



HAROLD P. (PETER) SMITH, ESQ.

Mediator • Arbitrator • Referee



Harold P. (Peter) Smith, Esq. is an accomplished mediator, arbitrator, and referee with broad experience resolving disputes in the areas of business, construction, real estate, land use, employment terminations, and health care.

Prior to joining ADR Services, Inc., Mr. Smith had an accomplished 35-year career as a litigator and trial lawyer. He began his career as Deputy District Attorney for the County of Alameda, where he tried more than 20 jury trials to verdict and well over 500 preliminary hearings and court trials on a wide variety of criminal matters. After three years, he joined a litigation firm and worked as a trial lawyer handling a wide range of civil litigation matters, with particular emphasis in the fields of business, corporate and shareholder disputes, facilities development and land use, construction, real estate, and C-level employment termination. He has handled numerous jury trials and complex commercial arbitrations in a wide variety of matters.

Mr. Smith has been awarded the prestigious designation of Northern California Super Lawyer in business litigation by Thomson/West Publishing, an accolade reserved for the top 5% of lawyers in the jurisdiction.

In addition to his broad experience as a litigator, Mr. Smith brings a unique perspective as a neutral, having served as a leader in various community development organizations, including five years on the Oakland Planning Commission. As Chair of the commission for two terms, he was responsible for making decisions on development proposals and providing policy recommendations to the City Council. During this time, it was paramount that he demonstrated his ability to understand all sides of a particular issue and hear all points of view, while also identifying the key issues within a dispute. As a mediator, arbitrator, and referee, Mr. Smith draws upon the same skills to successfully resolve disputes, including thoroughly understanding all sides, actively listening to the parties, making well-reasoned proposals and decisions, and articulating the rationale behind a decision.

Mr. Smith has served as a faculty member for the Stanford Law School Advocacy Skills Workshop and as a panelist and commentator on transit-oriented development, green technology, planning, and economic development issues.

Mr. Smith received his A.B. in Economics from Harvard University in 1982, and his J.D. from the University of San Francisco School of Law in 1986. He is a member of the State Bar of California, The Mediation Society, the United States District Court Mediation Panel for the Northern District of California, and the Mediation Panel for the California Association of Realtors. He is admitted to practice before all trial and appellate courts in the State of California and the United States District Courts for the Northern, Central, and Eastern Federal Districts of California.

AREAS OF EXPERTISE

- Real Estate
- Business & Commercial
- Facilities Development and Land Use
- Construction
- Employment Terminations
- Corporate Governance

EDUCATION

- University Of San Francisco School Of Law, J.D. May 1986.
- Harvard University, A.B., Economics, June 1982.
- Head Royce School, Diploma, June 1978

PROFESSIONAL RECOGNITION

- Northern California Super Lawyers. 2014-2021.
- The Mediation Society of Northern California. 2016-Present, Board of Directors, 2018-2021.

PROFESSIONAL EXPERIENCE

- Smith Mediation and Arbitration, 2019-Present
- Smith, LLP, Partner, 2014-2018
- Dhillon & Smith LLP, Partner, 2006-2014
- Law Offices of Harold P. Smith, Partner, 2002-2006
- Stein, Smith, Rudser & Cohen, LLP, Partner, 1997-2002
- Stein & Smith, Partner, 1992-1997
- Birka-White & Stein, Senior Associate, 1989-1992
- California State Legislature, Joint Legislative Audit Committee, Counsel, 1989
- Alameda County District Attorney, Deputy District Attorney, 1986-1989
- Alameda County District Attorney, Certified Law Clerk, 1985-1986

DISPUTE RESOLUTION TRAINING & CERTIFICATIONS

- U.S. District Court, Northern District of California, Certificate of Completion, Mediation Training Program, 2011. Mediation Panel Member, 2011-Present.
- U.S. District Court, Northern District of California, Certificate of Completion, ADA Access Training Program, 2018. ADA Mediation Panel Member, 2018-Present.
- Alameda County Superior Court, Court Mediation Program, Mediator, 2021-Present.
- Contra Costa Superior Court, Discovery Facilitator, Settlement Mentor, 2017-Present.
- California Association of Realtors, Mediator, 2018-Present.
- University of California, Berkeley, Certificate of Participation in Mediation and Conflict Resolution, Ron Kelly (40 hours) 2001.
- Harvard University, Getting to Yes - Harvard Negotiation Project, Roger Fisher, 1981.

AFFILIATIONS

- Planning Commission, City of Oakland, Commissioner, 1991-1996
- General Plan Congress, City of Oakland, Chair, 1993-1998
- The Head Royce School, Board of Trustees, Board Member, Board Chair
- Claremont Country Club, Board of Directors, Club President
- Davis Street Family Resource Center, Board Member, 2017-2019
- Youth Tennis Advantage, Board Member, 2014-2019
- Estuary Plan Advisory Committee, Oakland, Member, 1997-1998
- Task Force on Community Restoration & Emergency Preparedness, Oakland, 1991-1992.
- Oakland Commerce Corporation, Board of Directors, 1992-2000
- Oakland Coliseum Redevelopment Advisory Committee, 1992-2000.
- Metropolitan Task Force on Downtown Redevelopment, 1992-1993
- Alameda Contra Costa Transit District, Member of the Board of Directors, 1986-1988
- The Head Royce School, Distinguished Alumnus of the Year, 1991
- The 100 Club of the East Bay, Member, 2013-Present

