



AAA Mediation.org™

Michele S. Riley, Esq.

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Current Employer-Title Independent Arbitrator and Mediator
Columbia University - Adjunct Faculty

Profession Attorney, Arbitrator, Mediator, Educator

Work History Sole Practitioner, Independent Mediator and Arbitrator, 2001-Present; Instructor/Adjunct Faculty, Columbia University - International Center for Cooperation and Conflict Resolution, 2006-Present; Adjunct Faculty, Columbia University - Master's Degree Program in Negotiation and Conflict Resolution, 2010-Present; Of Counsel, O'Sullivan Graev & Karabell LLP (acquired by O'Melveny & Myers LLP), 1998-2000; General Counsel, Toyota Motor Corporate Services of North America Inc., 1992-1997; Associate, Reboul MacMurray Hewitt Maynard & Kristol (acquired by Ropes & Gray LLP), 1984-1991; Foreign Associate, Nagashima & Kojima - Tokyo, 1982-1984; Foreign Associate, Sato & Tsuda - Tokyo, 1981-1982; Associate, Layton & Sherman (acquired by Jones Day), 1979-1981.

Experience Over 20 years of practical legal experience specializing in business and corporate law, both in private practice and as general counsel of a U.S.-based subsidiary of a Fortune Global 500 company. Served as counsel to New York law firms where representation included venture capital and other private equity firms in their investments in industrial companies, technology firms, and retail and services businesses. Following such investments, advised the portfolio companies of such private equity firms on operational issues, such as corporate compliance and employment matters. Gained extensive experience in representing financial institutions in financing mergers and acquisitions, leveraged buy-outs, and acquisitions of controlling and minority interests through investments in preferred stock, and senior and subordinated debt.

Private practice also includes work at international law firms in Tokyo, Japan, advising institutional clients on a wide variety of cross-border transactions. Such transactions included representing U.S. and Japanese clients in manufacturing and marketing joint ventures and distribution arrangements, project finance construction in Bohai Bay, China, and syndicated loans among financial institutions in Asia, Europe and the U.S.

As general counsel of a U.S.-based subsidiary of a Japanese multinational, advised senior management on the legal aspects of doing business in the U.S. Responsibilities included handling

many different types of commercial transactions such as joint ventures, technology licensing and technology transfer agreements, and distribution and dealership/franchise agreements, ensuring intellectual property protection, counseling Human Resources and management on employee matters including termination and recruiting practices, and complying with export control regulations, U.S. customs, and lobbying laws.

Clerked in the Office of the Assistant General Counsel of International Affairs, U.S. Department of Treasury.

Since 2003, has served as a full-time arbitrator and mediator of commercial disputes, handling disputes in the areas of financial and accounting services, cross-border transactions, mergers & acquisitions, joint ventures, distributor/franchising arrangements, corporate governance, consulting and partnership break-ups, real estate, technology transfer, procurement, and workplace issues. Member of arbitration and/or mediation panels for American Arbitration Association (AAA), International Centre for Dispute Resolution (ICDR), New York State Supreme Court, Commercial Division, the United States District Court, Southern and Eastern Districts of New York, United States Court of Appeals for the Second Circuit, and Financial Industry Regulatory Authority (FINRA).

Serves as tutor - NY Branch's Accelerated Route to Fellowship in International Arbitration Program in 2017-2020. Complements ADR practice by teaching courses on mediation and negotiation at Columbia University's International Center for Cooperation and Conflict Resolution and in its Master's Degree Program in Negotiation and Conflict Resolution. As a volunteer for the International Legal Institute — African Center for Legal Excellence, provided training in international commercial arbitration to state counsel from the Attorney General's Chambers, Botswana annually in 2015-2017 and 2019, and arbitrators at the Nairobi Centre for International Arbitration, Kenya in 2018.

Mediator Experience

Served as a mediator in over 70 disputes in a variety of industries involving a wide range of claims such as the following: claim by website developer for payment for developing website and recognition of ownership rights in and access to the website; claim by apparel design firm for payment of royalties under a license agreement with certain licensees and claim against their secured lender for the return of monies transferred to such lender as well as request for declaratory judgment on licensor's right to receive proceeds from pending litigation brought by licensees against a major department store; claim by founders of jewelry store against new corporate owner for payment of deferred purchase price as well as payment of consulting fees; claim by senior executive against a hedge fund for payment of a "guaranteed" bonus and wrongful termination; dispute between a consultant to a distributor in the beverage and spirits industry and the distributor over (a) performance of his consulting agreement, (b) whether termination was permitted "for cause," and (c) whether the consultant could be restricted from consulting for a competitor; dispute between commercial landlord and high-profile restaurant in Manhattan over validity of lease modifications and whether restaurant had been constructively evicted and was entitled to lost profits; dispute between Moscow-based electronics company domiciled in the Isle of Man and its CEO over whether the CEO was entitled to an equity interest in the company and had been wrongfully discharged by the company; request by a truck manufacturer/distributor for a declaratory judgment terminating one of its dealerships for poor performance and counterclaims alleging violations of certain statutory protections of dealerships under federal and state law; multiple claims by clients of law firms against those firms over the reasonableness of legal fees. The dollar amount of claims and counterclaims asserted has ranged from \$5,000 to \$20 million.

