



**Michael L. Sterling, Esq.**

Hourly Rate	\$375
Current	Woods Rogers Vandevanter Black PLC - Principal
Practice	22
Cases	130
Languages	English

**Current Employer-Title**

Woods Rogers Vandevanter Black PLC - Principal

**Work History**

Principal, Woods Rogers Vandevanter Black PLC, 2022 - Present  
Partner, Vandevanter Black LLP, 1985-2022.

**Experience as a Mediator**

Adjunct Professor of Mediation William & Mary Law School; managed law firm Dispute Resolution Services practice for over two decades; served as mediator for the American Arbitration Association (AAA), Virginia Conflict Resolution Center, Financial Industry Regulatory Authority (formerly NASD), the Better Business Bureau, the National Arbitration Forum, the Chesapeake Redevelopment and Housing Authority, the United States District Court for the Northern District of Alabama, the Circuit Courts for the Cities of Norfolk, Portsmouth and Virginia Beach and by private appointment; certified by the Supreme Court of Virginia as a Mediator in 1999 and Mentor in 2001; construction matters have ranged from claims of defective workmanship to incomplete work to other performance and payment related problems; non-construction matters have ranged from securities fraud to creditor-debtor disputes to employer-employee disputes; mediated attorney-client fee disputes for the Virginia State Bar; intermediated disputes between clients pursuant to the former Virginia Rules of Professional Conduct; founded the Norfolk and Portsmouth Bar Association ADR Committee that prepared a standing order for court sponsored ADR; conducted various presentations on ADR.

**Representative Issues Handled as a Mediator**

Appointed as mediator by the United States District Court of the Northern District of Alabama in two 100 Million Dollar qui tam actions for alleged violations of the False Claims Act during the performance of federal government military contracts and related claims of retaliatory discharge (United States of America, ex rel Donald Hicks v. Chrysler Corp., et al. Case No. CV-98-CO-154-NE and United States of America ex rel. Jack Simon v. Diamler Chrysler.,et al., Case No. CV-99-C0-1846-S). Appointed as mediator in various securities trading and related disputes by the National Association of Securities Dealers and its successor the Financial Industry Regulatory Authority. Appointed as mediator in maritime disputes between vessel owner and operator concerning management agreements and associated fees. Appointed as mediator in numerous construction contract, employee and consumer disputes by the Better Business Bureau, the Virginia Dispute Resolution Center and various Virginia State Courts. Also, served as Mentor to trainee mediators. Matters included accounting, scheduling, and defects e.g. steel fabrication and erection, block, brick and other masonry, pre-cast, metal, shingle and membrane roofing, mechanical systems, electrical systems, painting and signage, as well as design errors and omissions, contract compliance and false claims. Other matters involved consumer disputes, claims for securities law and regulatory violations, unpaid commissions, wrongful termination, business ownership, and property disputes.

