

DATE: March 31, 2010

CPR Panelist Questionnaire

This form will permit CPR staff to access your information when disputants seek panelists.

1. IDENTIFICATION DATA

Name Michael S. Wilk
Courtesy title:
Applicable suffix:
Firm/Company: Hirsch & Westheimer, P.C.
Street: 700 Louisiana Street, Suite 2550
PO Box (if any):
City: Houston
State: TX
Zip: 77002-2772
Country: USA
Preferred Phone: (713) 220-9124
Secondary Phone: (713) 223-5181
(not cell phone) Check here to restrict to CPR Use only
Fax: (713) 223-9319
Cell Phone: (832) 723-6201
 Check here to restrict cell to CPR Use only
e-mail: mwilk@hirschwest.com
Web Site (if any): www.hirschwest.com

Responses to the following questions on Race, Gender and Citizenship are optional.

RACE:

Hispanic or Latino - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

White (Not Hispanic or Latino) - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. X

Black or African American (Not Hispanic or Latino) - A person having origins in any of the black racial groups of Africa.

Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino) - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Asian (Not Hispanic or Latino) - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

American Indian or Alaska Native (Not Hispanic or Latino) - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.

Two or More Races (Not Hispanic or Latino) - All persons who identify with more than one of the above five races.

GENDER: Male Female

CITIZENSHIP: List Citizenship (*If multiple, list with commas between*): USA

LANGUAGES: Please check your language ability in any foreign languages below (other than English) and indicate if you are fluent (can conduct an ADR proceeding in that language) or have read-only ability:

Fluent	Fluent	Fluent
N/A	N/A	N/A

PATENT OFFICE. Are you licensed to practice before the U.S. Patent & Trademark Office? Yes

CERTIFIED PUBLIC ACCOUNTANT. Are you a Certified Public Accountant? Yes

GOVERNMENT SECURITY CLEARANCE: Have you ever had a U.S. Government Security Clearance? Yes

Dates
Level (e.g., Confidential, Top Secret)

Note: A resume may be substituted for Items 2-3.

2. EDUCATION & LICENSES

A. Enter your most significant university educational degrees starting with the most recent.

Year	School	City/State	Degree (spell out acronyms)
1966	University of Texas School of Law	Austin, TX	Juris Doctors
1964	University of Texas	Austin, TX	Bachelor of Business Administration

B. Specify any licenses, jurisdiction and date of licensure: (Include Bar Admissions for lawyers and/or other professional licenses that apply; i.e., Architect, Engineer, etc.) (Spell out acronyms)

License	Year Issued	State/Country	Current (Y or N)
Lawyer and Counselor at Law	1966	Texas/USA	Y
US District Court for the Southern District of Texas	1966	Texas/USA	Y
US District Court for the Northern, Eastern and Western Districts	1974	Texas/USA	Y
Supreme Court of US	1982	USA	Y

3. WORK HISTORY

Provide a list of your work history starting with the **most recent position**.

Use the codes from the table below in Column 5.

Note: Judicial experience appears separately at Question 5, below.

Duties if a Lawyer in this Position	Duties if a Non-Lawyer in this Position
(1) Litigator (law firm, government, public interest)	(Specify duties and division/department tersely)
(2) Partner	(16) Engineer: Civil, Structural, Mechanical
(3) Associate	(17) Architect
(4) Managing Partner	(18) Contractor
(5) Shareholder	(19) Sub/Contractor
(6) Transactional attorney	(20) President
(7) In-house counsel in any capacity	(21) Vice President
(8) General Counsel	(22) Director

(9) Assoc. General Counsel (10) Arbitrator (11) Mediator (12) Law Professor: Full Time (13) Adjunct Professor (14) Judge (must specify title) (15) Other	(23) Head of Division (24) Corporate Business Person: (specify division or department functions tersely; E.g., Corporate Sales; Construction Management; Technology Development) (25) Other
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<u>Col 1</u> Dates of Service	<u>Col 2</u> Company/Firm Name	<u>Col 3</u> City/State	<u>Col 4</u> Your Title	<u>Col 5</u> Duties/ Functions (See box above)	<u>Col 6</u> Primarily represented Plaintiffs (Insert "P") or Defendants (Insert "D") or leave blank if NA **
1990 to Present	Hirsch & Westheimer, P.C.	Houston, TX	President/Director	4, 5, 6, 10 and 11	
1984 to 1990	Hirsch & Westheimer, P.C.	Houston, TX	Director/Vice President	4 and 5	
1970 to 1983	Hirsch & Westheimer, P.C.	Houston, TX	Partner	2	
1955 to 1970	Hirsch & Westheimer, P.C.	Houston, TX	Associate	3	

