

**United States Bankruptcy Court  
Eastern District of New York**

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**I. Profession**

Attorney and mediator. Bar admissions:

- New York State Bar, 1st Department, 1983
- United States District Court, SDNY, 1984
- United States District Court, EDNY, 1984

**II. Professional Organizations**

- Founding Chair of the N.Y. State Bar Association's Dispute Resolution Section 2008-2009.
- Chair, ABA Alternative Dispute Resolution Section, September 2008 – present.
- President-Elect, Federal Bar Association SDNY Chapter, and Board member, FBA national ADR Section, present
- Member Board of Governors, NYS Attorney-Client Fee Dispute Resolution, present
- Past Chair, Joint Committee on Fee Disputes and Conciliation (of Association of the Bar of the City of New York, New York County Bar Association and Bronx County Bar Association), responsible, *inter alia*, for administering arbitrations or mediations of attorney-client fee disputes subject to 22 NYCRR, Part 137 of the Rules of the Chief Administrator, Office of Court Administration. 2002 – 2004.
- Fellow, American Bar Foundation, 2004 - present
- Committee on Committees, New York County Lawyers Association Committee ("NYCLA"), 2002-present, liaison to ADR Committee, Insurance and Health Law Committee, *ad hoc* NYCLA membership committee
- Advisory Group member, Alternative Dispute Resolution Advisory Committee, New York State Unified Court System (OCA), 1999 - present
- Advisory Group member, Supreme Court, State of New York, New York County Commercial Division ADR Advisory Group, 1997 - present
- Subcommittee Chair, NYSBA ADR Committee on Delivery of ADR Services, 1998 – 1999.
- Legislative Tracking Chair, American Bar Association, Litigation Section, Committee on ADR, 1994-1997
- Charter Member, ABA, Dispute Resolution Section, Corporate Liaison Committee
- Committee Chair, NYCLA, Committee on Arbitration and Alternative Dispute Resolution 1997-2000; previously CLE Chair 1995-1997;

- Legislative Tracking Chair, NYCLA Environmental Law Committee, 1993-1996

### **III. General Professional Experience:**

I have practiced law for more than 25 years as a commercial and general civil litigator. Having spent the first ten years of my legal career with various firms, the last of which merged into what is now KMZ Rosenman (www.kmzr.com), I commenced a dual practice as litigator and neutral party. I am a principal of the firm of Simeon H. Baum, Esq., New York, New York concentrating on business litigation.

As a litigator, I have represented clients in a wide variety of areas, including complex commercial litigation, securities litigation, reinsurance matters, insurance industry matters, tort defense, employment disputes, unfair competition, intellectual property, real estate, coop/condo litigation, defamation, construction litigation, Uniform Commercial Code ("UCC"), creditors' rights, bankruptcy, business fraud, and partnership dissolution. Both as a litigator and a mediator, I have handled substantial eight figure disputes.

As President of Resolve Mediation Services, Inc. (<http://www.disputeResolve.com>), I have mediated over 700 disputes. I have been active since 1992 as a neutral in dispute resolution, assuming the roles of mediator, neutral evaluator and arbitrator in a variety of cases including mediation of the Studio Daniel Libeskind-Silverstein Properties dispute over architectural fees relating to the redevelopment of the World Trade Center site, and Trump's \$ 1 billion suit over the West Side Hudson River development.

I have served as a mediator or ADR neutral in a wide variety of matters involving claims concerning business disputes, financial services, securities industry disputes, reinsurance and insurance coverage, property damage and personal injury, malpractice, employment, ERISA benefits, accounting, civil rights, fair housing, real property, construction, surety bond defaults, unfair competition, fraud, bank fraud, bankruptcy, intellectual property, and commercial claims.

