



225 Broadway
Suite 1400
San Diego, CA 92101
(619) 233-1323 Tel.
(619) 233-1324 Fax

www.adrservices.org

MICHAEL J. ROBERTS, ESQ.

Michael J. Roberts, Esq., mediator and attorney for the past 35 years, is widely recognized for his expertise and resolve in settling complex and difficult cases in the areas of business, construction, employment, real estate and insurance.

ADR Experience and Qualifications

- Since 1985 has served as a mediator, arbitrator and special master in over 4,000 cases with aggregate settlement in excess of \$800 million.
- Particularly accomplished at mediating major financial controversies and complex multi-party matters in the areas of construction, business, employment, real estate and insurance.
- Law school professor, author and frequent speaker on subjects relating to mediation and arbitration.

Representative Matters

- ***Business:*** Accounting actions; Antitrust and unfair competition; Banking and financing transactions; Bankruptcy matters including relief from automatic stays and secured/unsecured creditor issues; Breach of fiduciary duty and business fraud claims; Broker commission disputes; Broker dealer and investment advisor claims; Contractual disputes involving the sale or purchase of a business; Computer and software sales and installations; Enforcement of non-competition agreements; Equipment leasing; Executive compensation and stock option agreements; Franchise agreements; Insurance coverage and bad faith; Intentional and negligent interference with contract and other business relationships; Involuntary corporate dissolutions; Joint ventures; License agreements; Maritime liens; Misappropriation of trade secrets and other proprietary information; Partnership disputes (limited, general and LLC's); Personal guarantees; Purchase or sale of business (assets and stock purchases); Secured and unsecured financing transactions; Secured and unsecured loan transactions; Securities violations; Shareholder disputes; Trade secrets and other intellectual property matters; Trademark infringement.
- ***Construction:*** Disputes by and between owners, contractors, subcontractors, material suppliers, construction managers, design professionals and bonding companies; Construction defect claims by Homeowner Associations and owners against developers and general contractors; Commercial and public works projects including schools, shopping centers, hospitals, hotels, high rise office buildings, utility power plants, waste water treatment

facilities, pipelines, highways, bridges, parking structures, flood control projects, and marine ship building and repair facilities; Construction delays and disruption claims; Change order and extra work claims; Mechanics liens and stop notice claims on public and private works projects; Architect and engineer errors and omissions; Subcontractor bidding errors; Mold exposure and remediation; Insurance coverage disputes for construction related damages; Soil movement arising from improper design, testing, grading or lack of lateral support; Bidding and subcontracting disputes; Steel fabrication and erection; Underground storage tank and other environmental disputes; EFIS and curtain wall systems; Pipe manufacturing and supply; Earthquake and structural damage; Pools, ponds and water works projects; Flood and drainage projects; Public transportation projects; AC and concrete paving; Mechanical, electrical and plumbing; Underground water proofing failures; Obligations arising under indemnity, hold harmless, and additional insured agreements; Withholding of payment issues and enforceability of “pay when paid” clauses; Warranties regarding correctness of plans and specifications; Anticipatory breach and contractor termination disputes; Enforceability of “time is of the essence” and “no damages for delay” provisions.

