



Loretta M. Gastwirth, Esq.

**Panelist Video**

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**Current Employer-Title**

Meltzer, Lippe, Goldstein & Breitstone, LLP - Litigation Partner and ADR Practice Chair

**Mediation Profession**

Arbitrator, Attorney, Mediator

**Work History**

Commercial Litigation Partner and ADR Practice Chair, Meltzer Lippe Goldstein & Breitstone LLP, 1993 – Present; Law Clerk to Honorable Jerry Buchmeyer, U.S. District Court N.D. Texas (Dallas Division), 1982 – 1983; Litigation Associate, Simpson Thacher & Bartlett, 1983 – 1986; Entertainment Litigation Associate, Parcher Arisohn & Hayes P.C., 1986 – 1987; Litigation Associate, Phillips Nizer Benjamin Krim & Ballon, 1987 – 1991; Litigation Associate, Winick & Rich P.C., 1991 – 1993; Summer Associate, Mudge Rose Guthrie & Alexander, 1981.

**Experience**

Over 35 years of experience as a litigator in federal and state court litigation, domestic and international arbitration, mediation and appeals; became an arbitrator in 2006 and a mediator in 2011 in domestic matters; and currently serve as an arbitrator in international matters with the AAA International Centre for Dispute Resolution (ICDR). Appointed as a Chair of many three-member arbitration panels and also as an Emergency Arbitrator. Experienced in using ZOOM and breakout rooms, including with multiple parties, counsel and insurance carriers. The areas of law practiced most often include:

**EMPLOYMENT LAW:** employment contracts, severance, wage and hour, FLSA, whistleblower, False Claims Act, discrimination, retaliation, wrongful termination, trade secrets, executive compensation, stock options, commissions and bonuses, covenants not to compete or solicit, misappropriation, independent contractor issues and breach of fiduciary duty.

**CONSTRUCTION AND REAL PROPERTY:** commercial and residential construction, delays, defects, remediation, surety bonds, real estate financing, acquisition, sale, development and leasing, co-op and condominium, zoning, easements, mechanics liens, trust funds, environmental, wetlands and related disputes, HUD and Section 8 housing.

**COMMERCIAL AND BUSINESS LITIGATION:** breach of contract, family and generational business including trust and estates, corporate, partnership, limited liability and joint venture entities, shareholder, corporate dissolution and derivative actions, business valuations, mergers and acquisitions (Delaware and New York law), intellectual property including trademark, trade dress, unfair competition, copyright, trade secrets and ideas, art law, entertainment matters, securities and

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investment litigation, hedge funds, fraud, breach of fiduciary duty, tortious interference and business torts, insurance, licensing, franchise, supplier, manufacturer/distributor agreements, software licensing and development, energy including oil and gas, False Claims Act qui tam litigation, housing and other discrimination matters, banking, UCC, sales, secured transactions, equipment financing and leasing, product liability, class actions, professional malpractice, RICO and Indian gaming law.

**REPRESENTATIVE INDUSTRIES:** energy, oil and gas, construction, real estate, telecommunications, publishing, entertainment, manufacturing, technology, computer software and software and website development, securities, financial advisors and financial services, banking, e-commerce (and Amazon), insurance, education, health care, medical, home health care and related practices, the Government of Taiwan and Indian gaming. Have also worked with experts in many industries including: construction, engineering, architecture, securities, computer hardware, software and programming, accounting, economics, appraisal/valuation, statistics, insurance claim auditing, questioned documents, environmental and Indian gaming.

### **Experience as a Mediator**

Appointed to the following mediation panels: American Arbitration Association (commercial and construction panels); New York State Court, Commercial Division, Nassau, Suffolk, Queens, Westchester and New York County Commercial Division Mediation Panels; Nassau County Bar Association Mediation Panel.

Representative cases as a mediator: Indian Gaming dispute under a State Compact (multi-million dollar dispute); Manhattan townhouse dispute among co-op owners (multi-million dollar dispute); air rights agreement (\$5 million); multiple commercial leasehold disputes (\$1-\$3 million); multiple construction disputes including issues relating to bridge painting, public contracts, roof repairs and warranties, high end residential construction and renovation, commercial space construction and renovation, solar panel installations across military housing and large building construction (\$400,000 - \$3 million); tax practice dissolution (\$250,000); long term lease and restoration of commercial property with environmental issues (\$2 million); contract dispute involving travel agencies (\$500,000 dispute); breach of property management agreement (\$4.5 million claim); contractor claim against the City (\$300,000); law practice dissolution (\$500,000); website ownership dispute (\$200,000); co-op sale dispute (\$300,000); resort ownership and management dispute (\$3 million); generational family and partnership ownership claims dispute over NYC residential apartment buildings (\$10 million); former employee disputes involving establishment of separate medical practice (\$400,000); and generational family ownership dispute involving contracting business (\$1 million).

