



AAA Mediation.org™

Daniel F. Kolb, Esq.

New York, New York

Current Employer-Title Davis Polk & Wardwell, LLP – Senior Counsel

Profession Attorney

Work History Practice Coordinator for the Litigation Department (1989 – 1998)/Head of Washington Office (1979 – 1988)/ Partner (1972 – 2011)/Senior Counsel (2011 – Present), Davis Polk & Wardwell, LLP, 1965 – Present.

Experience Over 45 years' experience representing major corporations, accounting firms, law firms and individuals as a trial lawyer and litigator in matters involving significant damage claims and regulatory and business issues.

Matters have included numerous extended trials in both federal and state courts throughout the United States, class actions, criminal and SEC investigations, arbitrations and mediations, appeals to state and federal appellate courts and submission of briefs on Constitutional issues to the United States Supreme Court. Many of the matters have included litigation in European or Canadian courts.

Claims and charges have included alleged securities and banking law violations, financial, accounting and tax fraud, professional malpractice as to both accountants and lawyers, breach of contract, mass torts and antitrust violations. Also, included have been significant Constitutional issues, probate issues as to one of the largest estates in the United States, issues as to transactions of various types, including both secured and unsecured transactions, significant issues as to jurisdiction and venue, related bankruptcy law issues, and attempts to pierce the corporate veil.

Among others, the matters have required significant focus on the following industries and businesses: Accounting and Auditing, Banking, Underwriting, Investment, brokerage, Tobacco, Telecommunications, Aluminum Cable, Milk, Rendering, Retail Sales Practices, Auto Parts, Nursing Homes, Franchising, Nuclear Energy, Grocery Chain Stores, Newspapers, Mining, Food Safety, Marketing of Pharmaceutical Products, and Toys.

Pro bono representation has included serving as counsel for a class of preschool children in the City of New York seeking disability benefits provided by law, representation of New York's Legal Aid Society in its pursuit of funding for effective defense of indigents in Criminal Matters, successful representation of a death row inmate, successful representation in mass actions for plaintiffs scammed when they sought mortgage modifications; significant participation in non-partisan efforts to assure better access for voters to the poles in New York City and representation of indigent defendants in appeals after murder and robbery convictions.

Mediator Experience Appointed Mediator in the United States District Court for the Southern District of New York and New York's Supreme Court Commercial Division and a Special Master for the Conduct of Mediations in New York's Appellate Division First Department. Also a member of the AAA Commercial and Accounting Panels of Mediators and CPR's Panel of Distinguished Neutrals.

Mediations conducted have been and are focused on subjects including: valuation of investment partnership interests, commercial contract interpretation, accounting issues, identity theft, sale and

ownership of commercial real estate in the United States and abroad, obligations under a commercial lease, estate matters, employment discrimination, payment of professional advisory fees, nursing homes, and the sale of technology.

Parties to the mediations conducted have included commercial real estate developers and tenants, investment bankers, auditors, a city government, nursing home owners and operators, a private school, pension funds, a labor union, longtime employees, a public affairs consulting agency, a security company and a software developer.

Representative Issues Handled as a Mediator

Issues have included: The value of an investment banker's contribution to an investment partnership, accounting issues; whether a teacher had been discriminated against because of her religion, law firm partnership disputes; the respective responsibilities of parties to a theft of the identities of hospital patients, the value and rights to a significant property in the Caribbean, hurricane damage; the enforcement of an option to secure ownership of a real estate corporation, an allegation of age discrimination, alleged sexual harassment, the obligation of a tenant to make significant improvements to an office building under a net lease, the calculation of cash flow under a lease and occupancy rights under a commercial lease; and design and maintenance of a building heating system.

Mediator Style & Process Preferences

A mediator's role should be to facilitate negotiations leading, if appropriate, to compromise and settlement. The mediator should promote the parties' understanding of the strengths and weaknesses of their respective claims and defenses and the litigation and other risks presented. Where possible other interests of the parties, including possible mutual interests going beyond the lawsuit, may require focus as providing a sound basis for a settlement.

Mediator evaluation of claims and defenses may in some cases prove helpful to achieving a settlement but should be the exception not the rule.

Education

College of the Holy Cross (AB-1963); University of Michigan Law School (JD-1965).

Professional Licenses

Admitted to the Bar: New York (1966), Michigan (1965); U.S. District Court: Southern (1970) and Eastern (1974) Districts of New York; U.S. Court of Appeals: Second (1967), Third (1973), Fourth (2009), Sixth (1984), Eighth (1975), Ninth (2010), Eleventh (1983), and District of Columbia (1977) Circuits; U.S. Supreme Court (1974).

Professional Associations

New York City Bar Association (Chair of the Executive, Judiciary, Federal Courts, Audit and Litigation Committees; Member of the ADR Committee); New York State Bar Association (Chair of the ADR Subcommittee for the Task Force as to New York Law in International Matters; Chair of the Dispute Resolution Section 2017-2018; past Co-Chair of the Section Committee on Diversity; Co-Chair of the Ethics Committee; Co-Chair of the 2012-2013 President's Special Committee on Voter Participation); American Bar Association (Chair of the Antitrust Section Clayton Act 7 Committee); American College of Trial Lawyers (Chair of the Access to Justice Committee); New York Legal Aid Society (Vice-Chair of the Board and Chair of the Development Committee); Lawyers Committee For Civil Rights Under Law (National Co-Chair and Chair of the Development Committee); Brennan Center for Justice (Member of the Board and Chair of the Audit Committee).

Recent Publications & Speaking Engagements

Chapter author, "Professional Liability," BUSINESS AND COMMERCIAL LITIGATION IN FEDERAL COURTS; Faculty Member for the 2011, 2012 and 2013 New York State Bar Dispute Resolution Section Commercial Arbitration Training for Arbitrators and Counsel; Co-Author with Simeon Baum of Conflicts Between Ethical Principles That Are Critical to Preservation of Trust in Mediation Process - A need for Increased Understanding and Concern, New York Dispute Resolution Lawyer Spring 2014 Vol. 7 No. 1; Co-Author with Barbara Mentz of two articles with respect to the new AAA Rules for Accounting and Related Services Arbitrations, one appearing in 2014 in the AAA Dispute Resolution Journal (Vol.. 70. No. 1 "New Disclosure Rules for Accounting and Related Services Arbitrations) and the other appearing in the New York Dispute Resolution Journal in 2015 (New American Arbitration Association Rules for Accounting and Related Services Arbitrations - An Emphasis on Management by the Panel, Efficiency and Proportion"); the Moderator for Panel at the New York State Bar Dispute Resolution Section 2014 Annual Meeting: Making the Hard Calls: How Experienced Neutrals And Counsel Resolve Difficult Ethical Issues.

Mediation Rate

\$675 Per Hour

Languages	English
Citizenship	United States of America
Locale	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.