

# JOHN M. HARENS

## Executive Summary of Resume

### **Harens Mediation Center, LLC**

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**Educational Background.** In 1973, I received a Bachelor of Mathematics Degree with High Distinction from the University of Minnesota's Institute of Technology. In 1976, I received my Juris Doctor Degree, Cum Laude, from the University of Minnesota Law School. I was with the law firm of Moore, Costello & Hart, P.L.L.P., for over 35 years, and have operated Harens Mediation Center since 2012.

**Civil Litigation Experience.** I practiced civil litigation for over 30 years, with a special emphasis on representing clients involved in the construction industry, including owners, designers, general contractors, sureties, subcontractors and construction managers. Over the last 15 years of that practice, I focused on representing design professionals in contract negotiations, loss prevention, and professional liability litigation. I have spoken at numerous seminars on topics of special concern to owners, designers, contractors and owners, including issues involving complex damage claims, errors and omissions insurance coverage, indemnification requests, critical contract provisions, loss prevention and insurance claims handling.

**Mediation/ADR Neutral Experience.** Beginning in 1993, I began mediating and arbitrating cases in the upper Midwest. Since then, I have managed the ADR process in over 3,000 commercial cases. My primary experience as an ADR provider involves disputes arising out of large, complex construction projects, including claims involving breach of contract, insurance coverage disputes, and complex delay and damage analysis. I have placed a special emphasis on mediating large complex cases that involve numerous litigants with multiple claims, defenses and positions. I have taught mediation techniques and strategies for the American Arbitration Association, the Minnesota Attorney General's Office and numerous CLE providers.

See next page for specific ADR experience and recommendations in complex multiparty matters.

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### **Complex ADR Experience**

Foremost, I respect the confidentiality of the ADR process. I never disclose information regarding a case other than what is clearly a matter of public record. Therefore, appropriate disclosures of ADR experience often concern public authorities because the results of the mediation are a matter of public record. I do not disclose details regarding any private party mediations other than in very general terms, e.g., nature of the general subject matters, number of parties, rough magnitude of claims. With those caveats, here are representative multimillion-dollar cases I have mediated involving numerous parties:

**1. 35W Bridge Collapse case in Minneapolis, Minnesota.** This case was resolved in mediation. It involved (a) about 150 plaintiffs, private and governmental, represented by about 10 different law firms, including private, municipal and state attorneys; (b) numerous public and private interests in the design, construction, repair, and periodic review of the bridge; and (c) dozens of insurance interests of the various players. The mediation process was highly structured through the cooperative efforts of the parties, their counsel, their carriers and the mediators. I am proud that I was selected as one of Minnesota's "Attorneys of the Year" for my ADR work on this case.

**2. US Bank Stadium case(s).** This project involved two separate mediations: (a) the mediation of project completion claims; and (b) the mediation of post completion issues. Both cases were resolved in mediation with the second case utilizing co-mediators. Both mediations involved numerous parties, complex issues, complex damage claims, and insurance coverage issues. The first mediation took a year to complete; the second mediation involved extensive in-kind work and took almost 3 years to complete. Both mediations involved extended pre-session planning, including initial public and confidential submittals, the exchange of party-generated clarification requests and responses, limited critical document production based on issues identified in the exchanges, rebuttal submittals, limited expert witness disclosures, multi-day issue presentations, and subsequent multiday monetary negotiations.

**3. Private party mediations.** I have mediated hundreds of multiparty complex matters that involved several million dollars in claims. These cases generally involved anywhere from as few as 3 to 4 parties to as many as 25 to 35 parties. Many of the larger party cases involved numerous subcontractors and suppliers that had claims for unpaid work that were being balanced against extensive downstream claims for property damage or defective work that may or may not have been the subject of complex insurance coverage disputes. These matters involved a myriad of subject matters, including large residential/commercial development projects, large highway heavy and bridge projects, large wastewater or chemical treatment plants, ethanol plants, etc. At least eight or ten of these cases were large and complex enough to utilize efficiently the services of two co-mediators.

### **Co-mediator Experience and Recommendation**

In large multiparty cases, I recommend the use of co-mediators. These cases are too large and complex to resolve efficiently using a sole ADR provider. The advantages of this ADR approach include the following: (a) seamless coverage of extended negotiation durations; (b) backup in the case of mediator unavailability or incapacity; (c) more extensive pre-session planning and coverage; (d) logical divisions of mediator duties based on mediator experience and the legal positions of the parties; (e) the ability to meet mediator energy requirements; and (f) the timely coverage of private caucuses over multiday mediations settings. The successful use of this approach requires mediators that work well together, and therefore, I recommend that a mediator be selected who then appoints, subject to party approval, his or her co-mediator.