DISPUTE RESOLUTION EXPERIENCE

Daniel J. Kraftson

Mediator | Arbitrator | Dispute Review Board Member

"We recently engaged Dan Kraftson as mediator for a complex construction dispute—his exceptional grasp of intricate contract and scheduling issues, coupled with a calm, commanding presence, swiftly guided us to resolution. A superb arbitrator whose integrity and skill are unmatched."

KC KRAFTSON CAUDLE

www.KraftsonCaudle.com

Current Employer/Title

Kraftson Caudle, Partner

Profession

Attorney

Professional Licenses

Admitted to Virginia Bar (1977),
D.C. Bar (1978); U.S. Supreme Court,
United States Circuit Court of Appeals (4th Circuit and Federal Circuit);
various Federal Courts

Professional Associations

Virginia State Bar; District of Columbia Bar Association;
American Bar Association (Member, Forum on Construction); and
American Arbitration Association Arbitrator and Mediator

Awards & Honors

Rated AV Preeminent by Martindale–Hubbell (the highest possible rating in both legal ability and ethical standards); Chambers USA Leading Lawyers in Construction since 2009; Chambers USA Band 1 in the Construction Mediators Category for Virginia; Recognized in Best Lawyers in America in fields of Construction and Construction Litigation since 2005; Selected by his peers on multiple occasions as Best Lawyers in America's "Lawyer of the Year" for the Washington, D.C. area in the following categories:

2012 Litigation – Construction
2014 Construction Law
2016 Litigation - Construction
2018 Litigation - Construction
2019 Construction Law

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Experience

Over 48 years of experience specializing in construction law and the litigation of complex construction contract disputes. In-depth knowledge of federal, state and local government law pertaining to construction contracting. Extensive experience in the litigation of claims for additional time and money under fixed price, cost reimbursable, design – build, GMP (Guaranteed Maximum Price), EPC (Engineer/Procure/Construct), and other types of construction contracting under government and private construction contracts. Has represented several of the ENR top 10 engineering and construction firms, and various prime contractors, subcontractors, and construction owners across the United States and abroad in a wide variety of projects, including highways, bridges, tunnels, mass transit, sports stadiums, water and solar facilities, wastewater treatment facilities, nuclear, fossil, and hydroelectric power plants, chemical processing plants, airports, pipelines, dams, electrical transmission, environmental remediation projects, missile defense installations, embassy projects, commercial office buildings, hotels, and prisons.

Has litigated in federal and state courts throughout the United States, and has represented clients in numerous arbitration proceedings, administrative proceedings, administrative hearings and other dispute resolution forums. Cases have involved damage claims ranging from less than $1 million to over $5 billion and have typically involved claims for changes, differing site conditions, delay and disruption, increased costs of performance, and the impact and ripple effect of changes on the construction schedule. Has also litigated a number of significant construction defect cases with damages ranging from $50 million to $150 million. Intimately familiar with CPM scheduling principles and construction cost analysis having worked extensively with and against scheduling and accounting experts and construction claims consultants. Has worked frequently with geotechnical experts on a wide variety of differing site conditions claims.

Has represented parties to numerous international construction disputes. Examples include litigation of a dispute in London involving the construction of an offshore pipeline in West Africa, arbitration of a dispute between a U.S. contractor and a major Canadian pipeline company before the International Centre for Dispute Resolution, and litigation of a dispute between the U.S. Government and a major international contractor involving the construction of a missile defense base in Europe. Has also assisted clients with numerous construction claims arising out of international construction projects such as embassies in Europe and the Middle East, pipelines in South America and the Caribbean, offshore oil platforms in South America and Canada, military base construction in Spain and Greenland, mining projects, pipelines, and power generation facilities in Canada.

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Alternative Dispute Resolution

Has served as an arbitrator, mediator, and dispute review board member on numerous complex construction disputes since 2003. Has arbitrated and mediated numerous construction disputes ranging in value from less than $1 million to over $300 million. Parties to the disputes have included owners, general contractors, subcontractors, and design professionals. Types of projects arbitrated or mediated include public transit, tunnels, highways, pipelines, airports, commercial office buildings, hotels, student housing, mixed use commercial/residential condo buildings, water treatment facilities, schools, shopping centers, assisted living facilities, etc. These disputes have included claims for delay damages, liquidated damages, differing site conditions, loss of productivity, multiplicity of change orders, changes in scope of work, design errors and omissions, and allegations of defective construction.

Served on the Dispute Resolution Board for the $1.4 billion Silver Line Metro Project in the Washington, D.C. area. Served on the Commercial DRB Panel for the $1.2 billion I-70 Corridor Project in Denver, Colorado (Central 70 Project) being constructed for the Colorado Department of Transportation by Kiewit Meridiam Partnership. Currently serving as a DRB Member on the $9.5 billion New Terminal One Project at JFK Airport in Jamaica, New York. Currently serving as Chair of the DRB for the Hudson River Ground Stabilization Project in New York City.

Mediation Philosophy

With the concurrence of the parties, I employ an evaluative approach towards mediation in which I provide each party with my confidential assessment of the strengths and weaknesses of its own positions. While providing evaluative input, the parties are ultimately in control of their own destiny in the mediation process. This evaluative approach typically involves substantial pre-mediation study of written statements and key documents provided by the parties and discussions with the parties prior to the joint mediation session. In order to ensure the best chance of a successful mediation, the parties must have sufficient information to ensure that the decision makers can make an informed decision regarding the risks of settling versus proceeding with litigation/arbitration. As such, I encourage the parties to identify and exchange the information that they consider to be critical to their ability to properly assess the other party's case and their own. The parties are encouraged to be fully committed to the mediation process and to come well-prepared to make their best-case presentations at the outset of the mediation. This sort of exchange typically puts the decision makers in the best position to evaluate their risks properly.

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