



AAA Mediation.org™

## Tracy Hunsaker Gilroy, Esq.

Stanwood, Washington



<b>Current Employer-Title</b>	The Gilroy Law Firm – Principal The Mediation & Arbitration Center – Organizer of Non-profit Center for Commercial Arbitration and Mediation.
<b>Profession</b>	Attorney, Arbitrator, Mediator, and Neutral
<b>Work History</b>	Mediator/Arbitrator, 1994 – Present; Principal/ Trial and Appellate Lawyer, The Gilroy Law Firm, 1994 – Present; Of Counsel, Law Firm of Draheim & Pranschke: Trial Lawyer (Real Estate, Eminent Domain and Estate and Business Planning), 1989 – 1994; Trial Lawyer in Eminent Domain Matters, Missouri Highway and Transportation Commission, 1984 – 1989; Liberty Mutual Counsel/ Litigation Law Clerk, Riethmann & Soebbing Law Firm, 1983 – 1984; Summer Litigation Law Clerk, Allan & Malone Law Firm, 1982 – 1983; Summer Law Clerk Assistant, Thompson Mitchell Law Firm, 1981.
<b>Experience</b>	<p>Trial and Appellate Experience: Thirty-seven years of legal experience, as a trial and appellate lawyer for the government and for private persons and corporations in the area of eminent domain and other complex and multi-party real estate disputes. Began the practice of law in 1984 in Missouri and in 1985 in Illinois.</p> <p>Employment: In 1984 – 1989, served as Counsel to MODOT, Missouri's Highway and Transportation Department. After five years of intensive trial court and appellate court work with the government, began a private practice working for the property owners against the government in eminent domain cases in Missouri and Illinois. Government entities in the St. Louis area continued to request legal service; if the government wanted to be "property owner friendly," the cases would be accepted. In 1994, The Gilroy Law Firm, was created which grew to four lawyers practicing in the area of real estate, estate planning, collections and general civil litigation. In 1994, trained as a Mediator. In 1995, trained as an Arbitrator. Appointed voluntary civil court mediator and resolved complex matters for 20 years before moving to Washington in 2013. Sworn into practice in Washington in 2014 by the Supreme Court en banc.</p>
<b>Mediator Experience</b>	Complex commercial cases in the area of real estate (title, contracts, and valuation), eminent domain matters, construction disputes, employment cases: discrimination, personal injury, wages and benefit issues, and wrongful termination; personal injury matters, lawyer ethical matters for the Missouri

Bar and for the Office of Chief Disciplinary Counsel, and Estates and Trust issues. Business, Construction, Employment, Real Estate Valuation and Eminent Domain, Lawyer Discipline, Trusts and Estates. Recently opened The Mediation & Arbitration Center in Washington State.

Experience in mediation and arbitration started with training and service to two national organizations: Association of Attorney-Mediators ("AAM") and American Arbitration Association ("AAA"), which requested my services as an Advisor to the AAA Commercial Panel. Since basic training by AAM in 1994, have been trained in the more advanced techniques for mediators, neutral evaluators, and arbitrators by AAM and other ADR providers, e.g. the United States District Court and AAA; Missouri Bar; Washington State Bar Association ADR Section; ABA ADR Section and Mediate.com. Have authored articles and been a speaker about these topics for AAM, numerous bar associations, and the AAA.

Mediated or arbitrated over 150 cases over the years while still practicing law full time. Cases mediated/arbitrated are: land valuation and land development cases, employment disputes, inclusive of preliminary mediation cases of the EEOC, business valuation and business disputes, personal injury matters and lawyer ethical matters for the Missouri Bar and for the Office of Chief Disciplinary Counsel, which governs lawyers' professional behavior in their clients' matters, and Estates and Trust issues.

In 2019, organized The Mediation & Arbitration Center in the State of Washington ("The MAC"). The MAC is a Washington non-profit organization for complex commercial arbitration and mediation. The MAC makes mediation and arbitration more affordable to middle America. Despite having an excellent resolution record as a mediator and no award vacations as an arbitrator, refused to charge rates that mirror litigation lawyer prices. Mediators and Arbitrators are not under the same pressure as Trial and Appellate Lawyers; so they do not warrant the type of costs that the market is, lately, apparently willing to bear. The MAC is an effort to change ADR back to a system that provides a public service to allow people to actually resolve their disputes and do so at affordable prices. Of course, if users of The MAC wish to pay more for services/spaces, The MAC will accept their supportive contributions.

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

Employment Dispute Issues

Business Valuation and Business Disputes

Personal Injury Cases

Eminent Domain Cases

General Real Estate Cases

Trust and Estate Dispute Cases

Lawyer Ethical Matters.