**** Insurance Industry -**
• Use "P" for Policy Holder Representation
• Use "D" for Insurer Representation

4. ADR NEUTRAL EXPERIENCE

a. Neutral and Advocate Roles:

Please provide your best estimate of the number of times you have been a Neutral and/or an Advocate in the following types of ADR procedures, if applicable to you: *

		Overall	Last 12 Months
Arbitration	Total # Neutral Arbitrator Service	100+	6 - 10
	# of total as Sole Arbitrator	51 – 99	1 - 5
	# of total as Tribunal Chair	26 – 50	6 - 10
	# of total as Class Action Arbitrator	None	None
	# as Advocate in Arbitration	1 - 5	None
Mediation	Total # Neutral Mediator Service	100+	26 - 50
	# of total as a Co-Mediator	1 - 5	None
	# of total as a Multi-Party Mediator	100+	1 - 5
	# of total as a Process Design Mediator	None	None
	# as Advocate in Mediation	26 - 50	1 - 5
Early Neutral Evaluation	Neutral	None	None
	Advocate	None	None
Facilitation of Multi-Party Defense	Neutral	None	None
Mini-trial Chair	Neutral	None	None
	Advocate	None	None
Private Judging	Neutral		
	Advocate	None	None
Reg – Neg	Neutral	None	None
	Advocate	None	None
Special Master	Neutral	1 - 5	None
	Advocate	None	None
Summary Jury Trial	Neutral	1 - 5	None
	Advocate	None	None
Dispute Review Board Member	Neutral	None	None
Dispute Review Board Chair	Neutral	None	None

**Overall Last 12
Months**

Partnering Neutral	Neutral	None	None
Ombudsperson		None	None
Other			

*If you feel that the numerical range you checked off does not fully reflect the depth of your experience (e.g., you served as mediator just once but it was an unusually protracted and complex matter, please describe:

5. PROFESSIONAL AND ADR CONCENTRATIONS

I want to be considered as an: Arbitrator Mediator

CPR maintains the following Specialty Rosters that may involve peer review. Please indicate whether you wish to be considered for any such rosters:

- | | |
|--|--|
| <input type="checkbox"/> Arbitration Appeal (Appellate Judges only) | <input type="checkbox"/> Franchise |
| <input checked="" type="checkbox"/> Banking, Accounting and Financial Services | <input type="checkbox"/> General Counsel (former GCs of Fortune 500 corporations only) |
| <input type="checkbox"/> Bio-Tech | <input type="checkbox"/> Healthcare & Life Sciences |
| <input type="checkbox"/> Certified Public Accountants | <input type="checkbox"/> Insurance |
| <input checked="" type="checkbox"/> Construction | <input type="checkbox"/> Insurer-Policy Holder Coverage |
| <input type="checkbox"/> E-Discovery | <input type="checkbox"/> International |
| <input checked="" type="checkbox"/> Employment | <input type="checkbox"/> Judicial Roster |
| <input checked="" type="checkbox"/> Energy, Oil & Gas | <input type="checkbox"/> Sports Law |
| <input type="checkbox"/> Entertainment | <input type="checkbox"/> Taxation |
| <input type="checkbox"/> Environmental | <input type="checkbox"/> Technology |
| | <input type="checkbox"/> Trademark |

A number of the specialty panels (Construction, Employment, Energy, Insurance, International and Technology) require completion of an addendum at the end of this questionnaire. If you have indicated an interest in a specialty panel other than those, please describe your qualifications for the specified panel(s), e.g., percent of time spent in training or practice in that area, description of cases handled, etc.: Banking, Accounting and Financial Services – 50%. 1) Dispute between FDIC and bank holding company; 2) Wire transfer dispute between bank and foreign financial company; 3) Check and deposit dispute between bank and customers on forged endorsements; 4) Dispute on scope and authorized use of accounting opinion; 5) Accounting malpractice; 6) Securities fraud cases.

Without this information, we cannot evaluate your experience in the field.

Please detail your areas of concentration with “P” for a primary area of practice and “S” for a subsidiary area of practice. Note: these are areas in which you already have experience, rather than areas in which you are interested.

