



Hon. Carol E. Heckman (Ret.)

Panelist Video

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Current Employer-Title Partner, Lippes Mathis Wexler & Friedman LLP

Mediation Profession Retired Judge/Attorney

Work History Partner, Lippes Mathias Wexler & Friedman LLP, 2017 to present; Partner, Harter Secrest & Emery LLP, 2000-2016; U.S. Magistrate Judge, U.S. District Court, Western District of NY, 1992-00; Partner, Lippes Silverstein Mattias & Wexler, 1989-92; Partner, Albrecht McGuire Heffern & Gregg, 1985-89; Assistant U.S. Attorney, U.S. Attorneys Office, Western District of NY 1981-85; Trial Attorney, U.S. Department of Justice, 1979-81; Law Clerk, Hon. John Curtin, Western District of NY, 1977-79.

Experience

Served as a magistrate judge in federal court in Buffalo from 1992 to 2000. Presided over dozens of consent trials, hundreds of dispositive motions and hearings, and hundreds of mediations. Frequent lecturer for the Federal Judicial Center (FJC), a member of the FJC's Education Committee for Magistrate judges, an officer in the Federal Magistrate Judges Association and a trainer for three of FJC's intensive mediation programs. Representative cases and arbitrations include employment litigation, executive compensation, non-compete clauses, shareholder disputes, acquisition disputes, supply contracts, stock options, environmental claims, products liability and tort claims, complex commercial litigation, intellectual property, and all aspects of Federal Indian law. Currently handles a broad variety of business litigation and investigations in private practice, including gaming and taxation, primarily for financial institutions, Fortune 500 companies and a New York Indian tribe. Frequently written and spoken about ADR and mediation issues.

Workplace investigation experience includes conducting and advising numerous clients on conducting workplace investigations into allegations of sexual harassment, sexual assault, constructive discharge and discrimination on the basis for race, gender, ethnicity, national origin, sexual orientation, religion, disability and other protected classes. In addition, has adjudicated and mediated issues relating to the adequacy of workplace investigations in arbitrations and mediations. Experience includes executive compensation, stock appreciation rights, stock options, severance, termination and non-compete issues, as well as ERISA, Title VII, ADA, ADEA, 42 U.S.C. 1983, FLSA, FMLA, wage and hour, classification, independent contractors and related state law claims.

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Experience as a Mediator

Has served as a mediator in more than 800 cases since 1995, including at least 50 in the last 5 years. In 2014, was selected by peers as Best Lawyers' "Mediator of the Year" in Buffalo, New York. Most of the cases have been federal law or diversity cases, and range from employment-related claims, including executive compensation and non-compete issues, to patent cases, complex commercial litigation, products liability, construction and environmental claims, including multi-party cases with coverage issues.

Mediation skills were well recognized on the federal bench; in 1999, began training other magistrate judges throughout the federal court system in the skills needed to conduct successful mediations.

