

## **Norman Brand, Esq.**

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## **Curriculum Vitae**

### **Alternative Dispute Resolution Experience**

Over 35 years' experience as arbitrator and mediator in over 3700 labor, employment, pension, and other cases. A Northern California "Super Lawyer" in Alternative Dispute Resolution every year since 2006. Outside member of the Institutional Review Board at the University of California Cancer Center, San Francisco since 2008.

Cases include: labor-management disputes over discipline, discharge, and new contract terms; employment arbitrations and mediations involving age, sex, race, disability, national origin discrimination, and sexual harassment; wrongful termination, executive compensation (golden parachute), statutory and employment contract violations in diverse industries, including computer hardware, pharmaceuticals, and biomedical products.

Other disputes involved trade secrets, intellectual property, environmental contaminants, medical, psychiatric, scientific issues, and business relationships. Special areas include ERISA (Top Hat, Health & Welfare plans, Severance plans), MPPAA withdrawal liability (including complex actuarial issues), trust fund collections, loans, and trustee deadlocks; and salary setting for police and firefighters in cities over one million.

Some arbitration decisions involved unique issues of law and have been reviewed by federal courts. Cases arbitrated have been valued to \$65 million; largest arbitration award issued was \$40 million. Trained state and federal judges in mediation, fact finders for California Public Employment Relations Board, mediators for New York Public Employment Relations Board, and conducted trainings for private organizations, the California Bar, and American Arbitration Association.

### **Work History**

*Arbitrator, Mediator:* 1983 – Present, full time, 1978-83, part-time

*Arbitrator:* Individual employment and statutory disputes, ERISA/MPPA disputes, private and public sector labor management disputes (including interest arbitration), med-arb, business disputes, intellectual property, and scientific disputes.

*Mediator:* Business disputes, individual employment disputes (including statutory discrimination, executive compensation, wrongful termination, and sexual harassment) labor-management disputes, public sector disputes in schools and cities.

*Factfinding:* California and Nevada cities, counties, and special districts.

*Professor:* Hastings College of Law (Adjunct) 1993-1997. Arbitration. Albany Law School, Albany, New York, July 1978 to July 1983. Courses: Arbitration; Labor Law in the Public Sector; Collective Bargaining; Legal Writing, Reasoning, and Research

*President:* Impartial Enterprises, Inc., 1985-88

*Labor Counsel:* Executive Chamber, Albany, New York, September 1976 to July 1978. Advised and represented the Emergency Financial Control Board for the City of New York on labor matters and administered statutory wage freeze.

*Executive Assistant to the Director:* New York State Office of Employee Relations, Albany, New York, September 1975 to August 1976. Administered grievance procedures for 176,000 employees; negotiated with NY State Police; special projects; press relations.

*Professor:* Department of English, University of California, Davis, Full-time 1970-1972. Part-time 1973-75. Taught American Literature, Black Literature, Legal Writing.

*Professor:* Council on Legal Education Opportunity. Developed national program for improving writing skills of minority pre-law students. Taught summer programs in schools of law at ASU, UC Davis, University of Washington, and Howard University.

## Education

- J.D., University of California, Davis, June 1975
- Ph.D., Arizona State University, January 1971, English
- M.A., Arizona State University, January 1969, English
- B.A., Harpur College, State University of New York, Binghamton, June 1966, Biology/English
- Bronx High School of Science, 1961

## Publications

- Brand, Norman. Rev. of *Toward a New Federal Law of Arbitration*, by Thomas E. Carbonneau. *Dispute Resolution Magazine* (Summer 2015:24-27). Print.
- Co-Editor in Chief (with M. Biren), [Discipline and Discharge in Arbitration](#), 3<sup>rd</sup> ed. (BNA: 2015).
- “When Experts Testify: Exploiting the Advantages of Arbitration,” 4 *ADR Currents* 1 (Fall 1999). Reprinted as Chapter 30 in *AAA Handbook on Commercial Arbitration*, 2<sup>nd</sup> ed. (Juris: 2010)
- *Labor Arbitration: The Strategy of Persuasion*, 2<sup>nd</sup> ed. (San Francisco: 2006).
- “Mediation in Public Sector Collective Bargaining,” 17 *California Labor & Employment Law Review* 10 (May 2003).
- “Ethics in Employment Mediation and Arbitration,” 2 *Institute of Chartered Financial Analysts of India Journal of Alternative Dispute Resolution* 25 (January 2003).
- Editor, [How ADR Works](#) (Washington: BNA, 2002).
- “Ethics in Employment Mediation and Arbitration,” 2 *Employee Rights Quarterly* 31, (Winter 2002).
- “ADR and Settlement,” in *California Practice Guide-Employment Law* (Rutter Group:2001).
- Co-Author, *Designing Integrated Conflict Management Systems* (Cornell Studies in Conflict and Dispute Resolution: 2001).
- “How to Survive Your First Mediation,” *NY Employment Law & Practice* 9 (June 2000).
- “The Misuse of Mediation,” *Los Angeles Times*, May 6, 1999.
- *ADR Personalities and Practice Tips*, Chapter 8, American Bar Association - Section of Dispute Resolution (Washington: 1998).
- “Using Mediation Effectively.” 128 *California Public Employee Relations* 7 (February 1998). Also appeared in *XX School Employers Association Reporter* 5, October 1997.
- “Mandatory Mediation: Endangering the Process,” *King Hall Counselor*, Winter 1997.
- “Choosing the ‘Expert’ Mediator,” 3 *ADR Currents* 2, Summer 1997.
- “Erasing the Lines Between Arbitration and Litigation,” *Res Ipsa*, June 14, 1995.
- “Due Process in Arbitration,” in Bornstein and Gosline *Labor and Employment Arbitration*, (Matthew Bender: 1994, 2000).
- “Learning to Use the Mediation Process - A Guide for Lawyers,” 47 *Arbitration Journal* 6 (December, 1992), reprinted in Craver & Brunet eds. *Alternative Dispute Resolution*, (MICHIE: 1997).
- *Daily Journal* 1992-1995: Bi-Monthly column on Alternative Dispute Resolution.
- “New Trust Impasse Rules: A Review of Major Changes,” 25 *Employee Benefits Digest* 3 (1988).

