



FRANK BURKE, ESQ.
Mediator • Arbitrator

J.D., Harvard Law School 1975
A.B., Cornell University 1972, Magna Cum
Laude in Economics
Bar Admissions: Arizona and California

Frank Burke
Mediation & Arbitration, PC

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AREAS OF PRACTICE

Frank Burke has 42 years of experience as a business trial lawyer in major national law firms, representing both plaintiffs and defendants in a diverse range of business disputes in federal and state courts in 26 states, China and Canada, followed by 7 years as a full-time neutral. He mediates and arbitrates commercial, business, banking, accounting and financial services, real estate, technology and IP, corporate governance, business dissolutions, mergers and acquisitions, cannabis, solar power, e-commerce, and franchise cases. He works with individuals as well as small, medium, and large businesses, including family businesses. He practices in the San Francisco Bay Area, Sacramento, Southern California, throughout the United States, and Online. Mediate.com has recognized Frank Burke as a Certified Online Mediator, and he is available to handle your matters remotely via Zoom.

As a full-time neutral, Mr. Burke conducts mediations and arbitrations in disputes involving the following areas:

Business Disputes:

- Contract, family business, complex commercial, class actions and derivative suits, antitrust, unfair competition and trade practices, restrictive covenants, healthcare, debtor-creditor and False Claims Act disputes.

Banking, Accounting and Financial Services Disputes:

- Numerous matters involving banks, investment banks, private equity funds, securities brokers, issuers, officers, directors, attorneys, accounting firms, tax advisers, insurance companies relating to loan

agreements, deeds of trust, guarantees, investments, stocks, bonds, brokerage accounts, legal, accounting and tax malpractice and property salvage matters.

Cannabis Disputes:

- Matters include a technology license with alleged trade secret regarding THC remediation from hemp; a dispute between a cannabis dispensary and a payment processor over charge-backs; and a landlord/tenant dispute regarding a cannabis dispensary.

Corporate Governance and Business Dissolution Disputes:

- Business divorce cases, corporate governance, partnership, LLC and corporate dissolution disputes.

E-Commerce and Technology Contract Disputes:

- Online terms of service and use, blockchain, ICO, cryptocurrency, cybersecurity and data breach disputes.

Franchise Disputes:

- Multiple matters concerning default and termination fees, assumption of the leases and tenant improvements, and non-compete covenants; claims against former franchisee for disparaging online comments; claims arising from amounts owed upon the sale and transfer of franchises.

Merger and Acquisition Disputes:

- Matters including false representations, warranties, false financial statements, material adverse change and effect clauses, earnouts, deferred purchase price payments, purchase price adjustments.

Real Estate Disputes:

- Numerous Real estate purchase and sale, landlord/tenant/lease, partition, environmental, construction defect, boundary line, easement, ADA access disputes

Solar Power Disputes:

- Matters include pricing payment disputes between solar project development companies and builder/operator solar companies; disputes between offshore solar panel manufacturers and solar power plant construction firms over and bonus and delay charges; claims by solar energy customers about battery systems.

Technology and IP Disputes:

- Theft of trade secrets, patents, copyrights, trademarks, computer software, employee raiding, breach of confidentiality agreements and fiduciary duty.

Arbitration Philosophy

He conducts hearings with a firm and fair hand, trying for innovative and streamlined ways to receive evidence with a minimum of duplication and undue expense to the parties, to achieve a fair, efficient and economical resolution of their dispute. He believes in early disclosure of witnesses and exhibits to be used at trial. He encourages parties to engage in minimal levels of document and deposition discovery to achieve the cost savings the parties presumably hoped for when they chose arbitration. At the close of fact discovery the parties disclose expert opinions and damages. He allows the parties to use declarations of witnesses and experts, or expert reports, in lieu of direct testimony, as long as the witnesses appear at the Final Hearing for cross examination and re-direct. He follows the law and issue reasoned awards.

Mediation Philosophy

He uses a mix of facilitative and evaluative approaches depending on the situation and the parties' desires. In caucuses, he confidentially and constructively explores the strengths and weaknesses of the parties' cases, the best and worst and most likely alternatives to a negotiated agreement, the risks

faced by each party if there is no settlement, and the costs of proceeding through trial. He likes to get to know the parties and hear their perspectives. He works with the parties to creatively brainstorm ideas and solutions and their initial settlement demands or offers and their later settlement moves with them, to help the parties reach a resolution that they can all accept. This may include business solutions as well as money demands and offers. He prepares intensively in advance of each mediation session. He believes in outside-the-box approaches and relentless follow-up.

