



# Mediator Full Profile



## Mr. Albert Bates

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United States

## Experience Qualification Path

Category 2: American Arbitration Association

## Mediation locations

United States - PA, United States - OH, United States - WV, United States - NY, United States - NJ, United States - DE

## Mediation languages

English

## Current position and background

Albert Bates focuses his practice on construction litigation and domestic and international arbitration matters. He has extensive litigation and arbitration experience, with an emphasis on the resolution of construction claims, commercial contract matters and other complex technical, environmental and business disputes. He has represented multinational corporations, domestic and international owners, EPC, design-build, turnkey contractors, general contractors, subcontractors, suppliers, owners, developers, public agencies, architects, engineers, designers, specialty contractors, and lending institutions on a wide variety of public and private (commercial, heavy/highway, industrial, and institutional) construction projects. In addition to representing clients in various courts, Mr. Bates has represented clients in arbitrations under the rules of the American Arbitration Association, the International Centre for Dispute Resolution, JAMS, the International Chamber of Commerce, the CPR Institute for Dispute Resolution and in private arbitrations.

Mr. Bates also regularly serves as an arbitrator and mediator. He serves as a neutral for the American Arbitration Association, the International Centre for Dispute Resolution, CPR Institute, and other providers, and serves on a non-administered basis. Mr. Bates has served as a neutral on more than 150 occasions, including matters with amounts in controversy exceeding \$100 million.

Mr. Bates serves as a member of the Board of Directors of the American Arbitration Association, and is a Fellow in the College of Commercial Arbitrators.



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For more complete biographical information, please visit <http://www.duanemorris.com/attorneys/albertbates.html>

## Main mediation practice areas

Areas of particular experience include:

### \* Construction Claims

- Examples of construction projects include power plants, chemical plants, pharmaceutical projects, steel mills, coke and by-product recovery plants, other industrial and manufacturing facilities, mass transit and highway projects, airports, hotels, mixed-used facilities, commercial office buildings, schools, public use facilities, theme parks, retail complexes, and sports and entertainment venues.

- Mr. Bates has mediated the full range of issues that arise on construction projects, including: quality of work, scope of contractual obligations, extra work claims, delay, disruption, inefficiency, loss of productivity claims, differing site condition, variation in estimated quantities, and other scope claims, claims against design professionals, fatigue and failure issues, product defect issues, insurance coverage issues, payment act claims, bonding issues, contractual and statutory limitations of liability, enforceability of exculpatory provisions in contracts, breach of warranty claims, and various other issues that arise on construction projects. With regard to general commercial disputes, has mediated indemnification claims, representation and warranty claims, product defect claims, industrial equipment performance issues, fraud and related matters

### \* Commercial Contract and Other Complex Technical, Environmental and Business Disputes

- Examples of other representative matters include indemnification obligations arising under asset purchase agreements and other commercial contracts, breach of warranty matters, performance guarantee disputes, environmental cost recovery actions, insurance coverage questions, matters of contractual interpretation, trade secret matters, partnership dissolutions, supply contracts, indemnification claims, representation and warranty claims, product defect claims, industrial equipment performance issues, fraud and related matters and various other types of business disputes

- For a list of representative matters, please visit <http://www.duanemorris.com/attorneys/albertbates.html>

## Mediation experience

Mr. Bates has served as mediator since 1999 and has mediated approximately 50 cases. Many of the cases mediated have been multi-party disputes, including disputes within the dispute involving insurance coverage questions. Recent mediation matters have ranged from matters with approximately \$1,000,000 in controversy to a complex international matter with approximately \$100 million in controversy to a matter involving more than a dozen parties arising from the largest landslide in the history of the Commonwealth of Pennsylvania. Cases with amounts in controversy ranging from \$1,000,000 to \$15,000,000 have constituted the majority of recent cases mediated. Most of the cases mediated have involved claims on



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construction projects, including industrial facilities, transit projects, sewage treatment facilities, hotels, office buildings, schools, convention centers, hospitals, renovation and redevelopment projects, retail, and warehouse projects. Mr. Bates has also mediated indemnification obligations, asset purchase cases, breach of warranty, supply contracts, and defective product cases, as well as claims against design professionals and partnership disputes. He has mediated matters involving domestic, multi-national, and foreign entities, as well as both closely held and publicly traded companies. Has also mediated several cases involving joint ventures or other business organizations that have inherently involved more than one constituency within the single "party" to the proceeding, i.e., mediation within mediation.

