



AAA Mediation.org™

Hon. Carl Horn, III, Esq.

Charlotte, North Carolina

Current Employer-Title Law Offices of Carl Horn, III, PLLC

Profession Arbitrator, Mediator, Attorney, Retired Judge

Work History Attorney & Counselor at Law, 2009 - Present; United States Magistrate Judge, United States Courts, 1993 - 2009; Chief Assistant United States Attorney, United States Department of Justice, 1987 - 1993; Partner, Horn & Conrad, 1984 - 1987.

Experience Joined Charlotte firm now known as Parker Poe Adams & Bernstein LLP as an Associate in 1976. Worked primarily with then-Senior Partner, Joseph W. Grier, Jr., who had a broad civil practice representing individuals, businesses, and nonprofit organizations, and was extremely active in civic affairs. Also worked with Francis Parker, a leading real property practitioner, and with the firm's notable tax and estate planning experts.

Left Charlotte temporarily in 1979 to take a position with a Chicago-area liberal arts college (Wheaton College). Served as Legal Counsel for Development, facilitating major gifts; taught Constitutional Law & History (in the History Department); and ran the College's popular Pre-Law Program. Accepted a Senior Executive position in the first Reagan Administration in 1982, serving as Special Assistant to the Assistant Attorney General for Civil Rights. Attended high-level policy meetings, drafted speeches for the Assistant Attorney General, and prepared the first draft of a brief later filed in the United States Supreme Court.

Returned to Charlotte in 1984 to run for an open seat in Congress. When the voters sent another to Washington, founded and served as Senior Partner of Horn & Conrad, where the primary focus was on real estate closings, estate planning, and civil litigation.

Accepted position as Chief Assistant United States Attorney for the Western District of North Carolina in 1987, which included supervisory responsibility over all attorney and non-attorney personnel. The office represented a wide variety of federal agencies in civil matters, and handled criminal investigations and prosecutions for the Federal Bureau of Investigation, the U. S. Secret Service, U.S. Customs, the IRS Criminal Investigation Division, the U.S. Drug Enforcement Administration, the Bureau of Alcohol, Tobacco & Firearms, and various State-Federal Task Forces. Also maintained an active case load, which included guiding investigations and representing the Government in a number of federal jury trials.

Appointed a United States Magistrate Judge in 1993, a position held for the next 16 years. Served as Chief Magistrate Judge for the Western District of North Carolina, which included additional administrative responsibilities, for 10 of those years. Managed busy civil and criminal dockets with assistance of two Career Law Clerks, an Executive Assistant, and a Deputy Clerk of Court. Conducted pretrial proceedings in civil cases referred by U. S. District Judges, and all proceedings, including jury trials, upon consent of the parties. Also conducted Judicial Settlement Conferences in cases assigned to District Judges, when requested, and was able to facilitate settlement of most of those cases.

Handled the full gamut of federal civil proceedings while on the bench, including labor and

employment disputes (claims under Title VII, ADEA, ADA, FMLA, FLSA, and ERISA, for example); patent, trademark, and copyright claims; civil rights and constitutional claims; construction-related disputes; insurance coverage issues; securities regulation and fraud; antitrust claims; and a wide variety of individual and commercial claims brought under the District Court's diversity jurisdiction.

Mediator Experience

Began experience as a "neutral" while still serving as a U.S. Magistrate Judge (1993-2009) by conducting Judicial Settlement Conferences for U.S. District Judges in the Western District of North Carolina, most of which resulted in pre-trial settlement. Following retirement from the bench in 2009, most of professional focus has been on mediation and arbitration. Has conducted over 200 mediations in a wide variety of State and Federal cases, from pre-litigation to during litigation to a post-appeal mediation. High rate of settlement. Recommended for service as Mediator equally by counsel for Plaintiffs and Defendants. Has handled disputes settling for modest amounts up to those settling for millions of dollars, and for parties represented by small and medium-size firms as well as by large local, regional, and national firms.

Successfully mediated cases have included a wide range of commercial and employment-related disputes pending in State and Federal Courts, as well as a number of pre-litigation matters.

Mediated commercial cases/disputes have included a wide variety of contract disputes, negligence claims, insurance coverage issues, covenants not to compete, fraud claims, alleged breaches of fiduciary duty, interpleader actions, estate disputes, medical and other professional malpractice claims, premises liability claims, intellectual property issues (patent, trademark, and copyright claims), attorney fee disputes, excessive force claims, interpretation of leases, intra-family business disputes, civil rights claims, and securities-related issues.

Mediated employment cases/disputes have included the full gamut of issues arising in State and Federal Courts, including discrimination based on race, gender, age, disability, religion, and national origin; sexual harassment claims; miscellaneous issues pertaining to public employment; a variety of retaliation claims; and claimed violations of the Family Medical Leave Act (FMLA), the Fair Labor Standards Act (FLSA), and ERISA.