AREAS of Concentration	Col.2 Professional Concentrations/Specialties (as lawyer, business person, advocate or judge but not as arbitrator or mediator)	Col. 3 Arbitrator Concentrations	Col. 4 Mediator Concentrations
<i>Construction Specialists</i>			
Construction Defects			
Claims for Delay			
Claims for Extras			
General Building Construction			
Government Contracts			
Hazardous Waste			
Health Facilities			
Industrial (Mills, Refineries, Pharma)			
Insurance Indemnity & Contribution			
International (incl. FIDIC)			
Manufacturing Construction			
Marine			
Mold			
Petroleum			
Power			
Sewage/Solid Waste			
Available Under Construction Expedited Rules			
Telecommunications			
Transportation (Bridges, Roads, Tunnels, etc.)			
Water Supply			
Construction Other			
<i>Employment Specialists</i>			
Civil Rights and Compensation			
Employee Benefits/Erisa			
Executive Compensation			
FLSA			
Statutory Discrimination Claims			
Other - Employment			
<i>Energy, Oil & Gas Specialists</i>			
Electric Generation			

Electrical Transmission			
Electric Distribution			
Electric/Power Marketing			
Alternative/Renewable Energy			
Oil & Gas			
Oil/NG Exploration/Production			
Natural Gas Pipeline			
Oil/NG Distribution			
Oil/NG Marketing			
Oil Pipelines			
Coal Industry			
Liquefied Natural Gas			
Refining & Petrochemical			
Selected Upstream Issues			
Selected Natural Gas Issues			
Selected Oil Issues			
Risk Management Services			
Rural Electric Co-op Industry			
Expropriation			
Other – Energy			
<i>Healthcare & Life Sciences</i>			
Biotech			
Food, Drug & Cosmetics			
Healthcare			
Hospital Law			
Licensing (Medical)			
Life Sciences			
Malpractice (Medical)			
Managed Care			
Medical Devices			
Medical Research Ventures			
Peer Review			
Pharmaceuticals			
Physicians			
Reimbursement Disputes			
<i>Insurance Specialists</i>			
Construction Defect Insurance			
Directors & Officers Insurance			
Environmental Insurance			
Fidelity Bond			
Financial Institutions Insurance			
Insurance General			
Insurance Health			

Insurance Life			
Insurance Property & Casualty			
Reinsurance			
Insurance Telecommunications			
Insurance Other			
<i>Technology/Intellectual Property Specialists</i>			
Aeronautics			
Biology			
Biotechnology			
Business Methods			
Materials (polymers, ceramics, etc)			
Chemistry			
Computers & Software			
Electrical			
Electronics			
Intellectual Property			
Internet			
Mechanical			
Medical Devices			
Nanotechnology			
Optics			
Patents			
Pharmaceuticals			
Privacy/EU Safe Harbor			
Robotics/Machine Vision			
Semiconductors			
Signal Process/Video/CommSysts			
Telecommunications			
Textiles			
Other - Technology/IP			
<i>General Concentrations</i>			
Accounting - Forensic			
Accounting - General			
Accounting - Litigation		S	
Accounting - Valuation			
Administrative law			
Agriculture			
Antitrust			
Asbestos			
Automotive			
Aviation/Aerospace			
Banking	S	P	

Bankruptcy	S		P
Business Disputes	P	P	P
Chemicals			
Civil Rights & Liberties			
Class Action (Defendant Side)			
Class Action (Neutral)			
Class Action (Plaintiff Side)			
Commercial Law	P	P	P
Commodities			
Communications & Media			
Community Organizations			
Computer law			
Construction	S	S	S
Consumer Affairs			
Contract-Government			
Contract-Manufacturing			
Copyright			
Corporate (Financing)			
Corporate (General)			
Corporate (Governance)	S	S	
Corporate (Transactions)	S	S	S
Corporate (Underwriting)			
Debtor/Creditor			
Defamation/First Amendment			
Domain Name			
Employment	S	S	S
Energy, Oil & Gas	S	S	S
Entertainment			
Environmental (Cleanup)			
Environmental (General)			
Environmental (Regulatory)			
False Advertising/FTC			
Financial Services			
Franchise		S	S
Fraud/Misrepresentation	S	P	S
Housing & Urban Development			
Information Technology			
Insurance			
Intellectual Property			
International (Environmental)			
International (General)			
International (Trade)			
International (Transactions)	S	S	

