

# Daniel Nielsen

Mediator / Arbitrator

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## PROFESSIONAL BACKGROUND AND SERVICE

Arbitrator and mediator in approximately 4,500 private and public sector cases since 1982.

Federal Mediation and Conciliation Service Roster of Arbitrators and Mediators

American Arbitration Association Labor Panels

National Mediation Board Roster

Illinois Labor Board Roster

Wisconsin Employment Relations Commission Roster

Permanent Panels / Umpireships: City of Chicago and various labor organizations – AFSCME, Teamsters, Trades, SEIU, FOP, PBPA; Internal Revenue Service and NTEU Regional Panel; Chicago Public Schools and Chicago Teachers Union; AT&T and IBEW Local 21; Chicago Hotels and UNITE HERE Local 1; Chicago Joint Conference Board (Construction Industry Jurisdictional Disputes); United Airlines and Air Line Pilots Association; United Airlines and Association of Flight Attendants; UPS and Teamsters 705 (Sitting Arbitrator); State of Illinois and AFSCME.

Fellow, College of Labor and Employment Lawyers

Member, National Academy of Arbitrators (1990-present); Midwest Wisconsin Regional Chair (1991-93); Member, NAA Board of Governors (2006-2009); Program Chair, 2013 Annual Meeting in Vancouver, BC; Chair, Committee on Professional Responsibility and Grievances (2015-2018); President-Elect (2019-2020); President (effective May, 2020).

Neutral Co-Chair, American Bar Association Committee on State and Local Public Sector Collective Bargaining and Employment Law (2013-2016)

National Association of Railroad Referees

Association of Labor Relations Agencies, United States and Canada (President, 2003-04; Executive Board, 1998-2005); Editorial Board, *The Neutrality Project* (principal author, Chapter 4 – *Special Considerations Regarding Mediation*)

## PROFESSIONAL EXPERIENCE

Mediator and Arbitrator, 1982-present

Staff Attorney/Mediator, Wisconsin Employment Relations Commission, 1982-86; 1990-2011

Director, Labor and Industrial Relations Degree Program, University of Wisconsin's Parkside campus, 1988-90

Assistant Professor of Labor and Industrial Relations, Business School, University of Wisconsin's Parkside campus, 1986-90

Research Assistant to Emeritus Professor Nathan P. Feinsinger, Univ. of Wisconsin Law School, 1981-82

Research Assistant to Professor Carin A. Claus, Univ. of Wisconsin Law School, 1980-81

## EDUCATION AND TRAINING

University of Wisconsin, Parkside, Bachelor of Science, Labor Economics, 1978

University of Wisconsin Law School, JD (cum laude) 1982

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**Cancellation Fee / Billing Procedure / Official Record:**

Please review the following policies regarding fees, scheduling and case administration.

**PER DIEM** My per diem rate is \$1400.00 for grievance cases, and \$1650.00 for interest arbitration, fact-finding and mediation of contracts. As of January 1, 2020, my per diems will increase to \$1500.00 for grievance cases and \$1800.00 for interest cases. Consistent with FMCS regulations, the fee in effect at the time of appointment is guaranteed for all work performed within two years of the appointment, after which services will be charged at the rate then in effect, as shown on my fee schedule.

**CANCELLATION FEE** A cancellation fee of one day's per diem will be charged for each day of hearing canceled or postponed within 14 days before the hearing date. By way of illustration, a case scheduled for Friday the 22<sup>nd</sup> must be cancelled by the end of the business day on Thursday the 7<sup>th</sup>. Actual expenses incurred (guaranteed reservations, for example) are also billed. If parties seek to reserve an unusually large number of hearing dates, a longer cancellation period may be used. Cancellations and postponements are billed on a 50-50 basis unless some other arrangement has been agreed upon and communicated to me at the time of the cancellation. This includes contracts with loser pay provisions.

**TRAVEL AND MILEAGE** Travel time and mileage will be calculated from Lake Bluff, Illinois. Mileage is charged at the IRS rate. Travel time is based on a ten-hour day, so that an hour of travel equals 10% of the daily rate. Travel time on the day of hearing is included in the per diem charge.

**TELEPHONE HEARINGS** Where it appears that there is little dispute of fact, and an in-person hearing will involve travel time and/or expenses, a telephone hearing may be appropriate. In that case, and assuming both parties agree, the parties can submit issue statements, exhibits and stipulations electronically prior to the hearing. The parties will be responsible for arranging the call. For a telephone hearing lasting only an hour or so, I will waive the hearing fee.

