



Hon. Carol E. Heckman (Ret.)

Panelist Video

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Current Employer-Title

Lippes Mathis LLP – Partner

Pleased to travel throughout the United States for hearings or mediations or to conduct them by remote technology such as Zoom.

Work History

Partner, Lippes Mathias LLP, 2017 – Present; Partner, Harter Secrest & Emery LLP, 2000 – 2016; U.S. Magistrate Judge, U.S. District Court, Western District of New York, 1992 – 2000; Partner, Lippes Silverstein Mattias & Wexler, 1989 – 1992; Partner, Albrecht McGuire Heffern & Gregg, 1985 – 1989; Assistant U.S. Attorney, Western District of New York, 1981 – 1985; Trial Attorney, U.S. Department of Justice, 1979 – 1981; Law Clerk to Hon. John Curtin, then Chief Judge of the Western District of New York, 1977 – 1979.

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 several hundred mediations. Published dozens of judicial opinions. 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.

Now actively serves as an arbitrator, litigator and mediator. Private clients include large businesses engaged in a variety of federal court commercial litigation and tribal governments with gaming, taxation and economic development issues.

Since 2008, has served on the AAA panels for employment disputes and commercial litigation disputes as both arbitrator and mediator, primarily on New York City based cases but also in other jurisdictions. Experience in these areas set forth in greater detail in other portions of resume. Serves also as a private mediator and arbitrator and litigation consultant.

Extensive experience in mass arbitrations for consumer and wage and hour claims.

Has handled over 150 arbitration claims for the AAA as well as private mediations and arbitrations.

Industries include pharmaceuticals, insurance, manufacturing, gaming, health care, and finance.

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Mediator Experience

Served as a mediator in more than 800 cases since 1995, including at least 60 in the last five years. Selected by peers as Best Lawyers' "Mediator of the Year" in Buffalo, New York in 2014. Cases include private mediations, AAA mediations and mediations for the Western District of New York.

Most of the cases have been federal law, employment, commercial or diversity cases, and range from employment-related claims to intellectual property cases, ERISA, complex commercial litigation, products liability, and environmental claims, including multi-party cases with coverage issues and mass claims in the wage and hour area. More details are set forth in the Representative Issues section of this Resume.

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, classification and non-compete issues; ERISA, Title VII, ADA, ADEA, 42 U.S.C. 1983, FLSA, FMLA, and related state law claims; issues include jurisdictional prerequisites, time limitations, constructive discharge, discrimination based on suspect class, sexual harassment, back pay, tangible job detriment, reasonable accommodation, mitigation of damages, emotional distress, wage and hour (including mass claims and state law claims), retaliation, and COVID related 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; issues include contract interpretation, insurance, statutory construction, damage valuations, valuations of businesses, financial analysis, EBITDA, evidentiary issues, witness issues, jurisdictional issues

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, desiccant bags, temperature indicators, automatic speech pattern recognition systems, dental curing lights, posts, crowns, and adhesives, pharmaceuticals, bird seed and boat design. Issues handled include invalidity, inequitable conduct, operability, obviousness, anticipation, patent misuse and attorney/client privilege. Has also made presentations to United States Magistrate Judges on patent case management and common discovery issues in patent cases.

5. Environmental mediations: CERCLA, Clean Water Act, Clean Air Act,

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Superfund, threshold liability, allocation of cleanup costs, statute of limitations, contribution, standing and insurance, as well as related state law issues.

**Mediator Style &
Process Preferences**

Offers a neutral forum for the parties to fashion a resolution of their dispute based on their own unique objectives and interests. Committed to extensive pre-mediation preparation, so that she can "hit the ground running" and act efficiently and expeditiously. Typically requires decision makers to be present, so that there is a stronger likelihood of reaching a final resolution during a mediation session itself. Through active listening and joint and single party sessions, assists the parties in identifying common objectives and narrowing areas of disagreement and in exploring settlement options. Encourages parties to evaluate their own positions realistically, and draws upon extensive experience as a judge to comment on evidentiary issues, witness problems and other trial problems as they arise. Available to follow-up by telephone following mediation sessions. 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.

Technology Proficiency

Well versed in Zoom technology, uses electronic filing exclusively, and handles hearing exhibits electronically. Regularly attends educational sessions on technology advances for arbitrators and practitioners.

Professional Licenses

Admitted to the Bar: New York, 1978.

**Professional
Associations**

Member, College of Commercial Arbitrators since 2020; Co-Chair of College's Education Committee. New York State Bar Association (Commercial and Federal Litigation and Dispute Resolution Sections). Erie County Bar Association (Dispute Resolution Committee).

Education

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

**Recent Publications &
Speaking Engagements**

PUBLICATIONS: "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 Civic 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);

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"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 OVER LAST 5 YEARS:

2023: ABA Arbitration Training, NY, NY "Awards"; ABA Spring Meeting of ADR Section, Las Vegas "Improving Access to Arbitration by Tribal Governments"; Indian Gaming Association Annual Convention, San Diego, "Improving Access to Arbitration by Tribal Governments."

2022: College of Commercial Arbitrators Webinar, The Floodgates Open: "Managing Mass Arbitrations in the Wake of Epic Systems and Lamps Plus"; College of Commercial Arbitrators Annual Meeting, Phoenix, "Summoning Third Parties in Arbitration: What Authority Do We Have and How Should We Use it?" ABA Webinar, "Zoom hearings: Are they Here to Stay?"

2021: Faculty, AAA/ICDR Council, New York Law School, Cornell Scheinman Institute Conference

2019: AAA/NY Law School, "Addressing Challenges to Employment Arbitration: What Works"; Erie County Bar Association, "Handling Your First (or Next) Arbitration".

2018: AAA/ICDR Council, New York City "The Use of Special Masters in Arbitration."

Locations Where Parties Will Not be Charged for Travel Expenses All Counties included in the Western District of New York; southern Florida including Palm Beach, Dade and Broward Counties.

Citizenship United States of America

Languages English

Locale Buffalo, New York, United States of America

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