Labor Relations			
Leasing			
Licensing (General)			
Licensing (Software)			
Malpractice (Legal)			S
Manufacturing			
Maritime			
Merger & Acquisition	S	S	S
Mining			
Municipal Law			
Natural Resources			
Non-Profit Organizations			
Partnership Disputes	P	S	P
Patents/Trade Secret			S
Personal Injury			
Product Liability			
Professional Fees	S	S	
Real Estate (Banking & Finance)	S	S	S
Real Estate (Development)			
Real Estate (General)	P	P	P
Real Estate (Land Use/Zoning)			
Real Estate (Leasing)	S	S	S
Regulated Industries			
Reinsurance			
Religious Entities			
RICO			
Securities	S	P	P
Sports Law			
Taxation (Corporate)			
Taxation (General)			
Taxation (Individual)			
Taxation (International)			
Taxation (Partnership)			
Technology/Science			
Torts (Business & Property)	S	S	S
Torts (General)			
Torts (Mass)			
Torts (Toxic)			S
Trademark			
Trade Secrets			
Transportation			
Trusts & Estates	P		S
Unfair Competition			

Water Law			
Workouts	P		S

Representative Matters; e.g.:

1. FIAT v. Suriname, 88 Civ. 6639 (SDNY Oct. 11, 1989) (advocate; motions to confirm/vacate arbitral award).
2. Medical device manufacturer v. Patentholder (arbitrator in multimillion dollar patent dispute).
- 3.

6. ADR ROSTER LISTINGS

Complete tables if you are currently listed on the roster or panel of neutrals maintained by any ADR organizations (e.g., AAA, JAMS, CEDR, ICC, International Academy of Mediators, Regional Provider, Government Agency Roster, Court Roster, Other?) Include CPR Institute Panels you are already on, if any.

a. ARBITRATOR ROSTERS of ADR ORGANIZATIONS

Organization	Arbitration Roster (& any sub-roster)	Years on Roster	Estimate Average Amount in Claim in Cases from Each Organization	Best Estimate of the Number of Cases on which You Served as an Arbitrator for this Organization
<i>Example: AAA</i>	<i>Large Complex Case Panel</i>	<i>3 years</i>	<i>\$3 Million average</i>	<i>2 cases</i>
AAA	Large Complex Case Panel	14 years	\$5 million average	42 cases
FINRA	Arbitration	12 years	\$1 million average	46 cases
CPR	Arbitration	5 years	\$10 million average	4 cases
Ad Hoc		14 years	\$3 million average	15 cases

b. MEDIATOR ROSTERS of ADR ORGANIZATIONS

Organization	Mediation Roster (& any sub-roster)	Years on Roster	Estimate Average Amount in Claim in Cases from Each Organization	Best Estimate of the Number of Cases on which You Served as a Mediator for this Organization
<i>Example: JAMS</i>	<i>Los Angeles Panel</i>	<i>2 years</i>	<i>\$2 Million average</i>	<i>4 cases</i>
AAA	LCCP	6 years	\$40 million average	10 cases
FINRA		7 years	\$1 million average	3 cases

Ad Hoc		18 years	\$1 million average	1000 cases

7. ADR TRAINING

a. List MEDIATOR Skills Training Sessions you have taken

Sponsoring Organization & Location	Primary Model Fostered by Training: (e.g., Facilitative, Evaluative, Transformative, Caucus, Non-Caucus)	% of Time Spent in Role-Plays/Exercises	Year Taken	Duration: Hours of Training
Association of Attorney Mediators and State Bar of TX ADR and Texas Mediator Credentialing Association	Current Statutory and case law updates. Various trainings on methods of dealing with parties and attorneys.		Yearly	
Harvard Law School	Negotiation Workshop	50%	1993	40 hours
Attorney-Mediator's Institute	Advanced Mediator Training		1992	4 hours
Attorney-Mediator's Institute	Basic Mediator Training	30%	1990	40 hours

b. Statement of Philosophical Approach to Mediation

As mediator, I help the parties focus on the realities of the dispute by assisting them in evaluating their respective legal positions, by reminding them of the inherent risks and expense associated with litigation, by exploring options to litigation and facilitating communication to arrive at a compromise of the dispute. It is my belief that the parties look to the mediator to be strong, but impartial, by urging them to carefully and separately make a cost benefit analysis of settling the case or continuing with the dispute. Mediation is a process, not an event, and I must make the decision during the mediation when to let the process work on its own or to apply catalyst to keep the parties in the negotiation and press them to make difficult decisions that they are reluctant to do. I generally attempt to contact each counsel for the parties prior to the mediation to have a confidential discussion about the dispute. In

addition, I request a confidential written statement from each side summarizing the case, any special issues, such as emotional issues, that need to be addressed, and their frank statement of what they believe will be necessary for settlement. I begin the mediation with a general session in which all parties and counsel participate and have the opportunity to present a summary of the case. During the general session, I lay out the ground rules and obtain a commitment from each of the parties that they are there in good faith to attempt to reach a settlement, that they each have authority to settle the case, and that they will grant me the right to determine when to declare an impasse. After the general session, the parties break into separate caucuses where I meet privately with each side. During the caucuses, I reinforce my impartiality and review with the parties the strengths and weaknesses of their case, their estimate of the likely outcome, the costs associated with proceeding through litigation and the time it will take to finish the litigation through appeal. During those sessions, I act as devil's advocate to illustrate the uncertainties involved in litigation and the benefit of being in control of the decision resolving the dispute. Offers and demands are exchanged throughout the mediation until the parties reach an agreement at which time a term sheet or settlement agreement is prepared and signed.

