



DISPUTE RESOLUTION SERVICES

Resolution of Construction Claim and Construction Defect Disputes

Michael J. Bayard, Esq.

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- Current** Full-time Construction ADR Neutral—Arbitrator, Mediator, Project Neutral, DRB Member, Private Judge, Discovery Referee, Special Master, and ADR Consultant.
- Professional & Work History** Construction Attorney (1979-Present). Full-time Construction ADR Neutral (2000-Present); Adjunct Professor, Construction Management & Technology, Graduate Program in Real Estate Development, USC (1988-2008); Partner and National Chair, Construction Law Practice Group, Sonnenschein Nath & Rosenthal [Now Denton] (1994-1999); Partner and National Chair, Construction Law Practice Group, Pillsbury Madison & Sutro [Now Pillsbury] (1987-1994); Associate and Partner, Wickwire, Gavin & Gibbs [Now Gibbs, Giden] (1984-1987); Associate, Shapiro & Maguire (1979-1984).
- Construction Legal Experience** ADR practice limited to construction disputes. 50% of time spent serving as Construction Arbitrator, Private Judge, or DRB member & 50% of time spent serving as Construction Mediator or Project Neutral—from small residential projects to multi-million dollar construction claims and construction defect disputes. Prior to becoming full-time Neutral worked as full-time Construction Attorney: 50% of time spent on drafting and negotiating construction-related agreements and other 50% of time spent on construction litigation, arbitration, and mediation. As National Chair of Construction Law Groups at Pillsbury and Sonnenschein firms specialized in complex construction-related agreements and construction disputes valued at in excess of \$1 million. Nationally recognized authority on the drafting and negotiation of major construction-related documents.
- Construction Mediation Experience** Mediated over 350 construction cases. Private projects have included office buildings, shopping centers, condominiums, apartments, single family homes, churches, theme parks, resorts/hotels, and stadiums. Public projects have included port improvements, airports, schools, community centers, infrastructure projects, military bases, and convention centers. Have mediated virtually every conceivable type of construction claim, including design and construction defect claims, extra work and delay claims, and complex insurance coverage disputes. Claim values in construction mediation cases have ranged between \$25,000 and \$50 million.
- Construction Arbitration Experience** Arbitrated over 200 private and public construction cases. Today most of cases involve multiple parties and large, complex claims. Served as Arbitrator on a number of high-profile disputes since becoming full-time Neutral. Arbitrated virtually every type of construction and construction defect claim, including claims on single-family homes, planned residential communities, apartments and condominiums, shopping centers, hospital and industrial projects, commercial office projects, and local, state, and federal public works projects. Served as sole arbitrator on largest single-family home construction claim in Los Angeles County. Claim values in construction arbitrations have ranged from \$25,000 to \$250 million. Served as Chair of three-member panel hearing one of the largest AAA construction arbitrations in the Western United States.
- Multi-Party Disputes** Mediated and arbitrated cases with two to over fifty parties. Particular experience in insurance coverage issues related to design/construction defect claims and allocation of defense costs and indemnity obligations among multiple carriers.
- ADR Training** Completed numerous basic and advanced Arbitrator/Mediator training programs. AAA National Construction ADR Retreats (Los Angeles—2015, 2014, Phoenix—2012, Los Angeles—2011, Washington D.C—2010, Chicago—2008, Los Angeles—2007, Chicago—2006).

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Licenses & Education	Admitted, California State Bar (1979); U.S. District Court, District of California (1979); U.S. Supreme Court (1979). University of California, Berkeley (AB with Highest Honors, Phi Beta Kappa—1976); University of California, Hastings College of the Law (J.D., Associate Executive Editor, <u>Hastings Law Journal</u> —1979).
Professional Legal Associations	American Bar Association (Construction Forum Committee and Section on Dispute Resolution); California State Bar, Real Property Section (Past Co-Chair, Construction Law Subsection); Los Angeles County Bar Association, Real Property Section (Past Chair of Construction Law Subsection and Past Chair of Real Property Section).
Professional ADR Associations	American Arbitration Association (Member, AAA Los Angeles Regional Office B2B Advisory Committee; Former Chair, AAA Los Angeles Construction Advisory Subcommittee; Member, AAA National Panel of Master Construction Arbitrators; Association for Conflict Resolution (ACR); California Dispute Resolution Council (CDRC); Los Angeles County Bar Association, Dispute Resolution Services (DRS).
Publications	Author of over forty (40) publications on Construction Law and Construction ADR topics. Served as seminar participant or featured lecturer for ABA, California State Bar, LACBA, AAA, and numerous construction industry and ADR organizations. Recent seminars and publications include: “Ten Fundamentals for Mediating the Large, Complex Multi-Party Construction Dispute” (2010) in the <u>Dispute Resolution Journal</u> , “The Arbitration Roadmap” at the AAA Neutral’s International and National Conference (San Diego, 2009), “Sex, Drugs, and Construction ADR” for CLE International (San Francisco, 2010, 2009) (Los Angeles, 2008), “How to Advance Your Interests in Mediation: Getting to the Next Level,” AAA University Webinar (National Broadcast, 2008), and “Front & Center: Chairing an Arbitration” (2005) & “Thirty Steps to a Better Arbitration” (2004) in the <u>Dispute Resolution Journal</u> (both with Judith Ittig).
Mediation Rates	\$7500/day for mediation sessions plus \$750/hour for preparation, study, and follow-up negotiation work between/after mediation sessions. Reduced rate program for half-day’s. In cases with a CMO, parties to agree that the trial judge has continuing authority to decide and enforce fee amounts due by parties to Mediator. Deposit to reserve 1 day is \$12500.
Expert Witness/ADR Consultant Rates	File and document review, consultation, preparation work, deposition testimony, court or arbitration testimony—all flat \$600/hour. Expert re construction—law, ADR, and legal fees/costs.
Project Neutral/DRB Member/ Discov. Referee/ Spcl Mstr Rates	\$6000/day plus \$600/hour for time spent on study, hearings, preparation of memoranda and rulings, and follow-up work as a DRB Member, Discovery Referee or Special Master. \$600/hour for document review, site visits, attendance at project meetings, mediation sessions, and follow-up work as a Project Neutral or Private Judge.
Arbitration Rates	\$4500/day for live hearings plus \$450/hour for time spent on preparation, study, work between and after hearings, motions, deliberations, and writing the Award.
Cancellation Policy	For any reserved arbitration day that is canceled or postponed within 30 days from the first date reserved for the start of the evidentiary hearings there is a 100% charge for all canceled hearing dates. For a mediation or other ADR matter that is canceled or postponed within 30 days from the first date reserved for the start of the mediation or the start of any other ADR matter, there is a 100% charge for all canceled dates.