



AAA Mediation.org™

Robert L. Ebe, Esq.

Hourly Rate	\$475
Current	Arbitrator and Mediator, Ebe Dispute Resolution, San Francisco Bay Area
Practice	18
Cases	29
Languages	English

Current Employer-Title

Arbitrator and Mediator, Ebe Dispute Resolution, San Francisco Bay Area

Work History

Partner, Cooper White & Cooper LLP, 2011-2015; Partner, Nixon Peabody LLP, 2008-11; Partner/Associate, Bingham McCutchen LLP (and predecessor McCutchen, Doyle, Brown & Enersen LLP), 1976-2008.

Experience as a Mediator

Has mediated hundreds of commercial disputes as an advocate for clients, and has mediated as a neutral for over a dozen years, both in Northern California and in forums as distant as Washington, D.C. In addition to serving on the Northern District of California federal court's mediation panel, also serves the Contra Costa County Superior Court as both a Discovery Facilitator and a Settlement Mentor. Has also been an early neutral evaluator, both ad hoc and under the CPR Mini-trial Procedure in connection with a mediation process. Representative examples of neutral mediation experience include:

Distribution and Franchise

- State court claims by pipeline flow meter supplier alleging contract breach, trade secret misappropriation and other business torts by its distributor that began competing against supplier after their contract terminated.
- Different lawsuits in federal court by petroleum dealers suing their franchisors, e.g., for failure to pay fair value for real estate after termination, and for business devastation damages from the franchisor's alleged failure to comply with a facility program resulting in closure of all of plaintiff's businesses.
- Mediator/arbitrator in an agreed evaluator/med/arb process between sophisticated parties attempting to resolve ongoing trade secret litigation.

International

- AAA ICDR international franchise claims by European supplier for contract breach, business tort and antitrust claims over U.S. distribution of torque wrenches and related tools.
- Federal court action by U.S.-based solar products vendor for payment against Italian contractor (who did not speak English) purchasing for installation in Italian utility districts, which counterclaimed for breach of warranty and failure to provide services.
- Federal court action and counterclaim for contract breach and fraud arising from investment by Russian national plaintiff (who did not speak English) in defendant's startup on-line business in U.S. to provide low cost travel.
- Federal court action by the manufacturer of a European brand of clothing suing its distributor in the western United States (a citizen of that European country) for post-termination debts, including issues such as levy against assets including a home in Europe.
- Claims by food importer/exporter for misappropriated trade secrets on laptop taken by terminated ex-employee, including customer list.
- Federal court claims by international financial consultant against European ex-client for breach of contract and misappropriated trade secrets on laptop taken to defendant by plaintiff's terminated ex-employee.

Other Business Disputes

- Trade secret and antitrust claims brought in federal court by Louisiana reseller against California manufacturer and seller of patented routers used by plaintiff in a proprietary wireless network it allegedly designed.
- Dispute pending in three federal court districts involving alleged infringement of two separate groups of patents, antitrust counterclaims, and infringement defenses including a release and covenant not to sue in prior agreement between the parties.
- Claims between ex-partners in motion picture special effects business for return of capital, misappropriated corporate opportunities and lost profits.
- Breach, fraud and other business tort claims between investors in non-California fiber optic start-up company.
- Claims by non-California finance company against advertising agency for failure to pay for leased equipment.

Representative Issues Handled as a Mediator

The issues mediated have generally included alleged breach of commercial contract of some type, and common law and statutory business tort claims for damages exceeding \$1 million, in a variety of industries, including torque wrenches, pipeline flow meters, petroleum distribution, imported meat, financing of fiber optic venture, investment in a venture for international trade in cement, U.S. distribution of European clothing, web-based stamp trading, and expert accounting services.

Years of Practice as a Mediator

18

Total Number of Cases Mediated

29

Mediation Experience as an Advocate or Party

As an advocate for clients during the past nearly 40 years, has mediated scores of cases, including many with mediators on both coasts regarded as among the most talented in the country. Representative examples include:

- * Franchisee owners suing the franchise system over multiple issues, where franchisees had varying interests some conflicting with each other;
- * System of dealers suing to block adoption of a new standard, nationwide dealership agreement, again involving dealers with varying as well as similar interests;
- * Separate mediations, at the beginning and after conclusion of an international arbitration in Ontario, Canada over termination of an agreement for U.S. distribution of vehicles custom manufactured in Asia for the U.S. market, prior to resumption of a Virginia antitrust action arising from same facts alleging conspiracy to fix prices and divide world markets.
- * Lawsuit by motor vehicle mega-dealer to preclude manufacturer's exercise of its right of first refusal to take over and assign a buy/sell agreement -- between the dealer, as seller, and his buyer -- to an Africa-American sports hero alleged to be the beneficiary of illegal reverse discrimination, as well as contract and business tort claims.
- * Lawsuit against an east coast startup franchisor of a mini-golf course concept and one of its franchisees alleging federal trademark infringement and unfair competition case brought by a company in a wholly different line of business using a similar name, claiming that its various trademarks were being infringed.
- * Lawsuit against major university's medical school, dean and chair of a department that allegedly failed wrongly to promote a lesbian member of the school's faculty for reason of her sexual orientation, as well as allegations of slander and defamation and other business torts.

Mediation Philosophy

Mediation is a valuable tool for resolving otherwise costly disputes.

I trust parties to participate in good faith. Informed decision-makers with realistic authority should attend, and they should be willing to listen to the other side.

Mediators should try to achieve settlement through facilitation. But I also believe most parties to complex commercial litigation want their mediator to be prepared with an evaluation of the case, and to share it honestly as seems appropriate and constructive during the process.