### **Representative Issues Handled as a Mediator**

Mediations have involved different areas of law across different industries including disputes involving: Indian Gaming law and State Compact issues, employment, breach of fiduciary duties, misappropriation of corporate assets and trade secrets, fraud, business ownership, acquisition and sale disputes involving corporations, limited liability companies, partnerships and joint ventures, residential and commercial construction and renovation, real property, commercial

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leases, property management, air rights, building assemblage and zoning issues, co-op and condominium, website ownership, professional practices, generational family businesses, resort management and claims against municipalities.

**Multi-Party Dispute Resolution Experience**

Representative cases include multi-party mediation involving disputes concerning construction, labor and employment, securities and investments, intellectual property (trademark, copyright and trade secret), breach of contract and matters where insurance companies are pivotal parties to the resolution of the dispute.

**Years of Practice as a Mediator**

9

**Total Number of Cases Mediated**

80+

**Mediation Experience as an Advocate or Party**

Representative cases include: represented the Government of Taiwan and several Taiwanese companies seeking damages for breach of a telecommunications equipment licensing agreement involving a publicly traded California company in a three-member panel international arbitration and mediation; represented career training schools with multiple campuses across the Northeast in litigation and mediation involving False Claims Act and qui tam claims; represented a party in a trademark and service mark dispute of generational family nursery businesses; represented a party in a dispute over trade simulation software business and employment issues; represented a party in employment dispute with equipment sales executive; represented parties in employment and labor arbitrations and mediations involving executive compensation, wage and hour, whistleblower, trade secret, non-solicitation and non-compete covenants, severance, discrimination and disability claims; represented parties in trademark and domain name disputes; represented a party involved in patent infringement matters in mediation before the Federal Circuit in Washington, D.C.; represented parties in construction mediation including a real estate developer in a multi-party dispute relating to construction of a medical office building; represented parties in claims for substantial damages involving brokers, investment advisors and brokerage firms for broker misconduct in multiple disputes before the NASD, FINRA, AAA and mediators; represented airport equipment contractor in mediation; represented a computer software company in a copyright infringement and trade secret action against a competitor in mediation; represented a casino developer against an Indian Tribe in a Indian gaming dispute in mediation; represented shareholders, partners, members and joint venturers in multiple ownership disputes in mediation; and represented parties involved in real estate ownership disputes in mediation.

**Mediation Philosophy**

Most commercial cases resolve themselves and the question is whether a case will settle before enormous cost and time consuming efforts are expended during litigation, arbitration or at trial. "Business people make business decisions" and a mediator best serves the parties in helping them reach that most efficient, cost effective and successful resolution that business people seek. A good mediator is familiar with litigation costs and the time and expense of litigation, and that does not just include counsel's time and expense, but often more importantly, the parties' time and attention diverted from their businesses. The parties in mediation have

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flexibility to negotiate and design their settlement to meet their business needs – payouts, future conduct -- that might not otherwise be available in arbitration or litigation, etc. To be effective, mediators must understand the industry and business in which the parties are engaged and have a keen understanding of the applicable law, counsel's arguments and the parties' likelihood of success on the issues presented in litigation. A good mediator must have the ability to listen, be empathetic, be challenging and tenacious to reach a resolution. Mediation will more likely end in a successful resolution when the parties themselves believe they have had an opportunity to be heard and understood and can evaluate the merits of their claims and risks and rewards of litigation or arbitration.

My approach to mediation incorporates elements of both facilitative and evaluative mediation philosophies.

### **Mediation References**

Steven Riker, Esq., Law Office of Steven Riker, (212) 661-6410; Leo K. Barnes Jr., Esq., Barnes Catterson LoFrumento Barnes LLP, (631) 683-2408; Phil Campisi, Esq., Westerman Ball Ederer Miller Zucker & Sharfstein, LLP, (516) 622-9200.

### **Alternative Dispute Resolution Training**

ACE21 Impartiality: Do You Know Where Your Biases Are? 2021; 2021 AAA-ICDR Panel Conference; ACE20 Cyber Security: A Shared Responsibility, 2020; AAA/ICDR/AAA Mediation.org Panel Conference, 2019; Arbitrator Performance and Demeanor ~ Meeting Participant Expectations, 2018; AAA Consolidation and Joinder in Construction Arbitration - Ignorance Is Not Bliss, 2017; U.S. Dist. Court, E.D.N.Y. FLSA Mediation Training, 2016; AAA/ICDR/Mediation.org Panel Conference, 2016; Nassau County Bar Ass'n Advanced Mediation: Moving to Mastery, 2016; AAA Arbitration in IP Technology Disputes, Recorded Webinar, 2014; U.S. Dist. Court, E.D.N.Y. Superstorm Sandy Mediation Training, 2014; AAA Chairing an Arbitration Panel: Managing Procedures, Process & Dynamics ACE05, 2012; Nassau County, NY, Advanced Mediation Training for the Commercial Division, 2011; Nassau County, NY, Mediation Training for the Commercial Division, 2011; AAA Muscular Arbitration: Trimming the Fat Out of Arbitration, 2011; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards ACE01, 2010; AAA Arbitrator I Training: Fundamentals of the Arbitration Process, 2006.

