



Stacey L. Cushner, Esq.
Arlington, Massachusetts



Primary Areas of Expertise

Employment (all areas)
Renewable Energy Construction
Mega Construction Projects
Construction

Current Employer-Title

BCK Dispute Resolution Services, Inc. - President
BCK Law, P.C. - Of Counsel

Profession

Attorney: Full-Time Arbitrator, Mediator, Dispute Board Member

Work History

President, Attorney, Arbitrator, Mediator and Dispute Board Member, BCK Dispute Resolution Services, Inc., 1998-Present; Of Counsel, BCK Law P.C., 2010-Present; Senior Attorney and then Partner, Bernstein Cushner & Kimmell P.C., 1991-2004; Special Assistant Attorney General/Assistant Attorney General, Office of Attorney General for Massachusetts, 1988-1990; Associate, Parkhurst Levy Halperin & Harri 1988; Associate, Murphy Lamere & Murphy, 1985-1988.

Experience

Since 1996, neutral engaged in domestic and international alternative dispute resolution practice in construction (member of AAA's Large and Complex Case Panel), including large infrastructure projects, home construction, construction renewable energy projects, and employment and other disputes. About 80% percent of practice has been/is dedicated to construction law, 20% percent of practice has been/is dedicated to employment/other law.

Construction:

Engaged as an advocate representing general contractors, owners, subcontractors in public and private construction law practice since 1988 in projects ranging up to \$4.5 billion. Has arbitrated and mediated numerous public and private construction disputes involving owners, homeowners, contractors, sureties, architects, subcontractors, and suppliers in matters ranging from delay damages, liquidated damages, reliance damages, anticipatory breaches, defective performance, owner

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Neutral ID: 142057

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interference, project abandonment, wrongful termination, measure of architect's damages, mitigation, betterments, the economic loss rule, and contract interpretation to extra work issues. Former Assistant Attorney General and Special Assistant Attorney General for the Commonwealth Massachusetts on public construction matters. Has served as Chair of Dispute Boards/a member of Dispute Boards for large infrastructure projects in excess of \$1 billion USD in New England and the Mid-Atlantic states.

Employment:

Engaged in employment law practice representing both employers and employees in all aspects of employment law. Experience in trade secrets proprietary rights/non-compete agreements, breach of contract, breach of severance agreements, ERISA plan benefits, employment torts, age, sex and disability discrimination, harassment based on gender, sexual harassment/sexual misconduct, wrongful termination in violation of public policy, FLSA and state statute wage hour violations, questions of independent contractor status in employment, payment of wages on termination, overtime exemption status, employee privacy issues, executive contracts, retention of tips, holiday work, and vacation pay.

Consumer and Commercial:

Experienced in consumer law, business, credit card, real estate and general contract disputes. Has arbitrated domestic and international cases and ESI discovery issues.

Alternative Dispute Resolution Experience

Served as an arbitrator as chair, a panel member and as sole arbitrator in over 600 cases. Most frequently chosen as chair on large, complex, construction arbitration and mega projects involving multiple parties. Mediated complex construction cases.

Construction: Arbitrated and mediated numerous public and private construction disputes involving owners, general contractors, sureties, architects, subcontractors, and suppliers in matters ranging from delay damages, liquidated damages, reliance damages, anticipatory breaches, defective performance, owner interference, project abandonment, wrongful termination, measure of architect's damages, mitigation, betterments, the economic loss rule, and contract interpretation to extra work issues. Handled many public disputes and public school construction disputes, water infiltration cases and disputes involving the construction of bridges, tunnels, high-end luxury commercial properties, roads, air force facilities, renewable energy projects (epcs, solar, wind, methane gas recovery from landfills), police barracks, sewage lines, apartment buildings, industrial buildings, telecommunications facilities, roofing cases, railways, airports, commercial buildings, a water tower, waste treatment facilities, residential construction, colleges, power plant public buildings and a cogeneration repowering project. Has served on consolidated cases, and numerous multi-party disputes.