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

22

## **Total Number of Cases Mediated**

130

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

Insurance Coverage for Casualty Loss - represented owners and contractors in various coverage issues related to casualty loss from fires, floods and defective work. LLC Member Dispute - Counsel to Alaska Native Corporation in member dispute with non-native members related to control and profit distributions from federal contracts. Dam - Counsel to drilling and construction company on claim for delay and disruption on dam construction project. Hotel - Counsel to architect in defense of claim of alleged design error in light gauge metal steel frame leading to building collapse during construction, and pursuit of third party claim against structural engineer. Multi-story Retirement Complex - Counsel for national general contractor in dispute with owner and architect concerning design defects leading to a failed building envelope and resulting water damage, as well as disputes with various trade subcontractors. Residential Construction - Counsel for home owner in dispute with builder regarding unacceptable levels of wind and noise coming through custom windows. Historic School Renovation - Counsel for general contractor in dispute concerning claims of delay, disruption and other damages arising from the discovery of extensive lead, asbestos and other contamination as well as various owner responsible design defects, as well as various subcontractor claims and disputes. I-10 Highway - Co-counsel for road building company and various subcontractors in appeal of verified claim denied by state DOT for alleged defects in geotechnical data and resulting cost impact. Air Transfer Line Installation - represented specialty fabricator in appeal before the Armed Services Board of Contract Appeals involving delay on a project to install approximately three miles of underground stainless steel pipe to transfer high pressure air beneath various runways - after prevailing on entitlement represented contractor in mediation to resolve quantum. Multi-unit Apartment Complex Insurance Coverage and Masonry Defects - Counsel for general contractor in defense of claim by a redevelopment and housing authority and related claim against supplier and insurers arising from installation of a thin brick system on some thirty apartment buildings. Base Maintenance-represented contractor in appeal before the board of contract appeals involving disruption and work inefficiency due to change in scope of work on contract to maintain government housing units - after prevailing on entitlement represented contractor in mediation to resolve quantum. Co-generation Plant Construction-represented general contractor in appeal to the Armed Services Board of Contract Appeals on construction project for the installation of two 6000 kw steam turbine generators, and the renovation of the coal silos, boilers, feeders, instrumentation and control systems - after prevailing on entitlement represented contractor in mediation to resolve quantum. Relocatable Building Lease - successfully represented general contractor in entitlement appeal to the board of contract appeals on project to construct and lease a relocatable building specially designed to house computer equipment and personnel - after prevailing on entitlement represented contractor in mediation to resolve quantum.

## **Mediation Philosophy**

While most construction and other business disputes have common elements each is unique as are the party representatives, their counsel and experts. Therefore, in construction and business mediation I believe it is essential for the mediator initially to gain sufficient information about the parties, facts, issues, counsel and experts to develop a mediation strategy that will have the greatest potential for success. This typically begins with an informal joint conference call followed by individual conference calls, during which my role is to be a good listener. Usually, but not always, I then request written confidential submissions in order to allow each party to present a candid summary of the disputes. It is helpful if these confidential submissions address weaknesses as well as strengths, but I appreciate that parties may not initially feel comfortable with revealing key weaknesses even to the mediator. Depending on the complexity of the disputes these submissions may be followed by further conference calls and submissions before the first live mediation session. At the live session, even if the parties have previously exchanged information during discovery or otherwise, it is often beneficial to allow formal presentations with an opportunity for everyone to pose questions in a controlled environment. Whether and when the parties break into private caucus groups depends on the particular circumstances. If the parties go into caucus I do not believe that my role as mediator is to simply shuffle offers from room-to-room. Throughout the process I will be reality testing, looking for common ground and opportunities to close the gap on disputed issues in order to facilitate resolution. I will also provide feedback and offer options. I may reconvene a joint session to address particular issues. While self determination is essential to all mediation I may offer evaluative comments or engage in outcome determination when appropriate. If the matter is not settled in the initial live session I will continue to work with the parties unless it is clear that there is an insurmountable impasse. My goal is to efficiently and effectively assist in bringing the disputes to resolution.

## **Mediation References**

W. Alexander Burnett, [aburnett@williamsmullen.com](mailto:aburnett@williamsmullen.com), (804)420-6507; John D. Padgett, Esq., [jpadgett@mcguirewoods.com](mailto:jpadgett@mcguirewoods.com), (757)640-3779; Mark C. Nanavati, [mnanavati@sllaw.com](mailto:mnanavati@sllaw.com), (804)893-3866.