CASE SUMMARIES

BUSINESS & COMMERCIAL CONTRACT

- Negotiated purchase of recycling business by employees.
- Defended \$6,000,000 business fraud case at summary judgment resulting in a settlement with a positive recovery for client.
- Successfully prosecuted claims at jury trial regarding the dissolution of a business and defended against claims of corporate fraud.
- Resolved board election disputes against a California non-profit Corporation concerning the governance of radio stations.
- Successfully settled pre-litigation dispute between new media service provider and client over reimbursement of fees paid.
- Successfully settled lemon law dispute.
- Handled shareholder challenge alleging fraud and breach of fiduciary duty by corporate directors.
- Handled settlement arising from the dissolution of a 15 year business relationship involving both US and Canadian actions.
- Settled dispute between owners of restaurant.
- Successfully settled commercial claim in a sale of goods case involving alternative energy provider.
- Successfully settled commercial claim regarding lease, lease termination and right of first offer.
- Successfully settled a business partition between LLC members.
- Settled lease termination dispute between church and tenant.
- Settled corporate governance issue with a non-profit communications organization relating to rank choice voting elections of board members.
- Settled seven nonpayment claims relating to tenant improvements for a retail store.
- Settled business dispute between company and departing joint venture partner.
- Mediated corporate ownership dispute regarding Community Choice Aggregation firm
- Settled business and real estate dispute between partners in a cannabis business in Humboldt county.

CONSTRUCTION

- Handled construction defect claim resulting in a positive net recovery by General Contractor after contributions from subcontractors.
- Entitled development of 532 unit apartment in downtown Oakland and assisted in construction related issues including abatement of construction related nuisance.
- Handled construction defect and mold case on behalf of homeowner.
- Settled \$2,000,000 design defect suit regarding mixed use and multi-family development in Burbank, California.
- Successfully settled pre-litigation dispute between cabinet maker and homeowner over a kitchen remodel, serving as co-mediator with the general contractor.
- Settled payment and subcontractor defect claims regarding two new restaurants.

REAL ESTATE

- Handled two coordinated real estate fraud cases in trial and arbitration with claims totaling \$10 million.
- Entitled development of an award-winning new dormitory for a private college in Oakland.
- Entitled development of 25-story office building in downtown Oakland.
- Entitled development of 9-story office building in downtown Oakland and assisted in construction, tax, and exaction issues.

- Obtained \$22,500,000 settlement for real estate dispute concerning an option to purchase land.
- Successfully settled a corporate and real estate dispute pursuant to a mediator's compromise.
- Settled dispute between partner and former partner in real estate dispute.
- Successfully settled pre-litigation claim for return of liquidated damages after termination of real estate purchase contract.
- Successfully guided non-profit community health facility through complex real estate transaction involving cannabis dispensary.
- Conducted pre-litigation mediation of a real estate non-disclosure suit involving a boat dock resulting in no action being filed.
- Assisted parties regarding reports required under purchase contract and interpretation of the same.
- Settled neighbor dispute regarding encroaching conditions.
- Mediated pre-litigation claims of non-disclosure of defects and rodent activity.
- Conducted pre-litigation mediation of a real estate non-disclosure suit involving non-disclosure of dying trees resulting in no action being filed.
- Conducted pre-litigation mediation of a real estate non-disclosure suit involving non-disclosure of rotted deck.
- Mediated a pre-litigation rescission of purchase of real estate.
- Settled disputed claims regarding tree removal and view claims.
- Assisted parties in reaching an agreement for a pathway to resolve disclosure dispute through rescission of purchase contract pre-litigation.
- Mediated partial resolution of issues relating to non-disclosure of unpermitted construction pre-litigation.
- Resolved non-disclosure claim for home in Venice, California.
- Settled dispute regarding non-disclosure and construction defects in home that had been flipped by seller. Later retained as mediator by seller in dispute with contractor.
- Settled dispute regarding removal of jointly owned tree.
- Assisted parties in a dispute regarding custom construction of home for sale in Venice, California.
- Settled landlord-tenant dispute regarding lease conformance and obligation to pay rent during Covid-19 shutdown.
- Mediated disputes relating to whether a property had approved plans for the construction of a new residence.
- Mediated dispute over non-disclosure of foundation issues.
- Mediated numerous claims regarding real estate development.
- Mediated pre-litigation evaluation of claims relating to non-disclosure of existing defects in sale of home.
- Mediated pre-litigation evaluation of claims regarding non-disclosure and the addition of new parties.
- Mediated pre-litigation evaluation of claims to earnest money deposit following cancellation of real estate purchase contract.
- Settled through rescission of a real estate purchase for a development opportunity where sewer connection problem and cost were not disclosed.

FIRE CLAIMS

- Assisted in separate negotiations with insurance company, landlord, City, contractor, restaurant equipment supplier and others following a fire that destroyed an ice cream manufacturing and restaurant/parlor facility that resulted in the successful reopening of the business.
- Settled fire and nuisance claim.

EMPLOYMENT

- Secured a settlement for a terminated Chief Executive Officer of technology company.
- Successfully settled confidential pre-litigation separation of a C-level employee.

PRODUCT LIABILITY

- Assisted in litigating product liability litigation regarding defective ABS drain, waste and vent pipe for total claims exceeding \$100,000,000.
- Handled matter involving defective ion pumps supplied to a klystron manufacturer for installation in a linear accelerator resulting in settlement for the full claim amount.

AMERICANS WITH DISABILITIES ACT (ADA)

- Settled matter involving disability access relating to a motel.
- Settled matter involving disability access relating to a restaurant.
- Settled matter involving disability access relating to bowling alley parking spaces.
- Settled matter involving disability access relating to gas station and convenience store.
- Settled matter involving disability access relating to parking and access to pharmacy.
- Settled matter involving disability access relating to access to convenience store.