



Francis Anthony McDonough

Hourly Rate	\$350
Practice	20
Cases	15
Languages	Italian

Work History

Arbitrator, Mediator, Adjudicator, 3rd Party Neutral, self-employed, 2008-present; Chairman of the Board and CEO, McDonough Bolyard Peck, Inc., 1989-08; Executive Vice President, Alpha Corporation, 1978-89; Chief Engineer, Warren Brothers, Inc. (Expressway Constructors), 1974-79.

Experience as a Mediator

Examples of Mediation Experience. The following examples are provided to illustrate the types of disputes mediated:

1. Design-Build Highway Contract (\$12 million dispute):

Parties: Design-Build Joint Venture/Highway Contractor

Issues: right of way acquisition/delayed partial access; differing site conditions; defective work remedial work; assessment of liquidated damages

status: resolved

2. Expansion/Renovation of High School (\$8 million dispute):

Parties: Owner School Board/General Contractor/Subcontractors/Architect

Issues: Impacts of Change Orders; design of HVAC systems; production delays

Status: resolved

3. City Water Treatment Plant Construction (\$15 million dispute):

Parties: City Water Department/General Mechanical Contractor

Issues: delays; changes; defective work/ loss of value

Status: resolved

4. Military Base Waste Water Treatment Plant Construction (\$2 million dispute):

Parties: Federal Agency/General Contractor

Issues: differing site conditions; changes; delays

Status: resolved

Representative Issues Handled as a Mediator

Issues have included a broad spectrum of the difficulties arising on construction projects that often lead to disputes. Typically, issues fall into three major categories: Access - delayed or partial release of right of way; Design Changes impacting schedule, procurement and /or performance; and Field Problems including DSC, productivity shortfall, schedule delays, and payment disputes.

Years of Practice as a Mediator

Total Number of Cases Mediated

15

Mediation Experience as an Advocate or Party

Participated in many large US and international mediations as expert witness/advocate. For example:

- Woodrow Wilson Bridge over Potomac River, Washington DC
- South Hook Liquefied Natural Gas (LNG) Plant and Docking facilities, Wales UK
- Addicks and Barker Dams, TX
- Los Angeles Redline Rail track, CA
- McKeldin Library, University of Maryland
- WMATA Metro rail Prince Georges Station and Line, MD

Mediation Philosophy

I value Mediation as an important, relatively simple, and often highly successful means of closing out troubled construction projects which could otherwise have consumed major additional resources and costs in litigation.

It is a confidential facilitated communication among peers, on the potential risks and responsibilities of the parties, and any agreement is controlled by the parties themselves.

The Mediator brings a knowledge of the work: design/construction/commissioning/closeout; an insight into potential solutions to the problems confronting the parties; intelligence, and respect for the parties and the dialog; and at all times a consistently high level of energy focused on getting the parties to stay on course for an effective mediation.

Mediation also affords the parties the opportunity to better understand the relative strengths and weaknesses of both positions: the opponent's and their own.

While the parties are the key movers in a mediation, the skilled and inspired mediator brings drive, energy, patience and attention to the details important to the parties, along with the creativity and hands-on savvy to help the parties structure a package that serves to resolve their disputes.

The parties themselves should, for optimum success, provide: an articulate statement of position with key points/documents; representatives with the chain of authority to approve a mutual settlement; and dedication to giving the session their undivided attention.

Mediation References

Lewis J. (Larry) Baker, Esq., lbaker@wthf.com, 703 749 1000
 Thomas Newell, Esq., newelltb@gmail.com, (UK) 01494680873
 David Hatem, Esq., dhatem@donovanhatem.com, 617 406 4800

Alternative Dispute Resolution Training

ACE21 Impartiality: Do You Know Where Your Biases Are? 2021; ACE20 Cyber Security: A Shared Responsibility, 2020; AAA The Arbitration "Need to Knows": Trends and Lessons for 2017 and Beyond, 2018; AAA Clarity in Award Writing, 2016; AAA Conducting Research & Investigations: The Arbitrator's Authority ACE09, 2016; AAA Conducting Research and Investigations ~ The Arbitrator's Authority ACE09, 2015; AAA, Interim Awards, Partial Final Awards and Functus Officio: Tailoring Flexible Accessories to Suit a Strict Doctrine 2014; AAA Developments in Arbitration Law: Non-Signatories, Discovery and Vacatur, 2014; AAA Using Experts Effectively in Arbitration, 2013; AAA What's a Respondent Like You Doing in a Place Like This? Confronting Arbitrability and Jurisdiction Issues in Arbitration, 2013; AAA The Extent (or Limit) of Mediator Influence, 2013; AAA Advanced Mediator Training Series: The Extent (or Limit) of Mediator Influence to Effect Settlement, 2012; AAA Construction Professionals

Guide to Conducting an AAA Arbitration, 2012; AAA Advanced Mediator Training Series: Managing the Dynamics of a Multi-Party Case, 2012; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards ACE01, 2012; AAA Arbitration Fundamentals and Best Practices for New Arbitrators, 2012; various training with Dispute Resolution Board Foundation and the Chartered Institute of Arbitration.

Professional Licenses

Professional Engineer, Virginia, 1974. Chartered Engineer, United Kingdom, 1969.

Professional Associations

American Society of Civil Engineers (Fellow); Institution of Civil Engineers, UK (Fellow); National Society of Professional Engineers; Chartered Institute of Arbitrators (Associate); American Society of Professional Estimators; Disputes Resolution Board Foundation; The Moles.

Education

University of Liverpool, England (BEng, Honours, Civil Engineering-1962).

Publications and Speaking Engagements

Presented the following seminars on disputes resolution, project scheduling/costs, control systems, and administration for the optimum management of construction to professional societies, governmental, and private agencies.

- "Collaborative Scheduling: Eight Steps to Success," Construction Superconference, San Francisco, CA
- "Collaborative Working: Is there a Better Way?" International Construction Superconference, London, UK
- "What's Ahead in the Construction Industry?" Construction Superconference, San Francisco, CA
- "Disputes, Delays and Constructive Acceleration: Schedule and Cost Issues," MBP Seminar, Atlanta, GA
- "Top Ten Rules for Keeping Your International Infrastructure Mega-Project from Becoming a Mega-Disaster Before, During and after Performance," International Construction Superconference, London, UK
- "Arbitration Innovations for Large Complex Cases: A Radical Approach," Construction Superconference, San Francisco, CA
- "When the Project Absolutely, Positively Must be Completed on Time: Dealing with the Problems Inherent in Acceleration," International Construction Superconference, London, UK
- "Analysis and Resolution of Disputes over Construction Delay," Centre for Advanced Engineering, Christchurch, New Zealand

Compensation

\$350 Per Hour

Languages

Italian

Citizenship

United States of America, United Kingdom

Locale

Fairfax, 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.