## **Alternative Dispute Resolution Training**

ACE 22 - Process Essentials for AAA Arbitrators, 2022; ACE21 Impartiality: Do You Know Where Your Biases Are? 2021; ACE20 Cyber Security: A Shared Responsibility, 2020; AAA Construction SuperConference, 2019; ACE18 Arbitrator Performance and Demeanor ~ Meeting Participant Expectations, 2018; Addressing the Challenges of Demanding Arbitrations: Part 2 ~ The Hearing Phase, the Award, and Beyond, 2017; AAA What Advocates Can Learn From Walking In An Arbitrator's Shoes, 2016; AAA/ICDR/Mediation.org Panel Conference, 2016; AAA Principled Deliberations Decision-Making Skills for Arbitrators ACE08, 2015; AAA Conducting Research & Investigations: The Arbitrator's Authority ACE09, 2014; AAA Arbitrator Ethics & Disclosure ACE03, 2013; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards ACE01, 2011; AAA Arbitration Fundamentals and Best Practices for New AAA Arbitrators, 2011; Virginia Conflict Resolution Center, Getting to Yes, 2009; Virginia Conflict Resolution Center, Mediating with Difficult People, 2009; Virginia Conflict Resolution Center, Mediation & the Military, 2009; Virginia Conflict Resolution Center, Ethical Considerations in Mediation, 2009; Virginia Conflict Resolution Center, Conflict Across Generations, 2007; Virginia Conflict Resolution Center, Ethical Dilemmas for Mediators, 2007; Supreme Court of Virginia, Mentoring Individuals Seeking Certification, 2006; Virginia State Bar, Fee Dispute Resolution Program Mediator Training, 2006; Supreme Court of Virginia, Mentoring Individuals Seeking Certification, 2006; Virginia State Bar, Fee Dispute Resolution Program Mediator Training, 2006; Advantage Mediation and Training Services, Circuit Court Civil Mediation Training, 2000; Norfolk and Portsmouth Bar Association, Alternative Dispute Resolution Training, 2000; NASD, Regulation Mediator Training, 1999.

## **Professional Licenses**

Admitted to the Bar: Virginia, 1985.

## **Professional Associations**

American Bar Association (Construction Law Section; Public Contract Law Section; Dispute Resolution Section; State and Local Government Law Section; Construction Industry Forum); Associated General Contractors of Virginia; Association of Builders and Contractors; Board of Contract Appeals Bar Association; Design Build Institute of America; Federal Bar Association (Public Contract Law Section, Litigation Section); National Contract Management Association (Norfolk Area Chapter, Fellow, Past President); Norfolk and Portsmouth Bar Association (Past Executive Committee Member and Founding Member; Committee on Alternative Dispute Resolution, Past Chairman); Tidewater Association of Service Contractors; Virginia Bar Association (Joint Committee on ADR; Local Government Law Section; Construction and Public Contracts Law Section, Past Chairman); Virginia Beach Bar Association; Local Government Attorneys of Virginia; Virginia State Bar (Construction Law and Public Contracts, and Local Government Law Sections); Virginia Transportation and Construction Alliance; Construction Lawyers Society of America (Fellow).

## **Education**

William & Mary School of Law (JD, order of the coif-1985); Lawrence University (BA, Economics, cum laude-1979).

## **Awards and Honors**

Martindale-Hubble, peer rated AV; Best Lawyers in America - Construction, Virginia Business Magazine's Legal Elite - Construction, Mediation and Arbitration, Thompson Reuters Virginia Super Lawyer - Construction, Government Contracts and Mediation, A Best Lawyer in Hampton Roads - Construction, A Top Virginia Lawyer in Corporate Litigation - Construction, A Virginia Top Rated Lawyer - Construction, Top Lawyer of Coastal Virginia - Construction, Lawyer of the Year, Norfolk, Virginia - Construction, Fellow Construction Lawyers Society of America, Fellow National Contract Management Association, Virginia 500 Power List, Virginia Conflict Resolution Center Peace Maker Award, and Virginia Leader in the Law.

