



Marc J. Goldstein, Esq.  
MJG Arbitration & Mediation

<b>Current Employer-Title</b>	MJG Arbitration & Mediation (f/k/a Marc J. Goldstein Litigation & Arbitration Chambers) -- founder
<b>Mediation Profession</b>	Mediator and Arbitrator
<b>Work History</b>	MJG Arbitration & Mediation, 2007-present; Proskauer Rose LLP, 1980-2003 (leader of international arbitration practice, 1999-2003); Hodgson Russ LLP (leader of international arbitration practice), 2004-07. Practice devoted entirely to commercial litigation, arbitration and dispute resolution throughout career.
<b>Experience</b>	<p>Chair, Sole Arbitrator and Co-Arbitrator in ~ 40 international or domestic commercial arbitrations under ICDR, LCIA, ICC, CPR and AAA Commercial/Large and Complex Case Rules. Now serving mainly as neutral after 36-year career as advocate in commercial and investor-State arbitrations, and international and domestic litigations before US federal and NY state courts. Mediator of ~70 international and US domestic commercial disputes; certified by International Mediation Institute (IMI) in 2015.</p> <p>Subject matters of cases as arbitrator: accounting, accountant liability, aviation, breach of contract, commercial banking, China, commercial contracts, consumer electronics, consultant compensation, currency trading, deceptive trade practices, Delaware corporation law, derivatives, distribution, employment, fiduciary duty, finance, Forex, fraud, franchise, hedge funds, intellectual property, interim measures, injunctions, insurance, investment management, insider trading, investment banking, inter vivos trusts, limited liability companies, joint ventures, mergers and acquisitions, minority shareholder rights, negligence, New York law, options trading, partnership, patent licensing, pharmaceutical licensing, pharmaceutical manufacturing, private placements, Ponzi schemes, power cogeneration, professional malpractice, private banking, procurement, proprietary trading, real estate, reverse mergers, RICO, Uniform Commercial Code Article 2, US federal securities liability.</p> <p>Subject matters of cases as mediator: price fixing, antitrust damages, syndicated commercial lending, real estate lending, reinsurance coverage, commercial contracts, joint ventures, fiduciary obligations, investment banking, insurance brokerage, non-profits finance.</p> <p>Subject matters of cases as advocate: accounting; accountant liability and malpractice; aviation -- private luxury aircraft purchase and sale; commercial real estate development; currency swaps and other derivatives; broker-dealer liability; Generally Accepted Accounting Principles; imported steel and pipe distribution; imported apparel distribution; imported foods distribution; music publishing; professional sports -- franchises, merchandising, broadcast regulation, collective</p>

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bargaining, employment; merger purchase price adjustments; pharmaceuticals patent licensing; expropriation -- pharmaceuticals industry investment; expropriation -- residential real estate industry investment; expropriation -- cable television franchise investment; telecommunications -- wireless franchises abroad; ISDA contracts; health care facilities financing; life insurance sales practices; commercial lending/secured creditor rights; partnership and closely-held corporation dissolution; minority shareholder rights; valuation of expropriated property; industrial machinery contracts; international entertainment joint ventures; joint ventures with China state enterprises; US Age Discrimination Law, US Civil Rights Statutes; US antitrust law -- monopolization, restraint of trade, price discrimination; US securities law civil liability, US copyright law, US and NY trademark law, US bankruptcy law -- Chapter 11 reorganization, preferential transfers, adversary proceedings; New York and Delaware corporation laws, Vienna Sales Convention, Uniform Commercial Code -- Article 2 sales law, Article 9 secured creditor rights, enforcement of foreign judgments and arbitral awards, Federal Arbitration Act, New York Convention, antisuit injunctions.

RECOMMENDED IN: 2017 International Who's Who of Commercial Arbitration; 2017 Best Lawyers in America; 2017 New York Super Lawyers.

### **Experience as a Mediator**

Certified by International Mediation Institute in 2015. Completed Harvard Program on Negotiation (HPON) Master Class November 2016 (and HPON Basic Course November 2013). Began service as a mediator of commercial disputes in late 2009. Mediator in approximately 70 disputes. Appointed privately and through American Arbitration Association, U.S. District Court, Southern District of New York and Commercial Division, New York Supreme Court. Largest case was a civil antitrust enforcement case with exposure in excess of \$300 million. This case was settled after several months of mediation effort. Another large case involved claims exceeding \$10 million between major financial institutions arising from the restructuring of a syndicated loan facility. A third was a cross-border dispute over payment for defective industrial machinery; the purchaser was a Fortune 100 company affiliate. This case was settled in one session. Other cases included legal malpractice dispute (settled), hotel management dispute (settled), wrongful check collection interbank dispute (settled), vendor-supplier dispute over reproduction services (settled), dispute over real estate loan to non-profit entity (settled), disputes over taxi-limousine franchises, joint venture dispute among investors in food services enterprise; insurance coverage dispute involving D & O policy relating to alleged financial fraud.