- Co-author (with J.O. White), *Legal Writing: The Strategy Of Persuasion*, 3rd. ed., (St. Martin's Press: 1993).
- "Technology Will Shape the Future of Legal Writing," 5 Lawyer Hiring and Training Report 17 (1984).
- "PERB Finds Discipline and Discrimination Negotiable Under SEERA," 3 Labor & Employment Law News 6 (1984).
- "Agency Shop After Abood: The State of the States," 3 Public Employment Research Service Bulletin 3 (1980).
- "Legal Writing, Reasoning, and Research: An Introduction," 44 Albany Law Review 292 (1980).
- "N.Y. Taylor Law Amendments Potentially Far-Reaching," LMRS Newsletter 12 (1977).
- "Composition for the Pre-Professional: Focus on Legal Writing," 27 College Composition and Communication 41 (1976).
- "Minority Writing Problems and Law School Writing Programs," 26 Journal of Legal Education 331 (1974).
- "Minority Writing and Majority Reading: The Problems of CLEO Students," AALS Committee on Minority Groups Newsletter, September 1972. Reprinted in *Minority Opportunities in Law for Blacks, Puerto Ricans and Chicanos* (New York: New York Publishing, 1974).
- "Power in the Blood: The Polemics of the Fugitive Slave Narrative," Doctoral Dissertation (not separately published), Arizona State University, 1971.
- "Skills Remediation in Minority Group Law Students," Arizona English Bulletin, October, 1969.

### Published Awards

- For Interest Arbitration and Trustee Deadlock cases see <http://www.lawmemo.com/arb/arbitrator/brand.norman.htm>
- City of Stockton - December 9, 1996, 108 Lab. Arb. (BNA) 1201.
- UAW Local 2350 and CSEA, SEIU Local 1000 Grievance: 401(k) Plan Dispute July 8, 1996, 1996 WL 931806.
- Z and Lafayette Park Hotel April 25, 1996, 1996 WL 932598 (Arb.).
- Salt Lake Police Association and Salt Lake City Corporation, Salt Lake City Police Department January 23, 1996, 1996 WL 932599 (Arb.).
- Paratransit, Inc. -- June 3, 1993, 100 Lab. Arb. (BNA) 981.
- Webster Central School District -- April 7, 1983, 80 Lab. Arb. (BNA) 1138.
- Greenwich Central School District (NY) and Greenwich Teachers Association November 22, 1996, 334 Arb in the Schools, December 1997.
- DOD, Dependents Schools, Tokyo, Japan and NEA/OEA, 94. FLRR2-1265 LAIRS 21634; July 16, 1994.

### Professional Memberships

- The College of Labor and Employment Lawyers (President 2017, Board of Governors, Secretary, Treasurer, Vice President)
- Fellow, The American College of Employee Benefit Counsel
- Fellow, American Bar Foundation
- President, California Dispute Resolution Council (1998)
- Board of Directors, California Dispute Resolution Council
- Board of Directors, California Dispute Resolution Institute
- American Arbitration Association National Employment Advisory Council
- UCSF Medical Center, Institutional Review Board, (Outside member, 2008-present)
- President, Industrial Relations Association of Northern California (1994-95)
- Member, National Academy of Arbitrators, Chair, Northern California Region (1990-2)
- Chair, International Foundation of Employee Benefit Plans, American Arbitration Committee, 1990, Member, 1988-1989
- Chair, Association of American Law Schools, Section on Labor Law, 1983

- Secretary, Executive Committee, Labor and Employment Law Section, California Bar Association, 1988, Member, 1985-1988, Advisor, 1989-91, Chair, Editorial Board, Labor and Employment Law Quarterly, 1990-1992
- Chair, Association of American Law Schools, Section on Legal Writing, Reasoning, and Research, 1980-81, 1981-82
- New York State Bar, 1984
- California State Bar, 1976

