



SINGAPORE INTERNATIONAL
MEDIATION CENTRE

Mediator's Curriculum Vitae

Personal Particulars	
First Name	Bennett
Surname	Picker
Designation	Mediator
Organisation	
Educational/Professional Background	
B.A. Temple University J.D. Columbia University School of Law Hague Academy of International Law	
Mediation Style	
Preparation is the key to successful outcomes in mediation. I work with the parties in advance to understand not only the positions, but also the problem and the people. While facilitative, I am appropriately evaluative depending upon circumstances. A more full description attached as Exhibit "A."	
Mediation Experience*	
For over 25 years, have been a mediator in complex commercial disputes (domestic and international) involving billions of dollars and important strategic interests. For past decade, a mediator and arbitrator fulltime.	
Mediation Education and Training*	
Hundreds of hours of education and training at mediation training programs as well as programs of IAM, CPR, and ABA.	
Mediation Teaching and Mentoring*	
Served as trainer in mediation and negotiation and have given programs at corporations, law school, Wharton Business School, CPR, AAA, IAM, CEDR (U.K.) and other organizations.	
Mediation Publications*	
Author "Mediation Practice Guide, A Handbook for Resolving Business Disputes," and numerous book chapters and articles.	
Professional Affiliations*	
Distinguished Neutral, CPR Institute; Distinguished Fellow, IAM; Fellow, ACCTM; AAA (including	

ICDR); Certified Mediator, IMI.

*For greater detail, see CV attached.



My Personal Mediation Philosophy



Bennett G. Picker

While conducting a mediation training session, I was asked if I could describe mediation in one word. Without hesitating, I responded "opportunity." In mediation, parties have an opportunity to communicate effectively, telescope issues in hours or days that might otherwise take years to develop in litigation; achieve enormous savings of cost, avoid the distractions of litigation and eliminate risk. Equally important, parties have an opportunity to explore their underlying needs and interests and develop practical solutions not available in litigation or in arbitration.

In order for all participants to take advantage of the opportunities presented in a mediation, it is imperative for all participants - party representatives, counsel and the mediator alike - to devote adequate time to preparing for the process. Accordingly, I work with counsel in advance of mediation to address key preparation issues such as the need for any exchanged submissions, the substance of critical ex parte submissions, the identity of the participants and issues of authority.

Mediation is a flexible process which permits a different approach in each case. For numerous reasons, I find a brief joint session to be advisable at the outset of most disputes. Among other reasons, most decision-makers in mediation know the other side's case only as presented to them by their own counsel. A joint session offers an opportunity to hear the other side's case in a manner unfiltered by their own counsel. A joint session also offers an opportunity for direct communication between the party-representatives that frequently enhances the likelihood of a successful outcome. In most commercial disputes, however, the real "work" begins when we start to meet privately in caucus sessions.

Much has been written about a mediator's style and approach once in caucus sessions. Is the mediator "facilitative" or "evaluative?" Is the mediator more active or passive? Is the mediator's approach "narrow" (focusing upon rights) or more "broad" (focusing upon the underlying interests). Is the mediator directive or transformative? My answer to all of the above is "yes." I adopt strategies in each mediation that may require using any or all of the above styles and approaches. The positions, the people and the problem dictate my approach.

I firmly believe, however, that while the parties may own the outcome, they are looking for my leadership on issues of process. With regard to the "facilitative-evaluation" debate, I find most parties want and deserve appropriate "reality testing." While I do not put a number on a case or even ask for the parties' bottom line (except, perhaps, on rare occasions to break an impasse), as the only objective person in the room, I believe the parties do want to hear from me on the "merits." In the final analysis, while parties may tell me what they want, what they need, what is fair, what is right, what is true (all of which is fair comment), I will urge parties to listen respectfully, make good assessments and make responsible decisions. In my view, the benchmark for a responsible decision is a comparison of what can be accomplished in mediation with the consequences likely to occur if the parties fail to achieve a settlement.

At the same time, no resolution is driven solely by disparate litigation-risk analyses. There is always some other interest, need, agenda item or problem in the background which is driving a party's analysis and settlement decisions. I make every effort to take a multi-dimensional view of a dispute, looking beyond the differing views on positions and interests. For example, I find that differences between counsel and client can create a sometimes invisible barrier to resolution. Differences among and between the various representatives of just one side to a dispute similarly can create a barrier to resolution invisible to the other side. I often conduct an "intra-mural mediation" on just one side to get all of the party-representatives on the same page on offers, demands and issues such as the timing of a payment, or which division's budget will take a "hit," or whether a settlement should be based upon a one-time payment or restructured terms of a deal.

Of course, as every skilled and experienced mediator does, I plumb the depths of the problem to see if any integrative solution is possible. Most mediators want to achieve a "win-win" solution, if possible. Occasionally, we can forge new understandings that are truly transformative. At the end of the day, however, most parties in mediation mostly want to put a dispute behind them so that their company can continue with more productive activities in the interest of their shareholders.

