

CONFLICT EVALUATION & RESOLUTION TEAM

CERT is a distinct practice group committed to maintaining state-of-the-art skill in neutral evaluation and resolution of disputes.

Internally, our neutrals meet regularly to share their experiences and techniques.

Externally, each neutral is required annually to either present or attend specialized training in the art of neutral services.

We've got nationally known lawyers with thriving practices.

They've landed here for a reason.

Technology has made the world much smaller, and values are shifting in the workplace. As a result, lawyers can now more than ever maintain a sophisticated and national legal practice from lower cost cities. That has never been more true than now, amid a rapidly changing workforce, as we're able to offer our full range of services in a remote capacity.

Your interests, not [h]ours.

Our team is both highly knowledgeable in specific industries and substantive areas of law, and we're able to leverage that wide-ranging litigation and trial expertise, which covers the spectrum of our clients' interests and the problems they need to solve. Our knowledge spans areas such as bankruptcy and reorganization, commercial and contract disputes, product liability, personal injury, legal malpractice and ethics, construction, energy, employment, media and first amendment, health care, pharmaceutical, securities, real estate and municipal matters, among other areas.

Our professional neutrals have formed the Conflict Evaluation and Resolution Team (CERT) because they share a dedication to showing how parties in conflict can achieve the best net outcome. The team comprises seasoned trial attorneys, mediators, arbitrators and a formal federal judge.

Our professionals have the experience to know when advocacy is effective and likely to add value and just as important—when it is not.

INTERNAL AND EXTERNAL RESOURCES FOR STATE OF THE ART SERVICES

WHEN EXPERTISE IS IMPORTANT

We offer evaluation and resolution assistance in both traditional and novel ways. Although each neutral has broad trial and dispute resolution experience, each neutral has one or more specialties, including bankruptcy and finance, construction and commercial litigation, antitrust, securities, media and first amendment, and labor and employment law. With numerous members on the team, we can offer more prompt and flexible scheduling as well as increased flexibility on how we bill—and we're ready to work with you.

FOR ADVERSE PARTIES | MEDIATION

Many mediators in the market offer a day or two of scheduled negotiation. We do too. But a day or two of structured mediation is not the only way, or even the best way, to achieve the net best outcome. We believe the timing of mediation is critical, and we encourage parties to mediate as soon as it is likely to be productive.

Our single-minded goal is to achieve an optimal convergence between the time and money invested in a case and the best outcome. That convergence is easier to achieve before the parties have lost a lot of time and money. We also believe that a neutral can be effective on an ongoing basis, both before and after a traditional mediation would occur.

FOR ADVERSE PARTIES | ARBITRATION

We offer traditional arbitration services, including those administered by the American Arbitration Association and the International Center for Dispute Resolution. We take particular pride, however, in offering flexible, informal arbitration products that are proportional and tailored to the dispute in question. This could mean as informal a task as resolving a discovery dispute by telephone or conducting a pre-discovery hearing to enable both sides to determine whether and to what extent discovery is necessary at all.

FOR SINGLE PARTIES | AN IMPARTIAL REVIEW

We can evaluate whether your advocacy positions would be effective before a judge or other fact-finder hearing the issue for the first time. This service is offered either on an a la carte basis, for subparts of your case, or for your overall case. This role can evolve into our becoming settlement counsel, with ongoing responsibility for advising how and when to seek or entertain settlement opportunities for all or part of your case.

AVAILABLE SERVICES

We are available either jointly to adverse parties, or individually to one party.

JOINT SERVICES FOR ADVERSE PARTIES | IN PERSON & REMOTE

- Arbitration
- Mediation
- Neutral Case Evaluation
- Special Master
- Referee

INDIVIDUAL SERVICES FOR SINGLE PARTIES

- Neutral Case Evaluation
 - Pre-Suit Filing
 - Post-Suit Filing
 - Cost Estimates
 - Pre-Discovery
 - Discovery
 - Post-Discovery
 - Through Trial
 - Dispositive Motions
 - Appeals
- Settlement Counsel
- Written Argument Critique
- Oral Argument Critique
- Moot Court and Mock Trials



Meet George, seasoned dispute resolution counselor and music lover.