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SAMPLE OF LARGE, COMPLEX CONSTRUCTION ARBITRATION CASES :

- Chair on manufacturing facility project dispute. Amount in dispute: \$4 and \$134 million
- Chair on a construction project involving top tier real estate/luxury brands. Amount in dispute: \$100 million
- Chair for power plant demolition and construction project dispute. Amount in dispute: \$30 million
- Chair for major Boston hospital demolition and construction project. Amount in dispute: \$12 million
- Chair for bridge construction and replacement bridge and highway dispute. Amount in dispute: \$10 million
- Chair for multi-building senior facility construction dispute. Amount in dispute: \$9 million
- Chair for upgrades to big box stores, water infiltration issues. Amount in dispute: \$9 million
- Chair for multi-building condominium complex construction project. Amount in dispute: \$9 million
- Chair for large marina construction project dispute. Amount in dispute \$6 million
- Chair for expansion and renovation of high school project. Amount in dispute: \$6 million
- Chair for multi-building condominium complex construction project. Amount in dispute: \$6 million
- Chair for wastewater treatment facility construction dispute. Amount in dispute: \$2.5 million
- Chair on public construction contract dispute involving waste water mains. Amount in dispute: \$2 million

RECENT CONSTRUCTION DISPUTE REVIEW BOARD WORK:

- DRB Member for Chicago Transit Authority RLE commuter rail project. Bid award \$5.7 billion.
- Chair of DRB for NYC Borough Based Jail Program, NY, NY. Bid award \$125 million.
- DRB Member for South Coast Rail Project, commuter rail from Boston and parts of southern Massachusetts. Bid award phase 1 \$1.04 billion.
- Chair of DRB for NYCDDC Sidewalk/Crosswalk/Walkway Project, Manhattan/Queens/the Bronx. Bid award \$100 million.

Employment: Served on claims for wages, benefits arising out of employment, severance, and executive compensation contracts, on Fair Labor Standard Act cases (FLSA), ERISA benefit cases, sexual harassment and gender discrimination cases, sex, age, and disability discrimination cases, wrongful termination cases, breach of non-compete/proprietary rights agreements, related non-compete claims and requests for injunctive relief, trademark violation cases and related causes of action in a variety of industries including (claim size up to several millions of dollars) the insurance, financial, media, gas and electric and manufacturing industries.

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Technology Proficiency

Experienced in using online platforms including Zoom and Teams for conferences, mediations, and hearings. Have used AI driven tools for initial/first review of large documents, additional non-AI reviews performed thereafter. Experienced in and have taught arbitrators and lawyers on electronically stored information (ESI) issues.

Education

Suffolk University (JD, with honors-1985); Brandeis University (BA, cum laude-1982).

Professional Licenses

Admitted to the Bar: Massachusetts (1985); U.S. District Court: District of Massachusetts (1986); U.S. Court of Appeals: First Circuit (1986).

Professional Associations

Dispute Resolution Board Foundation; Dispute Resolution Board Foundation, Co-Chair of Publications Committee; Dispute Resolution Board Foundation, Chair of Education Initiative; International Chamber of Commerce/USCIB Arbitration Committee- Northeast USA Subcommittee.

Recent Publications & Speaking Engagements

PUBLICATIONS: "An Arbitrator's View on How to Sell A Delay and/o Disruption Claim in Arbitration," Construction Super Conference - Bon Springs, Florida, 2025; "CPR's New Dispute Prevention and Management Board Rules - training for Panel members," International Institute for Conflict Prevention and Resolution, 2024; "Preventing Ethical Problems while Serving on a Dispute Resolution Board," publication for DRBF Northeast Regional Conference, DRBF, 2023; "Best Practices in Employment Mediation Today," White Paper for the Massachusetts Commission Against Discrimination, 2020; "ESI Discovery in Arbitration, A Primer," Massachusetts Bar Association CLE, Dispute Resolution Symposium, 2017; "Mediation in the United States," THE ARBITRATION AND DISPUTE RESOLUTION LAW JOURNAL, 2000; "Presenting Massachusetts Contractor Claims at the AAA," MASSACHUSETTS LAWYERS WEEKLY, vol. 27, no. 12, November 23, 1998.