Representative Issues Handled as a Mediator

1. Employment mediations: executive disputes including compensation, stock appreciation rights, stock options, severance, termination and non-compete issues, as well as ERISA, Title VII, ADA, ADEA, 42 U.S.C. 1983, FLSA, FMLA, jurisdictional prerequisites, time limitations, constructive discharge, discrimination based on race, gender, ethnicity, sexual orientation, religion and disability, sexual harassment, calculation of back pay, tangible job detriment, reasonable accommodation, mitigation of damages, emotional distress, wage and hour, classification, independent contractors and related state law claims.
2. Complex commercial mediations: acquisitions, bank fraud, shareholder disputes, dissolution proceedings, distributor agreements, asset purchase agreements, supply agreements, unfair competition, common law fraud, franchise agreements and contract disputes of all types. Issues have included contract interpretation, insurance, statutory construction, damage valuations, valuations of businesses, financial analysis, EBITDA, evidentiary issues, witness issues, jurisdictional issues, subpoenas and sovereign immunity.
3. Products liability and tort mediations: forklifts, boats, farm equipment, industrial equipment, ladders, scaffolding, tires, toys, food products, automobiles, and guns; toxic torts involving chemical exposure in industrial settings, including ancillary insurance and subrogation issues; exposure, causation, OSHA standards, contributory negligence, expert testimony, damage calculations, structured settlements, class claims, third party claims, waivers and releases.
4. Intellectual Property experience: product disparagement, patent infringement, patent invalidity, copyright, trademark and trade name. Representative cases include brazing flux, dessicant bags, temperature indicators, automatic speech pattern recognition systems, dental curing lights, posts, crowns, and adhesives, pharmaceuticals, and bird seed. Issues handled included invalidity, inequitable conduct, operability, obviousness, anticipation, patent misuse and attorney/client privilege. Judge Heckman has also made presentations to United States Magistrate Judges on patent case management and common discovery issues in patent cases.
5. Construction mediations: claims involving contractors, subcontractors, engineers, architects, construction managers, liens, insurance, bonds, public bidding, workforce representation, minority set-asides, and accounting.
6. Environmental mediations: CERCLA, Clean Water Act, Clean Air Act, Superfund, threshold liability, allocation of cleanup costs, statute of limitations, contribution, standing and insurance, as well as related state law issues.

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Years of Practice as a Mediator	20
Total Number of Cases Mediated	At least 800
Mediation Experience as an Advocate or Party	Has handled many mediations on behalf of a party, including complex contractual and other commercial disputes, construction cases, employment cases and a variety of federal appeals.
Mediation Philosophy	Judge Heckman offers a neutral forum for the parties to fashion a resolution of their dispute based on their own unique objectives and interests. She is committed to extensive pre-mediation preparation, so that she can "hit the ground running" and act efficiently and expeditiously. She typically requires decision makers to be present, so that there is a stronger likelihood of reaching a final resolution during a mediation session itself, without waiting for subsequent approvals. Through active listening and joint and single party sessions, she assists the parties in identifying common objectives and narrowing areas of disagreement and in exploring settlement options. She encourages the parties to evaluate their own positions realistically, and draws upon her extensive experience as a judge to comment on evidentiary issues, witness problems and other trial problems as they arise. Judge Heckman is available to follow-up by telephone following mediation sessions. She expects the parties and their attorneys to be thoroughly prepared on all issues in the case and to conduct themselves in a professional and efficient manner.
Mediation References	Diane Bosse, dbosse@volgenaubosse.com, (716) 856-3200; Mary Pat Fleming, mary.pat.fleming@usdoj.com, (716) 843-5867; Ginger Schroeder, gschroeder@sjalegal.com, (716) 881-4901.
Alternative Dispute Resolution Training	<p>ACE 21 – 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; Faculty, AAA/ICDR Council, New York Law School, Cornell Scheinman Institute Conference, 2018; Faculty, AAA Arbitration Best Practices 2013; Faculty, AAA Managing the Arbitration Process for Efficiency & Economy Following the Preliminary Hearing, 2012; Faculty, AAA Dealing with Delay Tactics in Arbitration, 2010; Faculty, U.S. Magistrate Judge Mediator Training Programs, 1996-2000.</p> <p>Coursework: AAA Confronting Arbitrability and Jurisdiction Issues in Arbitration, 2017; AAA Charing the Arbitration Panel, 2016; AAA Arbitrator Subpoenas, 2015; Western District of New York Mediator Training, 2012; AAA Webinar, Controlling Chaos in Mediation: Navigating the Behavioral Paradigm, 2012, AAA Arbitration Fundamentals and Best Practices for New Arbitrators, 2008.</p>
Professional Licenses	Admitted to the Bar: New York, 1978
Professional Associations	New York State Bar Association (Commercial and Federal Litigation Section, Past Executive Committee); (Dispute Resolution Section); Federal Magistrate Judges

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Association (Past Vice President, Past Secretary, Past Treasurer); Cornell Law School Alumni Association Advisory Counsel (Past Executive Committee); Erie County Bar Association (Committees on Federal Practice, Ethics, ADR); Federal Court Law Review (First Editor-in-Chief).