### **Representative Issues Handled as a Mediator**

1. Civil Antitrust Enforcement Case: Price fixing conspiracy allegations, measure of damages for which one co-conspirator is responsible in "hub and spoke" conspiracy.
2. Performance Rights Trademark Infringement Case: Dispute over scope of license of rights in public television program content.
3. Professional Malpractice Case: Dispute over alleged legal malpractice.
4. Investment Banking Compensation Case: Dispute over fees due to investment banker upon successful completion of corporate merger.
5. Syndicated Loan Facility Case: fiduciary obligations of syndicate manager toward lenders not participating in restructuring of the facility.

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6. Industrial Machinery Case - scope of defects in machinery supplied; fact issues of allocating responsibility for defective condition.
7. Joint Venture Dispute - fact disputes over claims of misappropriation and corporate waste.
8. Insurance Coverage Disputes - Interpretation of reinsurance agreements, fact issues relating to dates claims arose.
9. Real estate loan case - Ability of non-profit to comply with terms of loan agreement.
10. Taxi franchises dispute - Fact issues of discriminatory treatment of franchisees in allocation of work.
11. Reproduction charges dispute - fact issues of performance.

<b>Years of Practice as a Mediator</b>	8
<b>Total Number of Cases Mediated</b>	70
<b>Mediation Experience as an Advocate or Party</b>	As an experienced international arbitrator and a specialist in the law and practice of international arbitration, is well positioned to mediate pending or potential international arbitrations.
<b>Mediation Philosophy</b>	Prepares intensively as if for adjudicative exercise. Willing to be evaluative. Builds trusting relationships with participants. Maintains continuity of process up to conclusion.
<b>Mediation References</b>	A complete Feedback Digest was compiled for the International Mediation Institute (IMI) in connection with certification in 2015. This may be obtained by contacting IMI or Mr. Goldstein.
<b>Alternative Dispute Resolution Training</b>	Recent Symposia and Conferences Attended (selected): AAA When Experts Come From Different Planets: Tips for Maximizing the Value of Experts, 2017; AAA Addressing the Challenges of Demanding Arbitrations: Part 2 - The Hearing Phase, the Award, and Beyond, 2017; IBA Arbitration Day (March 2017); College of Commercial Arbitrators Annual Conference (October 2016); AAA/ICDR/Mediation.org Panel Conference, 2016; IBA Arbitration Day & ICC Symposium on Costs, and LCIA Users Council Symposium, Shanghai, March 2016; AAA Chairing an Arbitration Panel: Managing Procedures, Process & Dynamics (ACE005), 2015; AAA-ICC-ICSID Joint Colloquium, Washington D.C., December 2015; IBA Annual Conference Committee D Sessions, Vienna, October 2015; College of Commercial Arbitrators Annual Conference, New York, October 2015; IBA Arbitration Day and LCIA North American Users Council Symposium, Washington D.C., March 2015; College of Commercial Arbitrators Annual Conference, Los Angeles, October 2014; IBA Annual Conference Committee D Sessions, Tokyo, October 2014; International Council on Commercial Arbitration Biennial Conference, Miami, April 2014, IBA Arbitration Day, Paris, February 2014, ICC Symposium on Allocation of Costs in International Arbitration, Paris, February 2014.

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Mediation Training and Experience: Harvard Program on Negotiation Advanced Level Master Class (November 2016); Harvard Program on Negotiation Webinar, "Bargaining With the Devil: Strategies and Techniques for Negotiating with Tough Opponents", presented by Robert H. Mnookin (July 13, 2016); International Mediation Institute (IMI) mediator certification course, Brussels, August 2015 (successfully completed and certification obtained); Harvard Program on Negotiation, September 2013.

Recently completed reading on Conflict Resolution: Deepak Malhotra, Negotiating the Impossible: How to Break Deadlocks and Resolve Ugly Conflicts (completed July 2016); Robert H. Mnookin, Beyond Winning: Negotiating to Create Value in Deals and Disputes (completed July 2016); Robert H. Mnookin, Bargaining With the Devil: When to Negotiate, When to Fight (completed July 2016); Daniel Shapiro, Negotiating the Nonnegotiable: How to Resolve Your Most Emotionally Charged Conflicts (completed July 2016); Viet Than Nguyen, Nothing Ever Dies: Vietnam and the Memory of War (completed June 2016)

### **Professional Licenses**

Member of the New York Bar. Admitted to practice in New York's state and federal trial and appellate courts.

### **Professional Associations**

Elected: International Council on Commercial Arbitration; American Law Institute (Members' Consultative Group for Restatement (Third) of The U.S. Law of International Commercial Arbitration); International Arbitration Club of New York; International Commercial Disputes Committee, New York City Bar Association; New York State Bar Association Dispute Resolution Section (Executive Committee); College of Commercial Arbitrators (Fellow); Chartered Institute of Arbitrators (Fellow); London International Arbitration Club; Toronto Commercial Arbitration Society; American Bar Foundation (Fellow); American Bar Association (Section of International Law, Senior Adviser International Mediation Committee).

