

David J. Abeshouse
Law Office of David J. Abeshouse
626 RXR Plaza
Uniondale, New York 11556 (Nassau County, Long Island)
Ph: 516-229-2360 | Fax: 516-229-2361
Arbitrator/Mediator B2B Dispute Resolution
David@BizLawNY.com | www.BizLawNY.com

Current Employer-Title:

Law Office of David J. Abeshouse - Principal

Profession:

Business Litigation Attorney, Arbitrator, Mediator

Work History:

Principal, Law Office of David J. Abeshouse, 2000-present

Partner/Associate (Comm. Lit.), Ackerman, Levine, Cullen & Brickman, LLP, 1986-2000

Associate Commercial Litigation Attorney, Golenbock and Barell, 1984-86

Assoc. Commercial Litigation Attorney, Colleran, O'Hara, Kennedy & Mills, P.C., 1982-84

Federal Judicial Law Clerk, U.S. Magistrate Judge, Southern District of New York, 1980.

Description of Practice and Experience:

New York Metro area business litigator, arbitrator, and mediator. Professional practice revolves around business-to-business dispute resolution from diverse perspectives.

Actively represent clients as their attorney-advocate in commercial arbitration, and mediation proceedings; serve regularly as neutral arbitrator or mediator on the

commercial panels of neutrals of several national and international ADR forums, including the American Arbitration Association, the International Centre for Dispute Resolution, Resolute Systems, the National Arbitration Forum, the Nassau County Bar Association ADR Tribunal, and others, as well as run a private neutral arbitration and mediation practice. Member of several bar associations' dispute resolution sections; a past Chair of the Nassau County Bar Association Alternative Dispute Resolution Law Committee; and a member of the NY State Dispute Resolution Association (NYSDRA).

More than 30 years of commercial business litigation practice experience in the various state and federal courts and ADR forums. 85% of practice is in business contract, dissolution, and business tort disputes; 15% is in other business matters. Represent small- and medium-sized businesses, entrepreneurs, professionals, and other individuals. Substantive areas of concentration include contracts, real estate, franchise, corporate, partnership, unfair competition including restrictive covenants, business and professional practice dissolution, entertainment, product development, marketing, finance, insurance, manufacturing, etcetera.

A decade and a half of service as a neutral -- arbitrator and mediator. Nearly three decades' experience representing clients in ADR matters, principally arbitration and mediation. During the past decade, the majority of business dispute resolution law practice has been in representing clients in ADR, with less and less work in court litigation. Formerly a partner at a medium-sized Long Island law firm, where I practiced for fourteen years (ten as an equity partner); now in solo practice since 2000.

From 1989 to 2007, also served as president and general counsel of a small Manhattan-based real estate company owned by an Australian client. From 1988 – 2007 (19 years), served as voluntary member of board of directors, President (2000-2002), and *pro bono*

general counsel (2002-2007) for a New York-based not-for-profit professional orchestra (the New York Virtuosi Chamber Symphony d/b/a Music Associates of New York, Inc.). Founding Member, Board of Directors, Health and Business Alliance, Inc., 2004 to present; Founding Member, Board of Directors, Long Island Entrepreneurs Group, Inc., 2003 to 2010; *pro bono* General Counsel, 2010 to present; Senior Advisor, International Legal Malpractice Advisors, LLC (Washington, D.C.), 2004 to 2007. Honors and recognitions include: Selected to New York Metro Area SuperLawyers 2007, 2012, 2013, and 2014; Long Island Pulse magazine "Top Legal Eagles" 2010, 2011, and 2013 (predicated in part on Martindale-Hubbell "A-V Preeminent: 5.0/5.0" rating); and "Superb" 10/10 rating on AVVO.com continuously since 2008.

Alternative Dispute Resolution Experience:

Arbitrated well over one hundred fifty commercial cases (through award) either as sole neutral arbitrator or as Chair or "wing" on 3-member panel on behalf of the American Arbitration Association, and more than two hundred commercial arbitrations on behalf of other forums. Arbitral experience includes cases involving various claims and allegations of breach of contract, partnership/shareholder disputes, business dissolution (corporate, partnership, and LLC), commissions, leasing, unfair competition, restrictive covenants, music royalties, brokerage, post-marital property ownership, downward modification of spousal support, credit, and other areas. Industries include real estate, distributorships, franchising, education, technology, automotive, restaurants, consumer credit, family business, professional services practices, personnel placement, entertainment, vending machines, residential construction, entertainment, product development, marketing, financing, insurance, manufacturing, international, and others. Mediated numerous varied business cases to successful consensual agreement among the parties. Mediation experience in similar substantive areas as arbitration experience. As an advocate, 20+ years of alternative dispute resolution (principally arbitration and

mediation) experience in over three hundred ADR cases in the areas of breach of contract, real estate, franchise, corporate, partnership, joint venture, unfair competition, business and professional practice dissolution, and other substantive areas.

