

JOHN P. DiFALCO

ARBITRATOR/MEDIATOR

April 19, 2012

Janna Bergquist
Executive Director
City Council, City and County of Denver
1437 Bannock, Room 451
Denver, CO 80202

RE: City/County of Denver Panel of Arbitrators

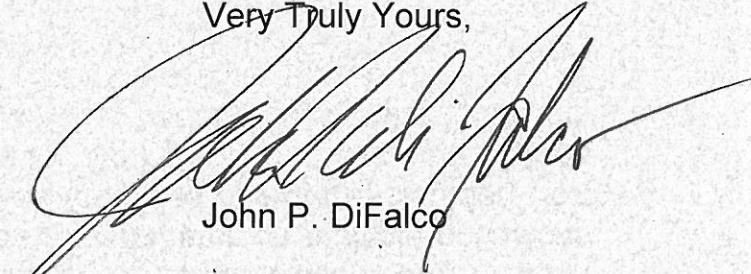
Ms. Bergquist:

I am responding to your inquiry concerning my availability to serve on the Panel of Arbitrators for the City and County of Denver. As you have requested, I am enclosing my most recent Federal Mediation and Conciliation Service (FMCS) and American Arbitration Association (AAA) resumes. In addition to being both an AAA and FMCS Panel Member, I am on numerous other panels and am a member of the National Academy of Arbitrators (NAA).

I have conducted many arbitrations for Colorado jurisdictions and those in other states. In Colorado, I have served as an Arbitrator on multiple occasions for the City and County of Denver as well as the cities of Aurora, Boulder, Fort Collins, Longmont, Pueblo, and Colorado Springs. I have also done considerable work for Denver Public Schools and various other school districts throughout the state, and I am on several panels including that for the state of Alaska. Indeed, I have just completed two arbitration hearings, one for the City of Aurora and one for the City and County of Denver. This, together with my work many years ago as Chief Negotiator for the City and County of Denver and the City of Greeley and my prior experience as a Labor Lawyer with the U.S. Postal Service affords me a considerable background in public sector labor relations and arbitration, specifically that involving impasse arbitration.

I am prepared to continue as a member of the Panel, if selected. If the Council requires any further information, do not hesitate to contact me.

Very Truly Yours,



John P. DiFalco

JPD/ap

Email: johndifalco@comcast.net

Present Occupation: Arbitrator

First Business Address:

Centerstone Business Park
8010 South County Road 5, Suite 206
Windsor, CO 80528-9004
Phone: (970) 530-2121
Fax: (970) 530-2122

Second Business Address:

4423 E. High Point Drive
Cave Creek, AZ 85331
Phone: (480) 595-5068

PROFESSIONAL AFFILIATIONS:

Association for Conflict Resolution	Labor and Employment Relations Assn. (LERA)
Colorado Bar Assn. (Labor Law Section)	American Arbitration Association
Federal Bar Assn. (Arbitration Committee)	National Academy of Arbitrators
American Bar Assn. (Alternate Dispute Resolution Section)	

EDUCATION:

JD	Law	Ohio State University, 1968
MA	Public Administration	University of Northern Colorado, 1986
BA	Economics	Ohio State University, 1965

CERTIFICATIONS:

Law Ohio, 1968, Colorado, 1972, District of Columbia, 1986

ARBITRATION/LABOR RELATIONS EXPERIENCE:

Arbitrator/Mediator/Fact Finder, 1987-Present. Arbitrate labor and employment cases (see Industries and Issues below) for FMCS, National Mediation Board and AAA, as well as serving on several permanent panels (see listing below). Private practice of law (since 1968). Adjunct faculty in Negotiations and Conflict Resolution; Alternate Dispute Resolution, Labor Law and Legal Ethics, Colorado State University; Assistant Professor (Business Law, Economics and Labor Law), Tri-State College in Angola, Indiana (1968-70). Attorney, U.S. Postal Service (1970-1977). Chief Labor Negotiator, City and County of Denver (1977-80). City Attorney, Greeley, Colorado (1980-87).

INDUSTRIES:

Aerospace; Airlines; Advertising; Agriculture; Aluminum; Automotive; Bakery; Banking; Beverage; Building Products; Brewery; Broadcasting; Canning; Cement; Chemicals; Clothing; Coal; Communications; Construction; Dairy; Distillery; Education; Electrical Equipment/Appliances; Electronics; Entertainment/Arts; Federal Sector-Grievance; Federal Sector-Interest; Feed & Fertilizer; Food; Foundry; Furniture; Glass/Pottery; Grain Mill; Health Care; Hotels/Motels/Casinos/Resorts; Hospital/Nursing Home; Iron; Lumber; Machinery; Meatpacking; Metal Fabrication; Mining; Nuclear Energy; Office Workers/Clerical; Organizations; Packaging; Paint & Varnish; Petroleum/Petrochemicals; Pharmaceuticals; Plastics; Plumbing; Police and Fire; Printing and Publishing; Prison Guard; Professional Sports; Public Sector-Grievance, Public Sector-Interest; Pulp and Paper; Railroads; Real Estate, Refrigeration/HVAC; Restaurants; Retail Stores; Rubber/Tire; Sports; Steel; Stone/Quarry, Textile; Transportation; Trucking and Storage; Utilities; Warehousing.

