Elan E. Weinreb, Esq.

The Weinreb Law Firm, PLLC

Current Employer-Title The Weinreb Law Firm, PLLC – Managing Member, Arbitrator, and Mediator

Mediation Profession Mediator, Attorney

Work History Managing Member/Arbitrator and Mediator, The Weinreb Law Firm PLLC (TWLF), 2014-Present; Head of Litigation, Counsel, Senior Associate, Katlowitz & Associates, 2009-2013; Public Service Attorney/Special Counsel, New York City Law Department - Office of the Corporation Counsel - Queens Tort Division, 2007-2009; Senior Associate/Associate/Summer Associate, Kaye Scholer LLP (now Arnold & Porter Kaye Scholer LLP), 2001-2009.

Experience In 2021, using a mix of litigation and mediation skills and techniques, represented defendant landlord affected by pandemic in resolving five-figure dispute with plumbing corporation with minimal court involvement and within seven months of corporation having filed suit.

In 2020, settled contentious, five-year multi-million dollar shareholder derivative litigation on behalf of large not-for-profit corporate defendant/counter-claimant client involving motion, deposition, trial, and appellate practice, as well as diverse and complicated areas of procedural and substantive New York state and federal law, including but not limited to provisional remedies, breach of fiduciary duty, corporate malfeasance necessitating removal as an officer or director, the equitable remedy of accounting, unlawful/ultra vires conveyances, assignments, or transfers, lack of standing, statutes of limitation, the business judgment rule, ratification, tortious interference with contract and business relations, libel, slander, failure to join a necessary party, waiver, collateral, equitable, and judicial estoppel, replevin, breach of contract, fraud, fraudulent inducement, unjust enrichment, constructive trust imposition, and appellate general and motion practice.

In 2018, obtained a significant five-figure judgment after inquest requiring appearance of individual plaintiff single mother in court, concluding contentious three-year civil litigation involving conversion, return of gifts made in contemplation of marriage pursuant to New York Civil Rights Law Section 80-b, unjust enrichment, counterclaims for defamation and prima facie tort, an ultimately unsuccessful mediation conducted by two community co-mediators, motion, discovery, trial, and post-trial practice.

Prior to 2014, supervised and directed junior associates and law school interns in all phases of litigation, conducted 11-day evidentiary hearing in contentious multi-million dollar corporate litigation that was resolved in favor of multiple clients, obtained two Yellowstone injunctions for corporate client in multi-million dollar commercial lease litigation, prepared individual client for and conducted inquest resulting in entry of five-figure judgment in client's favor, negotiated settlement of

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six-figure product liability property damage dispute with opposing counsel, lead intra-firm and extra-firm document review teams, and provided trial team support on a robust range of state and federal civil litigation matters, including but not limited to breach of contract, insurance, real estate, bankruptcy, antitrust, uncontested divorce, product liability, personal injury, and wrongful death actions.

Arbitrator and Mediator, International Institute for Conflict Prevention and Resolution (CPR) Panel of Distinguished Neutrals - New York City ADR Panel (2021); Mediator, New York State Unified Court System Part 146 Supreme Court, Nassau County Commercial Division Alternative Dispute Resolution Program Roster of Neutrals (2019); Special Master, Appellate Division, Supreme Court of the State of New York, Second Judicial Department Mandatory Mediation Program (MMP) (2019); Public Arbitrator, Financial Industry Regulatory Authority (FINRA) (2019); Mediator, New York State Unified Court System Part 146 Supreme Court, New York County Commercial Division Alternative Dispute Resolution Program Roster of Neutrals (2018); Senior Arbitrator, BBB Auto Line Program, New York City and Long Island Regions (Lemon Law/Vehicle Warranty Claims) (2016); Arbitrator and Mediator, Nassau County Bar Association Alternative Dispute Resolution Panels (2016); Arbitrator and Mediator, NYCLA New York State Part 137 Attorney-Client Fee Dispute Resolution Program (FDRP) (2015).