George is passionate about achieving the best practical result, but he tries not to lose sight of humor and humanity in the process. He has been practicing law for over four decades and focuses on litigating, arbitrating, and mediating business and construction disputes. His trial experience is wide-ranging, from securities claims and partnership disputes, to construction cases involving schools, power plants, and bridges. He's particularly well-versed in assisting clients in the forest products industry and represents a number of related trade associations, including the Northeastern Retail Lumber Association and the National Lumber and Building Materials and Dealers Association.

George is particularly well-versed in arbitrating, litigating, and mediating matters involving engineering errors and omissions, asbestos, product and boat builder's liability, marketing contracts, and manufacturers' representative payments.

George is a member of the Commercial Panel of the American Arbitration Association, and the Maine Supreme Court has appointed him as an arbitrator, mediator, and early neutral evaluator for its Court Alternative Dispute Service (CADRES). He's also helped draft legislation related to securities law and multiple defendant litigation, and has served on Maine Chief Justice Saufley's Business and Consumer Docket Advisory Committee. George frequently shares his expertise in construction law, as well as related areas like insurance and product liability, in lectures and seminars around the country. He is co-author with his partner Michael Bosse of the ABA book, *Building the Construction Case: A Blueprint for Litigators* (2014).

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AREAS OF EXPERTISE

- Construction
- Commercial Disputes
- Antitrust
- Securities
- Product Liability
- Family Business
- Dispute Resolution
- Arbitrator, Mediator
 - American Arbitration Association
 - International Center for Dispute Resolution

OUR APPROACH

We genuinely care about our clients; when they lose sleep, so do we. That's why, whether we're fighting to help you win in court or finding a smart, business-savvy way to keep you out of it, we always put your interests above our own. Our honest, aggressive approach helps us represent clients effectively, and we work around the clock and around the country, providing smart, sophisticated counsel for a wide array of clients.

www.bernsteinshur.com/george-burns



Meet Asha, licensed professional engineer, tenacious litigator, and gentlewoman farmer.

Asha's specialty is dispute resolution involving construction, energy, insurance, and banking claims. In addition to being an attorney, Asha is a licensed professional engineer, with LEED accreditation and years of experience designing and coordinating multi-million dollar projects as a civil engineer with Parsons Brinckerhoff. Her firsthand experience with the ins and outs of construction, demolition, and green-energy projects makes her an especially effective advocate in litigation matters and contract negotiations spanning those fields.

Asha's experience includes:

- Representing energy clients, including power plants from New England to the Caribbean, in long term contract negotiations
- Securing coverage for insureds under commercial general liability, property, data security, and directors' and officers' policies, including through litigation against insurance companies under the Maine's Unfair Settlement Practices Act
- Construction contract drafting and negotiation
- Litigation and dispute resolution of construction defect claims and lien and bond claims

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AREAS OF EXPERTISE

- **Construction**
- **Coronavirus Legal Response Team**
- **Energy**
- **Litigation and Dispute Resolution**
- **Technology**
- **Outsourcing and Data Security**

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www.bernsteinshur.com/asha-echeverria



Meet Rick, established construction law authority, media attorney, skilled mediator and civic activist.

From the beginning, Rick's career has focused on business law and litigation, and he brings the same intense focus and forethought to every interaction with his clients. An expert on construction law, Rick has represented contractors and other participants in the construction process in virtually all areas where construction and the law intersect, from contract negotiation and formation through the issues that arise during construction to performance and payment disputes and construction defect claims. His proficiency in these fields has made him an invaluable asset to business clients throughout New Hampshire—and beyond.

