

LEE HORNBERGER
ARBITRATOR AND MEDIATOR
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Profession

Arbitrator, Mediator, Hearing Officer

Education

1966, A.B., The University of Michigan.
1968, J.D. *cum laude*, The University of Michigan Law School.
1982, LL.M. in Labor Law, Wayne State University Law School.

Bar Admissions

1969, Michigan.
1980, Ohio (inactive).

Court Admissions

1998, U.S. Supreme Court.
1970, U.S. Court of Military Appeals.
2003, U.S. Court of Appeals, Federal Circuit.
1973, U.S. Court of Appeals, Sixth Circuit.
1971, U.S. District Court, Northern District of Ohio.
1973, U.S. District Court, Western District of Michigan.
1978, U.S. District Court, Eastern District of Michigan.
1982, U.S. District Court, Eastern District of Kentucky.
1982, U.S. District Court, Southern District of Ohio.

Work History

2007-present, Arbitrator, Mediator, and Hearing Officer, Traverse City, Michigan.
1982-07, Labor and Employment Attorney, Self-employed, Cincinnati, Ohio, and Traverse City, Michigan.
1979-82, Labor Attorney, The Kroger Co., Cincinnati, Ohio.
1974-79, Attorney at Dyer, Meek, Ruesegger & Bullard, Detroit, Michigan.
1971-74, Attorney, Office of the Solicitor, U.S. Department of Labor, Cleveland, Ohio.
1969-71, Officer, Military Police Corps, U.S. Army; Fort Gordon, Georgia; Indiantown Gap Military Reservation, Pennsylvania; and DaNang, Republic of Vietnam.

Distinctions

Peer Review Rated AV in *Martindale-Hubbell*.

2017, The Best Lawyers of America 2018 for his work in arbitration.

2017, Albert Nelson Marquis Lifetime Achievement Award.

2017, The National Academy of Distinguished Neutrals.

2016 and 2017, Michigan Super Lawyers lists in alternative dispute resolution.

2015, Hero of ADR Award, SBM ADR Section.

2014, George N. Bashara, Jr. Award, SBM ADR Section.

2009, Pinnacle Award, Conflict Resolution Services.

2009, Certificate of Appreciation, Community Mediation Services.

2009, Northern Michigan's A-List of Attorneys, *Traverse Magazine*.

1995, "The Verdict: Town's Top Attorneys." *Cincinnati Magazine*.

1970-71, While with U.S. Army in Vietnam awarded Bronze Star Medal, Army Commendation Medals, and Vietnam Service Medal with two bronze service stars; unit awarded Meritorious Unit Commendation and Vietnam Gallantry Cross with Palm Unit Citation Medal.

1968, American Jurisprudence Award in Restitution.

Memberships and Affiliations

State Bar of Michigan.

Chair, ADR Section (2017-).

Chair-Elect, ADR Section (2016-2017)

Representative Assembly (2010-2016).

Member Labor and Employment Law; Family Law; American Indian Law; and General Practice Sections.

Editor, *The Michigan Dispute Resolution Journal*.

Grand Traverse-Leelanau-Antrim Bar Association.

President (2007-2008).

Chair, ADR Committee (2012-2017).

National Academy of Distinguished Neutrals.

Professional Resolution Experts of Michigan.

Grand Traverse County Board of Canvassers (2007-2016).

Chair, Traverse City Human Rights Commission (2015-2016).

Arbitrator with FMCS, FINRA, Forum, MERC, NFA, and NMB.

Experience

Arbitrator, hearing officer, and mediator experience. 35 years+ labor and employment law experience representing government, individuals, labor organizations and management, including grievance arbitration and contract implementation. Speaks and writes on ADR issues. Editor, *The Michigan Dispute Resolution Journal*. Former President of Grand Traverse-Leelanau-Antrim Bar Association; Hearing Officer, Grand Traverse Band of Ottawa and Chippewa Indians; Little Traverse Bay Bands of Odawa Indians Hearing Officer list; Hearing Referee, Michigan Civil Rights Commission; former member of Grand Traverse County Board of Canvassers; and former Chair of Traverse City Human Rights Commission. Former adjunct professor Salmon P. Chase College of Law, labor law and school law, and University of Cincinnati, administrative law and civil rights law. Author, "Alternative Dispute Resolution Theme Introduction," *Michigan Bar Journal* (June

2015). Co-author, "Settlement Agreements For Employment Termination Cases (With Sample Clauses And Forms)," *Practical Litigator* (March 2010). Author, "Employment Discrimination Law in Michigan," *Michigan Bar Journal* (September 2003).

