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TX 76102

Current Employer-Title Cotten Schmidt, L.L.P. – Founding Partner

Profession Arbitrator, Mediator, Umpire, Attorney, Certified Public Accountant

Work History Attorney/Partner, Cotten Schmidt L.L.P. (and predecessor firms), 1992 - Present; Attorney/Partner, Brown Herman Scott Dean & Miles L.L.P., 1985 - 1992; Attorney/Associate, Harris Finley Creel & Bogle, 1983 - 1985; Auditor/Senior Associate, Arthur Young & Company, 1977 - 1980.

Experience More than 40 years in private legal practice, specialized in the following areas: alternative dispute resolution services - served as mediator or arbitrator in over 500 diverse and complex commercial, real estate, construction, mergers and acquisitions, health care, franchise, employment, and estate planning disputes.

During the past 40 years as a practicing Texas attorney, represented clients in a wide variety of employment, commercial, health care, and construction industry related matters: Property owners in the negotiation and enforcement of agreements for the construction of commercial office buildings including specialty health care facilities; Building owners in the renovation and remodel of commercial office buildings; General contractors and subcontractors in the preparation, negotiation, and revisions of AIA and ConsensusDocs in connection with various projects; and Bidding, permitting, licensing, lien filing and lien enforcement processes.

Represented both sides relating to disability, age, and gender discrimination disputes. Extensive experience with executive compensation, severance, and employment agreements (non-solicitation, no-compete agreements). Defended non-subscribers in work related injury claims and with structuring post-injury health care programs, defended businesses in lawsuits, arbitrations, and agency hearings involving a wide variety of statutory claims including Title VII, EEOC, and FLSA, and defended and filed employment and trade secret related TROs and injunctions in court and in arbitrations.

Extensive experience in representing both sides in transactional and advocacy situations. Counsel in state and federal litigation, administrative hearings, physician peer review hearings, in mediations and (in AAA, AHLA, FINRA, and privately administered) arbitrations.

Represented buyers and sellers of businesses as well as numerous providers (hospitals, single and multi-specialty physician groups) in the negotiation of and regarding issues arising under managed care contracts (including reimbursement disputes).

Served as lead and second chair counsel in the following representative disputes: defense of Medicare cost reimbursement claims; breach of contract claims involving sale of managed care organization; business partnership disputes; investor claims against a broker and brokerage firm; multi-specialty physician group in disputes regarding physician practice management agreement; disputes arising under joint venture agreements between hospital and publicly-traded corporation; claims of hospital-based physician group arising under provider/coverage agreement with tax-

exempt hospital; summary suspension of hospital privileges; breach of asset purchase agreement; represented a physician in a three-day hearing regarding terms and conditions of probation of hospital privileges; defamation claims; and represented an Ambulatory Surgery Center in the summary suspension of a physician's surgical privileges.

Appellate experience - Co-counsel for Petition for Writ of Certiorari to the Supreme Court of the United States - Cause No. 19-1015 on Appeal from United States Court of Appeals for the Fifth Circuit - Cause no. 18-11641 (copy of Petition available at www.supremecourt.gov); Court of Appeals, Second District of Texas, Fort Worth - Cause No. 02-17-00035-CV; and Texas Court of Criminal Appeals - Published opinion - Grotti v. State, 273 S.W.3d 273 (Tex. Crim. App. 2008).

Mediator Experience

Have mediated over 60 cases. Commercial Disputes: Business divisions, shareholder, buy-sell agreements, breach of fiduciary duty claims, health care, employment, oil and gas, construction, and real estate disputes. Several mediations involving disputes among parties in failed business arrangements including real estate ventures, executive employment agreements and partnership dissolutions.

Health Care: Mediated claims between hospitals and physicians about provider agreements and between insurers and physician groups about payment and covered services under managed care agreements.

Real Estate: Mediated two disputes between landlord and tenant about lease renewal and property condition on termination. Has mediated at least four commercial contract construction claims. Mediated complex real estate and oil and gas issues about warranties of title and reservations from conveyances. Received varied and meaningful experience in serving as a neutral mediator since becoming a certified mediator in September 2005. Interested parties are encouraged to contact the independent references listed below.

Franchise: Mediated disputes between Franchisor and Franchisee regarding geographic restrictions, alleged violations, terminations, and final separations.

Representative Issues Handled as a Mediator

Mediated commercial contract disputes involving warranties relating to specially manufactured oil and gas drilling equipment. Mediated issues in real estate/oil and gas regarding alleged breaches of warranty and representation and pipeline easements. Mediated contracts for the assignment of oil and gas interests. Mediated health care disputes involving antitrust claims and federal self-referral statutes.

