

JOHN K. BOYCE, III
Attorney Arbitrator Mediator

2135 E. Hildebrand Ave., Suite 210
San Antonio, Texas 78209
(210) 736-2224

jkbiii@BoyceADR.com
www.BoyceADR.com



Profession Attorney, Domestic and International Arbitrator and Mediator; Serves on several private equity funds and non-profit boards; chairman of the board and general counsel for family office engaged in oil & gas, alternatives, ranching, and investments

Work History Law Offices of John K. Boyce, III, 1990-present; McCamish & Loeffler, 1986-90; Bishop & Payne, 1978-1986

Experience 40+ years in a broad commercial transaction and litigation practice in state and federal trial and appellate court; extensive experience in the formation, maintenance, merger, and acquisition of a variety of business entities: corporations, limited liability corporations, limited partnerships, hedge funds, and preparation of various agreements connected therewith: asset sales, cross-purchase, buy-sell, redemption, sale and leaseback transactions; preparation of securities memoranda and related compliance work; extensive commercial litigation for both lenders and borrowers involving financial transactions, lending agreements, guaranties, mortgages, contracts, and real estate; creditors' rights representing large publicly-held equipment lessors and financiers in collection matters; forensic accounting and professional malpractice;

represented both landowners as well as companies in broad area of disputes involving royalties, lease formation, interpretation of deeds, leases, conveyances; disputes involving mineral ownership and easements, production contracts, drilling contracts, private placement offerings, operating agreements, long-term gas contracts and pipelines; handled regulatory disputes with the Texas Railroad Commission and Federal Energy Regulatory Commission involving pipeline and transmission lines and natural gas pricing

Arbitration Experience arbitrated 500+ cases in last twenty-five years; recent examples include:

Commercial

chair of panel over breach of an indemnity clause contained in an asset contribution agreement for, *inter alia*, reduced "earn-out" payments attributable to attorneys' fees in collateral lawsuit

chair of panel of dispute whether a change of control or ownership in upstream, international entities triggered accelerated royalties for specific technology under the transfer provisions of an asset purchase

agreement;

chair of panel over breach of earn-out provisions of IP acquisition agreement which turned on issues of infringement and invalidity of underlying medical device patents, fraudulent inducement, and tortious interference;

panelist involving real estate developer in dispute with competing developer and lender over allegations of antitrust, tortious interference, and federal bank tying act violations

panelist in dispute between defrauded investors, in complex schemes, and professional liability carrier involving novel coverage issues in the enforcement of an existing arbitration award

served as panel chairman in dispute involving 80+ parties growing out of the sale of series of interrelated limited partnership interests in high tech ventures which turned on issues of federal and state securities laws, breach of fiduciary duty, and complex accounting claims;

panelist in case involving fiduciary negligence and fraud in connection with investment management firm's ("feeder fund") failure to perform due diligence over hedge fund investments;

member of involving claims between former owners and management team under a leveraged buy-out and redemption agreement concerning issues of breach of contract, breach of fiduciary duty, officer and director liability and accounting claims;

chair of panel involving claims of professional negligence against accounting firm for failure to identify related party and control relationships in Chinese subsidiary of US public company and failure to provide appropriate accounting advice to resolve issues stemming from whistleblower emails;

chair of panel involving competing claims of fraud, breach of contract, and complex accounting over twenty-five real estate projects each subject to a master development agreement and a Delaware series LLC operating agreement;

panelist in case to determine "fair value" of dissenting minority interest in bank holding company resulting from "squeeze out" and involving technical issues of appraisal methodology;

panelist to determine claims of fraud, breach of contract, professional negligence, and conspiracy in connection with "abusive" tax shelters