### **Professional Licenses**

Admitted to the Bar: New York (1984); U.S. District Court: Southern (1984), Eastern (1984), Northern (2002) Districts of New York (2002); U.S. Court of Appeals: Second Circuit (1994) and Federal Circuit (2010); U.S. Supreme Court (1997).

### **Professional Associations**

American Bar Association (Litigation Section); New York State Bar Association: Co-Chair of the Domestic Arbitration Committee of the Dispute Resolution Section, Member of the Commercial and Federal Litigation Section; Nassau County Bar Association: Former Co-chair of the ADR Committee, Member ADR Advisory Council for the Arbitration and Mediation Panels, Commercial Litigation Committee; Cardozo Law School: Alumni Association Former Chair and Executive Board Member; LPGA Amateur, Long Island Chapter.

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<b>Education</b>	Yeshiva University, Benjamin N. Cardozo School of Law (JD, magna cum laude, Editor Cardozo Law Review-1982); State University of New York at Albany (BS, Business Administration, magna cum laude-1978).										
<b>Awards and Honors</b>	Recipient: 2021 "Who's Who" in Women in Professional Services (Long Island Business News); 2018 Long Island Power Women in Business award (Long Island Press); 2005 and 2013 Long Island Top 50 Women in Business awards (Long Island Business News); 2010 "Who's Who" in Women in Professional Services (Long Island Business News).										
<b>Publications and Speaking Engagements</b>	<p><b>PUBLICATIONS:</b> Long Island Business News, June 2016, "The Benefits of Arbitration are Many: Shouldn't be Dismissed"; New York Real Estate journal, May 2016, "Determining if ADR is the Right Choice"; Nassau Lawyer, October 2015, "To ADR or Not to ADR- That is the Question"; ABA Litigation Section, The Woman Advocate, "Words of Wisdom: Getting the Best Results in the ADR Process," Winter 2013, Vol. 18, No. 2; "Despite ADR Consent, IP Cases End Up in Court," National Law Journal, October 20, 1997; "Beware of Ideas," "Preventing Inevitable Disclosure of Internet Company Trade Secrets," and "Employers: Don't Blow Your Employees' Covenant Not to Compete!," Long Island Business News; various featured decisions appearing in the New York Law Journal concerning arbitration and Lanham Act issues.</p> <p><b>SPEAKING ENGAGEMENTS:</b> CLE organizer or presenter relating to ADR: Emergency Arbitrators and Emergency Measures of Protection in Domestic Arbitration (New York State Bar Association 2021); Alternative Dispute Resolution: A Comprehensive and Practical Review (Lawline 2019); "The Who, What, When, Where, How and Why of ADR" (St. John's Law School 2019); Matrimonial ADR (2017); "To ADR or Not to ADR -- That is the Question" (2016); "Litigation Guide to Arbitration -- the Intersection of Arbitration and Litigation" (2016); "Advanced Mediation -- Moving Towards Mastery" (2016); "Anatomy of a Construction Mediation" (2016); "Dean's Hour: Mediation; "The Role of the Lawyer-Advocate in the Mediation Process" (2015); "Marketing Your Practice -- Modern and Traditional Strategies for Lawyers, Mediators and Arbitrators" (2015).</p>										
<b>Locations Where Parties Will Not be Charged for Travel Expenses</b>	New York metropolitan and surrounding areas (60 miles from NYC); all other travel time billed at half rate.										
<b>Citizenship</b>	United States of America										
<b>Languages</b>	English										
<b>Locale</b>	New York, New York, United States of America										
<b>Compensation</b>	<table border="0"> <tr> <td>Hearing:</td> <td>\$540.00/Hr</td> </tr> <tr> <td>Study:</td> <td>\$540.00/Hr</td> </tr> <tr> <td>Travel:</td> <td>\$270.00/Hr</td> </tr> <tr> <td>Cancellation Period:</td> <td>0 Days</td> </tr> <tr> <td>Comment:</td> <td>Study and conference time shall be billed at the stated</td> </tr> </table>	Hearing:	\$540.00/Hr	Study:	\$540.00/Hr	Travel:	\$270.00/Hr	Cancellation Period:	0 Days	Comment:	Study and conference time shall be billed at the stated
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hourly rate. Travel time which does not include study time shall be billed at \$270 per hour plus travel and lodging expenses outside of New York metropolitan and surrounding areas (60 miles from NYC)

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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.