- Employment: Discrimination cases based on gender, race, age, disability, religion, national origin, pregnancy and sexual orientation; Wrongful termination claims based on breach of implied contract and/or in violation of public policy; Constructive termination; Quid pro quo and hostile work environment sexual harassment cases; Whistle blower cases; Americans With Disabilities Act violations; Retaliation claims; Wage and hour violations; Sexual assault and other employment related torts; Class action suits; Family Medical Leave Act matters; Breach of Employment Contract disputes; Defamation claims; ERISA and employee benefit matters; Non-competition cases; Qui Tam cases; Trade secret matters; Workers’ Compensation stress and disability claims.
- Real Estate: CC&R’s and restrictive covenant matters; Commercial, industrial and residential sales and purchase transactions; Easement and boundary disputes; Eminent domain and inverse condemnation; Flood and water damage disputes; Foreclosures including relief from bankruptcy stays; Fraud and non-disclosure; Insurance coverage issues arising from damage to real property; Investment partnership disputes; Mobile home park development; Options to purchase; Real estate broker commission claims; Real estate financing transactions; Real property construction claims; Real property development and entitlement; Real property subdivision; Secured loan transactions; Shopping center, residential subdivision and other commercial property development; Support of adjacent property; Title insurance; Zoning and land use.
- Insurance: Delay and incomplete payment following fire loss; Claim against insurance broker for failing to obtain broad form property damage coverage on behalf of insured real estate developer; Claim of bad faith for failing to continue payments under disability policy; Numerous bad faith claims arising out of the adjusting and settlement of earthquake damage claims following the Northridge earthquake; Insurance coverage disputes arising in connection with the mediation of over 1,000 construction defect actions; Bad faith refusal to pay life insurance benefits; Dispute between insured and insurance company over loss of

income damages arising from hotel fire; Dispute between co-insurers concerning who is primary and who is excess; Numerous disputes concerning obligation to defend and indemnify under additional insured endorsements, including apportionment of defense fees and costs among additional insured carriers; Bad faith claims arising out of insurers' failure to properly remediate mold damage and pay policy benefits; Coverage dispute arising from insured's failure to cooperate; Numerous disputes concerning carriers reservation of rights and insured's claim of entitlement to Cumis counsel; Bad faith claims involving issues of exhaustion of primary policies; Dispute involving coverage issues under attorney malpractice policies; Claims by board of homeowners association against its former president under fiduciary liability policy; Dispute concerning coverage under director's liability policy.

Honors, Memberships, and Professional Activities

- Fellow, International Academy of Mediators, 1997 - present
- Member, Construction Mediation Panel, United States Arbitration and Mediation, Inc., 1990 - 1996
- Chairperson, Construction and Real Estate Advisory Committees, American Arbitration Association
- Member, Arbitration and Mediation Panels, U.S. District Court and Fourth District Court of Appeal
- Member, Arbitration Panel, Dalkon Shield Arbitration Program, 1992 - 1995
- Settlement Conference Judge Pro Tempore, San Diego Superior Court
- Chairperson, Real Estate Law Section, San Diego County Bar Association
- Member, Association of Business Trial Lawyers
- Adjunct Professor of "Alternative Dispute Resolution," California Western School of Law
- "Whitney North Seymour Award," American Arbitration Association's award for outstanding contribution to the field of Alternative Dispute Resolution
- Member, Board of Trustees, San Diego Chapter of National Multiple Sclerosis Society, 1988 - 1998
- AV rated in the Martindale-Hubbell Law Directory
- Representative Speaking Engagements: "Creative Strategies for Handling Construction Defect Claims in California," "Designing a Multi-Step Approach to Resolving Employment Disputes," "Why Mediation Works in Business Disputes," "Erosion of Mediation Confidentiality in California," "Mediating Disputes with Public Entities," "Negotiating with Difficult People," "Alternative Dispute Resolution for Real Estate Disputes," "What Every Environmental Lawyer Should Know About Mediation,"

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- “Mediation of Valuation Issues in Eminent Domain Proceedings,” “Incorporating ADR Into Your Law Practice,” and “Punitive Damages in Arbitration.”
- Representative Articles: “Why Mediation Works,” “An Executive’s Guide to Managing Conflict,” “Choosing the Right Mediator: A Guide to Effective Mediation Styles,” “Why Mediation Works After Negotiations Fail,” “Employment Mediation: A Mediator’s Point of View,” and, “The Right Answer at the Wrong Time Is the Wrong Answer: The Importance of Timing in Resolving Employment Disputes.”

Background

- ADR Services, Inc., 2006 to present
- JAMS, 2002 through 2005
- Mediation Offices of Michael J. Roberts, 1992 - 2002
- Senior litigation partner in major San Diego law firm, specializing in construction, employment, business and real property matters, 1973 - 1993
- Deputy District Attorney for County of San Diego, 1970 - 1973
- University of San Diego School of Law, J.D. 1969