There are few disputes which antagonistic parties cannot resolve in this way.

Mediation References

Jon Graham, jonathan.graham@danaher.com, (202) 828-0850; Robin Siefkin, RWSiefkin@att.net, 925-786-0546; Alexander Volchegursky, Alex@gelawgroup.com, 415-392-2560; Steven C. Finley, sfinley@finleylaw.biz, 415-296-0111; Paul Kelley, pkelley@kelleysemmel.com, (323) 592-3450; Rodrigo Salas, res@dillinghammurphy.com, (415) 397-2700.

Alternative Dispute Resolution Training

ACE 20 - Cyber Security: A Shared Responsibility, 2019; AAA ACE 19 Case Finances: What Arbitrators Need to Know, 2019; AAA Arbitrator Performance and Demeanor - Meeting Participant Expectations (ACE018), 2018; AAA Impasse: Mediating in the Red Zone, 2017; AAA Dealing With the Pro Se Party in Mediation and Arbitration, 2016; AAA Mediation Legal Update, 2015; AAA Roundtable - Arbitration Panels, 2015; AAA Panel Dynamics: Staying On Course When Things Don't Go As Planned, 2015; Has been a faculty trainer of both basic and advanced topics for the AAA, in addition to taking regularly all AAA required training programs, and frequently attending other optional ADR training and continuing education. Has written and spoken extensively on a variety of ADR topics. Graduated from each of the following three multi-day mediator training programs: CPR; Pepperdine Law School Straus Institute for Dispute Resolution; and the Northern District of California federal court select mediation neutral panel training.

Professional Licenses

Admitted to the Bar: California, 1976 (was certified specialist in Franchise and Distribution Law from 2009 to 2019); U.S Court of Appeals: Ninth and Federal Circuits; U.S. District Courts: Northern, Central and Southern Districts of California; U.S. Supreme Court.

Professional Associations

Member, California State Bar select Alternative Dispute Resolution Committee (2013-2016); Commissioner, California State Bar Franchise and Distribution Law Advisory Commission (2010-2013); Past Co-Chair, Franchise Law Committee, Business Law Section, California State Bar; Past Member, Executive Committee, Business Law Section, California State Bar Member; ABA Franchise Forum; Contra Costa County Bar Association ADR Committee

Education

DePauw University (BA, with distinction-1973); University of Chicago (JD, cum laude, Order of the Coif, Associate Editor of Law Review-1976).

Awards and Honors

Member, The Mediation Society of San Francisco
Super Lawyer in Business Litigation (2007 - 2014) and in Alternative Dispute Resolution (2015-2019), selected by Law and Politics and San Francisco magazines
The Best Lawyers in America, Franchise Law, selected by peers for inclusion: 2008 - 2020
International Who's Who of Franchise Lawyers, 2010-2017
Fellow, Litigation Counsel of America, Trial Lawyer Honorary Society
Legal Services for Children, Pro Bono Advocate Award: 2008, 2009, and 2011
California Trout, Inc.: President's "Streamkeeper" Award

Publications and Speaking Engagements

Has written and spoken extensively on a variety of ADR topics.

PUBLICATIONS: "Results and Observations: How a Multistep Med-Arb Produced a Fast(er) Settlement," (Part 2 of 2), ALTERNATIVES Newsletter (International Institute for Conflict Prevention & Resolution), Vol. 29, No. 4, April 2011; "A Different Approach to Conducting Med-Arb In Complex Commercial Litigation Matters" (Part 1 of 2), ALTERNATIVES (International Institute for Conflict Prevention & Resolution), Vol. 29, No. 3, March 2011; "New Arbitration Ordinance Issued in Hong Kong Attracts Attention From International Arbitration Community," Asia Pacific Alert, December 15, 2010; "Fundamentals Of Arbitrating Before CIETAC," Contract Law and International Trade Law, LAW 360, September 9, 2009; co-author, "Radisson and the Potential Demise of the Sealy-Barnes-Hinton Rule," FRANCHISE LAW JOURNAL 3, vol. 27, no. 1, Summer 2007; co-author, "Making U.S. Courts Accept Foreign Arbitration," INTERNATIONAL FINANCIAL LAW REVIEW, September 2005; "The Nuts and Bolts of

Arbitration," FRANCHISE LAW JOURNAL 85, vol. 22, no. 2, Fall 2002; past contributing editor in business litigation, BUSINESS LAW REPORTER; past contributor, OF INTEREST, ABA Antitrust Section, Franchise and Dealership Committee.

SPEAKING ENGAGEMENTS: "Collaborating on Mediations and Arbitrations: Some Lessons Learned From the Field," co-presented with Wm. C. Norman on March 30, 2012 to LAW (Lawyers Associated Worldwide) 2012 Americas Regional Meeting in San Francisco, CA; "E-Discovery, and Choosing an Arbitrator, in International Arbitration," presentation at program sponsored by Yulchon firm, Seoul, Korea, October 2009; "International Arbitration," Nixon Peabody CLE program, January 2009; "Ownership, Protection and Use of Customer Data - Yours, Mine or Ours?," ABA Franchise Forum, October 2007; "Drafting International Arbitration Clauses," Primer on International Commercial Arbitration and Mediation, California State Bar Annual Meeting, October 2002; "Franchising and Distribution in the Automotive Industry," ABA Franchise Forum, October 1999; "Hot Topics in Franchise Litigation," California State Bar Annual Meetings, 1995 and 1996.

Compensation

\$475 Per Hour

Languages

English

Citizenship

United States of America

Locale

Lafayette, CA

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.