



ARBITRATION, MEDIATION & ALTERNATIVE DISPUTE RESOLUTION

Diamond McCarthy is committed to providing our clients the best possible results from not only a litigation perspective but also through arbitration and mediation. We focus on providing value, and our teams work vigorously to deliver superior representation and responsiveness. Each unique case is analyzed with a tailored and customized approach. In our alternative dispute resolution practice, we exercise professionalism, fairness and objectivity to ensure our clients' interests are heard and understood.

Decades of experience representing diverse clients in hundreds of complex proceedings give us a broad perspective and we have served as party representatives and as neutral or party appointed arbitrators. Similarly, in mediations, we have represented both the plaintiff and defendant and served as a neutral mediator.

Our experience and knowledge create a skill level that allows us to efficiently read the literal and figurative terrain of arbitrations and mediations. We understand the nuances associated with a conference/negotiation room process, which is vastly different from the more restrictive rules and procedures of the courtroom. This sets us apart from other litigators and law firms who are not as comfortable in the environment of alternative dispute resolution and who are unable to compete on the same knowledge and experience-based playing field.

Our lawyers who practice in alternative dispute resolution have undergone rigorous training and credentialing. Based on their broad experience, members of our team know the women and men who sit as arbitrators and mediators in the jurisdictions in which they have practiced for decades. This level of understanding provides an important dimension, as we are able to effectively explain our positions with sharp focus and efficiency.

Our experience in resolving disputes with creative and cost-effective methods is a critical advantage, as the risks of a long and costly trial continue to escalate, (and as only a small percentage of cases actually result in trial).

Diamond McCarthy employs any number of alternative dispute mechanisms to resolve matters under the appropriate circumstances, including arbitrating claims, conducting mini-trials, and devising private trials. We also have resolved many claims through the mediation process. Mediating disputes for clients and facilitating resolution results in less expensive, less contentious and less time-consuming proceedings. Our firm has worked with prominent mediators who formerly served as judges, academicians, and private trial lawyers. In addition, we have worked with the American Arbitration Association, the Conflict Prevention & Resolution Institute, Judicate West in California, and some of the best national mediators through JAMS Houston, Dallas, New York and California.

We have significant experience in representing parties in alternative dispute resolution in the following matters:

- Bankruptcy and Insolvency Proceedings
- Breach of Fiduciary Duty

- Business Divorce – Majority Owners and Minority Investors
- Community Property
- Complex Commercial Litigation, Business and Contract Disputes
- Cross-border Transactions
- Employment Claims – by and against management and owners, often involving FLSA and wage and hour issues
- Financial Transactions
- Fraud
- Healthcare
- Intra- and Inter- Company Conflicts
- Oil, Gas and Other Energy Sectors
- Ponzi Schemes
- Professional Malpractice
- Real Estate and Secured Transactions
- Securities – including broker/dealer and customer representations
- Trade Secrets

At Diamond McCarthy, we take pride in having a team with over 40 years of combined experienced in this field. Our group consists of attorneys who are a part of multiple relevant organizations, are mediators on panels, and have completed formal training in ADR programs such as Harvard Law School’s consortium program, “The Program on Negotiation,” and the Straus Institute for Dispute Resolution, affiliated with Pepperdine School of Law.

Our lead attorneys within the practice include Richard Janvey, a member of the Conflict Prevention & Resolution Institute, SDNY Mediation Advisory Committee, Mediation Panels for the United States District Courts for the Southern and Eastern Districts of New York and New York Supreme Court, New York County, Commercial Division, and other Mediation and Dispute Resolution committees through various New York Bar Associations; Kathy Phelps, who currently serves on the Mediation Panel for the United States District Court for the Central District of California, the Panel for the United States Bankruptcy Court, District of Arizona, and the Panel of Mediators and Panel of Arbitrators for FINRA; and Mark Shank, an arbitrator for the American Arbitration Association and other providers, who is a recently recognized Fellow of the College of Commercial Arbitrators and a Fellow in the Chartered Institute of Arbitrators, an international center of excellence for the practice and profession of ADR.