duty, finance, Forex, fraud, franchise, hedge funds, indemnification, intellectual property, interim measures, injunctions, insurance, investment management, insider trading, investment banking, inter vivos trusts, life sciences, limited liability companies, joint ventures, mergers and acquisitions, medical technology, mining, minority shareholder rights, negligence, New York law, options trading, partnership, patent licensing, pharmaceutical licensing, pharmaceutical manufacturing, private equity investments, private placements, Ponzi schemes, power cogeneration, professional malpractice, private banking, procurement, proprietary trading, real estate, reverse mergers, RICO, Uniform Commercial Code Article 2, US federal securities liability.

Subject matters of cases as mediator: price fixing, antitrust damages, industrial engineering/design defects, syndicated commercial lending, real estate lending, executive compensation, mergers and acquisitions, reinsurance coverage, commercial contracts, joint ventures, fiduciary obligations, investment banking, insurance brokerage, non-profits finance, attorney-client.

Subject matters of cases as advocate: accounting; accountant liability and malpractice; aviation -- private luxury aircraft purchase and sale; industrial machinery engineering/design; construction cost accounting; commercial real estate development; currency swaps and other derivatives; broker-dealer liability; Generally Accepted Accounting Principles; imported steel and pipe design defects; imported apparel distribution; imported foods distribution; music publishing; professional sports -- franchises, merchandising, broadcast regulation, collective bargaining, employment; merger purchase price adjustments; pharmaceuticals patent licensing; expropriation -- pharmaceuticals industry investment; expropriation -- residential real estate industry investment; expropriation -- cable television franchise investment; telecommunications -- wireless franchises abroad; ISDA

contracts; health care facilities financing; life insurance sales practices; commercial lending/secured creditor rights; partnership and closely-held corporation dissolution; minority shareholder rights; valuation of expropriated property; contracts; international entertainment joint ventures; joint ventures with China state enterprises; US Age Discrimination Law, US Civil Rights Statutes; US antitrust law -- monopolization, restraint of trade, price discrimination; US securities law civil liability, US copyright law, US and NY trademark law, US bankruptcy law -- Chapter 11 reorganization, preferential transfers, adversary proceedings; New York and Delaware corporation laws, Vienna Sales Convention, Uniform Commercial Code -- Article 2 sales law, Article 9 secured creditor rights, enforcement of foreign judgments and arbitral awards, Federal Arbitration Act, New York Convention, antisuit injunctions.

## **Mediator Experience**

>75 cases as mediator since 2009. Certified by International Mediation Institute since 2015.

Completed Harvard Program on Negotiation (HPON) Master Class November 2016 (and HPON Basic Course November 2013).

Recent cases in international finance involving legal malpractice.

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

1. International "Alternative Finance" Lender Liability Dispute
2. Legal Malpractice Dispute in M&A Advisory Context
3. Civil Antitrust Enforcement Case: Price fixing conspiracy allegations, measure of damages for which one co-conspirator is responsible in "hub and spoke" conspiracy.
4. Performance Rights Trademark Infringement Case: Dispute over scope of license of rights in public television program content.
5. Investment Banking Compensation Case: Dispute over fees due to investment banker upon successful completion of corporate merger.
6. Syndicated Loan Facility Case: fiduciary obligations of syndicate manager toward lenders not participating in restructuring of the facility.
7. Industrial Machinery Case - scope of defects in machinery supplied; fact issues of allocating responsibility for defective condition.
8. Joint Venture Dispute - fact disputes over claims of misappropriation and corporate waste.
9. Insurance Coverage Disputes - Interpretation of reinsurance agreements, fact issues relating to dates claims arose.
10. Real estate loan case - Ability of non-profit to comply with terms of loan agreement.

## **Mediator Style & Process Preferences**

Evaluative to each side in confidence. Prepares intensively as if for adjudicative exercise. Builds trusting relationships with participants. Maintains continuity of process up to conclusion.

## **Technology Proficiency**

Entirely digital. Does not accept hard copy submissions. State-of-the-art cybersecurity on all devices.

## **Education**

University of Virginia Law School (JD, Member, Virginia Law Review-1980); University of Pennsylvania (BA, magna cum laude-1976).

## **Professional Licenses**

Admitted to the Bar: New York, 1981; New York state and federal trial and appellate courts.

## **Professional Associations**

Honors Conferred: Peer-review ranked by Chambers Global, Chambers USA, Who's Who Legal, Best Lawyers in America, as leading international arbitrator in the USA.

Elected: International Council on Commercial Arbitration; American Law Institute (Members' Consultative Group for Restatement (Third) of The U.S. Law of International Commercial Arbitration, 2010-2020, project completed); International Arbitration Club of New York; International Institute for Conflict Resolution (CPR) Arbitration Committee; Silicon Valley Arbitration and Mediation Centre; Committee on International Commercial Disputes, New York City Bar Association (2011-2017, 2019-present); College of Commercial Arbitrators (Fellow); Chartered Institute of Arbitrators (Fellow); London International Arbitration Club; Toronto Commercial Arbitration Society; American Bar Foundation (Fellow).