## **Mediator Style & Process Preferences**

As an experienced trial and appellate lawyer with over 1600 Clients, including several governmental Clients, I understand the desire and lack of desire to "go to court". Mediation can be a viable alternative to court, but it must be conducted properly in order to result in resolution, to wit:

1. Mediation must be in a comfortable, neutral zone. If joint sessions are welcome by the parties, we begin there. Caucuses happen almost as a routine, and can flow back to joint sessions if so desired. Each case is unique and judged for these logistics throughout the mediation.

2. The cost of mediation must be moderate so as to not overwhelm the users of mediation and to preserve the intentions of ADR. When I started mediating In 1994, mediators did not charge trial lawyer fees, and mediators should not do so today. Mediation work is vastly different than trial work and the pressures of trial. I view mediation as a public service, i.e. to ease the pressure on courts and the access to justice issues. To walk the talk of lower cost mediation, I have opened The MAC, a non-profit mediation and arbitration center for complex civil matters - where we charge less, even though we are experienced mediators who have high resolution averages. IF the users want to pay more than we charge, we of course welcome supportive contributions.

3. Mediation should not be evaluative unless all parties agree to a non-binding arbitration result. As a trial lawyer, I understand the desire to evaluate cases. As a mediator, though, I fight that urge and use many other techniques to encourage the parties to evaluate their own cases, if not done prior to mediation. In my view as a trial lawyer/user of mediation, many mediators jump too soon into evaluation and do so without proper foundation. By evaluating a case or listening with a biased ear, a mediator risks busting trust and causing the mediation to, therefore, fail. With the success rates of mediation appearing to have dropped in recent years, I still subscribe to the "old-school" philosophy - mediation is not an evaluative service - and for good reason: non-evaluative mediation results in resolution more often if done correctly.
4. Mediators must have and use great listening skills in order to build trust and achieve resolution. Mediators who listen with their biases make matters worse. So, I note and compartmentalize my known biases and purposefully keep an open mind to a new way of thinking and living. This is the fascinating part of mediation for the mediator.
5. Different philosophies assist at different times throughout a mediation. A few of my favorites are: abundance, creativity, empathy, efficiency, gratitude and hope. Well placed philosophical discussions have often led to transformative resolution.
6. Stress management must be a mediator's goal throughout the mediation. All participants are best served if well rested, well fed and well attended to. A keen sense of good timing for highlighting certain issues is essential. Acknowledging and allowing emotions to surface, while not dwelling on them, is a delicate balance. Each case and each person is unique.
7. Agendas for caucuses are essential to keep the mediation from growing stale and becoming too time-consuming.
8. Good note taking is essential for proper communication between all parties and lawyers.
9. Thirty-six years of experience in trial work as well as 26 years as a mediator helps me to understand people. I learn quickly about cases in order to provide the parties and their lawyers with the best experiences and results in the mediation.
10. Follow up with gratitude for resolution is a welcomed communication. And I strive to do that in every mediation.

## **Education**

St. Louis University School of Law (JD-1984); George Washington University and University of Dayton (BA-1981).

## **Professional Licenses**

Admitted to the Bar: Washington (2014), Illinois (1985), Missouri (1984). Mediator (1994) and Arbitrator (1995).

## **Professional Associations**

United States District Court; AAA; Association of Attorney Mediators; ABA- ADR Section; Washington State Bar Association - ADR Section; Missouri Bar Association (retired in 2018); Bar Association of Metropolitan St. Louis (retired in 2018).

## **Recent Publications & Speaking Engagements**

FOR ALTERNATIVE DISPUTE RESOLUTION:

Rule 17.06(c) Agreements: Association of Attorney Mediators, St. Louis, July 2014; Philosophy in Mediation, Association of Attorney Mediators Annual Conference, May 2012; "Philosophy in Mediation," MOBAR Solo and Small Firm Conference, June 2009; "Philosophy in and of Mediation," Association of Attorney-Mediators, May 2009; "Arbitration & Mediation - What's it all About?," Fox News, Radio Show, December 2008; "Mediations in Eminent Domain," Association of Attorney-Mediators, March 2008; "Fee Dispute and Complaint Mediation," Association of Attorney-Mediators, 2007; "Mediation: Building Trust in the Middle of Conflict," MOBAR, Solo and Small Firm Conference, Summer 2007; "Construction Mediation," Bar Association of Metropolitan St. Louis & The Missouri Bar, Winter 2006 and Summer 2006, respectively; "Dealing with Impasse in Mediation," St. Louis Bar Journal, Winter 2006; "Breaking Impasse," Association of Attorney-Mediators, St. Louis Chapter, May 2006; "Top 10 Mistakes to Avoid," American Arbitration Association, St. Louis, May 2005. Frequent Speaker and Author of ADR Issues, Continuing Legal Education on monthly basis with Association of Attorney Mediators, St. Louis Chapter, 1994-Present.

**Locations Where Parties Will Not be Charged for Travel Expenses** Cases in Snohomish County, WA.

**Mediation Rate** \$200 Per Hour

**Languages** English

**Citizenship** United States of America

**Locale** Stanwood, WA

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.