



AAA Mediation.org™

Ralph S. Berger, Esq.

Miami Beach, Florida



Profession

Full time Arbitrator, Mediator

Work History

Arbitrator and Mediator, 1982 – Present; Lecturer, Cornell University NYSSILR, 1981 – Present; Trial Examiner, New York City Office of Collective Bargaining, 1981 – 1985; Attorney, National Labor Relations Board, 1978 – 1981.

Experience

100% of practice is employment, commercial and labor-management work. Cases involve breach of individual employment contracts, Title VII, Americans with Disabilities Act, Family and Medical Leave Act, Sarbanes-Oxley, Fair Labor Standards Act, NYS Labor Law, NYS False Claims Act, NYS Corrections Law, NYC Human Rights Law, NJ CEPA, USERRA, race, age, national origin, sexual harassment, wage and hour, prevailing wage, and wrongful termination issues. Specific cases have also involved issues of executive compensation, severance, restrictive covenants, partnership dissolutions, liquidated damages, commissions, stock options, breach of fiduciary obligations, bonuses, pension entitlements, retaliatory discharge, reverse discrimination, reductions in force, "whistleblower" complaints, wage and hour claims, overtime, spoliation, discrimination on account of disability, and ownership of intellectual property rights. Class action cases have involved issues of alleged discrimination due to gender and/or race in the financial services industry, constructive termination benefits in pharmaceuticals, entitlements to severance benefits in communications, FLSA/NYS LL class/collective action wage claims in the restaurant, insurance, banking, retail apparel, transportation, auto sales and construction industries, and contributions to and termination of multi-employer defined contribution pension plans in the health care and service industries. Additional industries include entertainment, sports, computer, real estate, airlines, manufacturing, insurance, electronics/technology, utilities, education, maritime, retail, newspaper, broadcasting, transportation as well as financial in the private, public and not-for-profit sectors.

Mediator Experience

Mediated over 750 employment and commercial cases; over 1500 labor-management cases.

Representative Issues Handled as a Mediator

Class actions in the financial services industry alleging gender and race discrimination; sexual harassment and age discrimination complaints in the entertainment industry; allegations of discrimination due to race and national origin in the communications industry; reverse sex discrimination in broadcasting; alleged racial discrimination at a major news reporting company; discharges of tenured professors; proper payment of wages at a "gentlemen's club"; discharge allegedly in violation of the ADA that related to the Claimant's fertility treatments (EEOC participated in the mediation); breach of contract and the value of severance payments in the hedge

fund industry; dissolution of a law practice; restrictive covenants in the information systems field; alleged discrimination on account of recurrence of breast cancer; stock option entitlements in the energy producing industry; alleged racial discrimination at a major news reporting company; discharges of tenured professions; alleged discrimination of Sabbath observer; alleged discrimination on account of sexual orientation by religious organization; entitlement to incentive pay in the real estate industry; alleged discrimination on account of perceived disability; alleged failure to promote on account of national origin; "forced overtime" in the financial services industry; application of "English only rule" in retail services; alleged national origin discrimination against Egyptian executive; sexual harassment and retaliation against "on air" reporter; retaliation against Orthodox Jew who complained about having to watch Hitler parody video as part of mandatory training; alleged inappropriate conduct by doctor with female patients; quid pro quo sexual harassment of job applicants; pregnancy discrimination at a day care center; failure to hire on account of age/national origin; sexual harassment of trainer at gym; religious discrimination against Muslim who sought time off for prayers; termination of oldest copy editor at fashion magazine; failure to pay agreed upon severance to executive in health care industry; discrimination on the basis of national origin by employers who required applicants to submit photos; failure to pay overtime to live-in domestic employee; retaliation against U.S. Army applicant; failure to properly pay exotic dancers; off-the-clock pay claims by class of 1,000 debt collectors; failure by religious organization to pay overtime entitlement to FLSA exemptions; racial discrimination of African-American field technician by trainer who placed a noose around his neck; sexual harassment of male bartender by female beverage manager; refusal to hire Asian Americans; termination of educational supervisor who complained on behalf of disabled students; failure to accommodate employee suffering from vertigo; termination of employee following her request for a lactation room; sexual harassment of a massage therapist; denial of entry into a training program due to prior criminal conviction; refusal to pay undocumented workers by check. Designated mediator: Merrill Lynch Claims Resolution Process, Texaco, GSA/EEO, and others.

Mediator Style & Process Preferences	To many, "Life is a negotiation." I view it more as a series of compromises. As a mediator, my goals are to create an atmosphere in which the parties are willing to compromise from their initial positions and then enter into a "win-win" settlement. My approach to accomplishing these objectives will vary depending upon the issues and dynamics involved in a particular case.
Education	Hofstra University (JD-1978); Cornell University (BS, Industrial and Labor Relations-1974).
Professional Licenses	Admitted to the Bar: New York (1979); U.S. District Courts: Eastern (1979) and Southern (1979) Districts of New York; U.S. Supreme Court (2006).
Professional Associations	National Academy of Arbitrators; NYS Bar Association (ADR Section, Labor and Employment Section).
Recent Publications & Speaking Engagements	"Arbitral Decision-Making: Confronting Current and Recurrent Issues, Proceedings of the 56th Annual NAA Meeting," (adapted from presentation), 2004 - "What Arbitrators Really Need to Know in Health Care Arbitration"; "Differences in Arbitrating Labor and Employment Disputes," NEW YORK LAW JOURNAL, July 10, 1996, adapted from presentation made at AAA's Employment Orientation Seminar, May 1996. "Arbitration In A Time of Economic Crisis" (Cornell/AAA, 2009); "Meet the Mediators/Ask the Arbitrators" (NYSBA Dispute Resolution Section, 2013); "Arbitration in Professional Sports" (St. John's Law School, 2013); Distinguished Speakers Forum, "Learning the Art of Mediation and Arbitration" (St. John's Law School, 2017). Various additional articles, speeches at conferences, and lectures on contemporary workplace issues.
Locations Where Parties Will Not be Charged for Travel Expenses	Miami Beach, Florida
Mediation Rate	\$900 Per Hour
Languages	English
Citizenship	United States of America
	Miami Beach, FL

Locale

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.