



Loretta M. Gastwirth, Esq.  
New York, New York



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**Current Employer-Title** Meltzer, Lippe, Goldstein & Breitstone, LLP - Litigation Partner and ADR Practice Chair

**Profession** Attorney; Arbitrator and 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 40 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. Also appointed to the AAA Construction Master Mediation Panel. The areas of law practiced most often include:

**CONSTRUCTION AND REAL PROPERTY:** commercial and residential construction, delays, defects, remediation, change orders, 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; large construction projects have

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*Neutral ID : 154509*

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included apartment building, hotel, cultural center and office building construction and involve owner, general contractor, subcontractor, architect, engineer and multiple trade disputes.

**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 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.

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

**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.

**AWARDS AND HONORS:** 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).

## **Mediator Experience**

Over 12 years as a mediator appointed in over 100 cases. Appointed to the following mediation panels: American Arbitration Association (commercial employment and construction panels including the AAA Construction Master Mediation Panel); New York State Court, Commercial Division, Nassau, Suffolk, Queens, Westchester and New York County Commercial Division Mediation

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Panels; Nassau County Bar Association Mediation Panel. Mediation references: Brian Bloom, Esq., Moritt Hock & Hamroff LLP, (516) 873-2000 ext. 274; Ross Kartez, Esq., Ruskin Moscou Faltischek P.C., (516) 663-6651; Phil Campisi, Esq., Westerman Ball Ederer Miller Zucker & Sharfstein, LLP, (516) 622-9200.

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, hotel, office and cultural center construction (\$5 - \$10 million); professional practice dissolutions (\$2 million); long term lease and restoration of commercial property with environmental issues (\$2 million); employment disputes involving employment agreement, executive compensation, trade secrets, restrictive covenants and fiduciary duties (\$5 million); employment discrimination and wage and hour claims (\$1 million); breach of property management agreement (\$4.5 million claim); website ownership and software licensing, development and implementation disputes (\$2 million); resort ownership and management dispute (\$3 million); generational family and partnership ownership claims dispute over NYC residential apartment buildings (\$10 million); and generational family ownership dispute involving contracting business (\$1 million).

Representative cases as counsel in mediation include: represented the Government of Taiwan and several Taiwanese companies in telecommunications equipment licensing dispute with a publicly traded California company; represented multiple campus career training schools in False Claims Act and qui tam claims; represented a party in a trademark and service mark dispute of generational family nursery businesses; represented parties in software development, implementation, infringement and trade secret disputes; represented parties in employment disputes 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 parties in construction mediation including real estate developers, contractors and owners in multi-party disputes; represented parties in claims involving brokers, investment advisors and brokerage firms; 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.

### **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,

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residential and commercial construction and renovation, real property, commercial 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 representative cases include disputes concerning construction, 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.

**Mediator Style & Process Preferences**

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 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.

**Technology Proficiency**

Experienced in using ZOOM and breakout rooms, including with multiple parties, counsel and insurance carriers.

**Education**

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).

**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**

College of Commercial Arbitrators: Fellow; American Bar Association (Litigation Section); New York State Bar Association: Vice Chair of the Dispute Resolution Section, Former Co-Chair of the Domestic Arbitration Committee of the Dispute

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Resolution Section, Member of the Executive Committee of the Dispute Resolution Section, Member of the Commercial and Federal Litigation Section; New York Bar Foundation: Fellow; 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.

## **Recent Publications & Speaking Engagements**

ADR CLE Program organizer/presenter: New York State Bar Association: Domestic Arbitration Award Extras: Awarding Fees, Costs and Interest - They Can Really Add Up Fast (2024); Arbitration "War Stories" Roundtable: Cautionary Tales from Panel, Counsel and Client Perspectives (2023); Tell it to the Arbitrators and Arbitration Providers (2023); Discovery Best Practices for Construction Arbitration (2023); Arbitration Mediation and Mixed Modes: Part I, Seeking Workable Solutions: Med/Arb-Arb/Med Theory and Practice; Part II, Ethical Considerations of Switching Hats (2022); Best Mediation Practices – Timing of Mediation: Conduct it Sooner or Later? (2022); The Parties' Process and the Role of the Arbitrator (2022); Grounds for Vacatur of an Arbitration Award (2022); Emergency Arbitrators and Emergency Measures of Protection in Domestic Arbitration (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); Nassau County Bar Association: 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)

Publications: "ADR vs. Litigation: A Guide for Businesses" The HIA-LI Reporter, April 2017; "The Benefits of Arbitration are Many; Shouldn't Be Dismissed" Long Island Business News, June 2016; "Determining if ADR is the Right Choice" New York Real Estate Journal, 2016; "To ADR or Not to ADR – That is the Question", Nassau Lawyer, Nov. 2015; "Words of Wisdom: Getting the Best Results in the ADR Process", ABA Litigation Section, The Woman Advocate Winter 2013, Vol. 18, No. 2; "Despite ADR Consent, IP Cases End Up in Court", The National Law Journal, 10/20/97; "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

## **Locations Where Parties Will Not be Charged for Travel Expenses**

New York: metropolitan and surrounding areas (60 miles from NYC); Florida: Palm Beach County, Broward County and Miami-Dade County; all other travel time billed at half rate.

## **Citizenship Languages**

United States of America  
English

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**Compensation**

Hearing: \$600.00/Hr  
Study: \$600.00/Hr  
Travel: \$300.00/Hr  
Cancellation Period: 0 Days  
Comment: Study and conference time shall be billed at the stated hourly rate. Travel time which does not include study time shall be billed at \$285 per hour plus travel and lodging expenses outside of New York metropolitan and surrounding areas (60 miles from NYC).

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