## Description of mediation style

Mediation is a consensual process. It is the role of the mediator to engage the parties in meaningful discussion in order to facilitate an amicable resolution of the matter. This typically involves assisting the parties in determining the issues in dispute among them, removing the obstacles to communication, and positively reinforcing the progress that is being made while seeking to minimize any ill-will among the parties. Since the process is a flexible one that is more art than science, the nature of each mediation varies, and the approach to resolution is dependent upon the parties, the party representatives, their counsel, the amount in controversy, the nature of the issues, the complexity of the issues, the presence of unsettled issues of law, technical issues about which competent experts can differ, and a host of other issues. The skills of the mediator, including judgment, credibility, personality, and demeanor, legal and technical competence, creativity, experience in the industry, experience in facilitating resolution of disputes, perceptiveness, ability to listen, analyze, and filter information, and other skills, are brought to bear to assist the parties in communicating about the disputed issues and ultimately in resolving their dispute. One of the goals of a good commercial mediator is to ensure that each party has fully assessed all of the risks presented by the dispute. Consequently, in some situations, the mediator may also be called upon to act as an evaluator, challenging the legal, factual, and technical positions and assisting the parties in assessing the reasonable range of outcomes, the risks of moving forward in the litigation or arbitration process, and the economic and opportunity costs associated with an arbitration or litigation outcome.

## Code of professional conduct

AAA/ABA/ACR Model Standards of Conduct for Mediators

## Complaint process

American Arbitration Association and International Centre for Dispute Resolution Rules and Procedures.

## Professional indemnity insurance

Duane Morris LLP has professional liability coverage well in excess of \$1,000,000 USD for each of its attorney's through Attorneys' Liability Assurance Society, Inc.

## Feedback digest

Reviewer: STAFF AAA/ICDR ( imireviewer@adr.org )

Latest Update: 2010-05-20 19:31:31



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This Feedback Digest is based on 6 Feedbacks in 6 Mediations as of May 20, 2010.

Parties and counsel who have used Albert Bates would overwhelmingly use his services again and would, without hesitation, recommend him to others. Typical of the comments reflecting Mr. Bates' acceptability are: (i) Mr. Bates' efforts in a difficult matter involving excellent attorneys as clients kept the process on track; (ii) Mr. Bates is a truly fine attorney who brings honor to our profession; and (iii) Mr. Bates' approach, demeanor, skill, candor, knowledge and preparedness make him an obvious candidate for complex, high exposure matters.

Mr. Bates' mediation skills and abilities are rated as highly effective. Typical of feedback received in this regard are: (i) Mr. Bates is patient, prepared, knowledgeable, skillful and appreciates the necessity to let people vent without blowing up the process; (ii) Mr. Bates was neutral, unbiased and respectful of all parties and counsel. He was also candid on the issues when necessary and quiet about his views of issues when also appropriate - and wisely knew when each was required; (iii) Mr. Bates' preparedness, practicality and effort made a decisive difference in the outcome; (iv) Mr. Bates was extremely impartial and had credibility with all parties; and (v) Mr. Bates has the ability to grasp many complex issues.

Costs were widely reported as reasonable in the context of the value of the disputes mediated by Mr. Bates, and in general a very high degree of satisfaction was reported.

No reportable negative comments have been received since Mr. Bates' designation as an IMI Certified Mediator.

## Professional affiliations

\*Selected as Best Lawyers' 2010 Pittsburgh Construction Lawyer of the Year

\*The Best Lawyers in America 2007 & 2008 - Construction Law; 2009 - Construction Law and Alternative Dispute Resolution

\*Best Lawyers International - International Arbitration and Mediation

\*Pennsylvania Super Lawyers, 2004-present - Construction Law

\*AV® Preeminent™ Peer Review Rated by Martindale-Hubbell

\*Fellow of the College of Commercial Arbitrators, 2009-present

\*American Arbitration Association/International Centre for Dispute Resolution

- Member, Board of Directors

- Chair, National Construction Dispute Resolution Committee

- ICDR International Arbitrator

- Construction and Commercial Arbitrator and Mediator

- AAA Arbitration Advocacy Trainer

- AAA Arbitration Ethics and Disclosure Trainer

- Program Faculty at various AAA and ICDR national and regional programs

\*CPR Institute for Dispute Resolution

- International Arbitrator and Mediator

- Construction Arbitrator

- CPR Construction Advisory Committee

- CPR International Arbitration Committee

- CPR Arbitration Rules Revision Committee

\*London Court of International Arbitration

- North American Users Group



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## \*International Bar Association

- Arbitration Committee
- International Construction Projects Committee

## \*American Bar Association

- ABA Construction Litigation Committee Delegate to National Construction Dispute Resolution Committee
- Forum on the Construction Industry
- Litigation Section, Committee on Construction Litigation

## \*Pennsylvania & Allegheny County Bar Associations

- 2010 - 2011 Chair, ACBA Construction Law Section

For more complete biographical information, please visit <http://www.duanemorris.com/attorneys/albertbates.html>

## Fee rate

2010 rate is \$525 Per Hour. Rate is adjusted annually.

Hourly rate charged for all time associated with the engagement, including administrative & study time, conference calls, travel time, and all other matter-related activities, plus reimbursable expenses. Cancellation policy: If a mediation is cancelled within 72 hours of the scheduled mediation date, the cancellation charge is 12 hours of time in addition to charges for time spent in connection to the engagement and applicable travel time and expenses.

