



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

PROBATE MEDIATOR PROFILE

DISCLAIMER: THE INFORMATION CONTAINED WITHIN THIS MEDIATOR PROFILE HAS BEEN PROVIDED BY THE MEDIATOR. THE SAN DIEGO SUPERIOR COURT DOES NOT GUARANTEE OR WARRANT THE CONTENT OR ACCURACY OF THE INFORMATION, OR THE COMPETENCY OR QUALIFICATIONS OF THE MEDIATOR.

I. CONTACT INFORMATION:

Mediator Name: B. James Brierton
Organization/Firm/Company: ADR Services, Inc.
Address: 225 Broadway, Suite 1400, San Diego CA 92101
Telephone Number: (619) 233-1323
Fax Number: (619) 233-1324
Email/Website: jbrierton@adrservices.com / http://www.adrservices.com/neutrals/brierton-james/

II. EDUCATION / SPECIALIZATION: Describe your relevant education and specialization(s) (specify the name(s) and location(s) of the institution(s) attended, the dates of attendance, and the specific degree(s) and/or certifications conferred):

Education/Specialization:

Please see attached Profile

Probate, Trust, and Estate Planning Education, and Other Relevant Education:

III. PROBATE AND OTHER RELEVANT EXPERIENCE: Describe your probate and other relevant experience (for each legal practice or employer, specify the relevant dates, practice/employer name and location, and the specific practice areas and/or types of relevant experience such as real estate or tax):

Please see attached Profile

Last updated: March 2018

IV. MEDIATION TRAINING: Describe your mediation training (specify the name(s) and location(s) of the training provider(s), the dates of the training(s), the number of hours of classroom training, experiential training, and specialized training):

Please see attached Profile

V. MEDIATION EXPERIENCE / STYLE:

Number of probate mediations conducted: 500

Number of other mediations conducted: 25

Description of mediation experience and style:

Facilitative but will employ evaluative analysis with concurrence of counsel. Joint sessions encouraged but utilized only with consent of parties/counsel and cautiously where sensitive or conflicted relationships.

Additional ADR experience (e.g., experience as an arbitrator, settlement conference officer, neutral evaluator):

VI. MEDIATOR FEE INFORMATION:

Hourly rate: \$ 425.00

Cancellation Policy:

If the mediation is canceled or postponed within 7 days for half-day matters, and 15 days for full-day matters, on the scheduled date the party requesting the cancellation or postponement is responsible for the entire deposit(not just the cancelling party's share of the deposit), unless Mr. Brierton's time can be rescheduled.

Deposit Policy:

Each participant's share of the total amount due must be deposited within ten days after issuance of invoices in order to guarantee the reservation, unless the date is sooner, in which case the deposit is due immediately.

Additional Policies or Fees:

ADR Services Inc. charges a \$195 administrative fee per party.

VII. LANGUAGE CAPABILITIES OF MEDIATOR:



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

PROBATE MEDIATOR CERTIFICATION AND RELEASE OF LIABILITY

PROBATE MEDIATOR CERTIFICATION

I B. James Brierton (Type or Print Name) certify as follows:

- 1. I request that my Probate Mediator Profile information be included in binders at various court locations to be made available to litigants by the San Diego Superior Court, Probate Division, pursuant to Cal. Rules of Court, rule 10.781 (hereinafter "List"). I understand that this Probate Mediator Certification and Release of Liability Form will be maintained by the court and will not be contained in the binders.
2. I agree that inclusion of my Probate Mediator Profile is a privilege which is revocable and confers no rights upon me. I understand that I serve at the pleasure of the court and may be temporarily or permanently removed from the binders at any time at the sole discretion of the court without cause.
3. I agree that if I fail to submit a completed Mediator Profile and updated Probate Mediator Certification on a bi-annual basis, my Mediator Profile will be removed from the binders. I accept the responsibility for providing updated Profile information and to provide written notice if I no longer wish to be included on the List.
4. I agree to comply with all applicable statutes, California Rules of Court, local court rules and all applicable ethics requirements, including but not limited to Cal. Rules of Court, rule 10.781, Evidence Code section 703.5, and Evidence Code sections 1115 et seq.
5. I agree to serve as a mediator on a pro bono basis for at least one case a year, not to exceed eight hours.
6. I am in good standing in California and in each state in which I am licensed to practice law.
7. I have never been disciplined by the State Bar of California, a bar association, a public disciplinary or professional licensing agency or any ADR organization or entity in any state or by any court of record.
8. I have never been declared a vexatious litigant.
9. There are no felony charges pending against me.
10. I have never been convicted of or pleaded no contest to a felony.
11. I have never been convicted of or pleaded no contest to a misdemeanor involving moral turpitude.
12. There has never been an entry of judgment against me in any civil action for actual fraud or punitive damages.

