

**Donald (Tad) Powers**

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MEDIATION, ARBITRATION, NEGOTIATION, CONFLICT COACHING

Donald (Tad) Powers is a lawyer, mediator, arbitrator and conflict coach with over thirty years' experience in litigation, negotiation, mediation and conflict coaching.

**Mediator:** Tad has successfully mediated hundreds of environmental, employment, commercial, personal injury, construction, professional liability, organizational and family disputes, and is happy to provide references from satisfied clients.

**Conflict Coach:** Tad has extensive training in both mediation and professional coaching. He coaches individuals and teams to more effectively respond to particular conflicts and to develop practical skills that make future conflicts less stressful, less costly, and more productive.

**Arbitrator:** Tad has decided employment, construction, real estate and other disputes, and has served as a Hearing Officer with the Vermont Department of Education.

**Trainer:** Tad has presented and taught at dozens of seminars, workshops and conferences and serves as Adjunct Professor of Law teaching Mediation, Negotiation, and Mediation Advocacy at Vermont Law School. See below for more details on Tad's teaching and training experience.

Collaborating with Michael to form MarksPowers LLP was a natural extension of their commitment to continuing learning and growth as DR practitioners. Having Michael and Adam as partners gives all three the opportunity to share insights, experiences and ideas about what works and what doesn't in a wide range of complex disputes.

**Approach to Mediation:** I believe that effective mediators are students of negotiation, psychology, and the human condition. We are a resource for productive communication, rigorous case and risk analysis, deeper understanding of interests and options, and creation of thoughtful agreements that maximize gains for all parties. Well-grounded theoretical knowledge and skillful technique are essential, but so is a solid commitment to preparation and perseverance. As a younger mediator, I started mediations with little prior contact with the parties. Most mediations resulted in settlement, but in any event were considered over at the end of the day. After years of experience and hundreds of mediations, I now honor the importance of pre-mediation communication and preparation to set the stage for an optimum outcome. I collaborate with counsel and parties to design the right process for the case, have the right people at the table with the right information and authority, and create an interpersonal climate favorable to problem-solving. If there is no settlement at the end of the day, I will focus on next steps that may lead the parties to settlement in another session or in other negotiations, or to narrow

the issues in dispute and reduce litigation and transaction costs. Impasse is just a signal to change the direction of the dialogue. No is not a final answer, because as long as we're talking we can usually create better options than adjudication.

**Approach to Conflict Coaching:** *As a conflict coach, Tad's clients include professionals, business people, and organizations. works with lawyers and other professionals on the conflict management goals most important to the individual or team. from resolution of particular disputes to the personal development of awareness of pattern reactions to conflict and to strengthen abilities to choose from a variety of responses. The result is a reduction in stress levels, improved relationships, less costly conflicts, and more productive outcomes. Tad helps clients find the opportunities in conflict.*

**Approach to Arbitration:** While mediation offers flexibility, creativity, and opportunities to explore underlying needs and interests, arbitration offers finality and efficiency. Realizing that promise requires thorough preparation by the parties and the arbitrator. The agreement to arbitrate should clearly identify the issues to be arbitrated, applicable substantive and evidentiary standards, the scope of discovery, the range of available remedies (including attorney's fees), and hearing logistics, including the order of case presentation, pre-arbitration stipulations to exhibits and uncontested facts, electronic or other recording, facilities for the hearing, and whether the award is to be summary or reasoned. My goal as an arbitrator is to conduct an efficient hearing that gives the parties a full opportunity to present their cases without delays caused by cumulative or irrelevant evidence and without confusion as to the issues to be decided or the burdens of proof and persuasion. Every party is entitled to leave an arbitration with a strong feeling that they have been fairly heard.

**Legal Experience:** Attorney practicing civil litigation and transactional and municipal law since 1974. Member Vermont and Florida Bars, Vermont Bar Association. Admitted United States District and Circuit Courts of Appeal and United States Supreme Court. Former partner in Powers, English, Carroll & Ritter, PC and Powers & Byers LLP, Middlebury, Vt. Representative clients include municipalities and school districts, manufacturing and technology businesses, contractors, real estate developers, non-profit organizations, families and individuals.

**Dispute Resolution Experience and Organizations:** Mediator and arbitrator in civil, business, real estate, employment, professional liability, organizational, school/municipal, family and personal injury cases since 1994. Member Vermont Bar Association ADR Committee (Chair 2001-2004), Member of Vermont Environmental Court Mediation Advisory Group, member Vermont Environmental Court Mediation Panel, former member Department of Education Mediator Panels and former Hearing Officer Vermont Department of Education; Adjunct Professor of Law, Environmental Dispute Resolution, ADR and Mediation, Vermont Law School, Guest Lecturer in Negotiation, Tuck School of Business, Dartmouth College. Visit Vermont Law School at [www.vermontlaw.edu](http://www.vermontlaw.edu).