PROFESSIONAL EXPERIENCE

- **CPR Panel of Distinguished Neutrals (2024-present)**
Arbitrator and Mediator, California At Large ADR Panel, Franchise-Far West, Real Estate, and Banking, Accounting, and Financial Services Panels.
- **Founder, Frank Burke Mediation and Arbitration, PC (2017-present)**
Independent Arbitrator and Mediator
- **American Arbitration Association (2017-present)**
Member, National Rosters of Arbitrators, Commercial, Large Complex Cases, Merger & Acquisition, Franchise, Cannabis, Financial Services and Energy Panels, National Roster of Commercial Mediators
- **ADR Services, Inc., San Francisco and Silicon Valley (2017-2022)**
Mediator, Arbitrator, Temporary Judge, Special Master, and Discovery Referee
- **Partner, Foley & Lardner LLP, San Francisco and Silicon Valley (2014-2017)**
Business Litigation; Antitrust; Securities Enforcement & Litigation; Government Enforcement & White Collar; Intellectual Property Litigation Groups
- **Partner, Seyfarth Shaw LLP, Los Angeles (2012-2014)**
Chair of the Los Angeles Litigation Department; firmwide practice area leader of the Antitrust and Trade Regulation team; firmwide co-leader of the False Claims and Internal Investigations team
- **Partner, Steptoe & Johnson LLP, Phoenix and Los Angeles (1994-2012)**
Firmwide practice group leader; Securities Litigation and Enforcement practice; Phoenix Commercial Litigation practice group; Managing Partner of the Phoenix office
- **Partner, Streich Lang, Phoenix (1985-1993)**
Executive Committee; Compensation Committee; Strategic Planning

Committee; Ethics Committee; Co-leader, Writing Skills Program; In-House NITA Trial Program and Deposition Skills Program

- **Assistant United States Attorney, United States Department of Justice, Seattle (1980-1985)**

Member, Economic Crime Enforcement Unit and Liaison to SEC

- **Associate, Morrison & Foerster, San Francisco (1977-1980)**

- **Associate, Sherman & Howard, Denver (1975-1977)**

COURT MEDIATION PANELS

- U.S. District Court, Northern District of California Mediation Panel
- Bar Association of San Francisco Mediation Panel
- Santa Clara County Superior Court Mediation Panel
- San Mateo County Superior Court Mediation Panel
- Contra Costa County Superior Court Mediation Panel

MEDIATION AND ARBITRATION TRAINING

- ABA Dispute Resolution Section Annual Spring Conference (2024)
- California Arbitration International Arbitration Week (2024)
- Mediating Online Training, Mediate.com (2020)
- Mediation Training, San Francisco Superior Court (2019)
- Mediation Training, U.S. District Court, ND California (2019)
- Advanced Mediation, Straus Institute at Pepperdine University (2018)
- Advanced Mediation and Advocacy Skills Institute, ABA Section of Dispute Resolution (2017)
- Annual Conference, Association for Dispute Resolution of Northern CA (2017)
- American Bar Association Section of Dispute Resolution, Spring Meeting (2017)
- Arbitration Fundamentals and Best Practices for New AAA Arbitrators, AAA (2017)
- Arbitration Award: Safe Guarding, Deciding and Writing Awards, AAA (2017)
- Mediating the Litigated Case, Straus Institute at Pepperdine University (2016)
- Arbitration Case Law-Annual Update, ABA Section of Dispute Resolution (2016)
- Arbitrator Certificate Training, Bar Association of San Francisco (2016)
- Mediation of an Employment Case with Represented and Unrepresented Litigants, State Bar of California (2016)

HONORS AND RECOGNITION

- The Best Lawyers in America, Mediation, Arbitration, and Commercial Litigation
- California Super Lawyers, Alternative Dispute Resolution
- Academy Member, National Academy of Distinguished Neutrals, California Chapter for Mediation and Arbitration
- Martindale Hubbell, AV Preeminent Rating
- Mediate.com Certified Online Mediator

PROFESSIONAL AFFILIATIONS

- American Bar Association, Sections of Dispute Resolution, Litigation and Business Law
- CPR International Institute for Conflict Prevention and Resolution
- Association of Business Trial Lawyers
- State Bar of California
- California Lawyers Association
- Bar Association of San Francisco
- Santa Clara County Bar Association, Co-Chair, Section of Real Property and Business Law
- The International Council for Online Dispute Resolution