Representative Issues Handled as a Mediator

See the preceding section for a summary description of the wide range of commercial and employment-related disputes which have been mediated.

Regarding procedural and other issues which have arisen in the context of mediation, these would include when and where to schedule the mediation, whether to excuse any party or insurance representative from attendance or to allow telephonic attendance or availability, and whether to declare an impasse during or at the conclusion of mediation. Preference, if a case is not settled during mediation and there is some hope that post-mediation discussion with counsel may result in settlement, is not to declare an impasse.

In addition to monetary terms counsel are always asked to identify non-monetary issues that should be addressed during mediation. At various times issues which have arisen include whether to have a joint session at the beginning of the mediation, how to handle contact with a pro se party prior to and during mediation, how best to defuse hostility between parties and/or counsel, whether third parties should be permitted to attend the mediation, whether any particular expertise may be required to address technical issues in dispute, and issues/facts on which the parties may agree. Where settlement is reached care is taken to include all monetary and non-monetary terms in the Settlement Agreement, including whether the terms are confidential, the scope of releases to be given, the time within which payment or payments will be made, and who will file the notice of dismissal if an action is pending. In employment cases mutual non-disparagement clauses may be negotiated, as may continued insurance coverage, changes in personnel records (for example, changing a termination to a resignation), what percentage of any monetary amount will be deemed W-2 income, and/or an agreement by a former employer to provide a positive or neutral job reference going forward.

Mediator Style & Process Preferences

Just as a good Judge will allow competent counsel to try their cases without becoming excessively interventionist, a good mediator will allow counsel to mediate without imposing his or her opinions about what their next move or their bottom line should be. Even when a mediator is asked for advice care should be taken to offer it humbly and with appropriate caveats. In general, asking questions and articulating the uncertainty, burden and expense of protracted litigation, is more effective in

inspiring movement than is a more directive approach.

Seasoned counsel and mediators understand that each mediation develops a kind of life of its own through which it uniquely moves. Patience is key as studies and experience show that the great majority of movement in a mediation occurs in its last quarter. In an eight hour mediation this translates as occurring in the last two hours. Recognizing this fact, a mediator should assist counsel in assuring frustrated parties who begin to feel after several hours that they are "wasting their time" that this is how it usually goes -- including in cases that settle at the end of the day.

Mediators should take care to develop a connection/trust with parties and counsel as early in the mediation as possible. So called "small talk," as well as showing a genuine interest in a party's (or counsel's) personal or professional circumstances, are helpful toward this end. The goal is to demonstrate empathy, which goes a long way toward building the credibility and trust a good mediator can effectively use to facilitate movement and ultimately to reach the proverbial "common ground."

Judges who become mediators must keep clearly in mind the differences in the two roles. While being a former Judge has its benefits -- for example, in explaining the uncertainties of litigation or how a particular Judge may rule on a motion -- the former Judge must be equally aware that he or she is no longer in the "order giving business" and that facilitating voluntary settlement requires a very different skill set.

Finally, like lawyers in general, a mediator must balance crediting what he or she is told and wanting the best outcome for the parties with a measure of professional objectivity/detachment. Facilitating the settlement of a dispute that leaves the parties and their counsel with a combined sense of gratitude and relief can be deeply satisfying, but there are cases where one side or the other has unrealistic expectations or there are other unsurmountable obstacles to settlement. In these cases a good mediator who has worked just as hard as in the matters that settle can still take comfort in a job well done.

Education	University of South Carolina School of Law (JD-1976); University of Virginia (BA-1973).
Professional Licenses	Admitted to the Bar: North Carolina, (1973); U.S. District Court: Western and Middle Districts of North Carolina; U.S. Court of Appeals: Fourth Circuit.
Professional Associations	Member, North Carolina State Bar and Mecklenburg County (North Carolina) Bar.
Recent Publications & Speaking Engagements	<p>Federal Civil Practice in the Fourth Circuit (Lexis Law Publishing 1999)</p> <p>Law for Physicians: An Overview of Medical Legal Issues (American Medical Association 2000) (Co-author)</p> <p>LawyerLife: Finding a Life and a Higher Calling in the Practice of Law (ABA Publishing 2004)</p> <p>Fourth Circuit Criminal Handbook (LexisNexis; 2022 edition is the 26th annual)</p> <p>Author of numerous Bar Journal articles and frequent speaker at CLE Seminars on a wide range of subjects, including subjects related to ADR.</p>
Mediation Rate	\$385 Per Hour
Languages	English
Citizenship	United States of America
Locale	Charlotte, NC

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.