

MARKSADR, LLC

WILLIAM AUGUST BATEN

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Born: November 10, 1959
Birthplace: Paterson, N.J.

Summary of Education

Susquehanna University (B.A.) 1981, *magna cum laude*
Honors in Political Science
Georgetown University Law Center (J.D.) 1987, *cum laude*
Editor, *Law and Policy in International Business* (1985-1986)

Summary of Professional Experience

March, 2000 – Present	MARKSADR – Mediator and Arbitrator
February, 1995 – February 2000	JAMS/Endispute – Mediator and Arbitrator
September, 1987 – May, 1995	Cleary, Gottlieb, Steen & Hamilton – Attorney

Details of ADR Experience

Began involvement in ADR during his tenure at Cleary, Gottlieb, where he participated in approximately 150 mediations and arbitrations as an advocate and became one of the firm's ADR specialists and trainers. Since becoming a full-time neutral in 1995, has served as mediator, arbitrator, or special master in more than 2,000 matters involving a wide range of disputes, including the following:

- Disputes involving mass-torts, class actions, and Multi-District Litigation.
- Disputes involving commercial relationships, including numerous high-stakes breach of contract and franchise disputes.
- Disputes involving products liability, with particular experience in claims related to drugs, foods, and dietary supplements.

- Coverage disputes involving multiple insurers and thousands of claims, such as in the asbestos and environmental contexts.

- Disputes involving construction, including claims for delay, constructive acceleration, professional malpractice, wrongful termination of general contractors and subs, and coverage on surety bonds.
- Disputes involving employment relationships, including claims of wrongful termination based on gender, race, age, and sexual orientation, as well as sexual and other harassment in the workplace.
- Claims alleging wrongful death and serious personal injury.
- Disputes alleging attorney, physician, and other professional malpractice.
- Disputes involving violations of civil rights.
- Disputes involving patent issues.
- Disputes involving the health-care industry.
- Disputes involving the insurance industry, including class actions for fraud and bad faith.

Since 1994, has served as Vice-Chairman of the Mediation Committee of the ABA's Section of Dispute Resolution. Mr. Baten has served as an industry advisor to the Uniform Law Commissioners' projects to revise the Uniform Arbitration Act and to create a Uniform Mediation Act.

Examples of specific cases handled, by subject matter, include:

Class Actions

- Served as case adjudicator in connection with settlement of class action against U.S. Government concerning civil rights violations.
- Served as court-appointed special master as part of class actions involving combination weight-loss drugs.
- Served as mediator of class action against a national insurance company for claims of defrauding policy holders.
- Served as mediator in several class actions, including actions against underwriters as well as corporate officers.
- Served as mediator of class action against State of Indiana involving misdirection of funding to schools.
- Served as mediator in class action against major soft drink manufacturer concerning contamination of ammonia at bottling plant.
- Served as mediator in fee dispute among class counsel in a highly successful securities class action.

- Served as mediator in class action by teachers against school district concerning unilateral change in work assignments.
- Served as mediator in class action by prison guards regarding their pension plans.

Commercial Disputes

- Dispute between Amtrak and manufacturer of its high-speed Acela trains running along the Northeast Corridor rail system.
- Dispute among partners involved in dissolving a real estate joint venture with hundreds of millions in real estate holdings.
- Dispute between Fortune 500 companies over contract to provide new cellular phone technology.
- Served as special master to federal court in patent dispute between two leading manufacturers of diesel engines.
- Disputes between buyers and sellers of corporations concerning various misrepresentations.
- Various disputes between automobile manufacturers and their dealers.
- Various disputes nationwide between doctors and providers of practice management services.
- Claim involving failure of business due to environmental contamination.
- Claim by corporation arising from alleged theft of trade secrets.
- Claim by franchisee after placement of two new franchises within one mile of franchisee's store.
- Claims involving non-performance of contracts with state and local governments.
- Fee dispute between co-counsel after settlement of class action.
- Dispute concerning rights of first refusal for new franchises.
- Dispute concerning contract to purchase helicopter.
- Dispute between aircraft maintenance company and aircraft owner after plane's engine seized in mid-air during first flight after engine overhaul.

- Dispute between former business partners over details of oral business contract.

Products Liability

- Claim against auto maker alleging lack of crash worthiness that resulted in car splitting open upon impact, killing one child and causing severe brain damage to another child.
- Series of claims against manufacturer of three-wheeled ATV's for roll-over injuries including paraplegia and brain damage.
- Claims involving injuries allegedly caused by combination diet drugs.
- Claims involving injuries allegedly caused by dietary supplements, including death and paralysis.
- Claim against manufacturer of hypodermic needles for alleged lack of safety lock device and inadequate warnings.
- Claims alleging toxic exposure from weed control products.

Construction Experience

- Claims involving the multi-billion dollar "Big Dig" construction project in Boston.
- Claim involving unsuitable groundwork on Florida convention center project, leading to termination of general contractor on \$12,000,000 project.
- Claims involving the construction of the new Boston police headquarters.
- Claims and counterclaims between general contractor and prime subcontractor relating to construction of power plant in Maine.
- Claim involving substantial delays and additional costs on school building projects related to Hurricane Hugo.
- Claim involving surveying errors which necessitated redesign of a several-hundred unit condominium development after construction began.
- Claims involving termination of subcontractors on hotel project.
- Claims and counterclaims involving multi-million dollar cost overruns and delays on construction of chemical plant.

- Claims involving HVAC problems in hotel leading to severe humidity damage to walls and ceilings.
- Claims related to delays and faulty equipment in correctional facility.
- Claim for construction acceleration on major college sports facility.
- Claims involving costs to winterize large school project due to delays in furnishing structural steel to the project.
- Claim involving cracking and discoloration in new terrazzo flooring in multi-million dollar high school project.
- Disputes involving interpretation of application and coverage of construction bonds.
- Dispute over easement providing only access to valuable commercial property.
- Development of mediation and arbitration programs for builders associations.
- Written into construction project documents to resolve disputes on the job site as they arise.

Employment Disputes

- Claims by African-American managers at national package delivery service alleging denial of further upward mobility based on race.
- Action by in-house attorney terminated from national trucking company for allegedly refusing to go along with scheme of insurance fraud.
- Claim of sexual harassment and wrongful termination by male secretary against openly gay male partner at large New York law firm.
- Action by in-house accountant for automobile dealership over receipt of accrued profit-sharing benefits after termination of employment.
- Action by stockbroker against major brokerage for breach of oral promises regarding advancement within the company.
- Various actions by employees regarding harassment within the workplace.

- Arbitration of wrongful termination action by CEO of major professional association for allegedly misrepresenting qualifications.
- Action by female stockbroker for allegations of sexual harassment by supervisor.
- Action by teacher for wrongful termination based on unfounded rumors.
- Serves on the panel of the Duke Private Adjudication Center to mediate claims of sexual discrimination and sexual harassment within the Smith Barney and Merrill Lynch class action settlements.

Malpractice

- \$200 million claim against major accounting firm for failure to detect major fraud scheme through its audit procedures.
- Major claim against large law firm alleging negligence in handling of escrow account.

Subrogation

- \$800 million claim against multi-national fire protection firm arising from one of the largest commercial fires in U.S. history.
- Claim by insurer against its broker for failure to disclose certain loss history items about insured that suffered large fire loss after coverage was placed.