c. List ARBITRATOR Skills Training Sessions you have taken

Sponsoring Organization & Location	Skills Emphasized	% of Time Spent in Role-Plays/Exercises	Year Taken	Duration: <u>Hours</u> of training
Juris Conferences LLC	Electronic Evidence and Disclosure in International Arbitration		2008	6 hours
NASD	Arbitrator Training; Panel Member Course and Examination		2002	8 hours
AAA	Basic Arbitration Training; Commercial Arbitration Training Workshop I and II	20%	1991, 1999 and 2001	8 hours
Chartered Institute of Arbitrators	Basic Training Course and Examination	10%	2000	20 hours

8. ADR REFERENCE INFORMATION

You must provide references from each side of the same case.

CPR may not publish reference contact information.

Reference as Arbitrator

	Dispute Type, Amount in Dispute and Year	Name of Counsel, Firm Name and Location of Firm	Phone and E-mail address
for Claimant	\$16.5 million Dispute on contract involving sale of trust company. 2007	L. Lee Thweatt Terry & Thweatt, P.C. Houston, TX Daniel O. Goforth Goforth Lewis Houston, TX	(713) 600-4710 lthweatt@terrythweatt.com (713) 650-0022
for Respondent	\$16.5 million Dispute on contract involving sale of trust company. 2007	Mr. John O'Neill Howrey LLP Houston, TX Reagan D. Pratt The Pratt Law Firm Houston, TX	(713) 654-7642 john.oneill@howrey.com (713) 936-2401 rpratt@prattfirm.com
For Claimant	\$800,000.00 Dispute on contract involving sale of medical practice and retention of surgeon 2009	Mark W. Walker Walker & Twenhafel, LLP McAllen, TX	(956) 687-6225 mwalker@rgvlawyers.com
For Respondent	\$800,000.00 Dispute on contract involving sale of medical practice and retention of surgeon 2009	Carter Dugan Fulbright & Jaworski, LLP Houston, TX	(713) 651-5714 cdugan@fulbright.com

Reference as Mediator

	Dispute Type, Amount in Dispute and	Name of Counsel, Firm Name and	Phone and E-mail address
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	Year	Location of Firm	
for Plaintiff	\$18 million Dispute over distribution of disputed funds. 2008	David A. Furlow Thompson & Knight Houston, TX Robert S. MacIntyre, Jr. MacIntyre & McCulloch LLP Houston, TX	(713) 654-8111 david.furlow@tklaw.com (713) 513-6148 macintyre@mmlawtexas.com
for Defendant	\$18 million Dispute over distribution of disputed funds. 2008	John Hopwood Locke Lord Bissell & Liddell Houston, TX 77002 Odean Volker Haynes & Boone LLP Houston, TX G. Michael Curran Curran Tomko Tarski LLP Dallas, TX	(713) 226-1289 jhopwood@lockelord.com (713) 547-2211 odean.volker@ haynesboone.com (214) 270-1402 mcurran@cttlegal.com
for Claimant	\$700,000.00 Breach of contract to pay legal services 2010	Andrew C. Schirrmeister III Schirrmeister Diaz-Arrastia Brem LLP Houston, TX	(713) 221-2500 acs@sdablaw.com
for Respondent	\$700,000.00 Breach of contract to pay legal services 2010	Kevin McEvily McEvily & Flowers Houston, TX	(713) 654-1415 kmcevily@mcevilyflowers.com

9. OTHER

Provide any honors, publications or other information you believe are relevant to your application.

- 2009 – Texas Super Lawyers for ADR; 2003-2009; *Texas Monthly*; for Practice in ADR.
- 2005 – Resolution of Domestic and International Bankruptcy Issues Through Mediation; *Conflict Management ABA*; Publication.
- 2004 – ADR Basics; *Conflict Management ABA*; Publication.
- 2003 – Mediation of a Bankruptcy Case; *American Bankruptcy Institute Journal*; Publication.
- 2002 – Helping Attorneys See Beyond the Case: Return to Objectivity; *Alternative Resolutions Texas Bar Association*; Publication.
- 1993 – Alternative Dispute Resolution With the Resolution Trust Corporation and the Federal Deposit Insurance Corporation; *The Practical Real Estate Lawyer*; Publication.

