



AAA Mediation.org™

John Bickerman, Esq.

New York, New York

Current Employer-Title Bickerman Dispute Resolution LLC – Principal

Profession Attorney, Arbitrator, Mediator, Senior Lecturer at Cornell University

Work History Senior Visiting Lecturer, Cornell University, 2011 – Present; Bickerman Dispute Resolution PLLC, 1997 – Present; Attorney, Arnold and Porter Kaye Scholer (formerly Kaye Scholer) LLP, 1989 – 1997; Law Clerk, Senior United States District Court Judge William B. Bryant, 1988 – 1989; Law Clerk, Paul Weiss, 1987 – 1988; Research Director, Center on Budget and Policy Priorities, 1982 – 1987; Senior Economist, United States Department of Health and Human Services, 1979 – 1982.

Experience In addition to a full-time practice as a neutral, has experience as an Adjunct Professor at Georgetown University Law Center and Lecturer on the faculty of Cornell University.

Mediator Experience Over 25 years of experience mediating complex multi-party and two-party commercial, construction, insurance and environmental disputes throughout the United States and abroad. Parties have included various Fortune 100 companies, all of the major American and European insurance companies, as well as Federal, state, and local government entities. Many of the matters have involved high (tens of millions of dollars) and very high (hundreds of millions of dollars) amounts in dispute. Others have been smaller and more local. Representative cases include the resolution of insurance coverage disputes for environmental, asbestos, construction defect and manuscript policies drafted specifically for class action claims. Resolved construction defect disputes that other mediators have failed to settle (some over two decades old), including large residential condominium matters in and around New York City and a major high-end condominium complex in Washington, DC. Extensive experience mediating class action product liability claims and the related insurance coverage actions. Very extensive environmental and natural resource practice related to air, land and water enforcement and allocation disputes. Also vast experience mediating and resolving general commercial disputes, including, for example, multi-million dollar dispute over alleged raiding of corporate employees and violation of anti-compete clauses, contractual dispute over requirements contract between a South African company and its American counterpart, alleged patent infringements, alleged theft of confidential business information and claims arising out of break-up of closely-held corporation. Successfully mediated several highly publicized federal whistleblower cases brought by the United States Justice Department against Fortune 100 companies.

See www.bickerman.com for a representative list of mediations and participants.

Representative Issues Handled as a Mediator -- More than \$3 billion in Insurance coverage disputes have been successfully mediated, including environmental, asbestos, mass tort and product liability claims. These disputes frequently involve multiple insurance companies that have written policies over many years and at different attachment levels (e.g. both primary and excess policies.) All major insurance carriers have participated in these mediations, including, but not limited to, Ace, AIG, Century, Certain Underwriters (Lloyds), Commercial Union, Hartford, Resolute, Swiss Re, Travelers and Zurich. Knowledgeable about Bermuda form policies and manuscript policies.

-- Environmental disputes in every EPA region of the United States have been successfully mediated, including actions under CERCLA, RCRA, Clean Water Act, Clean Air Act, EPCRA and various state statutes. Several settlements have formed the basis of subsequent agency actions and rulemakings. Also, have mediated several government contractor claims for allocation against the United States under Superfund in addition to private allocation disputes among multiple parties.

-- More than one-dozen multi-party construction defect disputes have been successfully resolved. These matters usually involved large, high-end condominium/housing projects, tens to hundreds of millions of dollars in damages and 20 to 60 defendants.

-- Many two-party commercial business disputes from businesses in the technology, pharmaceutical, manufacturing, energy, finance, telecommunications, construction, and consumer products industries. Issues included claims of breach of contract, wrongful discharge of senior executives, breach of warranty and theft of intellectual property.

Mediator Style & Process Preferences

Analytical mediation describes the approach best suited to the mediation of commercial disputes. The analytical mediator draws on a variety of styles, as the circumstances require, including facilitative and evaluative techniques where appropriate. The analytical mediator adjusts the process to meet the parties' needs, even if the needs change during the mediation. Analytical mediators are expected to understand the substance of the dispute, the legal process, and the risks and rewards each party will face if there is not a settlement. Because the mediator is usually knowledgeable about the specific legal and factual substance of the dispute, he can analyze the strengths and weaknesses of the parties' positions and will often play "devil's advocate" challenging a party's position.

The mediation process begins with the organizational call to determine the mediation schedule and the list of documents that need to be exchanged to both educate the mediator and insure that the parties have the information needed to negotiate successfully (but with an eye toward minimizing costs to the parties). The process always includes pre-mediation conferences with each party, either in-person or by phone. These meetings are instrumental in gaining additional insights into the facts and dynamics of the dispute and help the mediator determine the appropriate process. Long opening statements in joint sessions are discouraged because of the time consumed. However, joint sessions may be used, as appropriate, when useful information can be exchanged between the parties. There is no "cookie cutter" approach that is followed time after time. Instead the initial steps of the mediation process are choreographed to provide the greatest benefit to the parties and maximize the likelihood of success.

Parties are expected to request the information they require to make settlement decisions prior to the mediation, to come to the table prepared and with representatives having full settlement authority, and to negotiate respectfully and in good faith. Parties and their counsel are more knowledgeable about their dispute than even the most well prepared mediator could be, so the mediator relies on their knowledge and participation to craft creative, durable solutions.

For a lengthier description of the analytical mediation process, see www.bickerman.com, especially the article from the Maryland Bar Journal.