I certify under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

Date: March 28, 2018

B. James Brierton Signature of Mediator

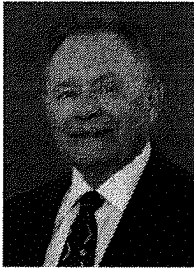
RELEASE OF LIABILITY

I hereby release the Superior Court of California, county of San Diego and its employees, agents, and assigns from any liability or damage which may result from furnishing any of the information requested in the Probate Mediator Profile and Probate Mediator Certification.

Date: March 28, 2018

B. James Brierton Type or print name of Mediator

B. James Brierton Signature of Mediator



B. JAMES BRIERTON, ESQ.

Mediator • Arbitrator



Regarded as one of San Diego's preeminent probate specialists, B. James Brierton, Esq. began his legal career in 1972 as Director of a clinic for low-income elderly and has since handled thousands of matters involving probate, trusts, estates, and elder law. In 1997, after completing over 100 hours of extensive mediation training, Mr. Brierton began serving as a mediator and arbitrator in addition to his litigation work. To date, he has mediated and arbitrated more than 500 cases involving disputed litigated and non-litigated matters in his field of law.

Mr. Brierton brings a record of extensive experience and expertise to ADR Services, Inc.:

- ❖ 45 years of experience litigating complex trust, probate and elder law matters
- ❖ 20 years as a distinguished mediator, settling over 500 cases
- ❖ Selected as a San Diego Super Lawyer continuously since 2009
- ❖ Certified Specialist in Trust, Probate and Estate Planning since 1991
- ❖ AV Preeminent rated by Martindale-Hubbell
- ❖ Executive Committee, Trusts and Estates Section of the California State Bar
- ❖ Judge Pro Tem, San Diego Probate Court

The tenacity, impartiality and creativity which Mr. Brierton brings to mediation inspires confidence in the parties to resolve their disputes. His ability to evaluate technical and complex legal issues involved in trust and probate disputes overcomes the stumbling blocks to settlement and fosters confidence in the mediation process.

REPRESENTATIVE MEDIATION CASES

- Conservatorship dispute wherein a son lived with his mother for two years in a part-time caregiver role and took over the managing of finances for his mother. His sister was concerned their mother was not receiving proper care and claimed that their mother was a victim of financial abuse by her brother.
- Dispute regarding financial losses suffered in Trust where trustee was local private fiduciary who refused to account to settlor's adult children. Settlor, while living in his own home, had exhibited behavior of forgetfulness and irrational thinking. Settlor's children had all been estranged from the parent for several years. His children filed a trust petition under Probate Code §17200 to surcharge and remove the trustee. Trustee contended children lacked standing, and settlor hired counsel to also contest the petition.