The Addendum should be completed only if you are interested in being considered for the Specialty Panel it covers.

Construction Specialists Addendum

1. What **percentage** of your law practice or business *for the last ten years* has been construction-related (Required): 15%
2. **Have you had significant construction practice in the last ten years** representing or working with the following client groups:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Private Owners/Developers | <input type="checkbox"/> Insurers/Sureties |
| <input type="checkbox"/> Government Entities | <input type="checkbox"/> Engineers/Architects |
| <input type="checkbox"/> Contractors | <input type="checkbox"/> Sub-contractors/suppliers |

3. **Have you had significant construction practice in the last ten years** devoted to the following dispute processes:

- | | |
|--|--|
| <input type="checkbox"/> Litigation | <input type="checkbox"/> Dispute Management (in house) |
| <input type="checkbox"/> Arbitration (as Neutral or representing parties) | <input checked="" type="checkbox"/> Transactions |
| <input checked="" type="checkbox"/> Mediation (as Neutral or representing parties) | <input type="checkbox"/> Other |

Describe 'Other'

Employment Specialists Addendum

1. What **percentage** of your law practice or business *for the last ten years* has been employment-related (Required): 10%
2. **Have you had significant employment practice in the last ten years** representing or working with the following client groups:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Management | <input type="checkbox"/> Non-executive employees |
| <input checked="" type="checkbox"/> Executives | <input type="checkbox"/> Other Describe 'Other' |

3. **Have you had significant employment practice in the last ten years** devoted to the following dispute processes:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Litigation | <input type="checkbox"/> Dispute Management (in house) |
| <input checked="" type="checkbox"/> Arbitration (as Neutral or representing parties) | <input type="checkbox"/> EEOC or other agency |

Mediation (as Neutral or representing parties)

Other

Describe 'Other'

Energy Specialists Addendum

1. What **percentage** of your law practice or business *for the last ten years* has been energy-related (Required): 25%

2. **Have you had significant energy practice in the last ten years** representing or working with the following client groups:

Companies

Regulators

Users

Other

Describe 'Other'

3. **Have you had significant energy practice in the last ten years** devoted to the following dispute processes:

Litigation

Dispute Management (in house)

Arbitration (as Neutral or representing parties)

FERC or other

Mediation (as Neutral or representing parties)

Other

Describe 'Other'

Insurance Specialists Addendum

1. What **percentage** of your law practice or business *for the last ten years* has been insurance-related (Required):

2. Has your insurance-related legal practice or business *in the last ten years* included representation or work with of the following client groups:

Policyholders

Insurance Companies

3. Has your insurance-related professional practice in the last ten years included:

Underwriting

Broker/Producer

Broker/Claims Consultant

Consultant/Expert Witness-Policyholder

Claims

Consultant/Expert Witness-Ins. Co.

Reinsurance

Transactions

ADR

Conflict Management

Other

Describe 'Other'



Mediator Full Profile



Mr. Michael Wilk

Telephone: 001-713-223-5181

Direct line: 001-713-220-9124

Fax: 001-713-223-9319

Email: mwilk@hirschwest.com

Address:

Hirsch & Westheimer, P.C.

700 Louisiana, 25th Floor Houston, Harris/Texas,
77002-2772, USA

Current Position & Background

I am a commercial lawyer with the firm of Hirsch & Westheimer, P.C. in Houston, Texas. I have been with the firm since 1966. In 1988 I was elected the president of the firm and still serve in that capacity. I was trained originally in mediation in 1990. Since then, I have regularly and consistently mediated disputes. For the most part the disputes are commercial disputes; however, I have mediated a number of tort cases involving personal injuries. I mediate cases that are pending in court as well as pre-suit disputes. In all of my mediations I am selected by agreement of the parties and their counsel. I work full time and spend approximately 50% of my time as a mediator and arbitrator and 50% of my time representing clients in resolving commercial disputes and in negotiating and documenting commercial transactions. Although I have tried cases in court and before arbitration panels, if I am representing a client in a dispute that cannot be resolved by agreement, my current practice is to assign a trial lawyer in the firm to assist in preparing the case for trial and in trying the case. I regularly attend mediation training and think that my continuing to practice law helps me in my mediation practice. I believe in the mediation process and have actively worked in the alternative dispute resolution community. I was on the first board of directors of the Association of Attorney Mediators and later national president of the organization. I have also served on the council and as Chairman of the ADR Section for the State Bar of Texas. As seen below, I am a member of many ADR organizations and have affiliation as a mediator on several panels.

