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## NORMAN BRAND, ESQ.

### Alternative Dispute Resolution Experience

Over 30 years' experience as arbitrator and mediator in 3000 labor, employment, pension, and other cases. Served on specialized panels requiring scientific literacy in biochemistry, medicine, and psychiatry, and an understanding of research and laboratory procedures. A 2006, 2007, and 2008 Northern California "Super Lawyer" in Alternative Dispute Resolution.

Cases include: labor-management disputes over discipline, discharge, and new contract terms; employment arbitrations and mediations involving age, sex, race, national origin discrimination, and sexual harassment; wrongful termination, executive contracts, statutory and employment contract violations in diverse industries, including computer hardware, pharmaceuticals, and biomedical products.

Other disputes involved trade secrets, intellectual property, environmental contaminants, medical and scientific issues, and business relationships. Special areas include MPPAA withdrawal liability (including complex actuarial issues), trust fund collections, loans, and trustee deadlocks; ERISA claims in health, retirement, and top hat plans; salary setting for police and firefighters in cities over one million; salary setting and other disputes for electricity generation, transmission, and distribution employees.

Some arbitration decisions involved unique issues of law and have been reviewed by federal courts. Cases arbitrated have been valued to \$50 million; largest arbitration award issued was \$40 million. Trained state and federal judges in mediation, fact finders for California Public Employment Relations Board, mediators for New York Public Employment Relations Board, and held trainings for private organizations, the California Bar, and AAA.

### Work History

*Arbitrator, Mediator:* 1983 – Present, full time, 1978-83, part-time

*Arbitrator, Private Judge, Referee:* Individual employment and statutory disputes, ERISA/MPPA disputes, private and public sector labor management disputes (including interest arbitration), med-arb business disputes, intellectual property, and scientific disputes.

*Mediator:* Private business disputes, individual employment disputes (including statutory discrimination, executive compensation, wrongful termination, and sexual harassment) labor-management disputes, and public sector disputes.

*Professor:* Hastings College of Law (Adjunct) 1993-1997. Arbitration. Albany Law School, Albany, New York, July 1978 to July 1983. Courses: Labor Law; Arbitration; Labor Law in the Public Sector; Collective Bargaining; Legal Writing, Reasoning, and Research

*President:* Impartial Enterprises, Inc., 1985-88

*Labor Counsel:* Executive Chamber, Albany, New York, September 1976 to July 1978. Advised and represented the Emergency Financial Control Board for the City of New York on labor matters and administered statutory wage freeze.

*Executive Assistant to the Director:* New York State Office of Employee Relations, Albany, New York, September 1975 to August 1976. Administered grievance procedures for 176,000 employees; negotiated with NY State Police; special projects; press relations.

*Professor:* Department of English, University of California, Davis, 1970-1972. Part-time 1973-75. Taught American Literature, Black Literature, Legal Writing.

*Professor:* Council on Legal Education Opportunity. Developed national program for improving writing skills of minority pre-law students. Taught summer programs in schools of law at ASU, UC Davis, University of Washington, and Howard University.

## Education

- J.D., University of California, Davis, June 1975
- Ph.D., Arizona State University, January 1971, English
- M.A., Arizona State University, January 1969, English
- B.A., Harpur College, State University of New York, Binghamton, June 1966 (Biology/English)