## **Rosters**

- AAA Commercial Arbitration Panel
- AAA ERISA/MPPAA and Employee Benefits Panels
- AAA Large Complex Case Panel
- AAA Mediator Panel
- AAA National Employment Disputes Panel
- AAA National Panel of Labor Arbitrators
- AAA Tribal Labor Panel
- California Academy of Distinguished Neutrals
- California PERB
- California State Mediation & Conciliation Service
- Federal Mediation and Conciliation Service
- National Mediation Board
- Oregon Employment Relations Board

## **Panels**

- AC Transit Retirement Board
- Affiliated Hospitals of San Francisco/CNA
- Anheuser-Busch & IBT 896
- AT&T/CWA/TIU
- AT&T Mobility LLC & CWA District 9
- BART & SEIU Local 1021
- California State University & CSUEU
- California State University & California Faculty Association
- City and County of San Francisco & SEIU
- Clark County, Nevada & SEIU Local 1107
- Clark County School District & Clark County Education Association
- County of Sacramento & Public Employees Union
- County of Santa Clara & CCPOA
- CalHR & SEIU Local 1000
- CalHR & CCPOA
- Health & Welfare Trust Fund & SEIU Local 22
- International Association of Fire Fighters Local 4437 & University of California Davis
- Kaiser Permanente & CNA
- Lockheed Martin & IAMAW
- National Master United Parcel Service Agreement, the Western Conference of Teamsters Supplemental Agreement & Northern California Package Rider and Northern California Sort Agreement
- Safeway, Inc. & Teamsters Local 439
- Santa Clara Valley Water District & IFPTE Local 21
- Teamsters Local 150 Fluid Milk and Ice Cream Agreement
- Teamsters Local 533 & Disposal Services
- University of California & CUE Teamsters Local 2010
- Walt Disney Parks and Resorts & American Guild of Variety Artists

- Writer’s Guild of America & Alliance of Motion Picture and Television Producers
- Yolo County Office of Education & CSEA

### Recent Speeches

- “Choosing the Right Strategies in Arbitration,” Bar Association of San Francisco, June 9, 2016
- “Workplace Drug Use: A New Generation of Issues,” NAA Annual Meeting, May 21, 2015
- “Vacating Arbitration Awards for the Right Reason, Wrong Reason or Any Reason,” ABA Section of Labor & Employment Law Annual Conference, November 7, 2014
- “Is Just Cause the Same as Justice? What a Labor Arbitrator Can Teach Employment Practitioners,” Pacific Coast Labor & Employment Law Conference, May 2, 2014
- “Fact-Finding and Interest Arbitration – Lessons Learned: An Arbitrator’s Perspective,” CALPELRA Annual Meeting, November 21, 2013
- “Update on Class & Collective Action Arbitration,” ABA Section of Labor & Employment Law Annual Conference, November 7, 2013
- “The Pension Bomb,” National Academy of Arbitrators Annual Meeting, June 5, 2013
- “When an ADR Proceeding Has Collateral Consequences,” ABA Section of Dispute Resolution Spring Conference, April 5, 2013
- “But I Only Told My Friends! New Technologies and Off-Duty Conduct,” Bar Association of San Francisco Yosemite Conference, February 24, 2012
- “Privacy in the Age of Technology,” National Academy of Arbitrators Annual Meeting, May 25, 2011
- “Tweeting, Blogging, Facebooking: New Social Media in the Workplace,” NAA Labor Arbitration Advocacy Conference, December 13, 2010
- “Arbitrator’s Viewpoint,” NPELRA Labor Relations Academy, March 3, 2010
- “Extraordinary Advocacy Skills,” California AOC Labor Relations Academy, March 10, 2010
- “Labor Arbitration: The Strategy of Persuasion,” American Arbitration Association, November 13, 2009
- “Ethical Dilemmas for Arbitrators and Advocates,” American Arbitration Association Cornell Program, November 10, 2009
- “Practical & Ethical Considerations of Med-Arb, Arb-Med & Binding Mediation,” American Arbitration Association Advanced Mediator Training, October 30, 2009
- “Anatomy of a Mediation,” The Mediation Society, June 5, 2009
- “Striking a Balance: Adequate Discovery Without Full-Blown Litigation,” NAA Labor Arbitration Advocacy Conference, June 20, 2008
- “Using Mediation to Resolve Organizational Conflicts and Potential Litigation: It’s All Politics,” League of California Cities Annual Conference, Sacramento, California, September 5, 2007
- “Gaining Acceptance for Mediation,” at conference “The Private Factor in the Judiciary System,” Warsaw University, Warsaw, Poland, June 19, 2007.
- “Extraordinary Advocacy,” Labor Arbitration Institute, Los Angeles, January 24; Oakland January 26, 2007
- “Making Arbitration Work: From Clause Drafting Through Award Enforcement – State Bar Annual Meeting – Monterey, California, October 5, 2006