Alternative Dispute Resolution Training (partial listing):

Columbia International Arbitration Day: "Interactions Between Different Fora in International Arbitration" (full-day program), 2014; College of Commercial Arbitrators (CCA) Annual Training Meeting, 2013 (multi-day); National Academy of Distinguished Neutrals (NADN), Advanced Mediation Training Retreat, 2013 (multi-day); AAA Webinar, Arbitration in IP/Technology Disputes, 2013; AAA Webinar, Top Ways to Persuade Your Arbitrator, 2012; AAA Webinar, Controlling Chaos in Mediation: Navigating the Behavioral Paradigm, 2012; AAA Managing the Arbitration Process for Efficiency & Economy Following the Preliminary Hearing, 2011; AAA Maximizing Efficiency & Economy in Arbitration: Challenges at the Preliminary Hearing, 2011; New York State Bar Association Dispute Resolution Section Fall Meeting, Crisis in the Courts -- ADR as a Solution to Judicial Gridlock, 2011; AAA Webinar, How to Become a More Innovative Neutral or Advocate: Applying Cutting Edge Innovation Management Techniques to Your ADR Practice, 2011; AAA Webinar, Drafting Mediation Settlements That Stick, 2011; AAA Webinar, What's a Respondent Like You Doing in a Place Like This? Confronting Arbitrability and Jurisdiction Issues in Arbitration, 2011; AAA Webinar, Consummate Negotiation: Techniques & Tactics, 2011; AAA Webinar, How Are Your (Negotiation) Table Manners?, 2011; AAA Webinar, Arbitrator Boundaries: What are the Limits of Arbitrator Authority?, 2011; NY State Court System, Advanced Mediation Training, 2011; AAA Muscular Arbitration: Trimming the Fat Out of Arbitration, 2011; AAA Dealing with Delay Tactics in Arbitration (ACE004), 2010, 2005; AAA/ICDR Neutrals Conference, 2009; AAA Neutrals Conference, Mediator Ethics: Objective Standards and Subjective Practices, 2009; AAA Neutrals Conference, Arbitrator Update: Topical Issues and Case Law in Arbitration, 2009; AAA Roadmap, The Standard for Efficient and Cost Effective Arbitration, 2009; AAA Neutrals Conference, Electronic Discovery in Arbitration: What You Need to Know, 2009; American Bar Association Section

of Dispute Resolution Spring Annual Conference, 2009; New York State Bar Association Dispute Resolution Section Annual Meeting, 2009; Hofstra University School of Law Mediation Clinic and the Institute for the Study of Conflict Transformation, Transformative Mediation Certification, 2009 (35 hours); AAA Ask & Answer: Arbitration, 2008; AAA Chairing an Arbitration Panel: Managing Procedures, Process & Dynamics (ACE005), 2006; AAA, Arbitrator Perspectives, 2005; AAA/NY County Lawyers Association, Breaking the Impasse at Mediation, 2005; American Bar Association Dispute Resolution Section, ADR Conference, 2004; Touro College of Law CLE, Mediation for Litigators, 2004; AAA Commercial Arbitrator II Training: Advanced Case Management Issues, 2003 (multi-day); AAA Neutrals Conference, 2003; AAA Arbitrator Update, 2003; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards (ACE001), 2003; American Bar Association Advocacy Techniques in Mediation, 2003; AAA, Role of Arbitrator in Expediting the Process Workshop, 2003; AAA Arbitrator I Training-Fundamentals of the Arbitration Process, 2003 (multi-day); AAA/Nassau County Bar Association, Ethics in Arbitration, 2003, 2002; City Bar Center/Association of the Bar of the City of New York, Advanced Mediation Training, 2002; Nassau Academy of Law, Use of ADR in Commercial Litigation, 2001; AAA/Nassau County Bar Association, Current Issues in ADR, 2001; various other (and prior) ADR training.