## Publications

- Co-Editor in Chief, [Discipline and Discharge in Arbitration](#), (Washington: BNA: 2008).
- [Labor Arbitration: The Strategy of Persuasion](#), Second Edition (San Francisco: 2006).
- "Mediation in Public Sector Collective Bargaining," 17 California Labor & Employment Law Review 10 (May 2003).
- "Ethics in Employment Mediation and Arbitration," 17 California Labor and Employment Law Review 13 (May 2003).
- "Ethics in Employment Mediation and Arbitration," 2 Institute of Chartered Financial Analysts of India Journal of Alternative Dispute Resolution 25 (January 2003).
- Editor, [How ADR Works](#) (Washington: BNA, 2002).
- "Ethics in Employment Mediation and Arbitration," 2 Employee Rights Quarterly 31, (Winter 2002).
- "ADR and Settlement," in [California Practice Guide-Employment Law](#) (Rutter Group:2001).
- Co-Author, [Designing Integrated Conflict Management Systems](#), Cornell Studies in Conflict and Dispute Resolution, 2001.
- "How to Survive Your First Mediation," 1 NY Employment Law & Practice 9, June 2000.
- "When Experts Testify: Exploiting the Advantages of Arbitration," 4 ADR Currents 1 (Fall 1999).
- "The Misuse of Mediation," Los Angeles Times, May 6, 1999.
- [ADR Personalities and Practice Tips](#), Chapter 8, American Bar Association - Section of Dispute Resolution (Washington: 1998).
- "Using Mediation Effectively." 128 California Public Employee Relations 7 (February 1998). Also appeared in XX School Employers Association Reporter 5, October 1997.
- "Mandatory Mediation: Endangering the Process," King Hall Counselor, Winter 1997.
- "Choosing the 'Expert' Mediator," 3 ADR Currents 2, Summer 1997.
- "Erasing the Lines Between Arbitration and Litigation," Res Ipsa, June 14, 1995.

- "Due Process in Arbitration," in Bornstein and Gosline Labor and Employment Arbitration, (New York: Matthew Bender, 1994, 2000).
- "Learning to Use the Mediation Process - A Guide for Lawyers," 47 Arbitration Journal 6 (December, 1992), reprinted in Craver & Brunet eds. Alternative Dispute Resolution, (MICHIE, 1997).
- *Daily Journal* 1992-1995: Bi-Monthly Column on Alternative Dispute Resolution.
- "New Trust Impasse Rules: A Review of Major Changes," 25 Employee Benefits Digest 3 (1988).
- Labor Arbitration: The Strategy of Persuasion, (New York: Practising Law Institute, 1987).
- Legal Writing: The Strategy of Persuasion (with J.O. White), New York: St. Martin's Press, 1976, 2<sup>nd</sup> ed. 1988, 3<sup>rd</sup> ed. 1993).
- "Technology Will Shape the Future of Legal Writing," 5 Lawyer Hiring and Training Report 17 (1984).
- "PERB Finds Discipline and Discrimination Negotiable Under SEERA," 3 Labor & Employment Law News 6 (1984).
- "Agency Shop After Abood: The State of the States," 3 Public Employment Research Service Bulletin 3 (1980).
- "Legal Writing, Reasoning, and Research: An Introduction," 44 Albany Law Review 292 (1980).
- "N.Y. Taylor Law Amendments Potentially Far-Reaching," LMRS Newsletter 12 (1977).
- "Composition for the Pre-Professional: Focus on Legal Writing," 27 College Composition and Communication 41 (1976).
- "Minority Writing Problems and Law School Writing Programs," 26 Journal of Legal Education 331 (1974).
- "Minority Writing and Majority Reading: The Problems of CLEO Students," AALS Committee on Minority Groups Newsletter, September 1972. Reprinted in Minority Opportunities in Law for Blacks, Puerto Ricans and Chicanos (New York: New York Publishing, 1974).
- "Power in the Blood: The Polemics of the Fugitive Slave Narrative," Doctoral Dissertation (not separately published), Arizona State University, 1971.
- "Skills Remediation in Minority Group Law Students," Arizona English Bulletin, October, 1969.

### Published Awards

- For Interest Arbitration and Trustee Deadlock cases click [here](#).
- City of Stockton - December 9, 1996, 108 Lab. Arb. (BNA) 1201.
- UAW Local 2350 and CSEA, SEIU Local 1000 Grievance: 401(k) Plan Dispute July 8, 1996, 1996 WL 931806.
- Z and Lafayette Park Hotel April 25, 1996, 1996 WL 932598 (Arb.).
- Salt Lake Police Association and Salt Lake City Corporation, Salt Lake City Police Department January 23, 1996, 1996 WL 932599 (Arb.).
- Paratransit, Inc. -- June 3, 1993, 100 Lab. Arb. (BNA) 981.
- Webster Central School District -- April 7, 1983, 80 Lab. Arb. (BNA) 1138.
- Greenwich Central School District (NY) and Greenwich Teachers Association November 22, 1996, 334 Arb in the Schools, December 1997.
- DOD, Dependents Schools, Tokyo, Japan and NEA/OEA, 94. FLRR2-1265 LAIRS 21634; July 16, 1994.