Rick also has years of experience representing the media in issues like libel and privacy claims, efforts to gain access to public records and proceedings and the myriad legal issues that may arise during the newsgathering and reporting process. Rick's expertise and decades of knowledge of the law and specific industry practices makes him an effective and reliable advocate, both inside and outside the courtroom.

Rick regularly serves as a mediator or arbitrator in construction and other business disputes. He is a member of the Construction and Commercial Mediation and Arbitration Panels of the American Arbitration Association, and a member of the Panel of Neutrals of the New Hampshire Superior Court and the U.S. District Court for the District of New Hampshire.

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AREAS OF EXPERTISE

- **Construction**
- **Commercial Litigation**
- **First Amendment**
- **Media**

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www.bernsteinshur.com/rick-gagliuso



Meet Kelly, successful construction litigator and first female National Director of the Associated Builders and Contractors of New Hampshire and Vermont

After almost 25 years of representing construction clients, including contractors, sub-trades and material/equipment suppliers, Kelly understands that contractors need quick results with minimal disruption to their ongoing projects. Well-versed in the language of construction, available project delivery methods, construction contracting formats and resolution strategies that are best suited to the needs of construction industry players, Kelly takes pride in prioritizing results over process and fashioning practical, workable solutions to the problems that frequently occur in real-world construction scenarios.

Kelly was the first woman to become the Board Chair of a local construction trade group, Associated Builders and Contractors of New Hampshire and Vermont, as well as their first female National Director. She works tirelessly to find sensible solutions that conserve client resources and project relationships— invaluable counsel that allows clients to stay profitable throughout a dispute.

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AREAS OF EXPERTISE

- **Commercial litigation matters, including collections**
- **Drafting commercial contracts**
- **Modifying standard AIA and AGC construction contract forms to protect client interests**

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www.bernsteinshur.com/kelly-gagliuso



Meet Judge Kornreich, Business Restructuring and Civil Litigation Mediator.

As a registered mediator in the Southern District of New York, the District of Delaware and the District of Massachusetts, Lou's mediation work covers bankruptcy matters and all aspects of general litigation.

Prior to joining Bernstein Shur, Lou spent 14 years on the U. S. Bankruptcy Court for the District of Maine, where he served as Chief Judge. He also sat for extended periods as a visiting bankruptcy judge in the Districts of Delaware and New Hampshire and as an appellate judge on the Bankruptcy Appellate Panel for the First Circuit. He was also the First Circuit representative to the Bankruptcy Judges Advisory Group of the Administrative Office of the U.S. Courts.

Lou has presided over many consumer cases and many of the largest and most complex reorganization cases in Maine history, including Great Northern Paper, and two Canadian cross-border cases; Androscoggin Energy, a natural gas case covering several North American jurisdictions, and the Montreal, Maine & Atlantic Railway cases arising from the tragic Lac Megantic fire. During his tenure on the bench, Lou was a sought-after judicial mediator in the Bankruptcy Court and the U.S District Court, and was held in high esteem by the bench and bar and for his multifaceted approach to mediation and his skill at helping parties achieve comprehensive and pragmatic solutions in difficult cases.

Lou is an author and sought-after speaker on mediation topics, including remote mediation, and has presented for ABI, NYIC and other groups. He is an active member of the American Bankruptcy Institute (ABI) where he currently serves as a co-chair of Special Projects for the Mediation Committee. Currently, he is working on a "Portable Mediation Program" designed to convey the benefits of mediation to local groups of judges and lawyers across the country.

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AREAS OF EXPERTISE

- **Bankruptcy and Reorganization**
- **Complex Litigation**

MEDIATION REGISTRIES

- **U.S. Bankruptcy Court for the Southern District of New York**
- **U.S. Bankruptcy Court for the District of Delaware**
- **U.S. Bankruptcy Court for the District of Massachusetts**

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www.bernsteinshur.com/lou-kornreich



Meet Paul, top-notch litigation strategist, tenacious trial lawyer, and Bernstein Shur's General Counsel.

