



TOM MCNEILL MEDIATOR AND ARBITRATOR **DICKINSON WRIGHT** *Detroit*

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AS MEDIATOR

Tom McNeill serves as a mediator in business litigation pending in the state and federal trial courts in Michigan with the breadth that reflects his 38 years as a trial lawyer, representing plaintiffs and defendants.

Tom focuses upon building trust with clients and counsel. Tom's approach is predicated upon fully engaging client decision makers as the single most important factor in a successful mediation.

Serving as a mediator since 2017, Tom prepares in extensive detail for each and every mediation. He seeks to fully understand the nuances of the factual, legal and practical issues that create risk and settlement leverage in the case.

Tom works collaboratively to tailor the process of each mediation to meet the needs of the parties, including adopting unconventional approaches and one-off mechanisms to advance the cause of resolution. For mediation in the early stages of the case, Tom facilitates informal exchange of information and documents to make mediation more meaningful.

Tom follows a process *before* mediation day that is designed to increase resolution prospects. He starts with an initial call with all counsel based upon his review of key pleadings and papers, and which follows an agenda tailored for that case. After the parties' submission of mediation statements, Tom conducts *pre-mediation* sessions with each team -- client decision makers and counsel -- to better understand client perspectives on the case or dispute. In advance of the pre-mediation session, Tom *ex parte* emails questions to each side's counsel, and rarely are the questions the same to each side. This encourages counsel to further explore risk and settlement leverage in mediation preparation with their clients, as offered from a mediator's independent/objective perspective that may differ from their own perspective, or that of opposing counsel and client.

When negotiations stall or reach impasse during mediation day, Tom develops creative solutions for breakthrough. If the matter does not settle at the mediation session, he is persistent with follow-up after mediation sessions, keeping discussions alive, and often achieving post-session settlements.

If the mediation does not result in resolution of the dispute, Tom ensures that each side fully understands the other side's arguments and perspectives on merit and risk, so that counsel can narrow the legal and factual issues for discovery, summary disposition practice and trial, thus reducing client litigation expense to final adjudication.

AS ARBITRATOR

As trial counsel, Tom has served as lead counsel in approximately 100 arbitrations, before AAA, JAMS and CPR. Rooted in that experience, Tom has served as an arbitrator in cases tried to final award -- including a memorable case with rocker Ted Nugent, as claimant, concerning the manufacture of his "Womp Master" arrowhead design. That case is rife with entertaining war stories never to be told.

Tom adjudicates to fast-paced schedules and absolute merit-based awards, without "compromise" outcomes -- a crucial difference from the mediation paradigm.

GENERAL

Tom's reputation with trial court judges and practitioners is reflected in the peer-based professional Acknowledgements listed below.

He is a member of: the Skills Action Team of the ADR Section of the State Bar of Michigan; and the ADR Committee of the Oakland County Bar Association.

Tom is a 2018 graduate of the award-winning 40-hour, hands-on mediation training program conducted by The Institute of Continuing Legal Education (University of Michigan) and approved by the Michigan Supreme Court Administrative Office.

Tom is a co-author and co-editor of *Michigan Business Torts*, Pappas, McNeill & Quick (ICLE 2020), the leading treatise in the field since the early 1990's. Counsel mediating with Tom for the first time receive *Michigan Business Torts* gratis (\$149 list price). The on line version is available to individual practitioners, and to firms (at graduated pricing based upon the size of the firm).

ACKNOWLEDGEMENTS

Chambers USA: America's Leading Lawyers for Business – *listed since 2008*

Michigan Band 1, Commercial Litigation (one of only five lawyers so recognized)

Best Lawyers in America® – *listed since 2008*

Named Lawyer of the Year (During 2015-22)

Bet-the-Company Litigation

Litigation – Banking & Finance (twice)

Litigation – Securities (twice)

Also recognized for General Litigation and Litigation-Mergers & Acquisitions

Michigan Super Lawyers® – *listed since 2006*

Michigan Super Lawyers Top 100 Lawyers in Michigan (all disciplines)

Top Rated in Business Litigation, continuously 2006–2021

Benchmark Litigation – *listed since 2014*

Litigation Star

International Society of Barristers – *enrolled since 2019*

Membership by invitation, formed to recognize each era's best advocates that they might join together to support common goals.

The Legal 500 United States – *listed since 2019*

General Commercial Disputes

Michigan Lawyers Weekly, "Leader in the Law"

DBusiness Top Lawyers – *listed since 2009*

General Commercial Disputes and Dispute Resolution

TOM McNEILL MEDIATION SUBJECT MATTER EXPERIENCE

Tom McNeill has served as mediator in state and federal cases involving claims and defenses in the following subject matter areas:

- Accounting and Actuarial standard of care/malpractice
- Automotive supply
- Cannabis supply chain, and dispensary and cultivator ownership
- Capital equipment and medical device sale and distribution
- Commercial real estate, development, buy, sell, lease
- Company/officer/director/shareholder disputes
- Construction
- Consumer matters, including class actions
- Contracts in a wide array of contexts and industries
- Business breakups
- Business merger and purchase and sale transactions
- Business torts
- Employee agreements and at will employment
- Employee theft
- ERISA pension and health benefit plans, including class actions
- Executive compensation and equity grants
- Fiduciary duty in many settings
- Financial institutions and borrower disputes
- Franchisor/franchisee
- Freedom of Information and Open Meetings obligations
- Insurance coverage
- Intellectual property
- Joint Venture agreements
- Lawyer standard of care/malpractice
- LLC operating agreements
- Non-compete and non-disclosure agreements
- Petroleum products distribution
- Physician Practices, Law Firm and other Professional firm breakups, disputes and shareholder/member/partner departures
- Private Equity and Mezzanine Lending
- Sale of the business
- Securities offerings, purchase and sale, including class actions
- Shareholder agreements, including buy-sell
- Shareholder oppression
- Trade secret misappropriation
- Uniform Commercial Code article 2 as applied to the sale of goods

CASES WITH TOM MCNEILL AS MEDIATOR

LIST OF PARTICIPATING COUNSEL

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