### **IV. Experience and Familiarity with Bankruptcy Law:**

In 1989, for the months immediately prior to the dissolution of the New York office of Certilman Haft, et al. (after its acquisition by Rivkin Radler Dunne & Bayh), I worked for Martin F. Brecker, in the firm's bankruptcy department. I was involved in adversary proceedings, wrote briefs on bankruptcy issues and made appearances in Bankruptcy court for the Southern District, at that time. Most of these matters were on behalf of corporate debtors. Following the dissolution of that New York office, Mr. Brecker joined the firm of Anderson Kill & Olick, P.C.

Subsequently, in my own representation of commercial parties, particularly creditors, I have had to perform bankruptcy related analyses (such as on preferences) or analyses of priorities among creditors in connection with the planning for, or actual collection of debts where there is a possibility that the

debtor might file for bankruptcy protection. I have also represented parties in secured transactions, further requiring an understanding of lien perfection and priorities among creditors. I became a mediator for the U.S. Bankruptcy Court, Southern District of New York, in 1999. Since then, I have served as a mediator on a number of Bankruptcy matters out of the SDNY and EDNY Bankruptcy Panels.

## V. Mediation Training:

First ADR training: Early Neutral Evaluation/Mediation Training; a two or three day course given by Linda Singer, Michael Lewis (and possibly Margaret Shaw or Nancy Rogers) for neutrals in the EDNY ADR program. I estimate that this took place in 1992 or 1993. This involved lecture, role plays and feedback.

Thereafter, I took courses through the SDNY ADR program and elsewhere, essentially for the panels listed in answer to 2(d), above.

Much of my learning has been in the role of facilitator or teacher in other ADR programs.

I have *trained* mediators, developing and leading the following programs:

- Three day training program for mediators on the ADR panel of the Commercial Division of Supreme Court, New York County, developed manual and jointly led this training program, with Stephen A. Hochman.
- Two day training program for mediators on the ADR panel of the Commercial Division of Supreme Court, Westchester County, developed manual and led training program

I *facilitated* mediation training in the following programs:

- Two day training in Mediation Course, International Center for Cooperation and Conflict Resolution, Columbia University Teachers College Winter 1997;
- Day training in Mediation Course, Benjamin N. Cardozo School of Law, Spring 1998, and facilitated with feedback in mediation role play one day, January 1999;
- Three day training of NASD and Bankruptcy Court Mediators, Winter 1997-'98, and, again, same three day course in October 1998.

In addition, I have *taught* the following ADR courses, as an adjunct Professor. These courses involved preparing role plays and other exercises for students designed to develop ADR skills, awareness of bargaining styles and methods, communication skills and other functions relating to ADR training:

- “*Negotiation*” (25 hours), at Benjamin N. Cardozo School of Law, Spring 2002 - 2009;
- “*Dispute Resolution Approaches and Processes*” (25 hours), at Benjamin N. Cardozo School of Law, Summer Institute, Summer 2002 - 2004;
- “*Negotiation and Mediation*” (25 hours), at Benjamin N. Cardozo School of Law, Summer Institute, Summer 1998 - 2001;

- “*Fundamentals of ADR*” (25 hours for each course), New York University School of Continuing and Professional Studies, Department of Finance, Law & Taxation, Certificate Program in Dispute Resolution.

In addition, through participation in various Bar related and ADR organizations, I have participated in the formation, moderation and facilitation of numerous ADR trainings and panels including:

#### NYCLA

- Presenter, “ADR in Commercial Litigation,” December 2008
- “Nuts and Bolts of New York Partnership Law” (speaking on dispute resolution of Partnership matters, with a focus on mediation) March 2006;
- “Mediation in Bankruptcy” November 2004;
- Presenter, “Bridge the Gap” (portion on Alternative Dispute Resolution), Quarterly presentations, 1999 - present;
- “Effective Mediation Advocacy: Tips for Representing the Client” October 2003;
- “Impasse Breaking Techniques in Mediation” Winter 1998;
- “Hot Topics in Securities Arbitration” Spring 1998 (co-sponsor to Securities Committee);
- “Hot Topics in Securities Arbitration” Spring 1996;
- “How to Represent Your Clients Successfully in the New Mandatory Mediation and Early Neutral Evaluation Programs in the U.S. District Courts”;