Professional Licenses:

Admitted to the Bar: New York, 1983; U.S. District Court, Southern and Eastern Districts of New York, 1983; U.S. Court of Appeals, Second Circuit, 1993; U.S. Supreme Court, 2004. NY State Notary Public 1983 – present.

Professional Associations:

National Academy of Distinguished Neutrals-NY Academy of Mediators and Arbitrators (NADN-NYAMA, Member of NY Executive Committee); College of Commercial Arbitrators

(CCA); American Bar Association (Dispute Resolution Section; Litigation Section); New York State Bar Association (Alternative Dispute Resolution Section; Litigation Section); Nassau County Bar Association (Alternative Dispute Resolution Committee, Past Chair; Federal and Commercial Litigation Committee; GP-Solo Committee); past member of the Long Island Entrepreneurs Group, Inc. (Board of Directors; *pro bono* General Counsel); American Bar Association (Dispute Resolution Section; Litigation Section); New York State Bar Association (Alternative Dispute Resolution Section; Litigation Section); Nassau County Bar Association (Alternative Dispute Resolution Committee, Past Chair; Federal and Commercial Litigation Committee; GP-Solo Committee); The Attorney Round Table (Co-founder and Member of Executive Committee); The Health & Business Alliance, Inc. (Founding Member, Board of Directors); past Long Island Entrepreneurs Group, Inc. (founding member of Board of Directors; *pro bono* General Counsel); New York State Dispute Resolution Association; long-time (27 years) past member of Association of the Bar of the City of New York a/k/a New York CityBar and New York County Lawyers Association (ADR Committee and Appellate Practice Committee).

Education:

-- University of Pennsylvania, Philadelphia, PA -- B.A. in English (minor in bio-psychology and concentrations in economics, chemistry, and music), 1978.

-- Vanderbilt University School of Law, Nashville, TN -- J.D. (Juris Doctorate), 1982.

-- Extensive Continuing Legal Education (CLE), mostly in ADR (arbitration and mediation) (1990 – present).

Mediation Training:

-- 1990 - present: Numerous trainings -- attended programs each year -- mostly facilitative, well over 150 hours. Also teach at ADR CLE programs (over 100 hours since 1990).

-- January 2009: Hofstra University Mediation Clinic and the Institute for the Study of Conflict Transformation -- Transformative mediation further certification, 35-hour course

-- May 2011: NY State Court System -- Advanced Mediation, further certification training, 16-hour course

Mediation Approach:

Flexible, not doctrinaire; I attempt to rationally mold my process to the needs of the particular situation (parties, relationships, counsel, circumstances, etc.). In general, I favor use of pre-mediation teleconferences to handle logistics; pre-mediation written submissions by the parties to the mediator (either ex-parte or shared, as suits the participants); selective shuttle diplomacy (emphasis on joint general sessions, with private caucuses, as appropriate); principally facilitative approach, refraining from making evaluative input until well into the mediation, if at all; and, simply put, proceeding in a manner that makes as much sense for all as possible, given the presumably mutual goal of resolution (if there are other goals, such as improving communication, etc., these similarly can help guide the process). Bottom line: Flexibility, rationality, pragmatism, persistence, particular needs, and achievement of goals remain important, so the process is malleable and customizable. I have engaged in extensive and intensive training in mediation over the past 20+ years, including coursework in facilitative, evaluative, and transformative mediation techniques; representative recent coursework (well over 150 hours) includes study of breaking impasse in mediation, mediator ethics (objective standards and subjective practices), the art and future of mediation, plus a 35-hour Transformative Mediation further certification training course (Hofstra Law, 2009) as well as a 16-hour Advanced Mediation further certification training course (NYS Court system, 2011). I also teach mediation to lawyers and retired judges.

Fees:

Hourly rate for time expended working on the matter; advance retainer deposit.

Participants enter into written mediation retainer/engagement agreement that spells out

the particulars and informs the process.

Other Information:

I truly enjoy mediation, and look to serve as mediator (or arbitrator) in business cases whenever I can. Please contact me so we can discuss your matter. If you are counsel to parties involved in a dispute, I will serve you and your clients well, and I can help explain to the other side(s) why mediation might behoove all. If you are a party without counsel, I similarly can handle your mediation, but it may be advisable in many instances for you to seek counsel for advice and an independent review of the eventual settlement agreement.

