



AAA Mediation.org™

Mary Jo Gilsdorf, Esq.

Glen Mills, Pennsylvania



Primary Areas of Expertise

Commercial Construction
Private & Public Construction
Construction Defects
Residential Construction
Construction Cost & Payment
Design Errors & Omissions

[View Video](#)

Current Employer-Title Gilsdorf Law, LLC – Managing Member

Panelist Video <https://www.adr.org/videoresume?paramName=818432577>

Professional Summary Having practiced in the legal field as an attorney and counsel for over three decades, overlaid with hands-on day to day experience specific to the construction industry itself, has created a deep foundation of knowledge of the construction industry and well-developed skills, qualifications and analytical techniques to address construction disputes of all sizes and scope within the framework of the applicable law.

Profession Attorney, Arbitrator, Mediator, Independent Construction Neutral, Consultant

Work History Attorney/Arbitrator/Mediator/Independent Construction Neutral/Consultant, Gilsdorf Law LLC, 2014 – Present; Director of Legal Services, L. F. Driscoll Co. LLC, 2002 – 2014; Cost Engineer, L. F. Driscoll Co., LLC, 2000 – 2002; Generalist, Ehret Construction Company, 1997 – 2000; Attorney, Sole Practice, 1993 – 2000; Associate Attorney, Manko Gold & Katcher, 1991 – 1993; Associate Attorney/Law Clerk/Paralegal (Environmental and Litigation Departments), Blank Rome Comisky & McCauley, 1982 – 1991; Paralegal, Kassab Cherry & Archibold, 1980 – 1983.

Experience In legal practice since 1989 with practice areas of construction law, complex litigation, environmental law, insurance, commercial disputes and personal injury matters. Served as In-house Counsel for a major regional construction management firm; as a Litigation Associate and Paralegal in complex litigation involving environmental "Super-fund" cases and toxic torts; Also as Litigation Associate and Paralegal in personal injury, medical malpractice and general business disputes.

Active in the construction industry since 1997. Began with a smaller construction management firm performing various roles, then as Cost Engineer before serving as the sole in-house Legal Counsel for over 10 years in a major regional construction management firm. Projects involved hospitals, commercial retail buildings, residential buildings and condominiums, sports complexes, high rise office buildings, performing arts centers, garage and warehouse facilities ranging from \$100K to over \$300M. Primary focus of claim preparation and resolution, contract negotiation, and third party

claim litigation management. Additional varied duties and responsibilities included: presentation of seminars, procedure and policy development, ethics and compliance program oversight, and federal compliance oversight. As a Cost Engineer analyzed entitlement and value of change order requests to achieve resolution of claims. Additional early construction experience as a contract administrator, assistant project manager and general assistant for estimating, field supervision and safety in smaller construction company. Further legal experience in commercial litigation and environmental law as an associate, law clerk and paralegal since 1980.

Began serving as an Arbitrator and Mediator in 2014 and have conducted over 160 mediations and 200 arbitrations.

Case Examples:

Construction Matters ranging from \$ 10,000. through \$ 60,000,000. in value involving Commercial, Residential, Public, Infrastructure (pipeline & solar panel projects) and Institutional Projects. Issues include: Cost Entitlement and Project Close-out Claims; Claims for Change Orders; Delay Claims; Payment Claims (e.g. PA CASPA and Prompt Payment Act Claims); Home Improvement and Consumer Protection Act Claims (e.g. PA HIPCA Claims); Unfair Trade Practice and Consumer Protection Act Claims; Design Defect Claims (Error and Omission Claims); Code Compliance Claims; Claims arising under Integrated Project Delivery ("IPD") contracts; Construction Defect Claims including Structural Claims, Building Envelope Claims (Stucco, Window and Roofing Claims), Site Grading Claims, Flooring Claims, Heating and Air Conditioning Claims including HVAC Performance Criteria Claims; Building Information Management (BIM) Claims; and other Performance and Cost Issues, Breach of Contract and Breach of Warranty Claims; Consequential, Liquidated and Punitive Damage Claims; Residential New Construction and Renovation Claims.

Residential Real Estate transaction matters involving disclosure and deposit issues.

Commercial Matters ranging from \$ 100,000. through \$ 2,000,000. in claim value including: Breach of Contract and Performance Issues; Business Dissolution Matters; Real Estate Matters including Sale Transaction Issues and Partition Type Issues; License Agreement Issues (Oil and Gas Industry); Dissolution of Business Disputes (Law Firm) Legal Fee Disputes; Fraud and Misrepresentation Claims; Tortious Interference Issues; Consequential, Liquidated and Punitive Damage Claims.

Various Consumer Matters on the AAA Consumer Panel and general legal issues in court annexed mediation and arbitration.

Mediator Experience

Has experience in mediating construction, commercial, professional liability, real estate transaction, breach of contract, consumer transaction, collection, legal fee disputes, personal injury, landlord-tenant and other disputes. Handled over 160 Mediations to date (5/23) with over 80% success rate.