#### NYSBA and ABA

- Moderator, NYSBA Dispute Resolution Section Annual Meeting, “Hybrid Processes: Challenges and Opportunities in the 21st Century and Beyond,” January 2009;
- Presenter, NYSBA Commercial Division Training, “Mediation Advocacy Training for Women and Minorities,” October 2007
- Moderator, Committee on Alternative Dispute Resolution Annual Meeting, “Winning Through Mediation: Know When to Hold ’Em and Know When to Fold ’Em” January 2007;
- “Making the Tough Calls,” Heller Ehrman Continuing Education Legal Education Program, May 2005;
- Panelist speaking on mediation in CLE program presented by NYSBA Securities Committee on Mediation and Arbitration in the Securities Industry, November 1998;
- Panelist (mediator) on NYSBA Committee on Alternative Dispute Resolution Program: Effective Advocacy in Mediation,” Winter 1997-98;
- Chair of Breakfast Program, ABA Litigation Section ADR Committee: Implications of the RAND Corporation Report on ADR in the Federal Courts, Summer 1997;
- Panelist, New York State Supreme Court, New York County,
- Commercial Division, Anniversary Neutrals’ Luncheon Forum, Fall 1997 *and* Fall 1996;

#### NYSDRA

- Panelist ADR Day Program 2000;

#### NASP

- Speaker, NASP 2006 Conference...It's a Jungle Out There! Presentation on "Alternatives to Jury Trial – How To Succeed In Subrogation Without Really Trying," June 2006;
- Presenter, "Nuts and Bolts of a Successful Mediation/ ADR in Large Loss Subrogation Matters," Subrogation Litigation Skills Conference, Las Vegas, Spring 2008.

Apart from the above activities as a facilitator, trainer and teacher, I have also attended numerous programs on ADR over several days at various of the ABA's Annual Convention, and at the Dispute Resolution Section annual meetings.

Other Bar Committee work has offered significant learning opportunities. NYCLA's ADR Committee has *monthly* luncheon meetings typically featuring a speaker on an ADR topic. Since approximately 1992, I have participated actively as a committee member, as CLE Chair, and ADR Committee Chair, where speakers and the discussion generated – while not role plays – nevertheless to be a fertile source of ADR learning. The same is true (although with lesser frequency) from participation in NYSBA and ABA ADR committees.

In addition to the above, my pre-law involvement in undergraduate and graduate studies in the Comparative Study of Religion sensitized me to the importance of open listening, dialogue, cooperation and tolerance, which is an essential precondition to mediation skills.

## **VI. Mediation Experience:**

I have been active in ADR since the early 1990s, serving on numerous ADR panels, taking leadership roles in ADR organizations; serving on ADR Advisory Groups to the courts; writing, teaching and training mediators and lawyers in connection with ADR. I designed and co-presented three day training programs for Commercial Division Mediators, for Supreme Court New York County, and designed and led two day trainings for Commercial Division mediators, Supreme Court Westchester County. I have taught ADR at NYU, and currently teach ADR courses at Benjamin N. Cardozo School of Law.

I have mediated over 700 disputes in a wide variety of areas, including employment matters through courts, Self Regulatory Organizations and government entities, agencies, and privately through Resolve Mediation Services, Inc.

## **VII. Area of Expertise:**

I have practiced law for more than 25 years as a commercial and general civil litigator. Having spent the first ten years of my legal career with various firms, the last of which merged into what is now KMZ Rosenman ([www.kmzr.com](http://www.kmzr.com)), I commenced a dual practice as litigator and neutral party. I am a principal of the firm of Simeon H. Baum, Esq., New York, New York

concentrating on business litigation. I am also President of Resolve Mediation Services, Inc. (<http://www.disputeResolve.com>) offering mediation and other neutral dispute resolution services.

