



AAA Mediation.org™

Francis Anthony McDonough

Fairfax, Virginia

Current Employer-Title Sole Practitioner

Professional Summary Serves as construction Neutral (DRB Member/Mediator/Arbitrator) on US and International dispute resolution, with a background career in contractor bidding, building and claims on major projects, engineering design of temporary works, and many years of construction management, expert testimony and neutral adjudication.

Profession Civil Engineer, DRB Member/Chairman, Mediator, Arbitrator, Consultant

Work History Arbitrator, Mediator, Adjudicator, 3rd Party Neutral, Sole Practitioner, 2008-present; Chairman of the Board and CEO, McDonough Bolyard Peck, Inc., 1989-2008; Executive Vice President, Alpha Corporation, 1978-1989; Chief Engineer, Warren Brothers, Inc. (Expressway Constructors), 1974-1979.

Experience

General contractors' field engineer, project engineer, superintendent, and project manager on construction projects: hydro, transportation, buildings, power and hotels. Project examples include: Las Vegas Hilton International Hotel; Washington DC. Metro; Maura Dock, Nassau Bahamas; and Strathfarrar and Nant Hydro electric projects, Scotland. Duties included management, field supervision, scheduling, survey, estimating, bidding, and design of temporary works, example: modifications to marine equipment for submerged tube tunnel construction.

Chief engineer for a U.S. Joint Venture contractor, responsible for cost-estimating, bidding, project engineering, preparation of subcontracts, cost management, change-order pricing and negotiations, scheduling and delay analysis, and contract closeout. Included temporary works design; cofferdams for deep excavations; underground utility support systems; bridges; sheeting systems, slurry walls, bracing and tiebacks. Projects include transportation, utilities and plants. Project examples: North Avenue Station Baltimore MD; I-65 Bridges over Mobile River, Near Saraland, ALA; K3 Station and Line Section of DC Metro, Arlington VA.

Founder and managing principal of consulting/ management firm specializing in services for the performance of construction (quality control inspection, scheduling, costs, claims analysis/resolution and contract closeout) on full range of projects for owners, contractors, attorneys and others. Clients included World Bank, Corps of Engineers, Municipal, State and Federal Government agencies, large contractors, and law firms specializing in construction disputes resolution.

Expert Witness Services: more than 20 years of experience providing analysis, reports, testimony and advocacy on complex construction contract disputes, testifying on construction scheduling, the analysis of delays/acceleration, costs, and constructability. Clients included contractors, owners and subcontractors. Types of projects: building, highway, airport, tunnels, utilities, plants. U.S. and International. Case Examples: Prison construction and rehabilitation in New York and Pittsburgh; Highway projects in VA, MD, PA; Rail projects in CA, MD, VA; Building projects including 50-story Liberty II Tower in Philadelphia; Plant construction in NE and CA.

Mediator Experience 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.

Mediator Style & Process Preferences

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.

Technology Proficiency

Fully conversant with and proficient at reading and understanding construction project management software and systems: including Scheduling and Cost Reporting/accounting.
Proficient at virtual conferencing: Zoom, Teams, etc.

Education

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

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; American Arbitration Association; Disputes Resolution Board Foundation; The Moles (emeritus).

Recent Publications & 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

Locations Where Parties Will Not be Charged for Travel Expenses

virtual hearings and local travel in metropolitan Washington DC/No VA/Md

Mediation Rate

\$350 Per Hour

Languages

English, Italian

Citizenship

United States of America, United Kingdom

Locale

Fairfax, VA

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.