

Hilary Mofsowitz
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PROFESSIONAL AFFILIATIONS

American Arbitration Association- Member since July 2022
National Academy of Arbitrators - Member since March 2022
LERA
ACR-GNY
Arbitrate.com
South African Society for Labor Law

EDUCATION

Degree in Social Work - University of Cape Town, South Africa - 1976
Diploma - Industrial Relations Development Program - University of Stellenbosch, South Africa - 1985
Fifteen years' experience in Human Resources
Ongoing training in the following South African legislations, including all amendments between 1997 to 2019
 Labor Relations Act 66 of 1995 as amended
 Basic Conditions of Employment Act 75 of 1997 as amended
 Employment Equity Act 55 of 1998 as amended
 The National Minimum Wage Act 9 of 2018 as amended
Training in mediation and arbitration and facilitation and fact-finding
Certificate of Competence - Train the Trainer - 2012.
Accreditation as a Mentor - 2016 - formal mentorship of Mediators/Arbitrators
(All training conducted by the Commission of Conciliation, Mediation and Arbitration (CCMA))

ADR WORK IN USA (March 2019-Present)

Course-Becoming a Labor Arbitrator - FMCS - certificate of competence - November 2021 (panel application in process)
The arbitration conversation hosted by Professor Amy Schmitz - Interviewed on South Africa's ADR systems - September 2000 - published in Arbitration.com
Judge - university mediation competition (University in Georgia in Europe) - ADR tournament - April 2021
Judge - ABA James Boskey Law Students Essays - August 2021
Published two articles (a Labor Appeal Court judgment and a Constitutional Court Judgment) in the ABA International Labor Newsletter - February 2021
Presentations at Law Schools on South Africa's ADR systems, including Fordham Law School, University of Kentucky (focusing on SA's mandatory mediation, quick and effective DR with no cost to parties and the right to fair labor practice enshrined in the law)
Presented at ABA Spring Conference - SA's Triumph over discrimination - April 2022 (focusing on SA's success at developing a team of ADR professionals who are diverse in every respect and SA's anti-discrimination laws and Codes of Good Practice - Dealing with harassment, including sexual harassment)
Judge- AALS Scholarly Competition- July 2022
Presentation- University of Nevada
Presentation- ACR-GNY (The Code of Good Practice- Harassment and Discrimination)

ADR EXPERIENCE - WORK HISTORY IN SOUTH AFRICA (1997-Present)

In South Africa, arbitrators/mediators are appointed to panels by consent of trade unions and business. Contracts are renewed every few years provided approval from both parties is obtained.

I have served as a Mediator and Arbitrator in South Africa (labor and employment law) (public and private sectors) Self-employed since 1997 - twenty-five years as a neutral (known as senior commissioner)

Permanent Panels:

Commission for Conciliation, Mediation and Arbitration (CCMA) (includes disputes with Metro Rail)

Clothing Industry Bargaining Council

Independent Mediation Services of South Africa

Public Services Coordinating Bargaining Council

General and Public Services Sectoral Bargaining Council

Education Labor Relations Council- Teachers

Public Health and Welfare Bargaining Council

Tokiso (private ADR forum)

Metal and Engineering Bargaining Council

Bargaining Council for the Civil Engineering Industry

Bargaining Council for the Road Freight and Logistics Industry

Road Passenger Bargaining Council

Safety and Security Bargaining Council (SA Police Force)

Transnet Soc Ltd- Rail, Port and Pipeline Company

Work on these panels includes resolution of disputes arising from collective bargaining agreements (negotiated between trade unions and management), individual employment contracts and labor legislation. Fair labor practice is enshrined in labor law and therefore all employees are protected under the law, regardless of any agreement or contract.

TRAINING AND TEACHING

Training and mentoring new neutrals in all aspects of labor legislation and ADR practices (including mediation, laws of evidence, arbitration, substantive law, ethics and social responsibility and legal drafting skills). I have been a trainer and mentor for fifteen years.

Trained members of the public and arbitrators in discrimination and sexual harassment disputes.

Actively involved in quality control of awards - all awards are screened prior to release to parties.

AREAS OF EXPERTISE/ACCREDITATION/ISSUES

Discrimination disputes (grounds listed in law and arbitrary grounds); sexual harassment disputes in the workplace; sexual assault disputes in the education sector (usually minor children); vulnerable employees disputes - such as employees employed through labor brokers, fixed-term contracts, farm workers, domestic workers; promotion disputes, discharge disputes related to conduct or capacity (performance or attendance); discharge disputes related to operational reasons (lay-off); interpretation/application of collective agreements; disciplinary action short of termination - known as unfair labor practices (warnings, suspensions): Essential services - mediating or determining minimum services in the event of strike action; demarcation disputes - deciding the sector or industry applicable to a business enterprise (a highly specialized area, a limited number of arbitrators are accredited); fact finding in public and private sectors; conducting investigations and internal hearings. A preferred arbitrator for disputes emanating from Parliament of South Africa, including serving as an internal hearing officer and recruitment officer.