Voluntary: London Court of International Arbitration; International Chamber of Commerce (US Arbitration Committee); International Bar Association (Committee D - Arbitration); Institute for Transnational Arbitration (Dallas; Advisory Board); Swiss Arbitration Association; Institute

D'Arbitrage Internationale.

Non-Profit Affiliations: Roswell Park Comprehensive Cancer Center; Perlman Music Program; American Friends of Israel Philharmonic; Federation of Jewish Philanthropies/UJA.

## Recent Publications & Speaking Engagements

Founder (2009) of Arbitration Commentaries website. Published more than 250 essays on contemporary issues in law and practice of international commercial arbitration.

Other Treatise Chapters and Articles (non-exhaustive list): Practising Law Inst., Arbitrating Commercial Disputes in the United States (2d ed. 2020 and 1st ed. 2018), Ch. 4 "Arbitrability & Jurisdiction"; "The Daesang Decision: New York's Manifestly Misunderstood Law on Vacating Awards," ICC Disp. Res. Bull. Winter 2018-19; "Deciphering DeGusa: The Enforcement in U.S. Courts of International Arbitration Awards Against Alter Egos of the Award-Debtor," Vol. 29 No. 4 Am. Rev. Int'l Arb. (2018); "A Glance Into History for the Emergency Arbitrator," 40(3) Fordham Int'l L.J. 779 (2017); "Living (or Not) with the Partisan Arbitrator: Are There Limits to Deliberations Secrecy?," 32(4) Arb. Int'l 589 (2016); "A Model Federal Arbitration Summons to Testify and Present Documentary Evidence At an Arbitration Hearing," (Project of the Int'l Commercial Disputes Comm. and the Arbitration Comm. of the NYC Bar Ass'n - Principal Author), 26 Am. Rev. Int'l Arb. 3 (2015); "Annulled Awards in the U.S. Courts: How Primary Is 'Primary Jurisdiction'?", 25 Am. Rev. Int'l Arb. 1 (2014); "Application of the Doctrine of Forum Non Conveniens in Summary Proceedings for the Recognition and Enforcement of Awards Governed by the New York and Panama Conventions: Report of the International Arbitration Club of New York" (with Prof. Linda J. Silberman), 24 Am. Rev. Int'l Arb. 1 (2013); "Should the Real Parties in Interest Have to Stand Up? -- Thoughts About a Disclosure Regime for Third-Party Funding in International Arbitration," (TRANSNAT'L DISP. MGMT, Nov. 2011).

Recent Speaking and Teaching Engagements: Osgoode Hall Law School, Toronto, Prof'l Dev. Program, Nov. 2023 (Arbitrator Selection); Canada Keynote Address of Canada Arbitration Week: "Arbitrators Under Attack" (Oct. 2023); Toronto Commercial Arbitration Society Annual Meeting Panel: Arbitral Power to Impose Sanctions (May 2023); Toronto Commercial Arbitration Society "Gold Standard" Training Program, Nov. 2022 (Case Management); (Cross Examination); College of Commercial Arbitrators Program on Arbitration Procedures (May 2022); GAR Live New York (Oct. 2021) (Functus Officio and Finality of Awards); New York International Arbitration Club Presentation: "The Functus Officio Problem in Modern Arbitration and a Proposed Solution" (June 2021) ; CPR Arbitration Committee, Presentation on Advocacy in Virtual Arbitration Hearings, The Arbitrator's Perspective (March 2021); NY City Bar Arbitration Committee Presentation: "Dissenting Opinions, The Chair's Perspective" (March 2021); Osgoode Hall Law School, Toronto, Prof'l Dev. Program, Nov. 2020 (Arbitrator Selection, Procedural Conference Techniques); CPR Canada Program of Canadian Arbitration Week (Emergency Relief for Asset Protection), September 2020; ABA Int'l Section Annual Moscow Conference (Virtual) (Corruption in Investment Arbitration), Sept. 2020; ICC Annual N.Y. Conference, Oct. 2019 (Finality of Awards); Osgoode Hall Law School, Toronto, Prof'l Dev. Program, Nov. 2019 (Procedural Conference techniques), March 2019 (Interim Relief), Dec. 2018 (Procedural Conferences); Toronto Commercial Arbitration Society "Gold Standard" Training Program, Nov. 2019 (Arbitrator Interviews and Disclosures); White & Case/PriceWaterhouseCoopers Training Program for ICC Young International Arbitration Group: "Cross-Examination of Damages Experts, The Arbitrator Perspective", June 2018.

<b>Mediation Rate</b>	\$1,050 Per Hour
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	New York, NY

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.