Education

Georgetown University Law Center (J.D. magna cum laude, Order of the Coif, Jessup Moot Court Champion-1988); Cornell University (M.S., Master of Science, Labor Economics and Collective Bargaining-1979; B.S., Bachelor of Science, Industrial and Labor Relations-1978).

Professional Licenses

Admitted to the Bar: District of Columbia (1990), Maryland (1989), New Jersey (1989-resigned), New York (1989-resigned); U.S. District Court: District of Columbia (1990), District of Maryland (1993); U.S. Court of Appeals, District of Columbia Circuit (1992).

Professional Associations

American Arbitration Association -- Member, Large Complex Arbitration Panel, Construction Arbitration Panel, Construction Mediator Panel
American Bar Association, Section of Dispute Resolution , Past-Chair
Roster of Neutrals, American College of Civil Trial Mediators, Member
CPR International Institute for Conflict Prevention and Resolution, Member, National Panel of Distinguished Neutrals,
Roster of Neutrals, United States Institute for Environmental Conflict Resolution , Member
International Academy of Mediators, Distinguished Fellow

Board of Advisors, Scheinman Institute on Conflict Resolution, Cornell University, ILR School, Member

Panel of Neutrals, United States District Court For The District Of Columbia, Member.

Recent Publications & Speaking Engagements

Published Works:

“Covid-19 Insurance Disputes Need Creative Solutions”, Law 360, June 2020)

“The Future is Now: Videoconferencing in the Era of Covid-19”, American Bar Association (Spring 2020)

“Building a Mediation Practice,” Dispute Resolution Journal (Spring 2017).

“Using the Right Strategy to Mediate Environmental Disputes,” Dispute Resolution Journal (May/July 2012).

“Adapting Mediation to What Users Want,” Maryland Bar Journal (March 2012).

“Giving Mediation Clients What They Want,” The National Law Journal (November 14, 2009).

“The Mediator’s Role: As Little as Possible But as Much as Necessary,” ACRResolution (WinteDon't Guess Who's Coming to the Table: Organizing The Mediation Process, FDCC Quarterly, Spring, Vol. 55, No. 3, 2005

Master Class with John Bickerman: A Look at ADR, B-10, 15, The National Law Journal, September 3-10, 2001

Great Potential: the New Federal Law Provides Vehicle, If Local Courts Want to Move on ADR, Dispute Resolution Magazine, Fall 1999

Leaving the Firm, Dispute Resolution Magazine, Winter 1998.

Mediation Settles Ahead of Arbitration, Legal Times, December 15, 1997

Use of ADR Increases in America's Largest Corporations, The Legal Times, December 5, 1997

What You Expect May Be Just What You Get: How Regional Differences in Expectations Influence Mediation Styles, ADR Report, October 29, 1997

How to Choose a Mediator "Picking the Right Stuff," The Legal Times, September 11, 1995

Lake Michigan Water Diversion Limits Successfully Mediated, Great Lakes Annual Report, 1997

Conflicts of Interest in Mediation, CPR Commission on Ethics and Standards of Dispute Resolution Practice, Working Group on ADR and Law Practice, 1996

Court-Annexed Mediation: Critical Perspectives on Selected State and Federal Programs , Eds., Edward J. Bergman and John G. Bickerman, 1988

Classes/Seminars:

Senior Visiting Lecturer -- Cornell University, "Negotiating and Mediating Environmental Disputes (2011-present)

Adjunct Professor of Law, Courses on Negotiation, Alternative Dispute Resolution, Georgetown University Law Center (1994-2001)

Designed and trained Attorney General of the United States and her senior staff in mediation (1996)

Panelist, “Class Actions and Arbitration: Where Do They Intersect?” Ontario, CA Bar Association (June 2020).

Moderator, “Insurance in the Time of a Pandemic.” CPR Webinar (April 2020).

Moderator, “Risk in the Climate Crisis: Breaking the Policy Gridlock and Insuring for Impact.” CPR Webinar (September 2019).

Speaker, “What Happens When You Lose Data that You Thought Was Secret and Money that You Thought Was Secure: Mediating and Arbitrating Cybersecurity Disputes.” ABA (March 2018).

Speaker/Moderator, Panel “Commencement of Arbitration.” ANATOMY OF CONSTRUCTION ARBITRATION. NJ Bar Assn. (September 2016).

Faculty Member, Taught module on “Perception and Psychological Barriers” as part of 3-day program to train insurance claims professionals. CLM CLAIMS COLLEGE SCHOOL OF CLAIMS MEDIATION. (September 2016).

Panelist, “Mediation FAQ: Your Questions Answered by Experts,” Over 1,500 participants attended this webinar. ABA (July 2016).

Panelist, “Preparing to Mediate.” ABA (January 2016).

Faculty Member, “The Mediation Process: Negotiating within the Mediation & Impasse Breaking Techniques,” 3-hour class. CLM COLLEGE OF CLAIMS MEDIATION, CLM (September 2015).

Panelist, “Representing Clients in Mediation,” webinar attended by more than 2,000 participants. ABA (July 2015).

Panelist, “Construction Defect Claims and Insurance Issues Facing the Northeast,” Disneyland, CA. WEST COAST CASUALTY CONSTRUCTION DEFECT SEMINAR (May 2013).

Frequent lecturer on arbitration and mediation.

Locations Where Parties Will Not be Charged for Travel Expenses New York; New Jersey; Philadelphia; Washington, DC; Seattle, WA

Mediation Rate \$950 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.