Alternative Dispute Resolution Experience

The National Academy of Distinguished Neutrals. Professional Resolution Experts of Michigan (PREMi). Arbitrator with AAA, FINRA, FMCS, MERC, NAF, NFA, and NMB. Former Hearing Referee, Michigan Civil Rights Commission. Mediator with Michigan Circuit Courts and AAA. Hearing Officer, Grand Traverse Band of Ottawa and Chippewa Indians; Little Traverse Bay Bands of Odawa Indians Hearing Officer list; Arbitrator Hamilton County Common Pleas Court (Ohio) 1985 to 2002, and volunteer mediator 1998 to 1999. Disputes mediated include administrative, age discrimination, assault and battery, bailment, business dissolution, buy-sell, collection, compensation, condominium, construction, conversion, custody, deposit, disability, dog- bite, entertainment, equal pay, False Claims Act, foreclosure, fraud, insurance, invasion of privacy, land contract, landlord-tenant, landscaping, legal malpractice, logging, mechanic's lien, medical malpractice, Michigan Consumer Protection Act, mold, national origin discrimination, no-fault, nuisance, over payment, parenting time, personal injury, pregnancy discrimination, probate, property division, public body, real estate, receivership, religious discrimination, restitution, retaliation, sex discrimination, sexual harassment, shareholder rights, sovereign immunity, time-share, tortious interference, trade secret, transportation, trespass, tribal, Truth in Lending Act, and veterinary services. Disputes arbitrated include arbitrability, attendance, attorney fees, collection, commercial, commissions, compensation, construction, constructive discharge, Consumer Protection Act, contract, corporation, discharge, disobedience, discrimination, employment, expungement, Fair Credit Billing Act, forum selection, fraud, internet, medical leave, Michigan Uniform Securities Act, non-compete, performance, personal injury, promissory estoppel, retaliation, Securities Exchange Act, suspension, Wage and Fringe Benefits Act, and warranty cases.

Published Awards

137 LA 231 (2017), 134 LA 1108 (2015), 133 LA 1324 (2014), 133 LA 1277 (2014), 133 LA 41 (2014), 132 LA 1798 (2014), 132 LA 1242 (2013), 132 LA 1089 (2013), 131 LA 1401 (2013), 131 LA 945 (2013), 131 LA 415 (2012), 130 LA 1363 (2012), 129 LA 300 (2011), 128 LA 749 (2010).

Issues Arbitrated

Absenteeism, age discrimination, arbitrability, attendance, back pay, bargaining unit work, constructive discharge, contract interpretation/application, demotion, discipline (discharge), discipline (non-discharge), discrimination, disobedience, drug/alcohol offenses, FMLA, fringe benefits, grievance mediation, holiday pay, job performance, job posting/bidding, last chance agreement, layoffs/bumping/recall, management rights, medical leave, mentoring, non-compete, overtime, pension, past practices, performance, promotion, retaliation, retirement, seniority/ability, sexual harassment, social media, suspension, technology, vacation, violence or threats, wages, and working conditions/work orders.

Industries Arbitrated

Bakery, broadcasting, building products, canning, casino, communications, education, federal sector, food, gas and electric, government, health care, hospital, hotels/motels/casinos/resorts, manufacturing, meat packing, metal fabrication, mining, Native American, nursing home, prison guard, securities, service industries, public sector (police/fire, education, transit), transportation.

