



Joseph A. Happe

Joe Happe Mediation/Davis Brown Law Firm

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MEDIATION EXPERIENCE

Cases mediated have included district court cases of all kinds: personal injury, products liability, and fire cause and origin cases. Joe has mediated commercial matters, employment, real estate, medical malpractice, legal malpractice and accounting malpractice cases. With his background in construction litigation, he has mediated all types of construction related cases. He has a very active workers' compensation mediation practice.

MEDIATION STATEMENT

The parties to a mediation don't want a mere messenger, they want a mediator with a plan. Developing a settlement plan takes subject-matter experience and with over 33 years of litigation experience, Joe has the background and knowledge to come up with a flexible, active and aggressive plan to settle your case.

LITIGATION EXPERIENCE

Civil litigation and trial practice including multiple civil jury trials, multiple bench trials, multiple arbitration hearings before the Division of Workers' Compensation.

Practice areas: personal injury, construction litigation, contract disputes, premises liability, dram shop liability, employment law, products liability, workers' compensation, insurance coverage litigation, asbestos/multi district litigation, professional liability (engineers, architects, doctors of veterinary medicine), medical devices, and general legal counsel.

MARTINDALE HUBBELL RATING

AV Peer Review Rated, AV[®] Preeminent[™] rated by Martindale-Hubbell. (The AV certification mark is a rating from a lawyer's peers ranking him or her at the highest level of professional excellence. A lawyer must be admitted to the bar for 10 years or more to receive an AV-rating.)

PROFESSIONAL RECOGNITION

- Member, Iowa Academy of Trial Lawyers, whose membership is limited to 250 attorneys who have displayed exceptional skills and the highest integrity.
- *The Best Lawyers in America*[®], Litigation - Insurance. Joe has been ranked since 2015.
- 2017 *Great Plains Super Lawyers*, Civil Litigation: Defense
- 2015 President's Award recipient from the Iowa Defense Counsel Association
- Fellow, American Bar Foundation
- Fellow, Iowa State Bar Foundation

MEMBERSHIPS

- The National Academy of Distinguished Neutrals (www.nadn.org/joseph-happe)
- American Academy of ADR Attorneys (Board Certified*)

*The Iowa Supreme Court does not certify lawyers as specialists in the practice of law and certification is not required.

- American Bar Association - Alternate Dispute Section
- American Bar Association - Forum on Construction Law
- C. Edwin Moore American Inn of Court (Master Level)
- Inns of Mediation (Board Member)
- Iowa Association of Mediators
- Iowa Association of Workers Compensation Attorneys
- Iowa State Bar Association
 - Construction Law Section
 - Alternative Dispute Resolution Section, Council Member
- Polk County Bar Association

EDUCATION

Creighton University School of Law	Omaha, NE, J.D.
Juris Doctor	1985
Creighton University	Omaha, NE, B.A.
Bachelor of Arts in Political Science	1982
Iowa State University	Ames, IA
Political Science/Economics	1978-1980

BAR MEMBERSHIP

State of Iowa	1985
State of Missouri	1986
US District Courts (Southern District of Iowa, Northern District of Iowa)	
United States 8th Circuit Court of Appeals	

OTHER

- Church: Pastoral Council (Chairman), Board of Education (Elementary School) (Chairman)
- and numerous other committees
- Member, Catholic Charities Board of Directors
- Polk County Bar Association Board of Directors (2017-present) (Treasurer 2018-present)
- Iowa State Bar Association Board of Governors (2017-present)
- Past member, Board of Trustees, State Historical Society of Iowa
- Past member, Board of Directors, Iowa Historical Foundation (Chairman)
- Past member, Board of Directors, Terrace Hill Society Foundation (President)

TO SCHEDULE A MEDIATION

To schedule a mediation, please email mediationcasemanager@davisbrownlaw.com, or you can call Case Manager Catie Rayburn at (515) 246-7817 or Joe at (515) 246-7998.

For available dates, see calendar: <https://www.davisbrownlaw.com/happe-mediations.aspx>

Hourly rates are \$285.00 per hour for preparation and mediation sessions. Travel time is billed at \$100 per hour, and mileage, airline fees, and hotel expenses may apply. No administrative fee, cancellation fee, or hourly minimums are charged. Different hourly rates for multi-party or multi-day mediations may apply on a case by case basis.

HAPPE MEDIATION - POLICIES AND PROCEDURES **(July 1, 2018)**

Mediation Philosophy

Parties to mediation do not want a messenger; they want an energetic and aggressive mediator who has a plan to move the case to a full and final settlement. The parties should be ready for a highly interactive mediation. The mediator will suggest and recommend, and at times, argue and push--but be assured that all parties to the mediation will be equally challenged.

The Mediation Process

Generally, a joint session of the parties will not be held but, upon request and with the agreement of all parties, a joint session may be held. In select cases, the mediator will recommend a joint session, either with party presentations or his own opening statement. Usually the mediator will begin discussions with the Plaintiffs.

In multi-party litigation, it is typical to have a joint session among party groups and, particularly, in contested defense situations, it is wise to have a defense telephone conference call before the mediation so that the Defendants can work out their respective issues before engaging the Plaintiffs in mediation.

Separate attorneys-only discussions will be considered during the mediation at the discretion of the mediator.

The parties and attorneys will be asked to sign a confidentiality agreement that will include a provision that the mediator may not be called to testify as to any fact other than the terms of a settlement agreed to by the parties. When the case settles, the mediator will prepare a memorandum of the terms of the settlement and if asked, will prepare a draft release for the parties to comment on and continue mediation of terms.

