

BARBARA BYRD WECKER
OF COUNSEL

NEW JERSEY SUPERIOR COURT APPELLATE DIVISION JUDGE (retired)
Mediation & Arbitration, Trial & Appellate Consulting

Work History: Of Counsel and Chair of the Alternative Dispute Resolution Department, Greenberg Dauber Epstein & Tucker, PC, 2007-present; Judge, Superior Court of New Jersey, Appellate Division 1996-06; Judge, Superior Court of New Jersey, Civil, Criminal and Family Divisions 1985-96; Private practice, Law Offices of Barbara Byrd Wecker, Westfield, New Jersey 1978-85; Adjunct faculty, Appellate Advocacy, Rutgers School of Law, Newark 1978-81; Associate Attorney, Lowenstein Sandler 1974-78; Teacher and Guidance Counselor variously between 1962 and 1967 in Missouri and Michigan.

Education: University of Virginia School of Law (Master of Laws in the Judicial Process, Graduate Program for Judges); Rutgers University School of Law Newark (JD with Honors, Law Review Editorial Board and Competition Chairman); University of Missouri at Kansas City (MA in Counseling, Ford Foundation Fellow); Cornell University (BA in Government, Phi Beta Kappa, Mortarboard); Hunter College High School, New York, NY (Student Government President, National Merit Scholar).

Judicial Experience: As a New Jersey Superior Court trial judge, presided over both jury and non-jury civil and criminal matters for more than ten years and served on the Appellate Division (New Jersey's statewide intermediate appellate court) for an additional ten years; tried and decided appeals in numerous complex commercial cases, including business and partnership breakups; employment discrimination, whistleblower and civil rights claims; insurance coverage issues, including environmental coverage, trigger of liability issues in toxic tort and hazardous waste coverage, professional liability and errors and omissions coverage, bad faith refusal to settle, fidelity and surety bonds, large deductible and self-insured retention programs, agency/broker and primary/excess issues; medical, healthcare and pharmaceutical issues, including medical malpractice, hospital and nursing home reimbursement rates, physician staff privilege and medical practice group disputes; property, construction and boundary disputes; products liability actions involving serious personal injury, including pharmaceutical warning and preemption issues; professional malpractice; class action certification; and other civil tort actions.

Written opinions for the court covered a wide variety of subjects (see above). Several opinions on complex commercial issues, insurance coverage, employment discrimination, tort and child custody and visitation questions were adopted in full or widely quoted by the New Jersey Supreme Court. Published opinions are available on Westlaw and Lexis.

Alternative Dispute Resolution Experience: Private mediation, arbitration and consultation in complex trial and appellate matters since 2007; arbitrator and mediator on the American Arbitration Association's roster of neutrals since 2008, including the AAA's national complex commercial litigation, employment and healthcare panels; New Jersey Supreme Court approved mediator, qualified under New Jersey Court Rule 1:40; Certified

Mediator for the United States District Court for the District of New Jersey and member of the panel of mediators for the United States Bankruptcy Court for the District of New Jersey; Representative arbitrations include complex, multi-million-dollar commercial contract disputes, law firm partnership disputes and restrictive covenant cases, employment discrimination, whistleblower and sexual harassment claims.

Representative mediations include employment-related cases (discrimination and retaliation claims, wrongful discharge, whistleblower disputes and contract claims), healthcare industry issues (including hospital privilege issues), professional and business partnership disputes, complex commercial contract disputes, commercial and residential real estate matters, construction contract issues, insurance coverage, brokerage fees and professional negligence, among others.

Alternative Dispute Resolution Training: National Association of Distinguished Neutrals, Advanced Mediation Training Retreats (Denver, August 2015; Boston, August 2013); American Bar Association Section on Dispute Resolution Spring Conferences 2016, 2014, 2013, 2012, 2009; New Jersey State Bar Association Annual Conferences and CLE 2015, 2014, 2012, 2011 and 2010 (including Mediation and Arbitration skills and process); Justice Marie L. Garibaldi American Inn of Court for Alternative Dispute Resolution 2008-present (monthly programs); New Jersey State Bar Association Section on Dispute Resolution (monthly programs); Union County, New Jersey Superior Court Mediation Training 2016, 2015, 2013, 2012, 2010, 2009, 2008; AAA Healthcare Payor-Provider Judicial Orientation 2011; AAA Muscular Arbitration: Trimming the Fat Out of Arbitration 2011; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards 2009; New Jersey Administrative Office of the Courts Foreclosure Mediation Training 2009; AAA Arbitration Fundamentals and Best Practices for New Arbitrators 2008; New Jersey Institute for Continuing Legal Education Civil Mediation Training Course 2007.