### Professional Memberships

- Fellow, The College of Labor and Employment Lawyers

- Fellow, The American College of Employee Benefit Counsel
- Fellow, The American College of Civil Trial Mediators
- President, California Dispute Resolution Council (1998)
- Board of Directors, California Dispute Resolution Council
- Board of Directors, California Dispute Resolution Institute
- American Arbitration Association National Employment Advisory Council
- Member, Mediation Society
- President, Industrial Relations Association of Northern California (1994-95)
- Member, National Academy of Arbitrators, Chair, Northern California Region (1990-92)
- Chair, International Foundation of Employee Benefit Plans, American Arbitration Committee, 1990, Member, 1988-1989
- Chair, Association of American Law Schools, Section on Labor Law, 1983
- Secretary, Executive Committee, Labor and Employment Law Section, California Bar Association, 1988, Member, 1985-1988, Advisor, 1989-91, Chair, Editorial Board, Labor and Employment Law Quarterly, 1990-1992
- Chair, Association of American Law Schools, Section on Legal Writing, Reasoning, and Research, 1980-81, 1981-82
- California Bar and New York Bar

## **Panels**

- AAA Agency Fee Panel
- AAA Commercial Arbitration Panel
- AAA ERISA/MPPAA and Employee Benefits Panels
- AAA Large Complex Case Panel
- AAA Mediator Panel
- AAA National Employment Disputes Panel
- AAA National Panel of Labor Arbitrators
- AAA Tribal Labor Panel
- Action Dispute Resolution Services
- California Academy of Distinguished Neutrals
- California PERB
- California State Mediation/Conciliation Service
- City of Fort Collins
- Clark County School District and Clark County Education Association
- Contra Costa Superior Court ADR Program
- County of Santa Clara/CCPOA
- Court of Appeal, First Appellate District Mediation Panel
- Department of Labor Mediation Program
- Federal Mediation and Conciliation Service
- Los Angeles City Employee Relations Board
- NASD Dispute Resolution, Inc. Mediation Program
- Oregon Employment Relations Board
- San Francisco Civil Service Commission

## **Contract Arbitrator**

- AC Transit Retirement Board
- Affiliated Hospitals of San Francisco/CAN
- AT&T/CWA/TIU
- AT&T Mobility LLC and CWA District 9
- California State University and CSUEU
- California State University and California Faculty Association

- City of Oakland/Oakland Police Officers Association/IAFF
- City of Sacramento Sump 2 Improvements Project
- City & County of San Francisco Municipal Attorneys Association
- City & County of San Francisco/SEIU
- Department of Personnel Administration and California State Employees Association
- Federal Aviation Administration/PASS (AVN)
- Health & Welfare Trust Fund/SEIU Local 22
- Internal Revenue Service and National Treasury Employees Union
- Metropolitan Water District of Southern California/AFSCME Local 1902
- National Association of Air Traffic Specialists
- National Master United Parcel Service Agreement, the Western Conference of Teamsters Supplemental Agreement and Northern California Package Rider and Northern California Sort Agreement
- Sacramento Independent Hotel, Restaurant and Tavern Employees, Welfare and Pension Trusts
- Safeway, Inc. and Teamsters Local 439
- San Francisco Bay Area Rapid Transit District and BART Police Officers Association
- San Benito Foods/Teamsters Local 890
- Screen Actor's Guild/Alliance of Motion Picture & Television Producers
- Seton Medical Center/CNA
- Southern California Edison/IBEW Local 47
- State of California/CCPOA
- Teamsters Local 150 Fluid Milk and Ice Cream Agreement
- Teamsters Local 533 and Disposal Services
- United States Postal Service/National Association of Letter Carriers
- University of the Pacific/IBT Local 439
- Valley Clerks & Drug Employers/Health & Welfare Trust Fund
- Writer's Guild of America/Alliance of Motion Picture & Television Producers
- Yolo County Office of Education/CSEA

