



AAA Mediation.org™

## Lawrence M. Prosen, Esq.

Washington, District of Columbia



### Primary Areas of Expertise

Design Errors & Omissions  
Construction-Government/Public  
Government Contracts  
Construction - Heavy/Civil

**Current Employer-Title** Cozen O'Connor – Shareholder, Member of Construction Litigation Practice Group, Lead Government Contracts Group

**Profession** Attorney-at-Law; Construction Arbitrator and Mediator

**Work History** Partner, Kilpatrick Townsend & Stockton LLP, 2016 – 2021; Founding Co-Editor-in-Chief of Juris Publications, American Journal Of Construction Arbitration & ADR, 2016 – Present; Partner (Construction Litigation Practice Group)/Head (Government Contracts Practice Group), Thompson Hine, LLP, 2012 – 2016; Partner – Construction & Engineering and Government Contracts Practice Groups/Member (Practice Group Management Steering Committee), K&L Gates LLP (merged with Bell, Boyd & Lloyd LLP), 2009 – 2012; Partner (2004 – 2009)/Associate (1998 – 2003), Bell Boyd & Lloyd LLP, 1998 – 2009; Adjunct Professor, Catholic University Of America, 2003 – 2006; Contributing Author & Associate Editor, Matthew Bender Publishing, 2000 – 2006; Law Clerk/Summer Associate (1995 – 1997)/Associate, Braude & Margulies P.C., 1997 – 1998.

**Experience** Over 22 years of experience almost exclusively in construction litigation, involved in all aspects of construction contract matters and disputes. The majority involves construction litigation in both the public/government and private arenas, but also extensive experience in contract negotiation, drafting and related elements. Claims and litigation experience ranges from payment disputes, including bond actions under Federal and State Miller Acts, mechanics' lien actions in various jurisdictions as well as the drafting, prosecution and litigation of breach of contract, delay, impact, loss of productivity, change order disputes and errors & omissions/defective work claims. Representations have occurred before state and federal courts as well as administrative boards of contract appeals and arbitration panels. Unique educational and experiential knowledge and insight into construction disputes. Extensive experience in critical path method-related schedule disputes, including cumulative impact, loss of productivity or inefficiency, measured mile analyses, MCAA, the Leonard/Ibbs Studies and their progeny, and other impact in events.

Worked on projects located on five continents, including Federal government projects in over 30 states, and over 30 countries, including projects located in Afghanistan, Israel, Iraq, Chile, Brazil, Peru, Indonesia, Russia, Belgium, Mongolia, Djibouti, Kuwait, New Zealand, Canada, Ethiopia, Columbia and India to name a few.

Broad range of projects, both domestic and international, including: airports, chemical process

piping plants, nuclear and co-generation facilities, computing facilities with redundant back-up and uninterruptible power supply systems, the Washington Monument, National Museum of American History, Dulles International Airport, Houston International Airport's chiller and steam plant, and other issues and projects.

Claims have included: prosecuting and defending matters associated with defective, incomplete, uncoordinated and ambiguous specifications and drawings on large projects, proprietary specifications, impossible or commercially impracticable specifications, as well as geotechnical and differing site conditions matters on projects in size up to several hundred million dollars.

Involved in many protests at both federal and state levels associated with past performance evaluation, and evaluation of bids and technical proposals. Broad experience in SBA and other related matters, joint venture/teaming disputes, as well as all aspects of job order/task order and IDIQ-type contacts.

Extensive experience in all aspects of domestic and international construction litigation and government contracts, including court litigation, multiple Boards of Contracts Appeals claims and appeals; and protests before the United States Government Accountability Office (GAO); U.S. Court of Federal Claims, and other federal, state and local tribunals. Worked in projects across the United States and in approximately 25 countries, including, Europe, Africa, Asia, Middle East and South America. Representations run from Prime and Subcontractors to Designers and Developer/Owners. Has also represented clients as both Protester's and Intervener's Counsel in over 100 protests at the GAO as well as many other protests before Agencies, United States Court of Federal Claims and State and Local Venues. Substantial experience in all aspects of contract claims, ranging from scheduling, delay, loss of productivity and impact claims, to excessive change orders, differing site conditions, geotechnical and changed conditions as well as defective and uncoordinated contract documents. Significant experience on design/build contracts including contract information, disputes and claims work.