Experience as a Mediator

Served as a commercial mediator in many cases involving business organizations and individuals. Approximately half of these cases involve attorney-client fee dispute arbitrations that are first sent to mediation on consent of the parties, and binding stipulations of settlement have been executed resolving all of them.

In August 2021, assisted parties, one of whom was traveling in Greece, in virtual private mediation with resolving 10 of 13 unresolved issues in litigation spanning more than five years involving an amount-in-controversy of approximately $1.2 million.

On March 24, 2021, after two sessions were held in a Part 146 Supreme Court, Nassau County online/virtual commercial mediation, assisted parties in settling contentious litigation spanning eight years in two courts involving claims or counterclaims for breach of contract, piercing of the corporate veil, ultra vires conduct, unjust enrichment, fraudulent conveyances, and account stated.

Currently have pending one Part 146 Supreme Court, Nassau County online/virtual commercial mediation involving alleged nursing home misconduct and alleged violations of the New York Public Health Law protecting nursing home patients.

As an appellate division Special Master and a court-appointed mediator with the New York State Unified Court System Part 146 program, mediated complex, six or seven-figure multi-party disputes. Due to the COVID-19 pandemic, mediation of these cases necessitated extensive experience with and use of Online Dispute Resolution ("ODR") technologies (including but not limited to Zoom), resources, and practices.

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From 2015 to the present, served as a mediator in the NYCLA FDRP in cases having combined total amounts in controversy exceeding $100,000. Each of these disputes raised for consideration the quality of underlying attorney representation in the context of various matters, including but not limited to commercial, family/matrimonial, immigration, and securities litigation, as well as transactional work such as business incorporations and preparation of trusts and estates documents.

Currently, as Co-Chair of NYCLA's ADR Committee, was recently appointed by NYCLA's General Counsel to direct and supervise revamp and overhaul of the NYCLA FDRP to conform with ODR guidelines promulgated by the New York Unified Court System Office of Court Administration and train prospective NYCLA FDRP mediators and arbitrators in assisting with backlog of cases occasioned by COVID-19 pandemic.

Prior to 2014, successfully mediated contentious six-figure trust dispute among a mother and four sisters located in different states and Mexico, assisted in negotiating settlement of a multi-million dollar partnership litigation after commencing arbitration in rabbinical court (Beth Din), and assisted in preparation of corporate executives for bankruptcy mediation.

Representative Issues Handled as a Mediator

To date, all handled mediations have involved claims or allegations of breach of contractual or quasi-contractual relationships/issues implicating unjust enrichment, and slightly more than half have additionally involved claims or allegations of breach of fiduciary duty, legal malpractice, deceit, fraud, misrepresentation, and conversion. Claims or allegations of business organization/corporate governance misconduct, medical malpractice, negligence, personal injury, wrongful death, piercing of the corporate veil, specific performance, restitution, or similar other equitable relief, and declaratory judgments establishing the rights and responsibilities of parties (particularly with respect to insurance coverage) have also been encountered on occasion.

Multi-Party Dispute Resolution Experience

Currently serving as arbitrator in nine-party AAA arbitration involving parties and counsel located in several states.

Served as lead mediator in two multi-party personal injury/wrongful death appellate division cases that focused upon medical malpractice, with one of these cases involving twelve parties and the other involving four parties (with all parties in both cases consisting of survivor plaintiffs or healthcare provider defendants).

Served as co-mediator in one eight-party Supreme Court, New York County commercial dispute involving a failed construction project.

Years of Practice as a Mediator

6

Total Number of Cases Mediated

26

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Mediation Experience as an Advocate or Party

Served as an advocate for an individual client in two New York County Dental Society ("NYCDS") mediations involving NYCDS' Peer Review arbitration program.

Represented an individual client who had brought a multi-faceted New York Civil Rights Section 80-b (Gifts made in contemplation of marriage), conversion/replevin, and unjust enrichment action in Nassau County Supreme Court against her ex-boyfriend in a five-hour mediation conducted at a Community Dispute Resolution Center located in Long Island.