**Training in Dispute Resolution:** Woodbury College Introduction to Mediation-1994, Woodbury College Basic Mediation-1996, Addison County Family Court-Divorce Mediation-1993, Vermont Trial Lawyers' Association- Mediation Ethics-1994, Harvard Program on Negotiation-Employment, Land Use and Environmental Mediation- (Video and Audio Tape Program)- 1997, ABA Section of Dispute Resolution

Annual Conference-Mediation and ADR workshops-1999;Academy of Family Mediators-approved Divorce Mediation Training-2002; Shared Family Decision-Making Mediation Training- Center for Social Gerontology and Woodbury College Dispute Resolution Center- 2003, Vermont Department of Education-Special Education Mediation Training-2003; Advanced Mediation Techniques and Ethics of Mediation- New Hampshire Association for Conflict Resolution/CLE- 2004.; Vermont Family Court Mediation Program Mediation Training-2004; Vermont Mediators' Association/Vermont Bar Association lawyer/mediator workshop- 2004; ABA Section of Dispute Resolution Training-Mediation in Family and Family Business Matters-2004; annual Vermont Department of Education- Special Education Mediation and Hearing Officer Trainings-2005-2010 ; Vermont Family Court Mediation Program Mediation Trainings-2005, 2006, 2007; Woodbury College Consulting Mediator's Workshop-2006; Pepperdine University School of Law, Strauss Institute of Dispute Resolution-Advanced Mediation Practice-2007; ABA Section of Dispute Resolution Annual Conference-Mediation and ADR workshops-2008; David Hoffman Workshop on Collaborative Law-2008; Annual Education Law Conference Academy for Hearing Officers-2008;Pepperdine University School of Law, Strauss Institute of Dispute Resolution-Impact of Gender and Culture on Negotiation and Mediation-2008; Pepperdine University School of Law, Strauss Institute Of Dispute Resolution-Mindfulness for Dispute Resolvers-2009; Regional Hearing Officers' Training-Vermont Department of Education-2009; Pepperdine/Strauss Institute- Advanced Mediation-2010; Special Education Mediation Training-Vermont Department of Education-2010; The Mediator and Public Policy-Vermont Law School-2011; ENE in Federal Court Professional Training Forum-U.S. District Court District of Vermont- 2011; Vermont Law School- The Mediator and Public Policy-2011

**Teaching Dispute Resolution:** Vermont Bar Association and Chittenden County Bar Association CLE on Mediation 1999; Vermont Law School-ADR and Public Policy 2000; Vermont Bar Association ADR Committee and Vermont Environmental Court-Environmental Court Mediation 2001; Vermont Bar Association - Interest-Based Negotiation Techniques 2002; Vermont Bar Association/ Vermont Mediators' Association Workshop-Facilitator 2002; Vermont Bar Association -Mediating Elder Care Decisions 2003; VMA-VBA Mediator/Attorney Dialog 2004; Vermont Bar Association-Confidentiality in Mediation 2004; Woodbury College Basic Mediation Training-Ethics in Mediation-2005; Vermont Bar Association - Mediating High-Stakes Cases-2005; Grafton Conference on Mediating Land Use Disputes-2005; Environmental Court Training for Mediators 2005; Vermont League of Cities and Towns Municipal Attorneys' Forum-Mediation in Zoning Cases- 2006; Vermont Planners' Association-Mediating Land Use Disputes-2006; Rutland County Caregivers Coalition-Shared Decision Making for Family Caregivers-2006; Vermont Planner's Association and Vermont Land Use Education and Training Collaborative-presentations on ADR in Land Use Cases- 2006; University of Vermont Extension Service Municipal Officials' Management training in ADR- 2006; Vermont Housing Managers' Association-Basic Mediation Skills-2007; Vermont Association for Justice-Making the Most of Mediation: Tools and Strategies-2010; Adjunct Professor of Law, Vermont Law School- Environmental Dispute Resolution-2008-2009, Alternative Dispute Resolution-2010, Mediation-2011,2012,2013;Negotiation-2012, 2013, Mediation Advocacy-2014; Vermont Law School Negotiation Workshops-2010,2011,2012;2013, Vermont Association for Justice-Mediation Advocacy in Family Cases-2012; United States District Court of Vermont- ENE & Mediation Advocacy for Attorneys-2013; Vermont League of Cities and Towns-The

Municipality's Role in Mediation-2014; Guest Lecturer on Negotiation- Tuck School of Business, Dartmouth College-2013, 2014.

**Articles:** Mediation: A Culture of Its Own, Vermont Bar Journal, Fall 2010

**Fees:** **Mediation and Arbitration:** \$280 per hour. One-half regular rate for travel time. Mileage charged at IRS rates. **Conflict Coaching:** \$150 per 50 minute individual session, call for team coaching rates.