## **Mediator Experience**

With over 20 years of experience in all aspects of public and private/commercial construction, has broad experience in mediation procedures and processes, having participated as an advocate in well over 75 mediations and other forms of facilitated and evaluative alternative dispute resolution and settlement activities. Over career, participated in mediations, early neutral evaluations, "baseball" mediations, and other settlement judge and mini-trial matters. Arbitrator on the AAA's Panel of Construction Neutrals.

Sat as a mediator/neutral in a series of ad hoc mediations, successfully resolving all of them, involving various commercial projects predominantly in the Washington, D.C. Metropolitan and Baltimore, Maryland areas. Those Projects/disputes involved commercial construction projects and matters of a confidential nature. Successfully mediated a fee and scope of work dispute between an architect and owner which was a general contractor self-performing construction of its headquarters building. As a result of the successful resolution counsel on both sides of certain of those cases was asked to mediate and arbitrate other cases for them.

Involvement in mediation has run the gambit of issues associated with construction, from delay, impact and other scheduling issues to loss of productivity, defective design, changed and differing site conditions, geotechnical and structural issues to straight payment disputes. Worked on full panoply of project types, ranging from tank ranges and embassies to multi-family and single family projects, dams, military bases, maritime vessels and stadium projects. Represented clients on hotel, arena, commercial and industrial facilities as well.

Over the past several years, has sat as a mediator on both AAA-administered and ad hoc arbitrations. Has also had great success getting, often highly contentious cases, resolved acting not as the first, but as the second and even third mediator. Recent examples include a multi-million dollar dispute between a prime contractor and electrical subcontractor involving a commercial office building. Was the third mediator in the case, which was well into discovery. Following a full day (and partial evening) of mediation, the case was successfully settled.

In another matter, acted as the third mediator in a case involving a large general contractor and a smaller concrete subcontractor on a Federal Government class room building. The dispute involved concrete pour schedule issues and had been before other mediators, but due to an inability to get the parties to explain their respective positions, those prior efforts failed. Over the course of a day and a

half, managed to get the parties to each explain their cases in a cogent manner such that the other party gained a better understanding of the respective affirmative case and counterclaims. The case settled on the second day.

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

Acted as a mediator in a number of cases involving commercial construction disputes, including two involving interpretation of the AIA suite of contract documents and one involving the ConsensusDOCS suite. Has also acted as mediator in a dispute between a prime contractor and subcontractor on a Federal government contract.

Successfully mediated a case involving a dispute between architect and a contractor/property owner involving alleged defective design documents and the propriety of back charging the architect for costs arising from the changed conditions arising from the alleged deficiencies

Successfully acted as mediator in an ad hoc mediation involving a dispute between a prime contractor and architect on a design/build contract.

## **Mediator Style & Process Preferences**

Larry has had high success in the utilization of mediation both as a mediator and advocate. Larry takes an active role in working with the parties and their counsel towards a successful resolution of their dispute, and has a sincere and serious belief that by working together and developing a common understanding of the facts, disputes, personalities and issues, that settlement of a dispute can, and usually does, occur.

Larry holds a broad philosophy on mediation and is not tied to one or a limited number of mediation techniques. Instead, Larry views each mediation as unique, requiring multiple skills and faculties to get the parties to reach resolution of their dispute. Towards that end, Larry does not believe that mediation is either a simple or simplistic approach, but instead, requires a number of skills and abilities, including getting the parties to understand the other's position and believes, addressing the technical issues that often arise, in construction and schedule-related cases. This calls for the application of both problem solving and the use of any number and variety of techniques.

Generally, Larry believes that a combination of evaluative and facilitative methods, particularly in highly technical and complex disputes are warranted.

## **Education**

Columbus School Of Law, The Catholic University Of America (Juris Doctor, Lead Articles Editor & Staff Member, CommLaw Conspectus Law Journal, Associate Member, Moot Court Association, Participant, Soapbox & St. Ives Trial Competitions, Vice-Justice & Member, Phi Alpha Delta Law Fraternity-1997);

University Of Maryland At College Park (B.S. Architecture-1994;  
B.A. History, Honors and Activities, Alpha Lambda Delta Honor Society, Phi Eta Sigma Honor Society, Maryland Leadership Conference Invitee, Dean's List/Semester Honors-1994).

## **Professional Licenses**

Admitted to the Bar: New York (2019), Virginia (2017), District of Columbia (1998), Maryland (1997); Supreme Court of the United States, Supreme Court of Virginia; Supreme Court of Maryland (f/k/a the Maryland Court of Appeals); New York Court of Appeals; District of Columbia Court of Appeals; U.S. District Courts: District of Maryland, Southern District of Texas, District of Colorado, District of Columbia, Northern District of Illinois General & Trial Bar, District of Maryland, District of New York, District of Columbia; U.S. Court of Appeals: Fourth, Fifth, Federal, and District of Columbia Circuits; U.S. Court of Federal Claims. Board of Contract Appeals Bar Association.