Professional Activities and Associations:

CURRENT: Fellow, College of Commercial Arbitrators; New Jersey Supreme Court Complementary Dispute Resolution Committee; National Association of Distinguished Neutrals (New Jersey Chapter); The Justice Marie L. Garibaldi American Inn of Court for Alternative Dispute Resolution (Board member); Section on Dispute Resolution Board member; American Bar Association (Section on Dispute Resolution); Rutgers School of Law Alumni Association (2006 Distinguished Alumna Award); American Bar Foundation (Fellow); Retired Judges Association of New Jersey (Immediate past President); National Association of Women Judges; Union County Bar Association; Women Lawyers in Union County.

PAST: New Jersey State Bar Association (Judicial Independence Task Force); Supreme Court Ad Hoc Committee on Continuing Legal Education; C. Willard Heckel American Inn of Court (President); Supreme Court Civil Practice Committee (Chair, Sub-Committee on Jury Innovations), Family Practice and Criminal Practice Committees, New Jersey State Board of Bar Examiners, District XII Ethics Committee and Complementary Dispute Resolution Committee, all by appointment of the New Jersey Supreme Court; New Jersey State Bar Foundation (Trustee); Legal Services of New Jersey, Inc. (Trustee); Union County Bar Association (Trustee); Women Lawyers in Union County (First President).

Publications: “Avoiding Impasse: A Mediator's Rules to Live By” in DEFINITIVE CREATIVE IMPASSE-BREAKING TECHNIQUES IN MEDIATION (Ed. Molly Klapper, published 2011, New York State Bar Association); Judicial Opinions, NEW JERSEY SUPERIOR COURT REPORTS, Westlaw, Lexis, 1986-2006; Master's Thesis: “Frye or Daubert in New Jersey? It's Not About Labels - It's About Reliability, Validity and Context,” submitted in partial fulfillment of the requirements for the Master of Laws degree 2005 (available in the Library of the University of Virginia School of Law); “Res Judicata - Judgment in Suit Between Navajo and Hopi Tribes,” 26 RUTGERS LAW REVIEW 909, Rutgers University, Summer 1973.

Speaking Engagements: “Ethics in Arbitration” panel in HB Litigation Conference “Anatomy of a Construction Arbitration September 2016; “Mediating Insurance Disputes,” New Jersey State Bar Association 2014 Annual Conference; Moderator, Peer-to-Peer Program for Mediators, NJSBA Section on Dispute Resolution October 2013; “Mediating Employment Disputes,” Garibaldi Inn of Court 2014; Speaker on Mediation Panel, “Avoiding Impasse,” ABA Dispute Resolution Section Spring Conference 2012, Garibaldi Inn of Court March 2012 and New Jersey Association of Professional Mediators December 2011; Arbitration Panel, NJICLE “ADR Day” 2011; “Appellate Practice,” Women Lawyers of Union County 2011; “Arbitration Under Recent New Jersey Supreme Court Decisions,” Union County Bar Association November 2010; “Appellate Practice,” Union County Bar Association June 2006; “Trying an Employment Case,” New Jersey Judicial College November 2004; “Appellate Advocacy,” Seton Hall University School of Law 1997, 1998; “Trial of a Lead Poisoning Case,” National Lead Litigation Conference 1996; “Proximate Cause in Professional Negligence Actions,” New Jersey Institute for Continuing Legal Education (ICLE) 1996; “Deposition Skills,” National Institute for Trial Advocacy 1995; “Proving Damages,” New Jersey ICLE 1995; “Litigating a Wrongful Death Case,” New Jersey ICLE 1994; “Bill of Rights Forum,” New Jersey State Bar Association 1990.

Private practice experience (prior to Judicial appointment): Immediately after law school, several years at a large commercial firm almost entirely involved complex commercial litigation. Thereafter, private practice included substantial employment discrimination and tort litigation, including products liability and defamation claims, as well as family law matters involving financial and child custody issues. Both before and after judicial service, private practice experience has included advising physicians and physicians' groups on issues including professional liability, partnership relations, staff privileges, consulting agreements and hospital contract matters.

Pre-law Experience: English and Social Studies Teacher, Maple Park Junior High School, North Kansas City, MO; Teacher/Counselor, Hazel Park, MI; Project R.E.A.D., Detroit, MI; Supervisor of Student Teachers, Kean College, Union, NJ.

Professional Licenses: Admitted to the Bar, New Jersey 1974; U.S. District Court, New Jersey 1974; U.S. Supreme Court 1983; Secondary School Teaching License: Missouri 1962 (inactive); Michigan 1964 (inactive).

Citizenship: United States of America