Fees

The hourly fee for mediation is \$285, including preparation time. Out-of-pocket expenses, such as hotel, travel and meals will be billed to the parties and the cost of mediation participant lunches will be included in the mediator's invoice when the mediation is held at the mediator's office.)

The mediator will assume that fees will be divided equally among the parties (including participating lien holders) unless otherwise specified. Lien holders should be consulted prior to the mediation concerning their willingness to participate in the cost of the mediation.

No administrative fee will be charged for setting up the mediation and there is no hourly minimum. Further, no deposit for mediation will be required in all but the most complex cases and in typical cases there is no cancellation fee for continuation, rescheduling or cancellation of the mediation. Each party's law firm is equally responsible with his or her client for payment of the mediator's fees.

Special option for flat fee in workers' compensation mediation

The mediator offers a flat fee arrangement in Workers Compensation cases of \$725 for 4 hours.

Arbitration

The neutral is available to arbitrate cases subject to a written agreement to arbitrate that includes a scope of arbitration provision. The fee for arbitration is \$300 per hour, including preparation time, subject to a maximum per diem charge of \$3,000.00. There is no administrative fee or hourly minimum for arbitrations. The neutral arbitrator has a separate Arbitration Policies and Procedures information sheet available upon request.

Mediation-Arbitration Option

The parties may want to consider utilizing a Med-Arb option for Residential Construction Defects cases. For example, after limited discovery and disclosure of a limited number of experts, the parties will mediate the case and if a settlement is not reached, proceed to arbitration. The neutral arbitrator has a separate Med-Arb Policies and Procedures information sheet available upon request.

Complex Litigation

For mediations in complex litigation or where there are many parties, some special rules may be applied at the discretion of the mediator. In highly complex matters, it may be necessary for a cancellation fee of four hours of time to be billed to the parties, typically divided equally among the parties unless otherwise specified. Further, should a case involve "mass mediation," the mediator may establish a different fee schedule entirely.

To Schedule a Mediation

To schedule a mediation or arbitration, please either contact the mediator directly or contact Case Manager Catie Rayburn at 515-246-7817 or mediationcasemanager@davisbrownlaw.com. Available dates can be viewed at: <https://www.davisbrownlaw.com/happe-mediations.aspx>

Conflict of interest and knowledge of the parties and counsel

The mediator will endeavor to disclose all past and present relationships between the mediator and his firm and any of the participants in the mediation. This disclosure is contained in the confirmation letter the mediator sends to counsel.

Because the legal community in Iowa is close-knit and the mediator has over 33 years of experience, it should be assumed that the mediator knows the attorneys involved in the mediation, has worked with them in the past, and may even have social media connections with them (Linked In, Facebook, etc.). These connections are not reviewed and disclosed.

Travel Charges

There are no charges for travel time inside Polk, Story, and Dallas counties. The travel time for other nearby counties may be waived at the discretion of the mediator. A special hourly rate for travel time of \$100.00 per hour will be charged and special arrangements will be made for travel fees to locations outside of central Iowa. Also, mediations may be conducted at the mediator's

office, at no additional charge, depending on availability of conference rooms. (The Davis Brown Law Firm has offices in Des Moines and a smaller office in West Des Moines, Iowa.)

Mediation Briefs

Attorneys participating in the mediation may prepare either confidential or shared mediation statements. These statements should outline the facts of the case, the legal positions, strengths and weaknesses and any supporting case law. Additionally, any information helpful to the mediator will be appreciated. In smaller cases, the parties are invited to provide explanatory pleadings or discovery responses, at their discretion.

Proper Preparation for the Mediation

It is important to have special damages information available and all lien information. If Medicare is involved, the parties should go to www.mymedicare.gov to register and download Medicare information. Actual claims and payments are downloadable up to a 36-month period. Decision makers must attend or be readily available for consultation.

Davis Brown Law Firm--Downtown Office

- Davis Brown Law Firm's downtown office is located at 215 10th Street, Suite 1300, Des Moines, Iowa 50309.
- Free indoor parking is available in the buildings ramp with access on the north side of Mulberry Street between 9th and 10th Streets. Mediation participants are invited to park in any of the spots on the 3rd floor marked for Davis Brown Clients, or in any of the unreserved spots that begin on the 5th floor. Bring your parking ticket with you to the 13th floor for validation.
- Wireless internet access is available for mediation participants.
- All visitors are required to wear a badge when in the office.
- There are 8 conference rooms that accommodate between 6 and 35 individuals.

Directions

The building is located across the street from the former Hotel Fort Des Moines. Panera Bread and Joseph's Jewelers are on the first floor of the building. From I-235: Take the 7th Street exit and drive south for several blocks (past Grand, Locust, and Walnut Streets) to Mulberry Street. Take a right (heading west) on Mulberry and proceed until you see the firm's parking entrance/exit on the north side of Mulberry. The addresses for the West Des Moines office are available upon request.

Where to stay

Downtown Des Moines and the surrounding suburbs have many good hotels. Here are two hotels in the downtown area that are on the skywalk system accessible to the mediator's office:

Des Moines Marriott	(515) 245-5500
Renaissance DM Savery Hotel	(515) 244-2151

After the mediation

After the mediation, copies of pre-mediation statements and documents submitted by the parties will be destroyed. The mediator will also destroy his notes from the mediation after 30 days.