## **Professional Associations**

Founding Fellow, Construction Lawyers Society of America; Member, National Construction Dispute Resolution Council, ABA Section on Litigation Representative; American Bar Association (Construction Forum, Public Contract Law Section, Litigation Section, Construction Division); Maryland State Bar Association (Public Contract) 1997-2016; District of Columbia Bar (Public Contract; Real Estate) 1997 - Present; Virginia State Bar Association (Construction & Public Contracts Sections) 2017 - Present.

## **Recent Publications & Speaking Engagements**

Co-Presenter and Panel Facilitator, Construction Super Conference, Hollywood, Florida, November 29, 2023.

· Presenter/Panel Member & Author, Washington Building Congress, "Material Shortages and Cost Escalation in the Built Environment and What it Means to You – How to Identify & React",

February 7, 2022

- Presenter/Panel Member & Co-Author, Construction Super Conference, “Preparing for the Unknowable Lessons Learned from the Construction Industry’s Response to Significant Industry Disruptions.” December 7, 2021, Orlando, Florida.
- Co-Author & Presenter, Washington Building Congress, “So Close & Yet So Far – Some Fundamental Differences Between US and UK Construction Law Issues”, November 5, 2020.
- Author & Co-Presenter to the Association of Corporate Counsel (ACC) of Metro Washington, “Hey, It’s a New (Federal Fiscal) Year – Do You Know Where Your Compliances Is? SBA & The Mandatory Disclosure Rule”, October 22, 2020.
- Chapter Author, “Subcontractors”, “The Construction Law Handbook”, Stanley A. Martin, Ed., Wolters Kluwer, 4th Ed. 2021.
- Chapter Co-Author – United States, “The International Compendium of Construction Contracts, A country by chapter review”, Edited by: Phillip Greenham and Society of Construction Law Australia (2021)
- Author and Co-Presenter, “Hey, It’s a New (Federal Fiscal) Year – Do You Know Where Your Compliance Is? SBA & The Mandatory Disclosure Rule”, presented to the Association of Corporate Counsel, Washington Metro Chapter, October 22, 2020.
- Chapter Co-Author, with Paul L. Stynchcomb, Mechanical Contractors Association of America “Change Orders Productivity Overtime: A Primer for the Construction Industry, 2020 ed., Ch. 3, “The Crucial Importance of Obtaining the Prime Contractor’s Native CPM Scheduling Files”, February, 2020.
- Author, “It’s About Time, SBA Proposes to Merge Small Business Mentor-Protégé Programs & Other Proposed Changes to the Small Business Program Regulations,” Client Alert, Dec. 9, 2019.
- Author, “DBA Finalizes Small Business Runway Extension Act Regulations – “Small” has a new meaning/calculation”, Client Alert, Dec. 9, 2019.
- Author, “It’s the Time of Year Again – GAO Reports its Annual Bid Protest Statistics for FY 2019,” Nov. 11, 2019.
- Speaker, “Construction Changes: An Industry Experts Impart their Knowledge to GCs and Subs”, co-presented with Paul L. Stynchcomb, in all day seminar to American Subcontractors Association, Metro Washington Chapter, Alexandria, VA, October 23, 2019.
- Article, “Sea Change in Labor Law Compliance for Government Contractors, Law360 August 2, 2014.
- Government Contracts Client Alert, Thompson Hine, “Here We Go Again: Executive Order Heightens Government Contractor Reporting Requirements for Labor”, August 5, 2014.
- Presenter, Associated General Contractors, 2014 ConExpo, 95th Annual Convention, Las Vegas, Nevada, March 2014, Construction Project – Risk Management & Mitigation Strategies
- Presenter, January 17, 2014, URS Corporate Legal Department CLE, Government Construction Contracts Claims & Preservation of Rights
- Presenter, Construction Managers Association of America (CMAA), Annual Conference, Las Vegas, Nevada, October 28, 2013, The Application of 4D Scheduling to Different Project Delivery Methods
- LegalBizNow.com, August 21, 2013, “How To: Grow Despite the Economy” – Interview.

<b>Mediation Rate</b>	\$675 Per Hour
<b>Languages</b>	English
<b>Citizenship</b>	United States of America
<b>Locale</b>	Washington, DC

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.