Education

Lawrence University (BA, Philosophy, Phi Beta Kappa, Farley Prize, Distinction in Senior Comprehensives-1974); Cornell Law School (JD, Order of the Coif, Second in Graduating Class, Cornell Law Review Editor, Fraser Price for Outstanding Scholarship and Character-1977).

Awards and Honors

Buffalo Business First's Legal Elite of Western New York, Lifetime Achievement Award, 2016; Best Lawyers in America 2015 Mediation "Lawyer of the Year" in Buffalo; Upstate New York Super Lawyers, 2011-2018; Buffalo Business First's Legal Elite of Western New York 2013; AV Preeminent Peer Review Rated by Martindale-Hubbell; Litigation Counsel of America, Trial Lawyers Honorary Society, Fellow; Business First of Buffalo/Buffalo Law Journal, Who's Who in Law, 2011-2012; Business First of Buffalo, "Women Who Mean Business" Award, 2005; Order of the Coif; Fraser Prize (undergraduate award); Phi Beta Kappa; Women's Bar Association of Western New York, Achievement Award, 1992

Publications and Speaking Engagements

"The Power of a Rarely Used Statute," Buffalo Law Journal, January 20, 2014; "The Nuts and Bolts of Expert Selection," N.Y. Litigator, Summer 2012; "Streamlining Discovery Motions: what Judges Want to See," New York Law Journal, July 23, 2012; "Soup Can or Can of Worms? Legal Issues Arising from the Warhol Estate," Entertainment, Arts and Sports Law Journal, New York State Bar Association, Summer 2009; "A Safe Harbor: Amendment Towards Data Preservation Efforts," New York Law Journal, November 30, 2004; "Time for Change? Panels Explore Amending Federal Civil Rules on E-Discovery", New York Law Journal, March 2, 2004; "How To Win Motions for E-Discovery in Federal Court," Buffalo Law Journal, December 11, 2003; "Prevailing in the Court: How to Win E-Discovery Motions in Federal Proceedings", New York Law Journal, September 16, 2003; "Best Practices for E-Discovery Motions," Digital Discovery and E-Evidence, May 2003; "Balancing Interests in Access to Judicial Records," New York Law Journal, March 12, 2003; "Winning Electronic Discovery Motions," The Sedona Conference Journal, Vol. IV 151 (2003); "Winning Electronic Discovery Motions," New York Law Journal, April 8, 2003; "Protective Orders, Record-Sealing Versus Rights of Access," Buffalo Law Journal, March 13, 2003; "Ethical Concerns in Alternative Dispute Resolution," Buffalo Law Journal, December 19, 2002; "Avoiding Common Pitfalls in Asserting the Attorney-Client and Work Product Privilege," NY Litigator, Dec. 1997; "Relevancy and Its Limits," New York Law Journal, Nov. 24, 1993; "1975 Developments in Welfare Law," 61 Cornell L. Rev. 777 (1976).

Speaking engagements include numerous presentations on arbitration and mediation, evidence, procedure, electronic discovery and litigation practice for Federal Judicial Center, AAA, New York State Bar Association, and Erie County Bar Association

Locations Where Parties

Yes - will charge for travel expenses and the reduced rate of \$300 per hour for

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Will Not be Charged for Travel Expenses	travel time to major metropolitan areas, where the vast majority of her hearings occur. Maintains residences in East Aurora NY and Florida.	
Citizenship	United States of America	
Languages	English	
Locale	Buffalo, New York, United States of America	
Compensation		
	Hearing:	\$600.00/Hr
	Study:	\$600.00/Hr
	Travel:	\$300.00/Hr
	Cancellation:	\$1000.00/Day
	Cancellation Period:	2 Days
	Comment:	The travel rate applies to all mediations in major metropolitan areas including NYC, Boston, Washington, D. C., Philadelphia, Pittsburg, Miami and Atlanta; will charge reasonable travel expenses. Travel time will be charged at 50% of hearing rate.

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