Actively serves as a mediator on panels for the New York State Supreme Court, Commercial Division, New York County, and for the United States District Court, Eastern District of New York, and as an arbitrator and mediator of attorney-client fee disputes under the New York State Unified Court System Part 137 Program. Complements ADR practice by teaching courses on mediation and negotiation at Columbia University's International Center for Cooperation and Conflict Resolution.

Representative Issues Handled as a Mediator

In dispute over the development of a website, issues included breach of contract, unjust enrichment, breach of fiduciary duty, misappropriation of trade secrets, tortious interference with business relations, tortious interference with prospective economic advantage, engaging in deceptive acts and practices, unauthorized access to electronic communications, conversion and wrongful interference with possessory rights, trespass to chattel, and breach of the duty of good faith and fair dealing. In

dispute between apparel design firm, licensor, and its licensees over the payment of royalties under their license agreement, issues included questions of successor liability and fraudulent conveyance under New York debtor-creditor law where the licensees had transferred assets to secured lender, and the granting of a declaratory judgment confirming licensor's right to receive proceeds from potential judgment in then pending litigation brought by licensees against a major department store for illegal chargebacks and deductions taken by the department store against the licensees. In dispute over the sale of a jewelry firm to a new corporate owner, issues included breach by the buyer of its obligations to continue to make payments of the deferred purchase price pursuant to an asset purchase agreement and to pay consulting fees under the sellers' employment agreements with the buyer, wrongful termination of those employment agreements, and sellers' failure to record a reserve for returns and to accrue expenses in accordance with GAAP. In dispute between senior executive and a hedge fund, issues included breach of contract on a claim of a "guaranteed bonus" and promissory estoppel. In a dispute over the performance of a consulting agreement in the beverage and spirits industry, issues included breach of obligations to make consulting payments, issue stock to consultant, and present consultant to shareholders for election to the Board of Directors, scope and enforceability of non-compete clause, and interpretation of "for cause" ground for termination, as well as breach of guaranty by third-party guarantor, unjust enrichment, and intentional misrepresentation. In dispute between commercial landlord and high-profile restaurant in Manhattan, issues presented were validity of lease modifications, constructive eviction, commercial practicability, and recovery of lost business and profits. In dispute between U.S. subsidiary of Moscow-based electronics company domiciled in the Isle of Man and its CEO, issues included breach of employment agreement, fraudulent inducement to accept the position of CEO, breach of a stock purchase agreement providing for the grant of an equity interest in parent company, conversion and replevin, grant of a declaratory judgment confirming ownership of shares, and issuance of injunctive relief against interference with such ownership. In dispute between a truck manufacturer/distributor and one of its dealerships, issues included grant of a declaratory judgment terminating the dealership for breach of its performance obligations under dealership agreement and counterclaims by the dealership for violations of New York State Franchised Motor Vehicle Dealer Act and Federal Automobile Dealer's Day in Court Act, as well as breach of contract and breach of duty of good faith and fair dealing. Disputes over legal fees have included questions of the reasonableness of fees and contractual intent.

These disputes have also presented a number of business and policy issues such as the creation of appropriate and acceptable remedies beyond remedies that the judicial system may provide and consideration of the impact of disputes and their resolution on parties not participating in the mediation.

Mediator Style & Process Preferences

My view of mediation is informed by my background and experience as a transactional corporate lawyer rather than a litigator. In my view, mediation is an essential tool that businesses can use to approach disputes in much the same way as they would any other business problem. Rather than turning their disputes over to the legal system, where escalating costs and delays can take on a life of their own, mediation offers parties the opportunity to take ownership of their disputes and, more importantly, be actively involved in determining the outcomes of their disputes.

In my experience, parties to a dispute and their counsel often become so entrenched in their positions that they are unable to come up with ways to resolve the dispute. I see my role as one of a catalyst to facilitate a resolution. I do this by helping the parties (a) identify their underlying interests, and (b) think creatively in fashioning a resolution that goes beyond validating their positions to satisfying those interests. It is important to me to have a thorough understanding of the legal underpinnings of the dispute yet encourage the parties to think of possible ways to resolve the dispute that may go beyond those provided by the legal system.