Generally, claims have involved Construction defect, Design error and omission matters, Scheduling and delay claims; Disputes over earnest money and disclosure issues under Residential Agreements of Sale; Creditor / debtors and consumer rights; Property damage and subrogation claims; Legal Fee Disputes and Breach of Contract claims with a wide range in amounts in dispute.

Representative Construction Mediation Cases:

Multi-party School District Mediations. Amounts in controversy: \$533,000.00 to \$2,400,000.00. Key issues concerned alleged construction defect and performance issues concerning flooring, haunches, site work; design defects; additional cost entitlement and delay claims.

Construction Defect Claims: Multi and Dual-Party Mediations ranging from \$350,000.00 to \$2,400,000.00 Representative construction defects alleged involved: Roofing and flashing, Stucco / EIFS, Water intrusion issues, HVAC design and performance, Structural steel issues, Solar panels, Flooring Issues, Electrical issues, Caissons and foundations, Post-tension, Precast Concrete, Coatings and Waterproofing Issues among others.

Construction Delay Claims: Multi-party and Dual-Party Mediations from \$500,000.00 to \$1,500,000.00 in value. Both Private and Public sector.

Construction Payment Claims including Owner, Construction Manager and Subcontractor Close-out Claims both Private and Public sectors.

Multiple mediations involving the close-out of private and public multi-million-dollar projects ranging from \$ 100,000.00 to \$ 2,500,00.00 in claim value. A hands-on, detailed approach to entitlement and costs issues. Cases further involved Contractor Payment Statutes and Prompt Payment Claims. Trades involved: Drywall, HVAC, Electrical, Electrical Site Work, Flooring, Plumbing, Fire Protection, Painting, Masonry, and Site Work / Caissons and Foundations.

Residential Homeowner Claims, New construction and renovation. Several mediations ranging from \$50,000.00 - \$300,000.00 in claim value. Various construction defect and payment issues; Also involving Consumer Protection and Unfair Trade Practices Statutes.

Architectural Design and Engineering Disputes. Several mediations involving Glass and glazing, Structural steel issues, Flooring issues,
Residential Real Estate Disputes. Ranging from \$25,000.00 to \$350,000.00; Failure to disclose and deposit return matters. Some also involved Specific Performance or Recession issues.

In addition to practice in Alternative Dispute Resolution as a Mediator and Arbitrator, also acts as an Independent Construction Project Neutral facilitating resolution to claims and disputes in real time as the Project continues and has a law practice focusing on construction issues.

Mediation Panel Experience:

American Arbitration Association: Mediator. Primarily construction related disputes on cost entitlement, payment, and construction performance and construction defect matters.

New Jersey Superior Court: Mediator. Various disputes involving commercial, construction, real estate, consumer and personal injury cases.

Philadelphia Court of Common Pleas, Judge pro tem for Mortgage Foreclosure Diversion Program
Chester County Bar Association Court Annexed Mediation Program: Mediator. Various disputes involving construction defects, property damage, commercial, personal injury matters and legal fee disputes.

Chester County Bar Association Fee Dispute Program: Mediator & Arbitrator. Legal fee disputes between clients and counsel.

Delaware County and Pennsylvania Bar Association Legal Fee Dispute Panel.

Representative Issues Handled as a Mediator

The primary focus of Construction Mediation practice is based on extensive experience in the construction industry, understanding the underlying business concerns and applying pragmatic approaches to resolving disputes. Literally, experience is from the ground up with such activities such as contract administration and negotiation, project management, blueprint reading, submittal review, estimating, bid preparation, claim preparation as well as in the field with on-site management, safety issues, close-out, warranty and punch-list activities.

Began as a generalist in a small construction firm then went on to become a Cost Engineer, learned the practical skills of estimating and evaluating costs for change orders and other claims providing a foundation of experience for analysis, negotiation and resolution of change orders and a wide variety of claims. As a mediator and in-house counsel, participated in mediations involving construction matters such as Cost Entitlement and Value, Delay Damages, Acceleration and other Scheduling claims (Excusable delay, Concurrent delay, Force Majeure); Building Information Modeling ("BIM") and Coordination issues, Professional Liability, Design Defect / Design Deficiency, Construction Defect - both residential and commercial cases, Other Business disputes and Breach of Contract cases. The subject matter of some of the claims have involved Mechanical, Electrical, HVAC, Plumbing, Stucco, Sitework and other general construction matters. The projects have included hospital projects, core and shell construction of office buildings, apartment buildings and condominiums, Renovations and fit-outs as well as new core and shell construction.

Also has experience with mediation matters involving Real Estate Transactions (Failure to Disclose, Return of Escrow Issues, New construction Defect and Warranty Claims); Breach of Contract; Personal Injury; Landlord - Tenant, Debt Collection, Mortgage Foreclosure, General Commercial Disputes.