As a litigator, I have represented clients in a wide variety of areas, including complex commercial litigation, securities litigation, reinsurance matters, insurance industry matters, tort defense, employment disputes, unfair competition, intellectual property, real estate, coop/condo litigation, defamation, construction litigation, Uniform Commercial Code ("UCC"), creditors' rights, bankruptcy, business fraud, and partnership dissolution. Both as a litigator and a mediator, I have handled substantial eight figure disputes.

**VIII. General Pertinent Business or Legal Experience:  
Bar or Law School lectures, CLE Programs, Presentation of ADR  
Education & Training:**

- Adjunct Professor, Benjamin N. Cardozo School of Law, Courses in "Processes of Dispute Resolution – Negotiation, Mediation, and Arbitration" Summer Institute 1998 - present; and "Negotiation," Spring 2001 – present
- Adjunct Professor, New York University School of Continuing and Professional Development, Course in "Fundamentals of ADR," Fall 1998 – 2001
- NYCLA "Bridge the Gap" lecturer on ADR, quarterly presentations, 1999 –Present;
- Moderator, NYSBA Dispute Resolution Section Annual Meeting, "Hybrid Processes: Challenges and Opportunities in the 21st Century and Beyond," January 2009
- Presenter, "Nuts and Bolts of a Successful Mediation/ ADR in Large Loss Subrogation Matters," Subrogation Litigation Skills Conference, Las Vegas, Spring 2008
- Presenter, NYSBA Commercial Division Training, "Mediation Advocacy Training for Women and Minorities," October 2007
- Speaker, NASP 2006 Conference...It's a Jungle Out There! Presentation on "Alternatives to Jury Trial – How To Succeed In Subrogation Without Really Trying," June 2006;
- Presentation to Members of the Financial Writers Association, September 2006;
- Moderator, Committee on Alternative Dispute Resolution Annual Meeting, "Winning Through Mediation: Know When to Hold 'Em and Know When to Fold 'Em" January 2007
- "Making the Tough Calls," Heller Ehrman Continuing Education Legal Education Program, May 2005
- Panelist "Mediation in Bankruptcy" NYCLA (Joint CLE Program ADR & Bankruptcy Committees)(co-panelists: Bankruptcy Judges Allan L. Gropper and Elizabeth S. Stong, Clerk of SDNY Bankruptcy Court Kathleen Farrell-Willoughby, Adam L. Rosen) November 2004 Panelist "Commercial Mediator as a Deal Maker" (ABA Section of Dispute Resolution Program) Spring 2004
- Panelist for NYSBA CLE Program "Shall we Dance? Partnering with the courts, neutrals, advocates, and clients: next steps for ADR." Winter 2004
- Organized and participated in training of arbitrators for Joint Committee Panel to handle Part 137 attorney client fee dispute arbitrators, October 2004 & May 2003