In 2004, as a Kaye Scholer LLP associate, assisted team of attorneys in representing a large corporate nutritional supplements client in a bankruptcy mediation related to litigation then pending in the United States Bankruptcy Court for the Southern District of New York.

Mediation Philosophy

I ardently believe in the following definition and foundational principles of mediation: "a process in which a neutral, third-party (the mediator) works with the parties to reach a mutually agreeable settlement of their dispute. The mediator may assist the parties and their counsel in formulating the terms of their settlement. While his or her role is to aid in facilitating a settlement agreeable to the parties, he or she does not have authority to impose a resolution on the parties."

At the same time, I am not a purely facilitative mediator but rather identify as a "protean" or "chameleon" (the term I prefer) one. In this regard, I consciously refuse to align with any of the "big three" styles of mediation (i.e., facilitative, evaluative, and transformative). Instead, I choose to adapt rather than to adopt by dynamically combining the techniques of all three styles at any time in the mediation process (and sometimes outside of it as well) as circumstances change.

Mediation References

David C. McElrath, Esq., (914) 948-4500, dmcelrath@omcdoc.com; Patricia L. Murrell, Esq., (845) 567-0177, pmurrellesq@gmail.com; Sarah E. Pizzola, Esq., (845) 471-4455, spizzola@sspp-law.com; Lance Grossman, Esq., (212) 571-4649, lsglawoffices@verizon.net; James Trainor, Esq., (212) 392-4957, jt@jamestrainorpc.com; Michael Totaro, Esq., (917) 693-2012, mtotaro@nysif.com; Kyle A. Seiss, Esq., (845) 291-1900, kseiss@cll-law.com; Jason L. Abelove, Esq., (516) 222-7000, jason@jasonabelove.com.

Alternative Dispute Resolution Training

ACE 21 – Impartiality: Do You Know Where Your Biases Are?, 2021; CPR, Imperfect Impartiality: How Neutrals Can Combat Implicit Bias, 2021; CCA, Using the Pre-Hearing Conference to Win Your Commercial Arbitration, 2021; NCBA (with NYS Unified Court System), Personal Injury Mediation Training, 2021; NYCLA, International Arbitration: What Attorneys Need to Know, 2021; NY State Academy of Trial Lawyers ("NYSATL"), Harnessing Neuroscience and Technology: Presenting Powerfully in Trial and Mediation, 2021; NYSATL, Successful Mediation: Moving from Gridlock to Settlement, 2021; NYSATL, The Ethics and Art of Settlement at Mediation, 2021; NCBA, Arbitrating in a Virtual World, 2021; CPR (via NY Law School), No Need to Resolve If You Can Prevent, 2021; AAA Arbitration Fundamentals and Best Practices for New AAA Arbitrators, 2021; AAA Arbitration Awards: Safeguarding, Deciding & Writing