Mediated shareholder disputes regarding alleged competing businesses. Mediated alleged breach of fiduciary claims in different business contexts. Mediated contract construction cases involving damages and specific performance between commercial parties to failed real estate purchase agreement. Mediated insurance coverage and reimbursement issues.

Mediator Style & Process Preferences

Mediation is often the single most important stage of an arbitration or lawsuit.

Accordingly, I believe the mediator should make every effort be the most prepared person participating in the mediation session. In addition to specialized training as a mediator, timely and proper pre-mediation review of party submissions and discussions with counsel (after receiving permission from all attorneys) are essential to the likelihood of a successful outcome. I have experienced few situations as an attorney that are more frustrating than feeling that my client and I wasted the time and money invested in a four-eight hour ineffective mediation session where the mediator was not sufficiently familiar with the case, the parties, and the central issues in order to get the parties off to a quick and efficient start to the discussions. I strive to avoid forcing the parties to incur similar frustrations in the cases that I mediate.

The parties should be solution-focused and counsel should have carefully evaluated and discussed with their client the strengths and weaknesses of their client's claims/defenses. If necessary, I will take it upon myself to ensure that these goals are accomplished during the mediation I appreciate the fact that conflicts and personalities are diverse. It has been my experience as both an advocate in mediation and as a mediator that success in mediation can often be measured in ways that are broader than reaching a settlement.

I use my years of varied experience and diverse skills as a transactional lawyer, general corporate

counsel, trial attorney, certified public accountant, arbitrator, and mediator to select the mediation process and style that will produce the most cost- effective and beneficial outcomes for the participants. I can best be described as a facilitative "broad" processing mediator. I encourage parties to identify their respective underlying interests (versus positions). Concurrently, I strive to help the parties generate and assess proposals (mutually-acceptable) designed to accommodate each side's most important objectives. At all times during the process, I remind the parties of their need to be flexible and willing to compromise if a settlement is to be reached. Parties need to remain mindful that absent creativity available through mediation, strangers to the dispute will often have the final say in what relief is granted or denied in an inflexible judicial environment.

As appropriate, I employ the techniques of an evaluative mediator and provide assessments of the strengths and weaknesses of a participant's positions. I sometimes use separate sessions with a participant's counsel to permit candid discussions outside the presence of the client. Service as an arbitrator presiding over dozens of disputes has provided added insight to both the fact-finder's and the Judge's perspectives and the difficulties they face in deciding a case that results in increased uncertainties to the parties. I believe and emphasize that the parties are empowered through mediation to settle their own disputes and shape their own relief. Both sides to a mediation will sense that I am serving as a catalyst and agent of reality to allow the parties to explore their real interests and needs. My expectation is that the parties and counsel will either settle or will have a roadmap for settlement following the mediation. I am committed to continue after the mediation session ends to assist the parties in further settlement discussions.

A value-added mediator can help all Parties better appreciate that although he or she need not agree with the views held by their opponent, the disputed issues need to be viewed and evaluated as those issues are and not as that Party sees itself.

Understanding that mediation should be a cost-effective avenue for parties to resolve their differences, I have intentionally elected to maintain my hourly rate for mediation services below my standard billing rate for legal services.

Education	Baylor University (JD, top 15% of class, Associate Editor of Baylor law Review-1982); Texas Tech University (BBA, Accounting, with honors-1977).
Professional Licenses	Admitted to the Bar: Texas, 1983; Texas Supreme Court, 1983; U.S. District Court: Northern District of Texas, 1983; U.S. Court of Appeals: Fifth Circuit, 2018; U.S. Tax Court, 1986; U.S. Supreme Court, 2020. Certified Public Accountant: Texas, 1979.
Professional Associations	Eldon B. Mahon Inn of Court (Emeritus status); State Bar of Texas; Texas Bar Foundation (Fellow); Texas Bar College - Tarrant County Bar Association (Audit Committee, Past Chairman; Finance Committee, Past Chairman); Texas Society of Certified Public Accountants; American Health Lawyers Association (past member); Texas Society of CPA's (Fort Worth Chapter, past member); Fort Worth Business and Estate Planning Council; Member of the Texas State Bar College (Multiple Years).
Recent Publications & Speaking Engagements	Speaker, Arbitration Presentation - Best Practices - Mahon Inn of Court - 2015; "2009 Arbitrator Roundtable", State Bar of Texas; "Compliance Programs for Health Care Providers", Lorman Education Services, 2000; various estate planning/administration topics; "Negotiation Ideas, Approaches, and Real World Examples", Fort Worth Chapter of CPA's.
Mediation Rate	\$2,600 Per Day
Languages	English
Citizenship	United States of America
Locale	Fort Worth, TX

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.