



AAA Mediation.org™

Russell D. Cook, Esq.

Fresno, California

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Current Employer-Title Russell D. Cook, Attorney, Mediator & Arbitrator

Panelist Video <https://www.adr.org/videoresume?paramName=930303864>

Profession Mediator, Arbitrator, Attorney

Work History Russell D. Cook, Mediator and Attorney at Law, 1992 - Present; Associate, Dominic P. Mushines Inc. Attorneys at Law, 1980-1992.

Experience Over 43 years, has tried in excess of 100 civil cases to verdict or decision. During that same time, has resolved or settled over 3,000 cases while representing one of the parties to the dispute. Has participated in over 1,000 mediations on behalf of a party to the dispute, and has participated in arbitrator in over 20 matters on behalf of clients.

Experience in construction claims on behalf of owners, general contractors, subcontractors, material suppliers and lenders. Experience in both heavy road construction, as well as buildings (commercial, residential, governmental, hospitals and schools). Construction claims have dealt with construction defect, prevailing wage issues, and government contracts. Experience in real estate matters, including boundary disputes, easements, title disputes, real estate purchase and sale claims. Experienced representing buyers, sellers, brokers, agents, surveyors and developers.

Tried and litigated matters involving interference with contract claims, fraud claims, business interruption claims and elder abuse claims.

Represented over 1,000 litigants involved in personal injury claims (both plaintiff and defense). These include wrongful death and serious personal injury claims.

Represented both plaintiff and defense in the following types of employment claims: Wage and hour, including prevailing wage claims, age discrimination, sexual harassment and sexual discrimination claims.

Represented plaintiffs in a class action claims. One was on behalf of 2,000 pensioners, wherein the matter was resolved at mediation for over \$5,000,000.00.

Mediator Experience Conducted over 750 private mediations over the past 27 years. The cases that have been mediated are divergent. They include many complex construction cases, business cases, wage and hour (including prevailing wage claims), personal injury, real estate disputes, insurance coverage disputes, claims involving public agencies, inverse condemnation claims, and residential and commercial landlords. Acted as a Judge Pro Tem for the Fresno County Superior Court, conducting settlement conferences for the past 27 years. During that time, has conducted well over 100 such

settlement conferences. On the panel of mediators through the Superior Court in Fresno, Tulare and Merced Counties.

Mediated over 250 complex multi-party claims. A typical case is a construction claims that involved disputes between owner and general contractor wherein the subcontractors are included. Mediated personal injury claims wherein more than one person caused the accident. Has mediated claims where there are competing claimants, such as a wrongful death claim with multiple heirs or where there is not sufficient insurance to compensate all parties who were injured. Has mediated construction accident claims wherein multiple subcontractors are alleged to have caused the condition that led to the claim. One such claim involved a death from electrocution wherein many subcontractors were included. Has mediated estate claims wherein there are more than two competing claimants. Additionally, other real estate claims involve buyer seller disputes wherein the broker and agent are also a party to the claim. The typical multi-party claim involves issues of indemnity, insurance as well as insurance coverages.

Representative Issues Handled as a Mediator

Examples of claims mediated over the past 25 years include:

Construction Claims: construction defects, construction claims associated with subcontractors seeking additional funds for extra work, delay claims, cost overrun claims, liquidated damage claims, prompt payment claims, unlicensed contractor claims, prevailing wage claims and others.

Real Estate Claims: real estate broker negligence, real estate easement disputes, real estate boundary disputes, leasehold claims involving leasing airport facilities.

Employment Claims: sexual harassment, sexual discrimination, defamation, invasion of privacy, age discrimination claims, wage and hour claims.

Personal Injury claims: wrongful death, serious personal injuries, indemnity, insurance and joint tortfeasor claims.

Mediator Style & Process Preferences

I consider each matter to be mediated differently. The first job is to provide an environment that is comfortable, to listen carefully to each party and then tactfully address the issues in the case from the other parties perspective. Knowing that many parties start the mediation with considerable emotion, the job of the mediator is to diffuse that emotion to allow the party to deal rationally with the dispute. This often takes time and patience to accomplish. This also takes thoughtful listening to make this transition occur.

Some cases require both an evaluative approach to address the strengths and weaknesses of a case, at the same time using a facilitative approach in a private session to allow a party to express negative emotions. While construction cases typically benefit from being more evaluative, many times these same cases benefit from allowing individuals to freely express their emotions. Having been trained in both facilitative and evaluative techniques, I will use the approach that appears appropriate.

Technology Proficiency

Have conducted many mediations and arbitrations on a video platform. All mediations and arbitrations that were conducted in the 2020 through 2021 timeframe were all conducted using a video platform.

Education

San Joaquin College of Law (JD-1980); California State University, Fresno (BS-1976).

Professional Licenses

Admitted to the Bar: California (1980); U.S. District Court: Eastern District (1980), Northern District (1984), Central Districts (1999) of California; U.S. Court of Appeal: 9th Circuit (1998).

Professional Associations

California Bar Association,
American Bar Association,
Association of General Contractors,
Southern California Mediation Association,
Fresno County Bar Association,
Eastern Madera Bar Association,
Mariposa County Bar Association,
Academy Member, National Academy of Distinguished Neutrals.

Recent Publications &

Mariposa County Bar Association 5-2021 Mediating the Hatfield-McCoy Dispute.

Speaking Engagements	Eastern Madera County Bar Association 2-2015 “Pre Litigation Mediation Provisions” Association of General Contractors, Legal Advisory Committee 2-2015 “We are attending this mediation only because the contract requires it.”
Locations Where Parties Will Not be Charged for Travel Expenses	Will not charge for travel to Fresno, Madera, Merced and Mariposa Counties of California.
Mediation Rate	\$3,600 Per Day
Languages	English
Citizenship	United States of America
Locale	Fresno, CA

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.