Energy

chair of panel in a \$135mm dispute between one the four major oil companies against a multinational pipe manufacturer regarding alleged defects of high pressure oil and gas pipeline; this raised technical engineering issues over pipe manufacture and damages models calling for full field replacement which turned on field reservoir characteristics, such as pressure, temperature, mixture composition, decline curves, as these factors impacted on the suitability of pipe

sole arbitrator between investors in energy investments over the accuracy of a variety of representations made in placement memoranda- for example, lease and drilling costs, field characteristics, and marketing opportunities

sole arbitrator in numerous cases concerning the interpretation of instruments such as deeds, leases, royalty (v. mineral) provisions, conveyances, operating and production agreements

Employment

chair/panelist/sole arbitrator in numerous cases involving the duration and geographic scope of non-compete clauses in employment agreements between physicians, practice groups, and hospitals;

sole arbitrator in claims involving breach of contract, fiduciary duty, and accounting between physicians under both a limited partnership agreement and an employment agreement;

Health Care

sole arbitrator in dispute between hospital and managed care organization (MCO) for failure to pay rural hospital Medicaid reimbursement, outpatient services fees, high volume reimbursement, and Uniform Hospital Rate Increase Program (UHRIP) adjustment

panelist in dispute involving pretextual termination of provider agreement between retail pharmacy organization and its Pharmacy Benefits Manager (PBM)

sole arbitrator in case involving claims of breach of contract and FDA regulations in the manufacturing of oncology drugs by pharmaceutical firm;

chair of panel involving breach of FDA regulations in manufacture of medical device by Korean affiliate of public company

sole arbitrator involving breach of indemnity provisions of asset purchase agreement between two hospitals and management company re: claims of misallocation of Long-Term Acute Facility (LTAC) and Private Hospital UPL Medicare Program funds and certification issues of LTAC facility;

sole arbitrator involving breach of recruiting contract and employment contract between hospital and physician re: alleged violations of Stark II regulations and Anti-Kickback statute

sole arbitrator involving Breach of Network Participation Agreement between physician and HMO re: payor/provider reimbursement

sole arbitrator in claims involving breach of contract, fiduciary duty, and accounting between physicians under limited partnership agreement;

Presentations and Publications (most recent only)

Speaker/author, "The Preliminary Hearing is Anything but Preliminary", Advanced Arbitrator Toolkit, State Bar of Texas (2019)

Speaker/author, Panel Discussion on Arbitration, State Bar of Texas ADR Conference (2019)

author, "Keeping Arbitration Safe for Texas", NEW YORK RESOLUTION LAWYER (2018)

co-author, "Guide to Best Practices in Commercial Arbitration) (4th Edition, 2017)
(College of Commercial Arbitrators)

co-author, "Arbitration Texas Style", presentation to the 2017-2019 Session of the Texas Legislature

speaker, "The Preliminary Hearing in Arbitration: International versus Domestic Perspectives", State Bar of Texas, ADR Road Show (2016)

speaker, "Deflategate and Trends in Arbitration", State Bar of Texas Construction Law Conference (2016)

faculty, AAA Panel Dynamics: Staying on Course When Things Don't Go As Planned" (2015)

speaker, "Legislative Update" Arbitration", State Bar of Texas Annual Convention (2015)

co-author, "Arbitration Texas Style" (2015) for the Texas Legislature

speaker/author, "Use of Arbitration Use in Fiduciary Disputes", State Bar of Texas, Fiduciary Litigation Conference (2014)

faculty, AAA Panel Dynamics: Effective Techniques for Panelists (2014)

speaker/author, "Arbitration Update", State Bar of Texas, Business Disputes Conference (2014)

speaker, "The Preliminary Hearing and Discovery", American Arbitration Association and the College of Commercial Arbitrators, "Managing an Effective Arbitration" Conference (2014)

author, "What Solo Litigators Need to Know About Arbitration", *Texas Bar Journal*, Vol. 76, No.11 (2013)

director and speaker, "Conducting Your First (or Next) Arbitration", State Bar of Texas, conference (Austin, 2013)