**OFFICIAL RECORD / ARBITRATOR'S NOTES** Unless some other procedure is agreed to by the parties (for example, the use of a transcript), the official record of the case will consist of the recollections of the arbitrator and the exhibits introduced at the hearing. While I may make use of notes to supplement my recollection, the arbitrator's notes do not constitute the official record and will not be available to the parties under any circumstances. Nor will any recording I may make be available to the parties. If a court reporter is present at the hearing, the parties should advise me at the outset if they do not intend to have a transcript made available, so that I may factor that in as I listen to the evidence.

Please note that I will not voluntarily appear as a witness in any litigation associated with enforcement of, or a challenge to, any award, mediated settlement or other resolution of a case, or in any other litigation associated with a case. Unless otherwise mutually requested by the parties, I will destroy my file on the case two weeks after the later of the issuance of the Award or the expiration of retained jurisdiction.

**ISSUANCE AND PUBLICATION OF AWARDS** I generally plan my writing schedule so that I can issue awards in accordance with the 60-day timeline of the FMCS. If your contract has a shorter timeline, please bring that fact to my attention during the scheduling process, so that I may arrange my schedule to allow writing time to meet the shorter deadline. If you do not advise me of the shorter deadline, I will proceed in reliance on the 60-day timeline, and treat your silence as a waiver of the shorter time for issuance.

It is my practice to occasionally submit Awards for publication by established reporting services. A statement to this effect will be included on the billing statement if I am considering submitting the case for publication, with a request that the parties advise me within 30 days after issuance of the Award if they object to publication.

**BILLING** Bills are submitted when the Award is issued, unless there are an unusually large number of hearing dates, or there is an unusual time lapse between hearing dates or between the hearing and the closing of the record. Out of pocket expenses may be billed on an interim basis if they are unusually large, or if there is a lapse of time between hearing dates. Cancellations and postponements may be billed if the parties are not actively seeking to schedule a new date. Please advise me if there is a particular person to whom bills should be directed. Otherwise the bill and award will be sent to the person entering an appearance on behalf of the party at the hearing.

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## Social Media, Professional Organizations and Speeches

### SOCIAL MEDIA

I am a member of LinkedIn, a professional networking site. People will from time to time ask me to be added to their professional network on this site, which means that updates to their profiles or items that they post would be visible to me. I agree to these requests if they are from anyone I know or have worked with. I also, from time to time, have received endorsements from various people for professional skill sets. I have not solicited these endorsements, nor have I acknowledged or responded to them in any way. I do not endorse non-neutrals on LinkedIn, nor do I invite people to become connected to me. The receipt of endorsements, or the fact of being connected to someone on this site does not, in my judgment, raise any question of partiality or inappropriate connections with any party, or trigger a disclosure obligation, but I am happy to respond to inquiries about my LinkedIn profile, if anyone wishes to make any. In order to avoid needless delay in scheduling, any such questions should be raised within a week of this notice.

### PROFESSIONAL ORGANIZATIONS

I am active in various professional organizations, primarily the National Academy of Arbitrators, the College of Labor and Employment Lawyers, the Association of Labor Relations Agencies, and the American Bar Association. Those organizations run conferences and meetings, and maintain committees, many of which include neutrals and representatives of labor and management. There are typically social events at these conferences – receptions, dinners, etc. – where participants interact informally.

Some organizations will also require references for membership – notably the National Academy of Arbitrators and the College of Labor and Employment Lawyers. When approached about being a reference for someone, I will usually agree if I believe the person is qualified for membership and I can honestly recommend them.

Social interactions in connection with these committees, meetings and conferences do not, in my view, raise any question of partiality or inappropriate connections with any party, or trigger a disclosure obligation when I encounter those same individuals in the context of a case, but I am happy to respond to inquiries related to these professional connections if anyone wishes to make any. In that same vein, I do not believe that nominating or recommending someone for membership in a professional organization creates any question of partiality or inappropriate connections with any party, or triggers a disclosure obligation. Again, however, I would be happy to respond to any inquiries. In order to avoid needless delay in scheduling, any such questions should be raised within a week of this notice.