I hope what I bring to the table as a mediator, in addition to my skill, experience and integrity, are qualities of patience and perseverance. Not infrequently, party-representatives and their lawyers reach a stage where they are willing to give up and terminate the process. So long as the parties are participating in good faith, my credo is "never give up." Most of the time, we can work through what I call a "hopeless stage" and get to a stage where parties can begin to see a successful outcome on the horizon. In a few instances, parties need the one thing I cannot give them in a mediation - time to adjust their assessments. Even in these instances, where an adjournment may be appropriate, I continue to stay involved in the search for a solution.

I have often heard it said that a good settlement is one where both parties are equally dissatisfied. However, surprisingly often, I hear from parties after a mediation that they were satisfied not only with the process, but also the result.



Bennett G. Picker | Senior Counsel

CONTACT INFORMATION

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Philadelphia, PA

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Ben Picker has an active ADR practice, serving both as a mediator and arbitrator in business disputes and as a trainer in mediation and negotiations. He has successfully resolved several hundred domestic and international disputes with a cumulative value of several billion dollars. He has served as a mediator in complex business disputes in corporate and commercial transactions, asset/stock purchase agreements, securities, employment, environmental, ERISA, intellectual property, health care, real estate, products liability, bankruptcy, construction, class actions, professional liability, and shareholder and partnership disputes.

In 2010, Mr. Picker received the American Bar Association's "Lawyer as Problem Solver Award." He was recognized for his unprecedented insight into new avenues of dispute resolution. The award is presented annually to an individual or institution that demonstrates profound creativity in problem solving.

Mr. Picker is a member of the National Panel of Distinguished Neutrals and the Employment Panel of the CPR International Institute for Conflict Prevention & Resolution; a member of the Commercial Mediation, Arbitration, International and National Class Action Panels of the American Arbitration Association; a fellow of both the American College of Civil Trial Mediators and the International Academy of Mediators and is certified by the International Mediation Institute. He is the author of *Mediation Practice Guide - A Handbook for Resolving Business Disputes (Second Edition)* published by the American Bar Association Section on Dispute Resolution, and has written numerous books and articles on mediation and arbitration.

Over several prior decades, Mr. Picker represented plaintiffs and defendants in a wide range of commercial cases, including contract, securities, employment, UCC, product liability and complex commercial matters.

An active participant in the Philadelphia Bar Association, Mr. Picker served as the Association's chancellor and as chairman of the Association's board of governors, judiciary committee and appellate courts committee. He is a founder and advisory board member of Pennsylvanians for Modern Courts and a former member of the Pennsylvania Trial Court Nominating Commission (First Judicial District).

Mr. Picker was also named one of the "Top 100 Pennsylvania Super Lawyers" from 2004 - 2014. In addition, he was selected from 2005 - 2015 to be included in the editions of *The Best Lawyers in America*, regarded as a definitive guide to legal excellence in the United States, and was named *Best Lawyers' 2011, 2012, 2013 and 2014 Philadelphia Area ADR "Lawyer of the Year"* based on an exhaustive peer-review of legal abilities of other lawyers in their specialties. Only a single lawyer in each specialty in each community is honored as "Lawyer of the Year." Mr. Picker was also recognized as one of the world's leading commercial mediators in the "International Who's Who of Commercial Mediation 2014." The only Pennsylvania honoree, he was selected for providing "fantastic service."

ALTERNATIVE DISPUTE RESOLUTION

ADR Certifications and Panels



PRACTICE AREAS

Alternative Dispute Resolution

BAR ADMISSIONS

Pennsylvania

EDUCATION

J.D., Columbia University School of Law, 1966

Hague Academy of International Law, summer 1966

B.A., *magna cum laude*, Temple University, 1963

MEMBERSHIPS

Distinguished Fellow,
International Academy of
Mediators

Fellow, American College of Civil
Trial Mediators

Executive Advisory Committee
and Panel of Distinguished
Neutrals, CPR International
Institute for Conflict Prevention
& Resolution

Member, Editorial Board,
Dispute Resolution Magazine

Mediation and Arbitration
Panels, American Arbitration
Association

Advisory Council of the Straus
Institute for Dispute Resolution
of Pepperdine University School
of Law

Advisory Board and Co-founder,
Pennsylvanians for Modern
Courts

Former Chancellor, Philadelphia
Bar Association

PUBLICATIONS

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publications](#)

NEWS AND EVENTS

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events](#)