ISSUES:

Absenteeism; Affirmative Action; Age Discrimination; Arbitrability; AWOL, Bargaining Unit Work; Bonus; COLA; Conduct (Off-Duty)/Personal; Cost-of-Living Pay; Demotion; Disability Discrimination; Discharge and Discipline; Drug/alcohol Offenses; Fair Share Fee Guaranteed Work Week; Grievance Mediation; Health/Hospitalization; Hiring Practices; Holidays; Holiday Pay; Incentive Pay; Insubordination; Insurance; Interest Arbitration; Job Classification; Job Evaluation; Job Performance; Job Posting/Bidding; Jurisdictional

Dispute; Layoffs/Bumping/Recall; Leave; Lockouts; Management Rights; National Origin Discrimination; Official Time; Other Fringe Benefits; Past Practices; Pension and Welfare Plans; Promotion; Race Discrimination; Rate of Pay; Red Circle Rate; Retirement; Safety/Health Conditions; Seniority; Sex Discrimination; Sexual Harassment; Sick Leave; Slowdowns; Strikes; Lockouts; Subcontracting/Contracting Out; Tenure/Reappointment; Union Business; Union Security; Vacation; Violence/Threats; Wages; Work Stoppages; Work Week Change.

PERMANENT PANELS:

Social Security/AFGE	USAF/AFGE	ARMY/AFGE	NATCA/FAA
King Soopers/UFCW	IFAA/Denver/Pueblo	ATT & IBEW	
ALASKA/PSEA/PEL 71	IBPO/Denver/Pueblo/Greeley	IRS/NTEU	
Interior/AFGE	FAA/Multi-Unit	City and County of Denver/All Unions	

ARBITRATION ROSTERS:

Denver Public Schools/School Unions	City of Littleton/Police
Jefferson County Schools/Classified Unions	City & County of Denver/Police, Fire, Sheriff
City of Loveland/Police	Pueblo Schools/Teachers
American Arbitration Assn.- Labor/Employment	City of Boulder/IAFF
City of Fort Collins/Police	City of Englewood/Certified Employees

PUBLISHED CASES:

102 LA 910 (1993); 103 LA 417 (1994); 106 LA 166 (1996); 103 LA 824 (1994); 109 LA 768 (1997); 114 LA 1551 (2000); 109 LA 944 (1997); 116 LA 647 (2001); 116 LA 826 (2001); 117 LA 1165 (2002); 117 LA 1705 (2002); 118 LA 491 (2003); 119 LA 1313 (2004); 120 LA 809 (2004); 124 LA 337 (2007); 124 LA 545 (2007); 124 LA 1049 (2007); 125 LA 363 (2008); 125 LA 1149 (2008); 125 LA 1413 (2008); 126 LA 144 (2008); 127 LA 942; 129 LA 153 (2011)

PUBLICATIONS:

ASupervisors Guide to Discipline@, 1979, Revised 1985; ALaw and Policy on Sexual Harassment@, 1984; ANegotiations & Conflict Resolution@, 1996; numerous magazine and journal articles, 1987-present.

FEES:

PER DIEM FEE: \$1,600.00

DOCKETING FEE: \$0 **CANCELLATION FEE:** (See Below)

Grievance Arbitration: The fee is \$1,600.00r day for hearing, and for research and preparation of the opinion and award. A hearing day is any portion of the day up to eight hours.

Cancellation Policy: If the scheduled hearing is postponed or cancelled with notice of less than thirty (30) days, the per diem fee for each day of hearing shall be charged if another matter cannot be set in its place.

Interest Arbitration, Fact-Finding and Labor Mediation: Arbitrator charges \$2,250.00 per day (for up to 8 hours). Time for research and preparation is prorated at \$350/hour.

Travel Time: Arbitrator charges per diem fee for any portion of a travel day up to eight hours.

Expenses: Arbitrator charges actual cost of reasonable expenses, including airfare, car rental, food, and lodging. Automobile mileage is charged at the applicable IRS expense rate. Arbitrator charges actual expenses for copying, phone, and clerical assistance.

Detailed fee information will be forwarded to parties immediately upon selection.



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Contact American Arbitration Association

16 Market Square
1400 16th Street, Suite 400
Denver, CO 80202
telephone: 720-932-8134
facsimile: 720-932-8100

John P. DiFalco, Esq.