Paul is one of Maine's go-to trial lawyers for difficult and bet-the-company litigation. He provides a unique and effective one-two punch for clients facing the prospect of litigation: combining a deep understanding of how the business world functions with ability to more clearly see the litigation playing field and, therefore, devise and implement winning strategies. Paul serves as General Counsel to Bernstein Shur. For many years, Paul was the Chair of Bernstein Shur's Litigation Practice Group.

Paul is known for being able to quickly master the nuances of complex subject areas and handle any type of litigation. Two of his greatest strengths are quickly and accurately evaluating likely outcomes and finding practical means to achieve them. As a neutral, Paul puts these skills to use in a setting that results in a win-win for both parties, rather than a zero-sum game.

Paul has consistently maintained the highest rating by independent researchers such as Chambers & Partners USA, Best Lawyers in America, Super Lawyers and Martindale Hubbell, which all attest to his experience and success in all aspects of civil litigation.

Paul's areas of practice concentration include:

- Corporate and Partnership Litigation, including claims involving corporate governance, corporate dissolution, shareholder/partner oppression and freeze out, and fiduciary duty issues
- Securities Litigation under the anti-fraud provisions of state and federal securities laws
- Commercial and contract litigation
- IP Litigation, including claims of trademark, trade dress, copyright infringement, trade secrets, as well as patent infringement

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www.bernsteinshur.com/paul-mcdonald



Meet Talesha, champion of employers and businesses, and daring home cook.

Talesha is a shareholder in Bernstein Shur's Labor & Employment and Litigation & Dispute Resolution Practice Groups and provides thoughtful and practical advice and counsel to employers regarding all aspects of employment law, including the FLSA, FMLA and ADA compliance, and Title VII and state human rights claims. She strives to help clients effectively navigate complex workplace laws and craft sensible policies to reduce risk and help avoid costly litigation. Talesha frequently represents employers in discrimination, harassment, retaliation, wrongful termination, FLSA, whistleblower, wage claim and FMLA litigation.

In addition to representing employers before both various government agencies and in court, she represents employers in collective bargaining, contract administration, grievance and arbitration proceedings, and before the National Labor Relations Board.

In her litigation practice, Talesha utilizes her extensive clerking experience to provide effective representation to her clients. Prior to joining the firm, Talesha worked at the New Hampshire Supreme Court as a judicial clerk for Associate Justice Carol Ann Conboy, and before that, she spent two years clerking for the New Hampshire Superior Court. Talesha knows the ins and outs of court processes and has built up a sturdy foundation in legal research and writing. Although she works to find creative non-litigation solutions, where litigation is unavoidable, Talesha is a committed and dedicated advocate.

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AREAS OF EXPERTISE

- **Labor & Employment**
- **Education**
- **Litigation & Dispute Resolution**

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www.bernsteinshur.com/talesha-saint-marc



Meet Roy, a seasoned litigator and proven ally to real estate developers.

Roy joined Bernstein Shur after 12 years as a principal of Kelley & Tilsley, where he established his reputation as an advocate for business owners, developers, and manufacturers. He has since expanded his clientele to include real estate brokers, automobile dealerships, contractors, health clubs, and restaurants, but his mission remains the same: to empower clients with the information they need to make strategic and well thought-out decisions.

Roy also routinely represents clients before municipal boards and state regulatory agencies—and wins. He was lead counsel in successfully challenging the Department of Revenue Administration's application of the Real Estate Transfer Tax to "no consideration" transactions. And just recently, he was co-counsel to the State Bureau of Securities in a successful administration proceeding against a Pooled Risk Management Program, an effort that led to a recovery exceeding \$50 million.

Roy is also approved as a Rule 32 Mediator by the New Hampshire Superior Court.

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AREAS OF EXPERTISE

- **Business**
- **Corporate Governance**
- **Land Use & Environmental**
- **Litigation and Dispute Resolution**
- **Municipal & Governmental Services**
- **Property Tax Valuation**
- **Real Estate**

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