While I tailor the mediation process according to the particular facts of the dispute and the expectations of the parties, I employ a broad range of mediation skills and techniques. These include reality checking, restoring perspective, generating options and helping the parties understand their alternatives to a negotiated agreement so that they can reappraise their positions and assess and better understand the risks of litigation as opposed to settlement. As a mediator, I am also called upon to understand negotiation dynamics and handle different influences such as culture, emotions, and psychological biases that may surface as the mediation unfolds. Depending on the desires of the parties, I may be more or less directive in voicing my views of the merits of the case and playing an evaluative role. Whatever substantive input I might have, my role also entails safeguarding the mediation process to make it as efficient, fair and respectful as possible.

Although the role of the mediator is important, the parties and their counsel bear a shared responsibility for ensuring the success of the mediation. For this reason, I ask the parties and their counsel to prepare a short mediation statement that educates me about the factual context in which the dispute arose, their objectives, and the legal claims in which the parties and their counsel have couched their grievances and defenses. Such a statement forces the parties to be actively engaged in the dispute resolution process at the earliest stage. The parties further participate, together with their counsel, in joint sessions and, when appropriate, private caucuses with me in which they are free to discuss openly matters that I will hold in confidence. Through the direct participation of the parties, any resolution reached is not only one to which they agree, but one that they are instrumental in crafting.

Technology Proficiency

Available for arbitration and mediation via videoconference and teleconference, in addition to in-person proceedings where safe and appropriate.

Education

New York University - Center for Finance, Law, and Taxation (Professional Certificate in Dispute Resolution-2003); Georgetown University Law Center (JD-1979); Yale University (MA-1976); Douglass College (BA-1975).

Professional Licenses

Admitted to the Bar: New York (1981).

Professional Associations

Fellow, College of Commercial Arbitrators; Fellow, Chartered Institute of Arbitrators (FCIArb) and Member of its Examinations Board; American Bar Association (Dispute Resolution Section and International Section); New York State Bar Association (Dispute Resolution Section and International Section); The International Arbitration Club of New York, International Institute for Conflict Resolution and Prevention (CPR).

Recent Publications & Speaking Engagements

2020 – International Association of Defense Counsel (IADC) and CPR, Joint Webinar. Co-presented on Resolving Legal Disputes in the Era of COVID-19.

2019 – NYS Bar Association International Section 2019 Global Conference, Tokyo, Japan. Participated in panel on Drafting Distribution Contracts Around the World: A Practical Guide.

2019 – Chartered Institute of Arbitrators, New York Branch, New York, NY. Co-moderated panel on Show Me the Money: A Discussion of Damages and Pre-Judgment Interest.

2018 – ABA Section of International Law Challenging the Perception of Risk in Africa, Cape Town, South Africa. Moderated panel on Doing Business: Recent Developments in Managing Disputes Through ADR/Arbitration.

2016 – ABA Section of International Law 2016 Fall Meeting, Tokyo, Japan. Moderated panel on Lessons Learned: Resolution of Mass Claims in Natural and Man-Made Disasters.

2016 – American Bar Association Dispute Resolution Section 18th Annual Spring Conference, New York, NY. Co-presented on Developing Cultural Competence in Mediation.

2014 – Asian Mediation Association 3rd Annual Conference, Hong Kong. Presented on Coaching in Caucus: Expanding the Role of the Mediator.

2014 – American Arbitration Association, Fordham University School of Law & NYSDRA Program. Participated in a panel discussion on Storm Sandy Mediation Program: Lessons Learned.

2014 – American Arbitration Association Webinar. Co-presented on The Use of Mediation Techniques in Commercial Arbitration.

2011 – Singapore Mediation Centre, Singapore. Led workshop on recent research findings on decision-making and their implications for mediators in cross-cultural mediations.

2011 – Asian Mediation Association 2nd Annual Conference, Kuala Lumpur, Malaysia. Presented and moderated discussions on Transforming the Landscape of Resolving Franchise Disputes by Mediation.

2010 – NYC Bar Association, New York, NY. Participated in a panel discussion on Mediation: Closing the Deal!

2009 – Asian Mediation Association 1st Annual Conference, Singapore, and American Bar Association Dispute Resolution Section 11th Annual Spring Conference, New York, NY. Presented and moderated discussions on Mediating Globally: the Impact of Culture on Mediation.

2008 – Asia Pacific Mediation Forum Conference, Kuala Lumpur, Malaysia. Presented and moderated discussions on Ethical Considerations in Mediation.

Locations Where Parties Will Not be Charged for Travel Expenses	New York City
Mediation Rate	\$625 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.