Mediator Style & Process Preferences

Participants in mediation come into the process with conflicting perspectives and it is the role as the mediator to establish pathways of communication within a supportive decision-making environment that allows for a mutually agreeable resolution to take place. As each mediation is unique, Ms. Gilsdorf addresses the viewpoint of all participants as the means by which the puzzle pieces of

resolution are identified, arranged and solved. Unlike litigation or arbitration, the participants maintain control over the outcome of the mediation. Through facilitation and at the appropriate times, evaluation, provided by the mediator, the participants have the opportunity to assess and to balance intrinsic values and needs with the extrinsic cost impacts. Mediation is a collaborative process with the potential of achieving mutually beneficial results since the decision-making process rests with those involved, not the mediator, an arbitrator or a judge.

As a mediator, Ms. Gilsdorf creates a confidential and supportive environment, where roadblocks can be transformed into avenues leading to settlement. Confidentiality, candor, creativity and integrity are the cornerstones of this environment. Through identifying and understanding the positions of each participant in context of their needs, goals, objectives and motivations, facilitative and evaluative processes initiate communication, enabling the exploration of various potential approaches to resolution, directly with one another or through my role as the mediator. With the exchange of meaningful and relevant information in a respectful and constructive environment, analysis is promoted, not only of the substance of the dispute itself at an objective level, but also of the transactional costs in terms of time, expense and emotional impact at a more subjective level. Through this approach, Mediation provides the opportunity to identify and narrow the issues, as well as achieve overall resolution, and is a valuable exercise at any stage of the dispute. Through the process, the participants can consider, analyze and evaluate positions and open their perspective to consider creative solutions. Mediation provides the participants an opportunity to choose the outcome.

Various formats such as joint sessions, party sessions and break-out sessions focusing on the key issues and individuals involved can be utilized to address the unique circumstances of each matter depending upon the needs of the parties and the circumstances and relationship involved. Ms. Gilsdorf uses a blend of both facilitative and evaluative approaches.

Technology Proficiency

Versatile in conducting virtual mediations and arbitration sessions using Zoom, Go To Meeting, and Microsoft Teams software as well as others.

Comfortable utilizing main hearing /session rooms, caucus rooms and waiting rooms with remote participants. Conducted completely virtual proceedings as well as hybrid proceedings where some witnesses appear virtually in an otherwise in-person proceeding.

Developed customized Online Mediation and Arbitration Guidelines.

Ability to manage secure ftp websites/cloud sites for document exchange and exhibits for use in hearing utilizing Cybersecurity protections.

Experience with managing and directing ESI discovery.

Able to utilize Artificial Intelligence tools and evaluative software in assessing claims.

Education

Villanova School of Law (JD-1989); University of Delaware (BFA, cum laude-1980); Widener University Paralegal Studies (Certificate-1980).

Professional Licenses

Admitted to the Bar: Pennsylvania (1989), New Jersey (1989); U.S. District Court: Eastern District of Pennsylvania (1990); U.S. Court of Appeals, Third Circuit (1990), District of Columbia (1991); U.S. Court of Claims (1991).

Professional Associations

American Bar Association (Section on Dispute Resolution and Forum Committee on Construction Industry Member); Pennsylvania Bar Association (Dispute Resolution Committee Member); Delaware County Bar Association (Women in the Law Section Member, Real Estate Section Member); Chester County Bar Association (ADR Committee Member, Construction Law Committee Member); Pennsylvania Council of Mediators; Guy deFuria Inn of Court (Delaware County); President 2022-2023.

Recent Publications & Speaking Engagements

Presenter: Arbitration & Mediation: Pros and Cons of Virtual Sessions, Chester County Bar Association, September 2021

Presenter: Best Practices for Arbitrators in Expedited / Fast Track Arbitrations, AAA, December 2020

Presenter: Elements of a Residential Construction Claim, Delaware Co. Bar Assoc. Bench Bar

Conference, June 2019
 Presenter: Building Blocks of Construction Law, Delaware County Bench Bar Conference, June 2018
 Presenter: Working with Difficult People as a Neutral, AAA In-house Training, Johnson, RI, April 2018
 Presenter: Steps in drafting an Award, AAA In-house Training, Johnson, RI, April 2018
 Presenter: Obligations of Mediators Working with Persons with Disabilities, Chester County Bar Association, West Chester, PA October 2017
 Presenter: Delving into the Details of a Guaranteed Maximum Price Agreement, PBI Real Estate Institute, December 2016
 Presenter: Mediating Disputes in Different Contexts, Chester County Bar Association, ADR Section, October 2016
 Presenter: Real Estate Transactions with Absent Parties, Suburban West Realtors Association, February 2016
 Presenter: Construction Manager As Adviser and At Risk - A Comparison of Construction Management Project Delivery Systems and Their Relevant Contract Terms, 19th Annual PBI Real Estate Institute, Philadelphia, PA, December 2015.
 Presenter: Building a Construction Contract; Delaware County Bar Association, Real Estate Section, May, 2015
 Presenter: A Survey of Arbitration Forums, Chester County Bar Association, West Chester, PA, April 2015.

Locations Where Parties Will Not be Charged for Travel Expenses Travel within 50 miles of Philadelphia, PA at no cost.

Mediation Rate \$380 Per Hour

Languages English

Citizenship United States of America

Locale Glen Mills, PA

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.