### SPEECHES AND PRESENTATIONS

I am regularly asked to make speeches and/or to participate in presentations to various conferences, groups and organizations. I generally agree to do so, as my schedule allows. I keep a more or less current list of speeches within the past five or six years, and that is attached. I do not view delivering a speech or participating in a presentation as being something that raises any question of partiality or inappropriate connections with any party, or triggers a disclosure obligation. I would be happy to respond to any inquiries. In order to avoid needless delay in scheduling, any such questions should be raised within a week of this notice.

## **SIGNIFICANT PRESENTATIONS AND PUBLICATIONS WITHIN THE RECENT PAST**

Principal Author, Chapter 4 – Mediation – The Neutrality Project, Association of Labor Relations Agencies

Ethics Presentations, American Bar Association Committee on State and Local Collective Bargaining and Labor Law, annually – 2000 to 2010

Ethics Presentations, National Academy of Arbitrators, 2014, 2015, 2016 and 2017.

“Impact of Janus on Arbitration” – Report to the National Academy of Arbitrators conference in Austin, TX, October 2018.

“Dealing With Unethical Practices in Labor Arbitration” - panel presentation to the FMCS National Labor-Management Conference – Chicago, IL – August 21, 2018.

“Developments in Union Security” – panel presentation to the National Academy of Arbitrators, Vancouver, BC – May 25, 2018.

“Evolving Standards in Just Cause Cases” – panel presentation to the FMCS National Labor-Management Conference – Chicago, IL - August 18, 2016.

“Anatomy of an Arbitration” – panel presentation to the Professional Firefighters of Wisconsin Annual Seminar – Madison, WI – October 11, 2015

“The View From the Middle of the Table” – panel presentation to the Professional Firefighters of Wisconsin Annual Seminar – Madison, WI – September 10, 2014

“Basics of Interest Arbitration in Illinois” –presentation to the Chicago Fire Fighters Union, Local 2– Chicago, IL – January 6 and 7, 2014

“Interest Arbitration in 2013” – panel presentation to the Chicago Kent College of Law Annual Public Sector Labor Relations Seminar – Chicago, IL – December 6, 2013

“Managing Interruptions to the Practice” – panel presentation to the National Academy of Arbitrators’ Fall Education Conference – St. Louis, MO – October 20, 2013

“What Were You Thinking? The Arbitrator’s Decision-Making Process” – presentation to the Professional Firefighters of Wisconsin Annual Seminar – Madison, WI – September 11, 2013

“These Hypos Won’t Hurt a Bit – Ethical Issues in the Practice of Labor and Employment Relations” – presentation to the WERC Annual Public Sector Labor Relations Conference – Madison, WI – May 2, 2013

“Is Illinois an Oasis? Public Sector Developments in the Midwest” – presentation to the Chicago Kent College of Law Annual Public Sector Labor Relations Seminar – Chicago, IL - November 30, 2012

“One Year After Wisconsin and Ohio – The State of the Public Sector” – presentation to the American Bar Association Labor and Employment Law Section Annual CLE Conference, Atlanta, GA – November 2, 2012

“Keeping It Moving: Procedural and Evidentiary Issues in Arbitration” – presentation to the National Academy of Arbitrators Annual Meeting, Minneapolis, MN – June 9, 2012

“The Anti-Social Network – Social Media Issues” – presentation to the National Academy of Arbitrators Annual Meeting, Minneapolis, MN – June 9, 2012

“Public Sector Collective Bargaining - Wisconsin and Beyond” – keynote to the annual meeting of the Labor and Employment Research Association (LERA) Northwest Chapter, April 27, 2012, Seattle, WA

“Development in the Public Sector – The Wisconsin Story” – presentation to the National Academy of Arbitrators, September 17, 2011, Miami, FL

“What’s Happening in Wisconsin?” - presentation to the College of Labor and Employment Lawyers, June 1, 2011, Chicago IL

“Fireside Chat – Developments in Wisconsin” – presentation to the Association of Labor Relations Agencies, July 26, 2011, Jersey City, NJ

“The Basics of Mediation” – training session to the ALRA Academy for newly appointed agency executives and members – July 23, 2011, Jersey City, NJ

“Getting to Yes - Bargaining in a Struggling Economy” – paper and presentation to the Labor and Employment Law Section of the American Bar Association, November 5, 2010, Chicago, IL

“The ALRA Neutrality Project” – presentation to the FMCS Labor-Management Conference, June 10, 2008, Washington, DC