Alternative Dispute Resolution Training

SBM ADR Section Annual Meeting, 2017; The National Academy of Distinguished Neutrals 2017 Advanced Mediation Training; AAA Motion Practice Under AAA Rules, 2017; SBM ADR Section Annual Meeting, 2016; AAA Protecting Your Award from Appellate Challenge, 2016; ABA and FINRA Utilizing Mediation to Navigate Perils of Electronic Discovery in Arbitration, 2016; How to Increase Your Chances of Reaching Successful Mediation Settlement Agreement, 2016; SBM ADR Section Annual Meeting, 2015; FMCS and NAA 2015 Arbitrator and Advocate Symposium; SBM ADR Section ADR Summit, 2015, 2016, and 2017; AAA Labor Arbitrator Best Practices: What You Can Do to Raise Your Game 2015; AAA The Labor Arbitration Advocate's Views of Remedies, 2014; AAA Is that Really a Direct Order? Tough Challenges with Insubordination Issues, 2014; AAA Recent Trends in Challenging Arbitrator Authority, 2014; AAA Dishonesty in Workplace- Conundrums for Advocates and Arbitrators, 2013; SBM ADR Section, Advanced Mediation Training, 2015 and 2013; AAA Disclosure, Vacatur, Sanctions, and Arbitrator Authority, 2013; AAA Last Chance Agreements, 2012; NCM Advanced Mediator, 2012; AAA How to Become a More Innovative Neutral or Advocate: Applying Cutting Edge Innovation Management Techniques to Your ADR Practice, 2012; MERC Fact Finder and 312 Arbitrator, 2011; AAA Due Process Dilemmas: How Far to Go in the Name of Fairness, 2011; US DC WD Michigan, Advanced Mediator, 2012, 2011, 2010, 2008, 2007; NFA Arbitrator, 2009; NFA Pre-Hearing, 2009; NCM Advanced Mediator, 2009; AAA Arbitration Roadmap: Efficient and Cost Effective Arbitration, 2008; AAA Ensuring Clients' Interests are Addressed in Mediation, 2008; ICLE Arbitration, 2008; ICLE Collaborative Law, 2008; AAA Labor Arbitrator II: Advanced Case Management, 2007; NAA Due Process, 2007; AAA Labor Arbitrator I, 2006; AAA Managing Cases Involving Pro Se Parties, 2006; FMCS Labor Arbitrator, 2006; NYSE Arbitrator, 2006; Domestic Relations Mediation, 2005; Domestic Violence Protocol, 2005; AAA Safeguarding, Deciding & Writing Awards, 2005; Pepperdine Law School, Straus Dispute Resolution Institute, Handling Difficult Employment, Malpractice and PI Cases, 2005; AAA Employment Arbitrator II: Advanced Case Management, 2004; AAA Arbitrator I-Fundamentals of Arbitration Process, 2004; ICLE Advanced ADR, 2004; CRS Agreement Drafting, 2004; ICLE Advanced Mediation, 2003; NASD Arbitrator, 2003; CRS Court Mediator, 2003; CRS Confidentiality, 2003; Advanced Mediator, 2003; CRS Ethics, 2003; ICLE Advanced ADR, 2003; ICLE Mediation, 2002; Hamilton County, Ohio, Mediator; Collaborative Law; NASD Duty to Disclose; NASD Expungement.

Publications

“Michigan Supreme Court 2016 Decisions About Arbitration,” LABOR AND EMPLOYMENT LAWNOTES, Summer 2017.

“Review of Michigan Supreme Court 2016 Decisions Concerning Arbitration,” THE LITIGATION JOURNAL, Winter 2017.

"Mediator-Arbitrator Conduct After Arbitration and Mediation," MICHIGAN FAMILY LAW JOURNAL, March 2017.

"Due Process Protocol," THE MICHIGAN DISPUTE RESOLUTION JOURNAL, April 2017.

"Due Process Protocol" THE GENERAL PRACTITIONER, Jan/Feb 2017.

"Mediation the Answer for Contentious Issues" TRAVERSE CITY RECORD-EAGLE, Oct 2, 2016.

"Effective Use of Mediation" LABOR AND EMPLOYMENT LAWNOTES, Winter 2015.

"Michigan Family Law ADR Update" MICHIGAN FAMILY LAW JOURNAL, Nov 2014.

"Michigan ADR Case Law Update" ADR QUARTERLY, July, 2014.

"Pre-Award Suit Concerning Arbitrator Selection" GENERAL PRACTITIONER, March 2014.

"Arbitration or Mediation" TRAVERSE CITY BUSINESS NEWS, Dec 2013.

"Nassar But-For Decision" GENERAL PRACTITIONER, Sep 2013.

"ADR Update" LABOR AND EMPLOYMENT LAWNOTES, Fall 2012.

"Mediation Law Update" GTLA NEWSLETTER, Summer 2012.

"Case Evaluation" GENERAL PRACTITIONER, Sep 2012.

"Supreme Court Ministerial Exemption Decision" GENERAL PRACTITIONER, March 2012.

"Staub Decision," GENERAL PRACTITIONER, Sep 2011.

"ADR Update" LABOR AND EMPLOYMENT LAWNOTES, Summer 2011.

"Vietnam Labor Code Leave Provisions" LABOR AND EMPLOYMENT LAWNOTES, Winter 2011.

"ADR Law" LABOR AND EMPLOYMENT LAWNOTES, Spring 2010.

Co-author, "Employment Settlement Agreements" PRACTICAL LITIGATOR, March 2010.

"ADR Law" LABOR AND EMPLOYMENT LAWNOTES, Fall 2009.