- Distinguished Fellow, International Academy of Mediators
- Fellow, American College of Civil Trial Mediators
- Member, National Panel of Distinguished Neutrals (Mediation and Arbitration), CPR International Institute for Conflict Prevention & Resolution
- CPR U.S. – China Trade Panel
- CPR National Employment Panel
- Member, Commercial Arbitration and Mediation Panels of American Arbitration Association (AAA)
 - AAA Large Complex Case Panel
 - AAA National Class Action Arbitration Panel
 - ICDR Mediation Panel (International Centre for Dispute Resolution)
- Member, Mediation Panel of Court of Arbitration for Sport (Lausanne, Switzerland)
- Member, Mediation Panel of World Intellectual Property Organization (Geneva, Switzerland)
- Certified Mediator, International Mediation Institute (Netherlands)
- Certified Mediator, U.S. District Court for the Eastern District of Pennsylvania

ADR Boards

- Executive Advisory Committee, CPR International Institute for Conflict Prevention & Resolution
- Advisory Council of the Straus Institute for Dispute Resolution of Pepperdine University School of Law
- Editorial Board, *Dispute Resolution Magazine* (published by ABA Section of Dispute Resolution)
- Former Member, Board of Directors (2001-2013) and Executive Committee (2008-2012), American Arbitration Association
- Former Co-Chair, National Mediation Committee, American Arbitration Association

ADR Lectures and Training

Mr. Picker has served as a lecturer/trainer (ADR, mediation and negotiations) in programs sponsored by American and Pennsylvania Bar Associations, Practicing Law Institute, Center for Dispute Resolution (United Kingdom), CPR International Institute for Conflict Prevention & Resolution, American Arbitration Association, Association of Corporate Counsel, Wharton School of the University of Pennsylvania, American College of Civil Trial Mediators, International Academy of Mediators, Villanova Law School, Temple University Law School and at numerous in-house legal departments of corporations throughout the U.S.

Representative Issues Resolved in Mediation and Arbitration

Mr. Picker has served as a mediator and arbitrator in numerous complex business disputes, including the following representative cases:

- several hundred million dollar claim by a public company against a major accounting firm in connection with its audit (allegedly wrongful issuance of going concern letter)
- claims by a state insurance commissioner against a national law firm for alleged breaches of fiduciary duties

- dispute between two healthcare institutions involving alleged breaches of affiliation agreement (mediation resolved dispute and also permitted parties to dissolve a joint medical practice)
- dispute arising out of employment termination of key executives of a public company
- alleged breach-of-asset purchase and continuing supply agreements
- several hundred million dollar claim by trustee in a bankruptcy against multiple parties involving claims of breaches of fiduciary duties, fraud and equitable subordination
- claim by a manufacturing company against a manufacturer of component parts which were recalled worldwide
- alleged fraud involving computer software licenses
- several hundred million dollar claim against numerous North American and European insurance companies by owners of satellite which exploded in space
- numerous claims against accounting firms in connection with audits – including claims for breaches of fiduciary duties and violations of GAAP and GAAS
- claims by a trustee of a public company in bankruptcy against officers and directors and the company's accounting firm for damages arising from deepening insolvency
- claims by minority shareholders of the corporation against majority shareholders for breaches of fiduciary duties and "minority oppression"
- numerous shareholder, partnership and real estate disputes involving competing contentions on valuation issues
- dispute over worldwide distribution of patent royalties involving two pharmaceutical companies which jointly developed and marketed the product
- claims of wrongful termination, employment discrimination and contract right to tenure by a university professor
- allegations of patent infringement, misappropriation of "know how" and breaches of exclusivity and territoriality provisions of a patent license agreement between U.S. and European companies
- copyright infringement claim against an author by a competing publication
- claims by limited partners in real estate investments against a general partner for misallocation of profits from pooled sale of properties
- claims against a national law firm for damages arising from alleged conflicts of interest and failure to disclose certain relationships
- high nine-figure claim by client against law firm for alleged inadequate due diligence in connection with an acquisition
- nine-figure claims for breach of contract by purchaser of numerous pools of many thousands of subprime mortgages (against originator of mortgages)

Statement of Personal Mediation Philosophy

User Feedback (International Mediation Institute)

Professional Associations/Affiliations

- Philadelphia Bar Association:
- Chancellor (1986)

- Chair, Appellate Courts Committee (1979)
- Chair, Board of Governors (1978)
- Chair, Judiciary Committee (1974)
- Pennsylvania Bar Association, House of Delegates (1974-1993)
- American Bar Association (Sections on Dispute Resolution and Local Government)
- Philadelphia Bar Foundation, Trustee (1984-1990)
- Association of the Bar of the City of New York
- Former Vice President, U.S. District Court Historical Society
- Chair, U.S. District Court Bicentennial Celebration (E.D. Pa.)