SPEAKING ENGAGEMENTS: "An Arbitrator's View on How to Sell A Delay and/or Disruption Claim in Arbitration," Construction Super Conference - Bonita Springs, Florida, 2025; American Arbitration Association invited speaker "Building Your ADR Practice" AAA Roundtable (virtual), 2025; American Arbitration Association invited speaker ""Optimizing Dispute Resolution in Construction: AAA-ICDR and DRBF Best Practices," New York City, 2025; "This Isn't Litigation How to Maximize Your Recovery and Minimize Your Opponent's Recovery in Arbitration," invited speaker at Construction Super Conference - Las Vegas, 2024; "How to Manage Large, Complex Construction Hearings," creator and speaker, International Institute for Conflict Prevention and Resolution, 2024; "CPR's New Dispute Prevention and Management Board Rules - Panel Training" - trainer and speaker, International Institute for Conflict Prevention and Resolution, 2024; "Preventing Ethical Problems while Serving on a Dispute

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Resolution Board," creator and speaker at Northeast Regional Conference, DRBF, 2023; "Women's DRBF Leadership Webinar: How to Get on Dispute Review Boards," creator and speaker, DRBF webinar, 2022; "Dispute Review Board Foundation's 25th Annual Conference, Regular DRBF Meetings, Virtual or In-person?" webinar, 2021; "Best Practices in Employment Mediation Today," Massachusetts Commission Against Discrimination, 2020; "ESI Discovery in Arbitration, A Primer," Massachusetts Bar Association CLE, Dispute Resolution Symposium, 2017; "MySpace and the Workplace," American Bar Association Webinar, 2010; "The Making of An Arbitrator," American Bar Association's Mid-Year Meeting, Boston, MA, 2009; "Building Codes in Massachusetts," Lorman Education Services, Peabody, MA, 2006; Discovery Issues in Arbitration/The Superadio Case, Boston Bar Association, Boston, 2005; ADR Practice, World of Law Series, Harvard Law School, Cambridge, MA, 2004; "Commercial Arbitration Strategies," Boston Bar Association CLE, Boston, 2004; "Effective Construction Arbitration Advocacy," Massachusetts Bar Association CLE, Boston, 2003; Mock Arbitration Program, Northeastern University School of Law, Boston, 2003; "Damages in Employment Arbitration," Massachusetts Continuing Legal Education, Boston 2000; "Effective Arbitration Advocacy," AAA and Suffolk University Law School, Advanced Legal Studies Program, Boston, 2000; "Dealing with Difficult Attorneys, Parties and Cases in Mediation and Arbitration," SPIDR, 1999.

Citizenship

United States of America

Languages

English

Compensation:

Hearing: \$475.00 per hour

Study: \$475.00 per hour

Cancellation: \$750.00 per day

Cancellation Period: 10 days

Comment: Charges for hearing and study time.
NOTE: As to arbitrations, deposits are required from the parties before any work is done. Within 48 hours of appointment as an emergency arbitrator, deposits must be collected for a minimum of ten hours initially or no work will be performed. Deposits also required before preliminary hearings and for any hours which are to be spent subsequent to same - if not received by the AAA for the same, work will not be performed. Charges for air travel, train travel, plane travel, all hotel accommodations, meals, taxis, Ubers,

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Lyfts, parking, mileage at the IRS mileage rate, and travel time at travel rate if outside New England states.
Postponement/cancellation fee of \$750 per day applies if notice of ten business days or less is given.

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