## Recent Speeches

- "Using Mediation to Resolve Organizational Conflicts and Potential Litigation: It's All Politics," League of California Cities Annual Conference, Sacramento, California, September 5, 2007
- "Gaining Acceptance for Mediation," at conference "The Private Factor in the Judiciary System," Warsaw University, Warsaw, Poland, June 19, 2007.
- "Extraordinary Advocacy," Labor Arbitration Institute, Los Angeles, January 24, Oakland January 26, 2007.
- "Making Arbitration Work: From Clause Drafting Through Award Enforcement – State Bar Annual Meeting – Monterey, California, October 5, 2006.
- "Managing the Hearing – The Arbitrator's View," 2005 Oregon Employment Relations Board, November 3, 2005.
- "External Law," Labor Arbitration Institute Conference, Oakland, California, January 20, 2005
- "Effective Advocacy in Mediation and Arbitration," The Bar Association of San Francisco, Yosemite, California, February 20, 2004.
- "Arbitration: Theory v. Reality," ABA Dispute Resolution Section Training Committee and Arbitration Committee, May 16, 2003.
- "Interest Arbitration" CALPERA Annual Training Conference, Monterey, California, November 14, 2002.
- "External Law," Labor Arbitration Institute Conference, San Francisco, September 5, 2002.
- "Interest Arbitration," International Personnel Management Association Annual Meeting, San Leandro, California March 28, 2002.

- "Judicial Council Rules for Arbitrators," The Masters' Forum, Pepperdine University School of Law, Straus Institute for Dispute Resolution, Malibu, California March 15-16, 2002.
- "Moving Parties to Resolution," ABA Judicial Mediator Training, February 19, 2001.
- "What the Supreme Court Will Do With Foxgate," Beverly Hills Bar Association, February 7, 2001.
- "ADR and the Problem High Tech Employee," ABA Section of Dispute Resolution, San Francisco, April 7, 2000.
- "Mandatory Arbitration of Employment Disputes, A Survey of Recent Developments in the Law," Barristers Club, December 7, 1999; State Bar Labor and Employment Law Section 17th Annual Meeting, San Diego, November 6, 1999.
- "Discipline and Discharge," ABA Annual Meeting, Atlanta, GA, August 10, 1999.
- "Employment Law Litigation: ADR Update," The National Employment Law Institute, San Francisco, May 6, 1999.
- 27th Annual Employer-Employee Labor Relations Conference, U. C. Davis February 3, 1999, Program Moderator.
- "External Law," Labor Arbitration Institute Conference, San Francisco January 8, 1999.
- "Making Sense of *Birbrower*: Fee Agreements, Misdemeanors & Ethics," June 16, 1998, San Francisco.
- 26th Annual Employer-Employee Labor Relations Conference, U. C. Davis February 4, 1998, Program Moderator.
- Asia Foundation: Presentations for visiting Indonesian Neutrals, September 23 and October 10, 1997, San Francisco.
- "Strategies for Successful Mediation of Employment Claims," National Employment Lawyers Association, Toronto, June 26, 1997.
- Discipline and Discharge in the Unionized Workplace, San Francisco, April 4, 1997.
- "Arbitration Here and Now: What You Need to Know about Arbitration of Grievances in Public Education," 22nd Annual Conference of the School Employers Association, Costa Mesa, March 14, 1997.
- Asia Foundation: Presentations for visiting Indonesian Neutrals, September 23 and October 10, 1997, San Francisco.
- "Strategies for Successful Mediation of Employment Claims," National Employment Lawyers Association, Toronto, June 26, 1997.
- Discipline and Discharge in the Unionized Workplace, San Francisco, April 4, 1997.
- "Arbitration Here and Now: What You Need to Know about Arbitration of Grievances in Public Education," 22nd Annual Conference of the School Employers Association, Costa Mesa, March 14, 1997.
- "Using Mediation Effectively," League of California Cities Employee Relations Institute February, 20, 1997.
- "The Implications of *Lapine Technology Corp. v. Kyocera*," Barristers Club ADR Committee, February 18, 1997.
- 25th Annual Employer-Employee Labor Relations Conference, U.C. Davis February 13, 1997, Program Moderator.
- "External Law," Labor Arbitration Institute Conference, San Francisco, January 24, 1997.
- "Successful Strategies in Arbitrating Employment Claims," National Employment Lawyers Association, Minneapolis, October 18, 1996.
- 24th Annual Employer-Employee Labor Relations Conference, U.C. Davis February 20, 1996, Program Moderator.