- Speaker, on Part 137 and work of Joint Committee on Fee Disputes and Conciliation – NY Women’s Bar Association Annual Meeting, March 2003; NYCLA, March 2002;
- Program Chair and Moderator for NYSBA CLE Program “Mediation Ethics – What An Attorney Needs to Know” January 2001
- Panelist on NYSBA Committee on Alternative Dispute Resolution Program: “ADR: From Drafting to Resolution,” NYSBA Annual Meeting, January 2000
- Panelist ADR Day Program 2000
- Developed and Co-Presented Three Day Intensive Mediation Training for mediators on ADR Panels of Commercial Division of Supreme Court, New York County, and appellate Division, 1st Department, Winter 2000 and Spring 1999
- Developed and Presented Sixteen Hour Intensive Mediation Training for mediators on ADR Panels of Commercial Division of Supreme Court, Westchester County, December 1999
- Chair and Co-Presenter, One Day CLE Program “Dispute Resolution – Mediation,” New York University, Midtown Institute, Fall 1999
- • Committee Chair or CLE Chair for following NYCLA ADR Programs: “Navigating the Waters of International ADR: Arbitration and Mediation Essentials” Fall 1999
- “Employment Mediation” Fall 1999 (A Mediator’s Tips for Effective Representation in Employment Mediation)
- “Securities ADR: Essential Practical Skills in Arbitration and Mediation” Summer 1999
- “Impasse Breaking Techniques in Mediation” Winter 1998
- Guest Speaker on the Accountants’ Role in ADR, Association of Accountants Administrators, Spring 1998, and before the New York Society of CPA, November 1998
- “Hot Topics in Securities Arbitration” Spring 1998 (co-sponsor to Securities Committee), Spring 1996
- “How to Represent Your Clients Successfully in the New Mandatory Mediation and Early Neutral Evaluation Programs in the U.S. District Courts”, Spring 1996
- Panelist (on mediation) for NYSBA CLE Program “Securities Mediation and Arbitration – Effective Advocacy” November 1998
- Facilitated Training in Mediation Course, Benjamin N. Cardozo School of Law, Spring 1998
- Speaker, Accountants’ Role in ADR, Association of Accountants Administrators, Spring 1998
- Panelist on NYSBA Committee on Alternative Dispute Resolution Program: “Effective Advocacy in Mediation,” NYSBA Annual Meeting, Winter 1998
- Facilitated Trainings of NASD and Bankruptcy Court Mediators, October 1998 and Winter 1997-’98
- Presenter on ADR, Supreme Court New York County Commercial Division Judges Luncheon, and at non-exclusively Commercial Division Judges Luncheon, Fall 1997
- Chair of Breakfast Program, ABA Litigation Section ADR Committee: Implications of the RAND Corporation Report on ADR in the Federal Courts, Summer 1997
- Facilitated Training in Mediation Course, International Center for Cooperation and Conflict Resolution, Columbia University Teachers College, Winter 1997

- Panelist, NYS Sup. Ct., NY Co., Commercial Division, Anniversary Neutrals' Luncheon Forum, Fall 1996
- CLE Chair for NYCLA Program on Lead Litigation, Winter 1995

**Public Hearing Testimony:**

Testified twice on ADR, in or about 1996, before the ADR Task Force formed by Chief Judge Judith Kaye to consider the condition, and develop a plan for implementation, of ADR in the New York State court system.

**Publications:**

- Contributing Author on ADR in:
  - ABA Conflict Management Newsletter
  - The Metropolitan Corporate Counsel
  - NYCLA Journal
  - The CPA Journal
  - NYSBA's "Dispute Resolution Lawyer"
  - NYLJ "10 Things Not to Do in Mediation"
- Co-author of NYCLA Committee on Arbitration and Alternative Dispute Resolution Report on Success of Eastern District ADR Program and Results of RAND Corporation Study (awarded NYCLA's Klaus Eppler prize for best Committee report 1997-1998);
- In connection with the course handbook prepared for a New York State Bar Association CLE course on *Successful Representation of Parties in Securities Arbitration and Mediation*, November 1998, published an article on: "Effective representation of Clients in the Mediation of Securities Disputes."
- Prepared Mediation Training Manual: *The Mediator's Art*, for the Unified Court System, Office of Court Administration, Commercial Division, Supreme Court New York and Westchester Counties, June 1999, December 1999, February 2000 (Mediation Training Manual; a several hundred page compilation, with original materials).

**IX. Other Pertinent Information:**

- Fordham University School of Law, J.D. 1982
- Colgate University, M.A. in Philosophy, *with distinction* (Comparative Study of Religion) 1979
- Colgate University, B.A., *cum laude* (Philosophy & Religion) 1976

**X. Fee Structure (Compensation and Expense Reimbursement):**

- Hourly rate of \$625; or as otherwise agreed
- Expenses to be reimbursed by parties; and time spent by paralegal or associates to be compensated at paralegal (\$115 per hour) or associate (\$225 per hour) rates.