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Awards, 2021; NCBA, Narrative Mediation: The Surprising Links Between News Media & Mediation, 2020; NCBA, Town Hall Meeting with New York State, County, and Appellate Division ADR Coordinators, 2020; ABA, The Ultimate Guide to Online Dispute Resolution for Advocates, 2020; NYCLA, 2-Day Advanced Divorce Mediation Training – Part 146 Approved for 16 Hours of Additional Mediation Training, 2020; New York State Academy of Trial Lawyers, Resolving Coverage Disputes in Mediation, 2020; ABA, How to Effectively Conduct "Zoom" Trials During the COVID-19 Pandemic and Beyond, 2020; NYSBA, How-To: Effective Representation of Clients During Video Mediation, 2020; National Academy of Continuing Legal Education ("NACLE"), Hot Topics in Beth Din Jurisprudence, The Rabbinical Court in the American Legal System: Procedures & Processes, and The Beth Din of America and Agunah Prevention, 2020; NCBA, Presumptive ADR: Commercial Litigation, Real Estate and Employment Law Focus, 2020; New York State Unified Court System Office of Court Administration, Neutral Evaluation Skills Workshop for Supreme Court – Civil Term, New York County, 2019; NCBA, Mediation Advocacy, 2019; NCBA, Presumptive ADR: Torts and Medical Malpractice Focus, 2019; New York State Dispute Resolution Association, A Mediator's Ethical Responsibility in Cases Involving Sexual Harassment, 2019; Mediation Matters: Trends, Successes and Disappointments in Court-Sanctioned Mediation, 2019; NACLE, Business Alternative Dispute Resolution, 2018; New York Women's Bar Association, ADR Options in Supreme Court, New York County, 2018; Federal Bar Association, Eastern District of New York, Mediation Advocacy Training, 2018; New York State Dispute Resolution Association, Ethics for Mediation Advocates, 2018; NCBA, Neuroscience in Mediation and Negotiation, 2018; ABA, Illumination of Bias: Practical Strategies for Recognizing and Reducing Implicit Bias in the Practice of Law, 2018; NCBA, Mediation in the Southern and Eastern Districts of New York, 2017; NCBA, Mediating E-Discovery Disputes, 2017; NCBA, Turning the Tables on Litigation: Mediation Advocacy, 2017; NCBA, Advanced Mediation: Moving Towards Mastery, 2016; NYSBA, Dispute Resolution Commercial Mediation Training Program, 2016; NYCLA, Part 137 Attorney-Client Fee Dispute Resolution Program Training, 2015; New York Center for Interpersonal Development, Basic Mediation Training, 2015; NYSBA, Dispute Resolution Commercial Arbitration Training, 2015.

Professional Licenses

Admitted to the Bar: New York (2003), New Jersey (2002); U.S. District Court: Eastern (2004) and Southern (2004) Districts of New York, District of New Jersey (2003).

Professional Associations

American Bar Association (ABA) (Member of Section of Dispute Resolution); Jewish Lawyers Association of Nassau County; Nassau County Bar Association (NCBA) (Prominent Member, NCBA ADR Committee and Former Co-Chair, NCBA ADR Promotional Council); New York County Lawyers Association (NYCLA) (Co-Chair, NYCLA ADR Committee); New York State Bar Association (NYSBA) (Member of Dispute Resolution Section); Garden City Chamber of Commerce; West Hempstead Chamber of Commerce.

Education

Benjamin N. Cardozo School of Law Yeshiva University (JD, magna cum laude-2002); Yeshiva University (BA, summa cum laude, History-2000); Isaac Breuer

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College of Hebraic Studies, Yeshiva University (AA, Valedictorian, Hebrew Language and Literature-2000).

Awards and Honors

New York County Lawyers Association's Kobak Prize, 2021 (presentation at https: //www.youtube.com/watch?v=o3W9BHw_-n0); Selected to Super Lawyers® (2020-2021); Selected to Super Lawyers® Rising Stars (2013-2019); Avvo Clients' Choice Award (2014-2015, 2018-2019); Empire State Counsel Award, New York State Bar Association (2007-2008); Pro Bono Achievement Award, Kaye Scholer LLP (2006-2007); Order of the Coif, Cardozo Chapter (2002).

Publications and Speaking Engagements

The Weinreb Law Firm, PLLC, "Table of State Neutral Compensation Rules and Statutes", (comprehensive hyperlinked Google Sheet covering neutral compensation in fifty states), 2021 (last updated November 1st);

The Weinreb Law Firm, PLLC, "The Basics of Part 146 Court-Annexed ADR", (slide presentation given at NYCLA 44th Annual Civil Trial Practice Institute), 2021;

The Weinreb Law Firm, PLLC, "Perpetual Motions: A NYCLA Part 137 Attorney-Client Fee Dispute Resolution Program Mediation Roleplay Exercise", 2020 (original roleplay exercise drafted for use at inaugural NYCLA Part 137 mediation training);

The Weinreb Law Firm, PLLC, "The Basics of Post-Pandemic Part 137 Mediation", 2020 (comprehensive slide presentation given to over 90 participants in inaugural NYCLA Part 137 mediation training);