"Gross Age Discrimination Decision" GTLA NEWSLETTER, Fall 2009.

"Case Evaluation" GTLA NEWSLETTER, Summer 2009.

"Crawford Retaliation Decision" GTLA NEWSLETTER, Spring 2009.

Contributor, DRAFTING EMPLOYMENT AGREEMENTS AND POLICIES, ALI-ABA, 2008.

"Due Process Protocol" LABOR AND EMPLOYMENT LAWNOTES, Fall 2007.

"Arbitration and Mediation" CHAMBER NEWS, April 2007.

"Mediation for General Practitioner" GENERAL PRACTITIONER, Nov 2006.

"Mediation Preparation" MICHIGAN LAWYERS WEEKLY, Sep 4, 2006.

"Mediation Reflections" ADR NEWSLETTER, Aug 2006.

"Unemployment Compensation Settlements" LABOR AND EMPLOYMENT LAWNOTES, Spring 2006.

"Police-Fire Arbitration" MICHIGAN LAWYERS WEEKLY, March 6, 2006.

Co-author, "Settlement Agreements (Part II)," LABOR AND EMPLOYMENT LAWNOTES, Winter 2006.

Co-author, "Settlement Agreements (Part I)" LABOR AND EMPLOYMENT LAWNOTES, Fall 2005.

Co-author, "HIPAA in Mediation" ADR NEWSLETTER, Oct 2005.

"Promissory Estoppel" MICHIGAN LAWYERS WEEKLY, March 21, 2005.

"Pre-Dispute ADR" ADR NEWSLETTER, Feb 2005.

"Employment Discrimination Law" MICHIGAN BAR JOURNAL, Sep 2003.

"Civility and Ethics" LABOR AND EMPLOYMENT LAWNOTES, Summer 2003.

"Dealing With EEOC" NORTHWEST MICHIGAN BUSINESS NEWS, April 2003.

"Disability Discrimination Law" MICHIGAN LAWYERS WEEKLY, Nov 18, 2002.

"Unemployment Compensation Law" BUSINESS COURIER, Oct 20, 2000.

Co-author, "Age Discrimination" OHIO TRIAL, Winter 1999.

"Sexual Harassment" OHIO SCHOOL LAW JOURNAL, July 1991.
"Age Discrimination" 1989 DETROIT COLLEGE OF LAW REVIEW 667, 1989.
"Wrongful Discharge Decisions" 15 NORTHERN KENTUCKY LAW REVIEW 303, 1988.
"When Contractor Can Become Primary Employer" 12 CAPITAL UNIVERSITY LAW REVIEW 195, 1982.
"Occupational Safety and Health Act" 21 CLEVELAND STATE LAW REVIEW 1, 1972.
"Title I of Landrum-Griffin Act" 6 IDAHO LAW REVIEW 77, 1969.

Speaking Engagements

"Drafting Enforceable Mediated Settlement Agreements," Family Mediation Council of Michigan, Plymouth, Michigan, 2017.
"Representing Clients in Mediation," SBM ADR Section, Grand Rapids, Michigan, 2017.
"ADR Law Update," ICLE Family Law Institute, Plymouth, Michigan, 2016.
"ADR Law Update," SBM ADR Section Annual Conference, 2015 (Traverse City); 2016 (Grand Rapids); and 2017 (Plymouth).
"ADR Law Update," Professional Resolution Experts of Michigan, Northwestern Michigan College, Traverse City, Michigan, 2016.
"ADR Law Update," SBM Solo and Small Firm Section and SBM ADR Section, University of Detroit Mercy School of Law, Detroit, Michigan, 2016.
"ADR Law Update," SBM Family Law Section Mid-Winter Conference, Puerto Rico, 2015.
"Mediator Ethics," GTLA Bar Association, 2015.
"How Judges Treat Mediated Agreements," CRS, 2012.
"Ethics," Community Mediation Services, Gaylord, Michigan, 2010.
"ADR," GTLA Bar Association, 2007, 2008, and 2009.
"ADR," Northwestern Michigan College and Traverse City Area Chamber of Commerce, 2007.
"Mediating Employment, Malpractice, and PI Cases," GTLA Bar Association, 2005.
"Settlement Agreements" ICLE LEL Institute, 2005.
"Discrimination Law," Lorman, 2005.
"Non- Compete Covenants," GTLA Bar Association, 2004.
"Disability Discrimination Law," Lorman, 2004.
"Privacy Law," GTLA Bar Association, 2004.
"Toussaint," ICLE LEL Institute, Troy, Michigan, 2004.
Commentator, "ADA and FMLA Update," ICLE, Traverse City, Michigan, 2004.
"Employment Discrimination Law," Lorman, Traverse City, Michigan, 2003.
"Ethics, Etiquette, and Ego in the Practice of Law," Vail, Colorado, 2003.
"Ethics," National Business Institute, Cincinnati, Ohio, 2002.
"Disability Discrimination Law," GTLA Bar Association, 2002.
"Affirmative Action," Cincinnati Bar Association, 2002.
"Ethical Issues," Cincinnati Bar Association, 2002.
"Wrongful Discharge," National Business Institute, Cincinnati, Ohio, 2002.
"Ethics," National Business Institute, Cincinnati, Ohio, 2001.
"Employee Discipline: Hot Topics in School Law," Lorman, Cincinnati, Ohio, 2001.
"Sovereign Immunity," National Business Institute, Cincinnati, Ohio, 2001.
"Employment Laws," National Business Institute, Cincinnati, Ohio, 2001.
"New Federalism," Civil Rights Seminar, Cincinnati Bar Association, 2001.
"Ethics," National Business Institute, Cincinnati, Ohio, 2001.
"Ethics," National Business Institute, Cincinnati, Ohio, 2000.