Voluntary: London Court of International Arbitration; International Chamber of Commerce (North America Arbitration Committee); International Bar Association (Committee D - Arbitration); Institute for Transnational Arbitration (Dallas; Advisory Board); Swiss Arbitration Association; Institute D'Arbitrage Internationale.

Non-Profit Affiliations: Perlman Music Program; East Hampton (N.Y.) Historical Society; Jewish Center of the Hamptons (Board of Trustees).

### **Education**

University of Pennsylvania (BA, magna cum laude, 1976); University of Virginia Law School (JD, Member, Virginia Law Review, 1980).

### **Publications and Speaking Engagements**

Founder (2009) of Arbitration Commentaries: <http://arblog.lexmarc.us> Published more than 250 essays on contemporary issues in law and practice of international commercial arbitration.

Other Articles (non-exhaustive list): "Efficiency With Dignity: Early Dispositions and the Beleaguered Arbitrator" (unpublished manuscript, publication submissions)

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pending); "A Glance Into History for the Emergency Arbitrator," 40(3) *Fordham International Law Journal* 779 (2017); "Living (or Not) with the Partisan Arbitrator: Are There Limits to Deliberations Secrecy?", 32(4) *Arbitration International* 589 (2016) (<https://doi.org/10.1093/arbint/aiw013>); "A Model Federal Arbitration Summons to Testify and Present Documentary Evidence At an Arbitration Hearing," (Project of the International Commercial Disputes Committee and the Arbitration Committee of the New York City Bar Association - Marc J. Goldstein Principal Author), 26 *Amer. Rev. of International Arbitration* 3 (2015); "Annulled Awards in the U.S. Courts: How Primary Is 'Primary Jurisdiction'?", 25 *Amer. Rev. of International Arbitration* 1 (2014); "Application of the Doctrine of Forum Non Conveniens in Summary Proceedings for the Recognition and Enforcement of Awards Governed by the New York and Panama Conventions: Report of the International Arbitration Club of New York" (with Prof. Linda J. Silberman), 24 *Amer. Rev. of International Arbitration* 1 (2013); "Should the Real Parties in Interest Have to Stand Up? -- Thoughts About a Disclosure Regime for Third-Party Funding in International Arbitration," (TRANSNATIONAL DISPUTE MANAGEMENT, Special Issue, November 2011); "Arbitral Cost Allocation: Should Guidelines Accompany Discretion?" 2011 AAA Yearbook on Arbitration and the Law (23rd Edition).

Recent Speaking and Teaching Engagements: Toronto Commercial Arbitration Society Annual Meeting Program May 2017: Efficiency in International Arbitration; International Arbitration in the Trump Era: A Look Ahead (Presentation to the International Arbitration Club of New York, December 2016); The Fordham Conference on International Arbitration, New York, November 2016, "Emergency Arbitration "; Toronto Commercial Arbitration Society Member Certification Course, November 2016; International Arbitration Club of New York, April 2016, "Supreme Court Arbitration Jurisprudence After Justice Scalia"; AAA/ICDR Neutrals Conference, New Orleans, February 2016 : "Arbitral Subpoenas"; New York State Bar Association Annual Conference, January 2016, "Judicial Intervention in the Arbitral Process"; London International Arbitration Club, November 2015; "Arbitral Power to Obtain Third-Party Evidence in the US"; The Fordham Conference on International Arbitration, New York, November 2015, "Arbitration in the Banking and Finance Sector"; College of Commercial Arbitrators Annual Conference, New York, October 2015, Program Chair and Moderator, "The New Annotated Model Arbitral Witness Summons"; New York International Arbitration Center, October 2015, Program Chair and Moderator, "The New Annotated Model Arbitral Witness Summons"; ABA International Law Section Fall Meeting, Montreal, October 2015, Program Chair, "The Wide World of Sports Mediation"; ""ABA International Law Section Spring Meeting, New York, April 2014 ("War and Peace: What Can Commercial Mediators Learn From Global Conflict Resolution?"), New York International Arbitration Club, March 2014 ("New York's 'Separate Entity Rule' And Enforcement of Awards"), Chartered Institute of Arbitrators, New York and Toronto, February 2014 ("Judicial Review of Investment Treaty Awards" Program Chair); Osgoode Hall Law School, Professional Development Program, Visiting Lecturer, Toronto, January 2014 ("Arbitral Institution Choice -- The ICDR") , Chartered Institute of Arbitrators, London and New York, December 2013 ("Arbitral 911: Emergency Arbitration" Program Chair).

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**Citizenship**

United States of America

**Languages**

English

**Locale**

New York, New York, United States of America

**Compensation**

Hearing: \$800.00/Hr

Study: \$800.00/Hr

Travel: \$0.00/Hr

Cancellation: \$0.00/Hr

Cancellation Period: 0 Days

Comment:

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