NYCLA, Employment and Wage & Hour Mediation Training Program (Faculty – Featured speaker in "Virtual Mediation: Key Issues and Considerations" program segment), 2020;

TWLF YouTube Channel, "'Law You Should Know' – ADR & ODR in the Age of COVID-19", (legal radio show), 2020;

NCBA, "Anatomy of a Virtual Mediation", 2020;

TWLF YouTube Channel, "NYCLA ADR Committee Mock Mediation with Susan Guthrie", (video modeling best ODR practices), 2020;

The LI Law Podcast, "Why Arbitration and Mediation Are Better Options Than Litigation to Resolve Disputes", (legal podcast), 2019;

TWLF YouTube Channel, "'Law You Should Know' – Part 137 Attorney Client Fee Dispute Resolution Program (FDRP)", (legal radio show), 2019;

TWLF YouTube Channel, "'Law You Should Know' – Making and Breaking Contracts", (legal radio show), 2018;

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TWLF YouTube Channel, "'Law You Should Know' – Arbitration Agreements", (legal radio show), 2017;

The Weinreb Law Firm, PLLC, "The Basics of Commercial Mediation", (slide presentation given to West Hempstead Chamber of Commerce), 2017;

TWLF YouTube Channel, "'Law You Should Know' – Commercial Alternative Dispute Resolution", (legal radio show), 2016;

TWLF News & Views, "The Chameleon Mediator", (discussing personal mediation philosophy and the need to adapt throughout the mediation process), 2016;

Nassau Lawyer, "One Size Does Not Fit All – Ten Reasons Why Commercial Litigators Should Consider Commercial Mediation", 2016.

Training Programs as Faculty or Moderator: NYCLA, 44th Annual Civil Trial Practice Institute (Faculty - Speaker, "The Basics of Part 146 Court-Annexed ADR"), 2021; How We Kept Things Running During a Pandemic: The ODRs - Awards Honoring New York Unified Court System ADR Personnel (Lead Host and Moderator), 2021; NYCLA, Joint Committee On Fee Disputes & Conciliation Part 137 Program: Fee Dispute Arbitration Training (Faculty - Speaker, "The Basics of Post-Pandemic Part 137 Mediation"; Author, Group Roleplay Exercise Entitled "Perpetual Motions"), 2020; NYCLA, Starting and Maintaining a Successful ADR Practice in the Age of COVID … and Beyond (Moderator), 2020; NYCLA, Entrenchment Mediation Training: For Mediators in Court-Annexed Mediation Programs (Moderator), 2020; ABA, Regional Negotiation Competition - Competition Faculty (Judge), 2020; NYCLA, Employment and Wage & Hour Mediation Training Program (Faculty – Featured Speaker in Program Segment Entitled "Virtual Mediation: Key Issues and Considerations"), 2020; NCBA, Anatomy of a Virtual Mediation (Faculty – ODR Video Roleplay Exercise Participant), 2020; NYCLA, The Basics of Online Mediation for Dispute Resolution Professionals (Faculty – ODR Video Participant and Video Producer), 2020; NYCLA, Christian, Islamic, and Jewish Dispute Resolution in the NY/Metropolitan Area (Moderator), 2020, NYSBA, Advanced Commercial Mediation Training (Faculty – Roleplay Exercise Facilitator), 2019; Benjamin N. Cardozo School of Law, Intraschool Negotiation Competition (Judge), 2019; ABA, ABA National Representation in Mediation Competition (Mediator), 2016.

Locations Where Parties Will Not be Charged for Travel Expenses Nassau County

Citizenship United States of America
Languages English
Locale Garden City, New York, United States of America

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Compensation

Hearing:	$540.00/Hr
Study:	$420.00/Hr
Travel:	$100.00/Hr
Cancellation:	$1200.00/Day
Cancellation Period:	3 Days
Comment:	Charge for all incurred expenses such as copying/printing, postage, meals, and shipping. Amenable to offering flat rates on a case-by-case basis that shall be set forth in writing in a formal mediation agreement.

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