Languages

English

Main Mediation Practice Areas

Commercial disputes involving, among other areas, complex commercial, corporate, partnership, limited liability companies, other business entities, banking, employment, securities, real estate, energy, bankruptcy, health law, and environmental issues.

Mediation Experience

More than 1,000 commercial disputes involving, among other areas, complex commercial, banking, employment, securities, energy, bankruptcy, health law, and environmental issues, including contract



Mediator Full Profile

and damage issues between energy companies; breach of representations and purchase price adjustments in mergers and acquisitions; real estate disputes; disputes between medical providers; securities cases; wire transfer cases; corporate squeeze out and shareholder oppression cases; accounting and legal malpractice.

Mediation Style

I help the parties focus on the realities of the dispute by assisting them in evaluating their respective legal positions, by reminding them of the inherent risks and expense associated with litigation, by exploring options to litigation and facilitating communication to arrive at a compromise of the dispute. It is my belief that the parties look to the mediator to be strong, but impartial, by urging them to carefully and separately make a cost benefit analysis of settling the case or continuing with the dispute. Mediation is a process, not an event, and I must make the decision during the mediation when to let the process work on its own or to apply catalyst to keep the parties in the negotiation and press them to make difficult decisions that they are reluctant to do. I generally attempt to have a confidential discussion with counsel prior to the mediation. In addition, I request a confidential written statement summarizing the case, any special considerations and a frank statement of what they believe will be necessary for settlement. I begin the mediation with a general session in which all parties and counsel have the opportunity to make a presentation. During the general session, I lay out the ground rules and obtain a commitment each party is there in good faith, have authority to settle, and grant me the right to determine when to declare an impasse. After the general session, the parties break into private caucuses. During the caucuses, I reinforce my impartiality; review with the parties the strengths and weaknesses of their case, their estimate of the likely outcome, the costs through litigation and the time estimate for litigation through appeal. During those sessions, I act as devil's advocate to illustrate the uncertainties of litigation and the benefit of being in control of resolving the dispute. Offers and demands are exchanged until the parties reach agreement at which time a term sheet or settlement agreement is prepared and signed.

Code of Ethical Conduct

IMI Code of Professional Conduct; American Arbitration and American Bar Associations Codes of Professional Conduct; Standards of Practice and Code of Ethics of the Texas Mediator Credentialing Association.

Complaints Process

IMI Professional Conduct Assessment Process

Professional Affiliations

American Arbitration Association Panel of Neutrals (Large Complex Commercial Case Panel); CPR International Institute for Conflict Prevention and Resolution (Commercial and Energy Panels); American Health Lawyers Association Panel of Neutrals; FINRA Dispute Resolution Panel of Neutrals; Texas Mediator Credentialing Association (Credentialed Distinguished Mediator); Association of Attorney Mediators; College of Commercial Arbitrators (FellowState Bar of Texas (Past Chair Alternative Dispute Resolution Section).



Mediator Full Profile

Fee Rate

\$1750 per party for a full day of mediation, beginning at 9:30 am with a working lunch. If there are more than 4 parties the fee is \$1500 per party.

Feedback Digest

Feedback received from

Reviewer: Helena Tavares Erickson (herickson@cpradr.org)

Date: 20.10.2009

Time: 16:46:57

MEDIATOR: Michael Wilk

REVIEWER: Helena Tavares Erickson
herickson@cpradr.org

Last Update: Oct. 20, 2009

This Feedback Digest is based on 7 feedbacks from experienced counsel covering numerous complex commercial matters, including one class action claim.

Mr. Wilk's raters all rated his skills and abilities at a level 5 and were unanimous in their willingness and intent to use him again and recommend him to colleagues. Some had done so already numerous times.

All but one resolved their matters in the mediations, and one rater noted that his mediation was ongoing and if it settled, Mr. Wilk's skill would be a significant factor. Mr. Wilk was viewed as possessing high business acumen, creative, and understanding of human nature and various personalities. He was cited often for his persistence, follow-up and grasp of issues as well as his practical and common sense approach.

The comments regarding Mr. Wilk were uniformly positive. One attorney described Mr. Wilk as "solid" and another, "a sophisticated business lawyer, he is thorough and innovative". Another noted, "I recommend him regularly - he is very capable and persistent - gets along well with people and gets the matter resolved." " Michael Wilk is very effective in getting people to the point that they see the benefits of resolving their differences."

All of the raters were satisfied to very satisfied with the mediation process and the costs of the mediation and there were no negative comments.