## **Publications and Speaking Engagements**

PUBLICATIONS: Co-author, Ethical Obligations of Arbitrators Issuing Third Party Subpoenas, American Arbitration Association Journal, Vol. 75, No. 1, November 2020; Co-author, Potential Contract Adjustments Based on Tariffs, LinkedIn, July 2018; Co-author, Federal Government Construction Contracts (3rd Ed.), Chapter 14 – Terminations for Default, American Bar Association, (2017); Co-author, Construction Law: State and Local Construction Projects (1st Ed.), Chapter 14 – Claims Issues, American Bar Association, (1st Ed. 2017); Inside the Minds: Litigation Strategies for Government Contracts, Thomson Reuters, 2015 ed.; Contributing author, "Everything You Don't Know About E-Discovery," NBI, Virginia Beach, Virginia, November 2013. "Public-Private Partnerships: Conflicting Interests between Design-Builder and Designer, ABA Under Construction," Vol. 15, No.2, April 2013; Co-author, "Contracting in the Public Sector - The Trend Towards Public-Private Partnerships - A Practical Guide," ABA Forum on the Construction Industry, 2012 Annual Meeting, Spring, Las Vegas, Nevada; "Overview: Changes to the General Conditions of the State Construction Contract," VBA News Journal, Vol. XXXVIII, Issue 3, Fall 2011; Co-author, "Differing

Perspectives of Owners, Builders, and Design Professionals On Design-Build Projects," National American Council of Engineering Companies Annual Conference, Fall 2009; "Teaming With Small Businesses on Federal Projects," Client Presentation, Fall 2009; "Construction Loans - What You Don't Know Will Hurt You," VIRGINIA BAR ASSOCIATION NEWS JOURNAL, vol. xxxvi, issue 3, Fall 2009; "Preserving Your Right to Payment in a Tight Economy," COMMONWEALTH CONTRACTOR, May 2009; "Electronic Discovery and Record Retention in Construction and Public Contracts Disputes," VBA NEWS JOURNAL, vol. xxxiii, issue 3, July/August 2007; and co-author, Alternative Dispute Resolution in Virginia Now, VBA News Journal, vol. xxvi, no. 4, June 2000.

**SPEAKING ENGAGEMENTS:** Construction Super Conference, Virtual ADR, Orlando, FL., December 2021; MSI Global, Creating the Workplace of the Future, International Zoom, October 2021; Top Ten Questions Construction Companies Ask Their Lawyers in 2021, National Association of Women in Construction, Norfolk, VA., August 2021; Arbitration in Construction and Employment Law Disputes, Richmond Bar Association, Richmond Va., October 2020; REA & Claim Overview: What are the downfalls your company should be considering? GovCon Annual Update Conference, Norfolk, Va., November 2018; Arbitration in Commercial and Employment Law Cases, Norfolk and Portsmouth Bar Association, Norfolk, Va., October 2018; The Conduct of Public Body Meetings in Virginia, Town of Cape Charles, Cape Charles, Va., July 2018; Ethics in Government, Town of Cape Charles, Cape Charles, Va., July 2018; Eminent Domain, Town of Cape Charles, Cape Charles, Va., July 2018; Public Contracting: Understanding the Ground Rules of the Arena, American Bar Association Construction Law Forum, Spring 2017; Co-Presenter, Strategies for Winning at Mediation, VTCA Summer Conference, Virginia Beach, Virginia, July 2018; Shop Drawings: Success & Failure – A Standard Procedure is Not Right For Every Project, NASCC: The Steel Conference, March 2015; Review of Business System Requirements and Update, Newport News, VA, August 2014; The Conduct of Public Body Meetings in Virginia, Cape Charles, June 2014; Crisis Management - The Key Elements of a Response Plan, VTCA Winter Conference, Key Largo, Florida, February 2013; From Preservation to Production: Surviving E-Discovery, Norfolk Portsmouth Bar Association, Norfolk, Va., Winter 2012; The Uniform Commercial Code ? A Primer, Genoa, Italy, Winter 2012; and Doing Business in the U.S., Norwegian-American Defense and Homeland Security Industry Symposium, Oslo, Norway, Winter 2012.

### **Compensation**

\$375 Per Hour

### **Languages**

English

### **Citizenship**

United States of America

### **Locale**

Norfolk, VA

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.