

# Michael J. Leech

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## OFFICE INFORMATION

### Chicago Office

10 South Riverside Plaza  
Suite 875  
Chicago, IL 60606  
(312) 283-3310

### Philadelphia Office

1500 Market Street  
East Tower, 12th Floor  
Philadelphia, Pennsylvania 19102  
(215) 642-8776

## PRACTICE AREAS

### Primary Service Areas:

- Labor & Employment
- Wage & Hour
- Class Actions
- Commercial Litigation
- Director & Officer Liability
- Non Compete Agreements
- Trade Secret Disputes
- Internal Corporate/Partnership Disputes

## EDUCATION

B.A., History, with distinction, University of Virginia, 1973

J.D., University of Virginia School of Law, 1976.

## BAR ADMISSIONS

1976, Illinois

2015 Pennsylvania

## EMPLOYMENT HISTORY

Principal, Talk Sense Mediation, Michael J. Leech, P.C. (2012 – present)

Associate (1978-1982) and Partner (1983-2011), Hinshaw & Culbertson LLP (commercial litigation, employment law, mediation).

Associate, Chapman and Cutler, Chicago (corporate and hospital finance) (1976-1978).

## FEDERAL COURTS

U.S. District Court, Northern District of Illinois 1976 (and Federal Trial Bar)  
U.S. Court of Appeals, Seventh Circuit 1991

## HONORS

- Member, American Law Institute (2013)
- Fellow, College of Labor & Employment Lawyers (1997).
- Distinguished Fellow, International Academy of Mediators (2011).
- Immediate Past President, Association of Attorney-Mediators (2014)
- Fellow, American Bar Foundation (2011).
- Illinois Super Lawyer and Leading Lawyer (2005-present).
- Top 100 Illinois Super Lawyer (2011-2013).
- Member, National Academy of Distinguished Neutrals (Illinois & Pennsylvania).
- Panelist, American Arbitration Association (Commercial & Employment; Arbitration & Mediation)(Illinois & Pennsylvania).
- Panelist, Resolute Systems (Employment)(Illinois & Pennsylvania)

## PUBLICATIONS

Holloway & Leech, *Employment Termination: Rights and Remedies* (Bureau of National Affairs 1985, 2d ed. 1992, Supp 2003). Extensive & comprehensive legal treatise on all branches of employment law. 1072 pages (second edition).

“Partners & Minority Shareholders” Chapter in *Employment Termination Handbook* (Ill. Institute for CLE 4<sup>th</sup> ed. 2013) Comprehensive review and analysis of Illinois and some Delaware law principles and case authorities governing internal disputes among owners of closely held businesses. 135 pages.

**National Origin Discrimination, Chapter in Lindermann & Grossman, Employment Discrimination Law (Bureau of National Affairs 1996, 2nd ed.)** Chapter in leading legal treatise on employment discrimination. 45 pages.

**Abolishing Discrimination Law: A Foolish & Dangerous Policy**, 29 John Marshall Law Rev. 587 (1995-1996) Article refuting University of Chicago Professor Richard Epstein's *Forbidden Grounds*, a book advocating repeal of employment discrimination laws. 30 pages.

**"The Illinois Personnel Records Review Act,"** 73 Illinois Bar Journal 386 (1985) Review and reflections on uses of then-new Illinois statute permitting employees access to their personnel records. 8 pages.

**"How Did You Do That? Trade Secrets of A Mediator,"** Chicago Bar Record (June/July 2004) Introduction for attorneys to methods used by mediators to assist parties to resolve cases in mediation. 8 pages.

## **SUMMARY**

For 34 years I was a trial lawyer handling business cases, with about half of those cases involving the employment relationship. That experience informs my understanding of the client needs of the parties, the practice realities counsel face and the ins and outs of negotiating settlement of legal disputes.

## **Mediation**

As a neutral mediator, my function is to help bring disputes to an efficient and reasonable conclusion for all concerned. I try to get people to "talk sense" with one another. I "talk sense" about the case with the attorneys and about the business and human decisions facing clients. I work to bring the most innovative tools developed by the mediation profession to bear on helping achieve settlement.

I appreciate that the parties are best served by listening to the counsel of their attorneys and focusing on achieving what they decide is in their own best interest. I do not judge negotiation strategies or tactics, and step in with my views only where I see an approach that may diminish the chance of reaching a settlement that might otherwise be possible.

Mediator since 1996. Mediations conducted: 350. Settlement rate, 2012-2015: 92%

## **LITIGATION EXPERIENCE**

*Employment:* represented both individual and management consistently for 30+ years in cases involving every stage of the employment relationship (discrimination based on race, age, disability, marital status, national origin, pregnancy, religion, retaliation and sexual orientation), racial and sexual harassment, NLRA FMLA,

FLSA, ERISA, Fair Credit Reporting Act, False Claims Act, Equal Pay Act, breach of contract, battery, retaliatory discharge (public policy, federal statute), invasion of privacy, defamation, interference with contract, partner & minority shareholder disputes, public employees, bonus and incentive compensation, sales commissions, non-competition agreements, employee benefit plans. First chair trial attorney in cases involving many of these kinds of claims.

*Complex Litigation:* Class actions, multi-district litigation, injunctions, corporate deadlock/dissolution proceedings, specific performance actions, internal corporate and partnership disputes.

*Investigations:* confidential independent investigation of accusations of wrongdoing by high-ranking officers (public corporations, trade association, professional society, private hospitals, law firm).

*Business Organizations:* Director & officer liability claims, corporate indemnification claims, partnership dissolution, buy-sell agreements, minority shareholder disputes, squeeze-outs, closely held corporate valuations.

*Business Transactions:* Sale of business: letter of intent claims/breach of warranty.

*Real Estate:* Sales, long-term leases, promissory notes, mortgage liens, construction payouts.

*Construction:* delay claims, change orders, undisclosed site conditions, mechanic's liens, misapplication of payouts, defective performance, suretyship (performance and payment bonds), bank seizure of funds.

*Business Contracts:* formation issues, contract interpretation, materiality of breach, successor liability, reformation, rescission, warranties in a wide variety of business and industry contexts.

*Bankruptcy:* adversary proceedings, preferences, trustee election, bankruptcy fraud, fraudulent conveyances, Chapter XI plan disputes.

*Business Fraud:* civil RICO, securities fraud, securities registration, blue sky law remedies, common law fraud, Consumer Fraud Act and Deceptive Trade Practices Act.

*Business Torts:* Interference with contract, interference with prospective economic advantage, non-competition agreements, trade secrets, employee duty of loyalty.

*Professional Responsibility:* legal malpractice, legal ethics investigations, disqualification, federal court sanctions, fee agreements, attorneys' fee awards.

## **ARBITRATION**

All of my experience as an arbitrator has been in the employment field or in commercial disputes arising from the employment relationship. As of December, 2015, I have been assigned a total of 29 arbitrations. In eight of those cases, the parties selected me without using an ADR service (all those cases involve different employees of the same employer). All but one of the rest were assigned by the American Arbitration Association. Sixteen cases are currently pending, but 13 of those are related cases that involve multiple employees of two (different) employers, so in practical terms, there are five active disputes. I have acted as arbitrator beyond the initial stages in twelve arbitrations, two of which went to full hearing.

The arbitrator's role is very different the mediator's role. My arbitration philosophy is to move the case towards a quick, efficient conclusion that provides both sides an opportunity to put on their best case. Arbitrators need to make decisions, and those decisions should stand up to judicial review when it occurs. Decisions must reflect consideration of all issues in the case and attention to detail.