author, "Has Positive Software Been Positive for Disclosure?", American Arbitration Association, *Dispute Resolution Journal*, Vol. 68, No.2 (2013)

speaker/author, "How to Write a Bad Arbitration Clause", State Bar of Texas, "Advanced Business Law" conference (Dallas,2013)

speaker/author, "Arbitration in Employment Disputes", State Bar of Texas, "Essentials of Business Law" conference (Houston, 2013)

speaker, "Arbitration Primer", Bell County Bench-Bar Conference (2012)

speaker/facilitator, "Regaining Speed and Economy in Dispute Arbitration, American Arbitration Association (San Antonio, 2011)

speaker, "Overview of Trends in Arbitration and Mediation", American Bar Association Webinar (2011)

speaker, "Crossing the Borderline: When Neutrals Consider Changing Roles", Texas Association of Mediators Annual Conference (2011)

speaker, "Current Trends in Alternative Dispute Resolution: What's Hot and What's Not", American Bar Association Webinar (2010)

speaker, "Federal and State Legislation Affecting Arbitration", State Bar of Texas Annual Meeting (2010)

speaker/author, "Arbitration Roundtable", ADR Section, State Bar of Texas (Houston) (2010)

speaker/author, "Arbitration Roundtable", ADR Section, State Bar of Texas (Austin) (2010)

speaker/author, "Legislative Developments in Arbitration", State Bar of Texas Webcast (2010)

panelist, "Arbitration: Point & Counterpoint", State Bar of Texas, College of the Bar Summer School (2009)

speaker/author, "Trends in Arbitration Law", State Bar of Texas, Annual Meeting (2009)

speaker, "Bench Trial v. Arbitration: Motions to Compel/Motions to Vacate Award", San Antonio Bar Association Bench-Bar Conference (2009)

course director/moderator, "Advanced Mediation: Skills & Techniques", Alternative Resolution Section, State Bar of Texas (2009)

speaker, "Emerging Trends in ADR in the Workplace: Navigating the Future", Association for Conflict Resolution (ACR), 8th Annual Conference (2008)

moderator of panel discussion, "Arbitration Perspectives", State Bar of Texas, Annual Meeting (2008)

panelist: "Arbitration: The Good, The Bad, and The Ugly", William S. Sessions Inn of Court, State Bar of Texas (2007)

Author/speaker, "The Ties that Keep on Binding: Case Law Update" Alternative Dispute Resolution Conference, State Bar of Texas (2007)

speaker, "Arbitration Roundtable", ADR Section, State Bar of Texas (Fort Worth) (2007)

author/speaker, "Awards and Appeals-So You Thought You Were Done", Arbitration Institute, Texas Institute of Continuing Legal Education (2006)

author/speaker, "The Sea Always Changes: Case Law and Legislative Update", Alternative Dispute Resolution Conference, State Bar of Texas (2006)

author, "Arbitrator Disclosure: Standards & Growing Challenges" ALTERNATIVE RESOLUTIONS, vol. 15, no. 1 (2006)

author, "Consumer Arbitration in Texas," and editor, "Dispute Resolution - Texas Style," 3rd ed., State Bar of Texas, Alternative Dispute Resolution Section (2006)

speaker, "ADR Update and More", Texas Institute for CLE telephone conference (2005)

author, "Arbitration in Banking and Financial Transactions," SAN ANTONIO BUSINESS JOURNAL; (2005)

author/speaker, "The Role of the CPA in Arbitration," San Antonio CPA Chapter; February 2005

author/speaker, "Use of Arbitration in Real Estate Disputes," San Antonio Bar, Real Estate Section; (2005)

author, "An Arbitration Primer," SAN ANTONIO LAWYER (2004)

author, "Arbitration in Estates and Trusts," ALTERNATIVE RESOLUTIONS, vol. 14, no. 4 (2004)

author/speaker, "Arbitration Primer: An Alternative Dispute Resolution Tool for Your Professional Responsibility Repertoire," Advanced Estate Planning and Probate course, State Bar of Texas, (2004)