- Settlor, an 80-year-old man, married a 55-year-old woman who was hired as his caregiver through an agency eight months prior to their marriage. Settlor's son filed a petition for conservatorship shortly after the marriage. Settlor hired counsel to vigorously contest the conservatorship. Even though settlor had always enjoyed a loving relationship with all three of his children, he refused to communicate with them, vowing that he did not want to see them again.
- Trust contest wherein an estranged daughter happily reconciled with her parents. Three years after the reconciliation, her parents amended their trust to name the former estranged daughter as trustee, resigning as cotrustees. After the husband died, the mother amended the original family trust, which subdivided into Survivor's and Bypass subtrusts upon death of husband, and under the amendment the entire estate was given to the formerly estranged daughter, disinheriting entirely the parents' two other children. The mother died, and the two disinherited children filed a trust contest in which they contend both parents lacked capacity before father's death and further alleged the amendment was the product of undue influence. They also filed a financial elder abuse complaint against their sister.
- Settlor, a 75-year-old man, remarried after the death of his first wife of 40 years. Settlor created a QTIP Trust for his second wife which gave her an income-only interest in the QTIP on principal of \$10,000,000. After the husband died, his second wife filed a petition to modify the trust to increase the income rights to a unitrust amount of 10% of principal annually based on a claim that her husband assured her the income each year would be a minimum of 10%, and the net income was about 4% annually. Settlor's two adult children contested her petition.
- A 45-year-old woman suffered severe brain injuries in a car accident, rendering her in a vegetative state according to one doctor's opinion. She was placed on a ventilator and feeding tube. The woman's mother filed a petition for conservatorship of both person and estate. The woman's son also filed a competing conservatorship petition. The Court appointed the mother as conservator. The court also appointed a guardian ad litem for the conservatee. The GAL ultimately filed a petition in the conservatorship proceeding seeking whether the consent for life support should be withdrawn. The GAL also discovered information that the conservator had wrongfully disposed of assets of the conservatee.
- Husband and wife were married in 2001, a second marriage for both of them. The husband had substantial assets going into the marriage, and his wife had few assets. During the third year of their marriage, the parties executed mutual wills in which each left their estate to the other on the condition they were living together as Husband and Wife at the time of death. The husband also transferred two parcels of real property worth about \$1,500,000 into joint tenancy with his wife, although the transfer deed did not

specifically state that he was computing his separate property to community property. The parties separated in 2015, and both parties immediately revoked the 2003 wills. However, the husband died in 2016 before the divorce was final. The financial records established approximately \$225,000 in community property earnings had been used to make mortgage payments and pay real property taxes on the two parcels before the separation. After the husband died, his daughter filed a petition under Probate Code §17200 based on various claims that his wife had no interest in the two parcels or in the husband's estate.

MEDIATION TRAINING

- Straus Institute, Seminar, Advanced Mediation of Complex Cases, 2003 (2 hours)
- Creative Mediation Training, Jan Stone & Peggy Williams, 1999 (25 hours)
- National Dispute Resolution Center, Basic Mediation Seminar, 1997 (24 hours)
- National Dispute Resolution Center, Credentials Program, 1997 (34 hours)
- James Melammed & Los Angeles County Bar Association, Mediation Seminar, 1996 (25 hours)
- San Diego County Bar Association, Basic Mediation Training, 1994 (24 hours)

EDUCATION

- J.D., University of San Diego; San Diego, CA, 1971
- B.A., Carson-Newman University; Jefferson City, TN, 1965

SELECTED PROFESSIONAL ASSOCIATIONS, ACTIVITIES AND HONORS

- Member, San Diego County Bar Association, 1972-Present
- Chair, Probate Section of San Diego County Bar Association
- Chair, Probate Mediation Program, San Diego Superior Court
- Judge Pro Tem, Probate Department, San Diego Superior Court
- Member, State Bar Advisory Commission re: ADR Specialization
- Member, Trusts and Estates Executive Committee, State Bar Association
- CEB Continuing Education of the Bar Panels: Conservatorships; Special Needs Trust, Basics of Estate Planning, Basics of Probate; Advanced Trust & Probate Litigation; Blended Family Estate Planning
- AV Preeminent rated with Martindale-Hubbell
- San Diego Super Lawyers, 2009-Present
- 2017 Top Lawyers in San Diego, San Diego Magazine

BACKGROUND

- Analyst, Central Intelligence Agency, Washington, D.C., 1965 and 1968-1969
- United States Navy, Medically Retired Officer, SEAL Team One, 1967-1968