## Mediation education and training

Faculty, AAA/ICDR Neutrals Conference, 2009; Faculty, AAA Construction Conference: ADR Works, 2008; NCDRC, Annual Meeting, 2007; faculty, AAA Arbitration Roadmap: The Standard for Efficient and Cost Effective Arbitration, 2007; Faculty, AAA Construction Mediation Conference: What You Can't Not Know, 2007; ICDR International Commercial Arbitration and Mediation Conference, 2006; ICDR, The International Arbitration's Deliberations and Determinations, 2006; Faculty, AAA Dealing with Delay Tactics in Arbitration, 2006; U.S. District Court, W. D. Pa., Alternative Dispute Resolution Pilot Program Neutral Training, 2006; faculty, AAA Neutrals Conference, 2005; faculty, Arbitration Ethics and Disclosure, 2004-present; faculty, AAA Arbitration Advocacy, 2002-present; AAA Arbitrator Update 2003; AAA Construction Arbitrator II Training: Advanced Case Management Issues, 2002; AAA Commercial Arbitrator Training, 1999; AAA Construction Industry Arbitrator Training, 1997; AAA Fast Track Arbitrator Training, 1996; various other ADR training.

## Mediation teaching and mentoring

Selected Recent Speaking Engagements □ "Construction Dispute Resolution in the U.S.: International Techniques That Can be Used Domestically," AAA Webinar, 2010 □ "ICDR/AAA International Construction ADR Tools and Techniques," 8th Annual ICDR Int'l Arbitration Conf., Miami, 2010 "Large, Complex Construction Disputes: The Dynamics of Multi-Member Mediation Teams," 2009 AAA/ICDR Neutrals Conf., San Diego □ "ADR Works," AAA 2008 Construction Conf., Chicago & New York □ "What You Can't Not Know," AAA 2007 Construction Mediation Conf., Los Angeles □ "Large, Complex Construction Disputes: The Dynamics of Multi-Member Mediation Teams," AAA 2007 Construction Mediation Conf., Miami □ "Building ADR for the Better," AAA



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Forum on the Construction Industry, Orlando 2004 □ "U.S. Perspectives on Int'l Dispute Resolution," 2002 ICDR Forum on Int'l Arbitration.

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## Mediation publications

### Selected Publications

2008 Update to "Non-signatories and International Arbitration: Understanding the Paradox," presented at CILS 5th Biennial Symposium on International Arbitration, Salzburg, Austria (June 2008) (to be published).

"Arbitrator Disclosure Obligations Under 2004 IBA Guidelines on Conflicts of Interest," International Arbitration and Mediation - From the Professionals Perspective (Alibekova & Carrow, Eds. ) (Yorkhill Law Publishing 2007).

"Large, Complex Construction Disputes: The Dynamics of Multi-Party Mediation," 62 Dispute Resolution Journal 36 (American Arbitration Association May/July 2007).

"Non-Signatories and International Arbitration: Understanding the Paradox," Comparative Law Yearbook of International Business (Kluwer Law International 2007) (Chapter Author).

"The Benefits of a Proactive Approach," Inside the Minds: Construction Law Settlements and Negotiation (Aspatore Books 2007) (Chapter Author).

"Still the Arbitrator's Call: U.S. Supreme Court Rules that Arbitrators, Not Courts, Should Decide the Validity of an Allegedly Void or 'Illegal' Contract," IBA Arbitration Newsletter (September 2006).

"U.S. Supreme Court Rules that Arbitrators, Not Courts, Should Decide the Validity of an Allegedly Void or 'Illegal' Contract," PBA Civil Litigation Update (Spring 2006).

"Arbitration in a Global Economy: Managing Information Exchange to Expedite International Commercial Arbitration Hearings," Yorkhill Law Publishing, 2005

"Non-Party Discovery in Commercial Arbitration: Legal Hurdles and Practical Suggestions," Pennsylvania Bar Association Civil Litigation Section Newsletter, Fall 2005

Co-author, "Asset Purchases, Successor Liability, and Insurance Coverage: Does the Tail Always Follow the Dog?" West Virginia Law Review, 1998

"Natural Resource Damage and Third-Party Personal Injury and Property Damage Claims: Litigation Issues Which Linger After a Successful Brownfields Project," American Bar Association Toxic Tort and Environmental Litigation Newsletter, August 1998

"RCRA's Imminent Hazard Citizen Suit Provision After the Ninth Circuit's Ruling in 'Meghrig,'" Toxic Law Reporter, June 21, 1995

"An Overview of the Integration of RCRA's Imminent Hazard Citizen Suit Provision with CERCLA's Cost Recovery Provisions After KFC Western v. Meghrig," Environmental Reporter, April 28, 1995

**Note: This Mediator Profile is intended to offer guidance to users of mediation services about the competency, skills, styles and potential suitability of the IMI Certified Mediator featured above. The Reviewer, the Mediator and IMI are attempting to present fair, balanced and objective information but none are to be held responsible for reliance on the information given. Users of mediation services are encouraged to pursue further research before selecting the IMI Certified Mediator, including contacting references and conducting an interview with the Mediator before making a selection.**