Boards (other than ADR)

- Advisory Board Member and Co-Founder, Pennsylvanians for Modern Courts
- Former Board Member, Greater Philadelphia Chamber of Commerce
- Former Board Member, Committee of Seventy (Government Watchdog Committee)
- Former Vice President, Jewish Community Relations Council
- Former Trustee, Jewish Federation of Greater Philadelphia
- Former Board Member (Founding Member), Meritas
- Former National Advisory Board Member, Hildebrandt, Inc.
- Advisory Board Member, International Amateur Athletic Association
- Former Vice President, Columbia Law School Alumni Association

Public Office

- Pennsylvania Trial Court Nominating Commission (First Judicial District), Member and Secretary (1975-1979)

Awards and Honors

- American Bar Association Section on Dispute Resolution, "Lawyer as Problem Solver Award," 2010
- American Arbitration Association Outstanding Director Award, 2005

Awards for Service as:

- Co-Founder of Pennsylvanians for Modern Courts, 1988 (Presented by Justice Harry Blackman)
- Chairman of Federal Court Celebration of the Bicentennial Bill of Rights, 1987 (Presented by Chief Justice Warren Burger)
- Chancellor of the Philadelphia Bar Association and Co-Founder of the Bar's pro bono program - "Philadelphia VIP," 1986 (Presented by Justice William Brennan)
- Meritas Grahovac Award for Vision and Leadership, 2006

SELECT PUBLICATIONS

Books

- Author, *Mediation Practice Guide: A Handbook for Resolving Business Disputes* (Second Edition), published in 2003 by the American Bar Association Section on Dispute Resolution
- Author, *Guía Práctica Para La Mediación* (Spanish Edition of Mediation Practice Guide), published in 2003 by Centro Empresarial de Mediación y Arbitraje (Mediation and Arbitration Center of Buenos Aires)
- Co-author with Jack Foltz (former chair of American Corporate Counsel Association), Chapter on ADR in multi-volume series, *Successful Partnering Between Inside and Outside Counsel*, published in Fall 2000 by West Group, Inc. and American Corporate Counsel Association
- Author, *Mediation Practice Guide: A Handbook for Resolving Business Disputes* (First Edition), published in 1998 by Pike and Fischer, Inc., a subsidiary of the Bureau of National Affairs, Inc. and the ABA Section on Dispute Resolution

Articles

- "Cognitive Barriers to Success in Mediation," *The Metropolitan Corporate Counsel* (December 2010), co-authored with Gregg Relyea
- "Preparation: The Key to Successful Outcomes in Mediation," *Alternatives*, CPR International Institute for Conflict Prevention and Resolution (February 2010)
- "The 10 Most Common Mistakes Made by Mediation Advocates," *The Legal Intelligencer* (April 19, 2007)
- "Navigating The Mediation Process: Overcoming Invisible Barriers to Resolution," *Dispute Resolution Journal*, American Arbitration Association (Vol. 61, No. 3, August-October 2006)
- "Strategies for Successful Mediation," *Alternatives*, CPR International Institute for Conflict Prevention & Resolution (June 2006), transcript of comments at CPR's Annual Meeting
- "Experts Identify ADR Trends and Best Practices," *The Metropolitan Corporate Counsel* (January 2006)
- "EDR: Make the Investment, Reap the Rewards," *The Metropolitan Corporate Counsel* (August 2003)
- "How to Best Aid Negotiations by Breaking Down Barriers," *Alternatives*, CPR International Institute for Conflict Prevention & Resolution (December 2001)
- "Breaking Negotiation Barriers Through Mediation," *The Legal Intelligencer* (October 22, 2001)
- "Bennett G. Picker: A Professional ADR Practitioner Speaks," *The Metropolitan Corporate Counsel* (August 2000)
- "Negotiation vs. Litigation," *The Philadelphia Business Journal* (October 1999)
- "ADR: New Challenges, New Roles, New Opportunities," *Temple Law Review* (Vol. 72, No. 4, Winter 1999)
- "25 Practice Tips for Mediation," *The Philadelphia Lawyer*, PBA Quarterly Magazine (Vol. 59, No.4, Winter 1996)
- "Mediation: The Sleeping Giant of ADR" and "Innovative ADR - One Meridian Plaza Fire Litigation: A Study in Cooperative Litigation Management," (Course Materials of PBA/PICPA Sponsored Seminar, October 1995)
- "New Plan to Reduce Litigation Costs," *Corporate Legal Times*, (Vol. II, No. 13, December 1992)

- "Family Responsibility Policies for Law Firms," PLI Course Handbook Series No. 560 (1990)
- "Amend the Pennsylvania Constitution: Eliminate Partisan Judicial Elections," *Philadelphia Business Journal* (July 13, 1987)
- "Insider Trading: A Policymaking Priority for Directors," *Directors & Boards*, (Vol. II, No. 4, Summer 1987)
- "Partnership Agreements: Legal and Practical Considerations," PLI Course Handbook Series No. 520 (1989)
- Course materials for more than 50 presentations on ADR, mediation, arbitration and negotiations