ADR Training AAA/ICDR/AAA Mediation.org Panel Conference, 2019; AAA Arbitrator Performance and Demeanor - Meeting Participant Expectations ACE18, 2018; AAA-ICDR/ICC/ICSID 34th Annual Joint Colloquium on International Arbitration, 2017; AAA eDiscovery: Arbitration in a Digital World ACE12, 2017; ICDR International Symposia in Advanced Case Management Issues, 2016; AAA Protecting Your Award from Appellate Challenge, 2016; College of Commercial Arbitrators Annual Conference, 2016; Faculty, AAA Panel Dynamics: Staying on Course When Things Don't Go As Planned, 2015; Faculty, AAA Panel Dynamics: Effective Techniques for Panelists 2014; AAA Developments in Arbitration Law: Non-Signatories, Discovery and Vacatur, 2014; AAA Managing a Successful Arbitration, 2014; College of Commercial Arbitrators Annual Conference, 2013; AAA/ICDR Neutrals Conference, 2012; AAA Regaining Speed and Economy in Dispute Resolution, 2011; Faculty, AAA Maximizing Efficiency and Economy in Arbitration: Challenges at the Preliminary Hearing, 2011; AAA/ICDR Neutrals Conference, 2009; AAA Dealing With Delay Tactics in Arbitration ACE04, 2006; AAA Chairing an Arbitration Panel: Managing Procedures, Process & Dynamics ACE05, 2005; AAA Neutrals Conference, San Antonio, 2004; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards ACE01, San Antonio, 2004; AAA Arbitrator Ethics & Disclosure ACE03, San Antonio, 2004; AAA Commercial Arbitrator II Training: Advanced Case Management Issues, Houston, 2002; AAA Arbitrator Update 2001; NASD, Arbitrator Certification Training, Houston, 1999; AAA Commercial Arbitrator Training, Houston, 1999; faculty, AAA Mediator Training for UDS/Valero Energy Corporation In-House Corporate Dispute Resolution Program, San Antonio, 1995; AAA Securities Arbitration Training, San Antonio, 1995; various other ADR training.

Professional Licenses Admitted to Texas Bar, 1978; U.S. District Court: Western, Southern, and Northern Districts of Texas; U.S. Court of Appeals: Fifth Circuit; former Registered Investment Advisor, Texas Securities Board (Series 65 license)(currently inactive)

Professional Associations

Past Chair, Alternative Dispute Resolution Section, State Bar of Texas
Fellow, College of Commercial Arbitrators (Director 2019-2022)
Member, Association of Attorney Mediators (AAM)
Chartered Institute of Arbitrators (MCI Arb)
Chair, Texas Arbitration Council
Member, State Bar of Texas Minimum Continuing Education Committee (2016-2022)(chair)
Member, State Bar of Texas Continuing Education Committee (2010-2016)
College of the State Bar
Life Fellow, Texas Bar Foundation
San Antonio Bar Association.

Other Professional Associations

arbitration panelist:

American Arbitration Association: Commercial Panel (Large Complex Case, Commercial, and Securities subpanels)
International Center for Dispute Resolution (ICDR)
Int'l Institute for Conflict Prevention and Resolution (CPR Institute):

Banking, Accounting, and Financial Services Panel, Hedge Funds Panel, San Antonio ADR Panel; Master Mediator Panel

American Health Lawyers Association(AHLA)

International Chamber of Commerce (ICC)

Financial Industry Regulatory (FINRA)

adjunct professor, Strauss School of Dispute Resolution, Pepperdine University School of Law

Texas Monthly “Super Lawyer”

Education University of Texas at Austin (BA, Economics, with high honors, Phi Beta Kappa, 1975 and Juris Doctor, 1978)

(revised 9/20)