Areas of Practice (illustrative list):

- Business
- Civil (general)
- Commercial
- Construction
- Contracts
- Employment
- Entertainment
- Franchise
- Health Care
- Insurance
- Labor - Management
- Legal Malpractice
- Medical
- Organizational
- Partnership

- Professional Fees
- Real Estate
- Technology
- Work Place

Professional Services:

- Mediator
- Arbitrator
- Mediation Consultant
- Representational Lawyer
- Conflict Coach

Publications and Speaking Engagements (partial listing):

Author: "Business Alternative Dispute Resolution (ADR) Provides Fast, Fair, Flexible, Expert, Economical, Private, Customized Justice," New York State Bar Association, Corporate Counsel Section, *INSIDE*, Fall 2014; "Alternative Dispute Resolution (ADR) Law -- Why Tech Lawyers Should Care, and What They Should Do About It," New York State Bar Association, Corporate Counsel Section, *INSIDE*, Fall 2013 (Vol. 31, No. 2); "Business Dispute Resolution for Tough Times," *NEW YORK ENTERPRISE REPORT*, March 2009; "FAQ re: ADR (Frequently Asked Questions About Alternative Dispute Resolution: Commercial Arbitration and Mediation)," American Bar Association's *LAW TRENDS & NEWS*, vol. 4, issue 2, Winter 2008; "Civility and Negotiations," *GP/SOLO MAGAZINE*, vol. 22, issue 7, American Bar Association, October/November 2005; and many others.

Speaker: Trainer, New York State Bar Association/Fordham Law School, NY State Court-certified 24-hour Commercial Mediation Training Course for lawyers to become mediators, 2014; Panelist, The 136th Annual Meeting of the NY State Bar Association, Dispute Resolution Section, Hilton New York, New York City, topic (CLE): "The Role of Dispute

Resolution Within the New Economic Reality of Law Practice: No Longer Business As Usual," 2013; Vanderbilt University School of Law, Nashville, TN, topic: "Career Options: A Conversation With Business Litigator, Mediator and Arbitrator David Abeshouse," 2012; Panelist, "Understanding the Legal Implications of Social Media," NY XPO for Business; Javits Center, 2011; Guest Instructor, "Business Intensive" Entrepreneurship course, Business Dispute Resolution component, New York University (NYU) School of Continuing and Professional Education, New York, NY, 2011, 2010, 2009; panelist, "Conflict Management," Organizational Development Network of Long Island (ODNLI), 2010; "Business ADR for Lawyers - What Alternative Dispute Resolution Can Mean For Your Practice," CLE Abstract/Melville Marriott, CLE course, 2010; "The Inside Scoop on Business Alternative Dispute Resolution (ADR): The Neutral Arbitrator's and Mediator's Perspectives," Gotham Networking (NYC and L.I.), 2009; "Don't Litigate - Mediate or Arbitrate," Suffolk County Bar Association Corporate and Commercial Law Committee, Hauppauge, NY, 2009; "How Mediation Can Benefit Accountants, Attorneys, and Their Clients," Nassau County Bar Association, Mineola, NY, 2008; "Representing Clients in Arbitration," Continuing Legal Education course, American Arbitration Association/Nassau County Bar Association, September 2007; "Advocate Perspectives - Selecting a Mediator," Association for Conflict Resolution of Greater New York Annual Conference, Cardozo Law School, Manhattan, June 2007; "ADR for Lawyers," Continuing Legal Education course, CLE Abstract, Amityville, New York, March 2007; "Managing Your Commercial Arbitration," Continuing Legal Education course, American Arbitration Association/Symbol Technologies, Inc., December 2005; "7th Annual Securities Arbitration Update," Continuing Legal Education course, Nassau County Bar Association/Nassau Academy of Law, October 2005; "Recent Trends in Commercial Mediation and Arbitration," Continuing Legal Education course, American Arbitration Association/Nassau County Bar Association, January 2004; "Arbitration Advocacy for Attorneys," Continuing Legal Education course, American Arbitration Association,

Garden City, NY, December 2003; "Commercial ADR," Continuing Legal Education course, Women's Bar Association of New York, Queens, NY, November 2002; and many others.

Citizenship:

United States of America

Locale:

Uniondale (Nassau County, LI), NY