“Law Office Management,” Cincinnati Bar Association, Cincinnati, Ohio, 2000.
“Small Firm Practice,” University of Cincinnati College of Law, Cincinnati, Ohio, 2000.
“Employee Discipline,” Lorman, Cincinnati, Ohio, 2000.
“Sovereign Immunity,” Jamaica, 1999.
“Employee Handbooks,” National Business Institute, Cincinnati, Ohio, 1999.
“Computer Discovery,” Cincinnati Bar Association, Cincinnati, Ohio, 1999.
“Supreme Court Decisions,” Cincinnati Bar Association, Cincinnati, Ohio, 1999.
“Employee Discipline,” Lorman, Cincinnati, Ohio, 1999.
“Civil Rights,” Cincinnati Bar Association, Cincinnati, Ohio, 1999.
“Americans with Disabilities Act,” ADD Council, Cincinnati, Ohio, 1998.
“Americans with Disabilities Act,” Sixth Biennial Employment Law Institute, University of Kentucky College of Law, Lexington, Kentucky, 1998.
“Civil Rights Cases,” Cincinnati Bar Association, Cincinnati, Ohio, 1998.
“Americans with Disabilities Act,” AJOA, 1997.
“Law Office Practice,” Cincinnati Bar Association, Cincinnati, Ohio, 1997.
“Employee Discipline,” Lorman, Cincinnati, Ohio, 1997.
“Ethics,” Cincinnati Bar Association, Cincinnati, Ohio, 1996.
“Ethics and Professional Responsibility,” Fifth Biennial Employment Law Institute, University of Kentucky Law School, Lexington, Kentucky, 1996.
“Employment Law,” Salmon P. Chase College of Law, Highland Heights, Kentucky, 1996.
“School Law,” Salmon P. Chase College of Law, Highland Heights, Kentucky, 1996.
“Recent Legislation,” Cincinnati Bar Association,” Cincinnati, Ohio, 1995.
“Mediation,” Las Vegas, Nevada, 1995.
“Mock Sexual Harassment Trial,” Cincinnati Bar Association, Cincinnati, Ohio, 1995.
“Sexual Harassment,” Cincinnati Bar Association, Cincinnati, Ohio, 1995.
“Employment Discrimination,” NEH, Cincinnati, Ohio, 1994.
“Sexual Harassment,” National Education Network, Cincinnati, Ohio, 1994.
“Statutes of Limitation,” Cincinnati Bar Association, Cincinnati, Ohio, 1994.
“Civil Rights Act of 1991,” National Education Network, Cincinnati, Ohio, 1993.
“School Law,” Ohio Education Association, 1992.
“Civil Rights Act of 1991,” Cincinnati Bar Association, Cincinnati, Ohio, 1992.
“Civil Rights Act of 1991,” Cincinnati Bar Association, Cincinnati, Ohio, 1991.
“Examination of Witnesses,” Cape Cod, Massachusetts, 1991.
“Sexual Harassment,” Ohio State Bar Association, Cincinnati, Ohio, 1991.
“Americans with Disabilities Act,” Cincinnati Bar Association, Cincinnati, Ohio, 1991.
“Expungement Law,” Cincinnati Bar Association, Cincinnati, Ohio, 1991.
“Fee Agreements in Employment Cases,” Tahoe, California, 1990.