References

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Mediation Training

Yearly training by Association of Attorney Mediators, the State Bar of Texas ADR Section and Texas Mediator Credentialing Association; Negotiation Workshop, Harvard Law School - 1993; Advanced Mediation Training, Attorney-Mediator's Institute, Dallas - 1992; Basic Mediation Training, Attorney-Mediator's Institute, Dallas.

Yearly ACE courses presented by American Arbitration Association and CLE courses for the State Bar of Texas ADR Section. FINRA Dispute Resolution Arbitrator Training; Panel Member Course and Examination, Chicago; AAA Commercial Arbitration Training Workshop II, Dallas; Chartered Institute of Arbitrators, North American Branch, International Commercial Arbitrators Basic Training Course and Examination; AAA Commercial Arbitration Training Workshop I; American Arbitration Association Basic Arbitration Training.

Professional Indemnity Insurance

Malpractice insurance through Hirsch & Westheimer, P.C.: Carrier: Darwin National Assurance Company \$2,000,000 maximum limit of liability per claim and \$2,000,000 maximum aggregate limit of liability for all claims.

Malpractice insurance through the Association of Attorney Mediators: Carrier: Underwriter at Lloyd's London \$250,000 maximum liability per claim and \$2,000,000 maximum aggregate limit of liability.

Teaching

"Facilitative Mediation," Alternative Dispute Resolution Texas Style, Texas Bar CLE, Dallas, Texas, October 2007.

"Mediation of Securities Fraud Disputes," Houston Bar Association, Securities Litigation and Arbitration Section, Houston, Texas, January 2007.

"Delaying Tactics in Arbitration," American Arbitration Association ACE Program, Houston, Texas August 2006.

"Arbitration Fundamentals," State Bar of Texas CLE Web Cast, October, 2005.

"Delaying Tactics in Arbitration," American Arbitration Association ACE Program, Houston, Texas July 2005.

"Mediation of a Bankruptcy Case," Mediation for Litigators, South Texas College of Law, Houston, Texas, October 2002.

"Mediation of Bankruptcy Disputes," Oklahoma State Bar Meeting, Alternative Dispute Resolution Section, November 2001



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Presentation of Mock Mediation," National Association of Certified Valuation Analysts, Houston, Texas, September, 2000

"Helping Lawyers See Beyond the Case," Texas Association of Mediators Annual Conference Training Course, Houston, Texas, February 26, 2000

"Ethical Considerations in Mediation," 16th Annual Bankruptcy Conference, the University of Texas School of Law, Austin, Texas, November 1997.

"Consensual Settlement," Association of Insolvency Accountants, 13th Annual Bankruptcy and Reorganization Conference, Dallas, Texas, May 1997.

"Advocacy In Mediation," The CLE Institute, Houston, Texas, October 1996.

"The CPA's Role in Alternative Dispute Resolution," AICPA National Advanced Litigation Services Conference, New Orleans, Louisiana, October 1996.

"Evaluative Mediation: Why, When, and How to Manage the Merits," American Bar Association Section of Dispute Resolution, Orlando, Florida, August 1996.

"Mediation ? Five Years Later," Houston Bar Association Institute, Houston, Texas, October 1994.

"Future ADR Trends and New Concepts: Resolving Disputes: Litigation vs. ADR," South Texas College of Law, Houston, Texas, March 1993.

Publications

"Resolution of Domestic and International Bankruptcy Issues through Mediation," Conflict Management, A Publication of the Committee on Alternative Dispute Resolution - American Bar Association, p. 19 (Summer 2005 - Volume 9, Issue 2).

"ADR Basics," Conflict Management, A Publication of the Committee on Alternative Dispute Resolution - American Bar Association, p. 16 (Summer 2004 - Volume 8, Issue 3).

"Mediation of a Bankruptcy Case," American Bankruptcy Institute Journal, (May 2003) at 12.

"Helping Attorneys See Beyond The Case: Return To Objectivity," Alternative Resolutions No. 2, p. 13 (November 2002).

Alternative Dispute Resolution with the Resolution Trust Corporation and the Federal Deposit Insurance Corporation," 9 The Practical Real Estate Lawyer (May 1993) at 27.

Note: This Mediator Profile is intended to offer guidance to users of mediation services about the competency, skills, styles and potential suitability of the IMI Certified Mediator featured above. The Reviewer, the Mediator and IMI are attempting to present fair, balanced and objective



Mediator Full Profile

information but none are to be held responsible for reliance on the information given. Users of mediation services are encouraged to pursue further research before selecting the IMI Certified Mediator, including contacting references and conducting an interview with the Mediator before making a selection.