



**Lawrence M. Prosen, Esq.**

Hourly Rate	\$600
Current	COZEN O'CONNOR – Member of Construction Litigation Practice Group, Lead Government Contracts Group
Practice	6
Cases	11
Languages	English

### **Current Employer-Title**

COZEN O'CONNOR – Member of Construction Litigation Practice Group, Lead Government Contracts Group

### **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 as a Mediator**

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 his 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.

### **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.

### **Years of Practice as a Mediator**

6

### **Total Number of Cases Mediated**

11

### **Mediation Experience as an Advocate or Party**

Participated as an advocate in at least a dozen multi-party mediations, including one consisting of 14 parties, including the owner, prime contractor and 12 subcontractors including some of the subcontractors' insurance carriers. Representing the general contractor lead the effort to achieve a global settlement of all parties over the course of a day-long mediation. Was also the lead counsel for a team of three plaintiffs against a group of three federal agencies that went to a two day mediation. Taking the lead in seeking resolution, managed to get all six parties to work in cooperation and obtained a successful resolution of the case.

The majority of these cases have involved highly complex and difficult contractibility and changed conditions issues as well as defective design and construction matters. Issues ranging from owner-prime and prime-subcontractor disputes regularly arise as do issues with changes, schedule, labor productivity and personality conflicts.

### **Mediation Philosophy**

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.

### **Mediation References**

Darrel Rippeteau, AIA, Rippeteau Architects, P.C., 202.387.7123, ddra@riparchs.com; Timothy J. Bloomfield, Esquire, 410.849.2105 tblaw@comcast.net.

### **Alternative Dispute Resolution Training**

ACE 22 - Process Essentials for AAA Arbitrators, 2022; Introducing Documentary Evidence in Arbitrations, 2022; The ICDR's International Arbitration Rules - Assessing the Impact of the 2014 Amendments, 2022; Exercises for Improving Impartiality: Becoming a Better Arbitrator, 2022; Administered vs. Ad Hoc Arbitration - Which Should You Choose?, 2022; ACE21 Impartiality: Do You Know Where Your Biases Are? 2021; Effective Use of Dispute Resolution Boards, 2022; Recent Rule Changes in International Arbitration, 2022; ACE20 Cyber Security: A Shared Responsibility, 2019; 2019 Construction Super Conference; AAA ACE19 Case Finances: What Arbitrators Need to Know, 2019; Getting It Right - Secrets to Writing Better Construction Awards, 2017; AAA Developments in Arbitration Law ~ Non-Signatories, Discovery and Vacatur, 2017; AAA Using Experts Effectively in Arbitration, 2017; Construction Super Conference, 2016; AAA Getting It Right - Secrets to Writing Better Construction Awards, 2015; AAA, Using Experts Effectively in Commercial & Construction Arbitration 2014; AAA Essential Mediation Skills for the New

Mediator, 2013; AAA Construction Professionals Guide to Conducting an AAA Arbitration, 2012; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards ACE01, 2010; AAA Arbitration Fundamentals and Best Practices for New Arbitrators, 2010; K&L Gates LLP, From the Arbitrator's Perspective, 2009.

### **Professional Licenses**

Admitted to the Bar: New York (2019), Virginia (2017), District of Columbia (1998), Maryland (1997); Supreme Court of Virginia; 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.

### **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).

### **Awards and Honors**

- Founding Fellow, American Society of Construction Lawyers, 2017-Present
- Member, The Jefferson Society, Inc., Members are Architect/Attorneys, 2017-Present
- Founding Editor-In Chief, American Journal of Construction Arbitration and ADR, Juris Publications, 2017-2019
- American Bar Association Elected Representative to the National Construction Dispute Resolution Council of the American Arbitration Association – 3 year term – November 1, 2014 to present (term renewed)
- Chambers Rated in Construction - 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 eds. – Washington, D.C., Construction
- Best Lawyers In America - 2013, 2014, 2015, 2016, 2017, 2018, 2019 eds., Construction Law; 2019 Arbitration, Washington, D.C.
- Legal 500, 2014, 2015, 2016, 2017, 2018, 2019
- EuroMoney Expert Guides, Construction, Washington, D.C. 2016 - present
- Legal Leaders, Construction and Engineering and Government Contracts & Procurement Policy, 2013 – Present, Washington, D.C. & Baltimore (Maryland)
- Super Lawyers – Construction – Washington, D.C. – 2015-Present, Construction Litigation; 2018-Present, ADR
- Martindale Hubble Rated: AV Preeminent
- Member of Nationally Ranked Construction Litigation/Law Practice by U.S. News & World Report and the Legal 500-United States
- Law360 Government Contracts Editorial Advisory Board, 2013 Member
- Team member and Award Recipient of Award of Excellence for Associated Builders and Contractors 2016 Excellence in Construction Awards – Commercial Construction over \$4 million for Woodmont Country Club - 2016
- Nominee, Marvin P. Sadur Award for Special Service, D.C. Metropolitan Subcontractors' Association.

### **Publications and Speaking Engagements**

- Articles, “Be Careful What you Wish for: Government Contracting & the Unwary Contractor - Current Obligations”, 3 part series on Basics in Government Contracting Ethics obligations and requirements. [www.thompsonhine.com](http://www.thompsonhine.com).
- Article, “Sea Change in Labor Law Compliance for Government Contractors”, Lawrence M. Prosen, Law360 August 2, 2014, [http://www.law360.com/governmentcontracts/articles/563608?nl\\_pk=16cf9032-db7c-4284-b858-a08a5db0a5d4&utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=governmentcontracts](http://www.law360.com/governmentcontracts/articles/563608?nl_pk=16cf9032-db7c-4284-b858-a08a5db0a5d4&utm_source=newsletter&utm_medium=email&utm_campaign=governmentcontracts)
- Government Contracts Client Alert, Thompson Hine, “Here We Go Again: Executive Order Heightens Government Contractor Reporting Requirements for Labor”, August 5, 2014, Lawrence M. Prosen, <http://www.thompsonhine.com/publications/government-contracts-update---here-we-go-again-executive-order-heightens-government-contractor-reporting-requirements-for-labor>

- 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, [http://www.bisnow.com/dc-legal/directvs-precedent-breaking-victory/?utm\\_campaign=legal\\_082113.htm&utm\\_medium=email&utm\\_source=Eloqua](http://www.bisnow.com/dc-legal/directvs-precedent-breaking-victory/?utm_campaign=legal_082113.htm&utm_medium=email&utm_source=Eloqua)

Government Contractors Beware: Small and Large Businesses Have New Potential Exposures for “Affirmative, Willful and Intentional” False Small Business Certifications”, July 31, 2013, Bloomberg BNA Federal Contractors Report, 100 FCR 133; Joining the Expanding Club: State of Maryland Becomes Latest State to Pass Public-Private Partnership Legislation, May 14, 2013, Thompson Hine Construction Update; No More Vet-Owned Set-Aside Protests at the GAO, Lawrence M. Prosen and Christian F. Henel, Law360, January 10, 2013, Government Contracts, [http://www.law360.com/governmentcontracts/articles/405697?nl\\_pk=16cf9032-db7c-4284-b858-a08a5db0a5d4&utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=governmentcontracts](http://www.law360.com/governmentcontracts/articles/405697?nl_pk=16cf9032-db7c-4284-b858-a08a5db0a5d4&utm_source=newsletter&utm_medium=email&utm_campaign=governmentcontracts); BNA Insights: GAO Faults Prevailing Wage Determinations, Lawrence M. Prosen and Andrew R. McFall, BNA Federal Contracts Report, August 9, 2011, Volume 96 No. 6.

Chapter author, "Subcontracting," FEDERAL GOVERNMENT CONSTRUCTION CONTRACTS, American Bar Association, 1st and 2nd editions, pending; chapter author, "Maryland," "D.C.," "Virginia," and "Federal Government," LIEN & BOND CLAIMS IN THE 50 STATES and PROMPT PAY LAWS IN THE 50 STATES, American Subcontractors Association, pending; co-author and contributor, GOVERNMENT CONTRACTS - CYCLOPEDIA GUIDE TO LAW, ADMINISTRATION, PROCEDURE, K & L Gates LLP, 18-volume treatise, March 2009; section editor, ABA MONOGRAPH ON BID PROTESTS AT THE UNITED STATES COURT OF FEDERAL CLAIMS, American Bar Association, 2000-06; "District of Columbia Mechanic's Lien Amendment Act of 2005," D.C. CODE, D.C. Council.

SPEAKING ENGAGEMENTS: Presenter, Associated General Contractors, 2014 ConExpo, 95th Annual Convention, Las Vegas, Nevada, March 2014, Construction Project – Risk Management & Mitigation Strategies; Presenter, Construction Managers Association of America (CMAA), Annual Conference, Las Vegas, Nevada, October 28, 2013, The Application of 4D Sc

**Compensation**

\$600 Per Hour

**Languages**

English

**Citizenship**

United States of America

**Locale**

Washington, DC

The AAA provides mediators to parties on cases administered by the AAA under AAA mediation procedures. Mediations that proceed without AAA administration are not considered AAA mediations, even where parties select a mediator who is a member of an AAA mediation roster.