Current Employer-Title Self-employed - Arbitrator and Mediator

Occupation Attorney, Arbitrator

Experience Labor and Employment Arbitrator since 1980. Over 40 years of experience as a civil trial lawyer specializing in government, administrative, and business contract law including significant experience in the practice of arbitration, mediation, and other forms of alternative dispute resolution. As a municipal attorney, participated in the construction management of major projects including performing arts center; senior center; recreation facilities; airport improvements; and wastewater, transportation, and waterways. Familiar with disputes relating to differing site conditions; design defects; change orders; surety bonds; and municipal, state, and federal contract law. Possesses considerable government experience, including negotiations with federal and state government agencies in connection with the construction of public buildings, wastewater and water treatment facilities, transit systems, and airports. Adjunct Professor, Colorado State University, Fort Collins, Colorado. As panelist for the American Arbitration Association and the Federal Mediation and Conciliation Service, has engaged in the practice of labor, employment, commercial, and construction arbitration, mediation, and other alternative dispute resolution. Clients include numerous public and private entities throughout the nation. Experience in mediating or arbitrating cases involving arbitrability, contract interpretation, delays, design defects, product liability, remedies, and many other issues.

Issues Arbitrability, benefits, contract interpretation, discharge, discipline, discrimination, external law, grievance procedure, job assignments, job classification, pay, seniority, subcontracting out, tenure issues (higher education), timeliness, affirmative action, absenteeism, bargaining unit work, conduct, demotion, fringe benefits, health/hospitalization, hiring practice, job performance, job posting/bidding, jurisdiction, layoffs/bumping/recall, management rights, official time, past practices, pension and welfare plans, promotion, retirement, safety/health conditions, sexual harassment, strikes/lockouts, work hours/schedules/assignments, working conditions, work orders, violence or threats.

Industries Entertainment, government (federal, state and local), grocery, higher education, meat packing, mining, oil and gas, postal, professional sports, public utilities, retail, schools, steel, telephone, transportation, professional sports, metals, television, K-12 education.

Permanent Arbitrator City and County of Denver/All Unions; FAA & Multi-Units; Alaska/PSEA/PEL 71/IBPO/Denver/Boulder/Pueblo; IRS & NTEU; ATT/IBEW Interior/AFGE; Social Security AFGE.

Work History Arbitrator and Mediator, 1987-present; President, DiFalco Corporation, 1980-Present; Owner, John P. DiFalco & Associates, P.C., 1987-11; City Attorney, City of Greeley, CO, 1980-87; Chief Negotiator/Labor Relations Attorney, City/County of Denver, 1977-80; Hearing Examiner, U.S. Postal Service, 1972-77; Attorney & Labor Relations Specialist, U.S. Postal Service, 1972-77, Attorney, Real Estate and Procurement; General Counsel, U.S. Postal Service.

Education Ohio State University (BA-1965; JD-1968); University of Northern Colorado (MA-1986).

Professional Associations American Bar Association (Committee on Public Employee Bargaining); Colorado Bar Association (Labor Law Section); Federal Bar Association (Committees on Public Sector Labor Relations, Arbitration and Office Management); Industrial Relations Research Association; Labor and Employment Relations Association; Phi Delta Phi International (Legal Fraternity); International Platform Association; National Academy of Arbitrators.

Professional Licenses Admitted to the Bar: Ohio, 1968; Colorado, 1972; District of Columbia, 1987; U.S. District Court, District of Colorado; U.S. Court of Appeals: Tenth and Federal Circuits, 1986; U.S. Supreme Court, 1972).

Publications and Speaking Engagements "Legal Ethics and Negotiation," Various times and locations; "The New Ethics Regulations - Confusing and Likely to Be Changed," POSTMASTERS ADVOCATE, March 1991; "Sexual Harassment Revisited," POSTMASTERS ADVOCATE, May/June 1989; "Supreme Court Permits Office Searches of Public Employees," POSTMASTERS ADVOCATE, December 1987; "Twenty Rules for Effective Meaningful Bargaining," POSTMASTERS ADVOCATE, August 1987; "Children as Negotiators: Is Theirs an Acquired or Inherited Trait?," POSTMASTERS ADVOCATE, June 1987; "The Law and Policy on Sexual Harassment," NATIONAL LEAGUE OF CITIES, 1984; "Collective Bargaining," NEW ENGLAND MUNICIPALITIES, 1982; reprinted, NIMLO LAW DOCKET, 1983 and WASHINGTON ASSOCIATION OF CITIES, 1983; "Negotiation Impasse Planning," OKLAHOMA MUNICIPALITIES, 1981; "Municipal Strike Planning," COLORADO MUNICIPALITIES, 1980; SUPERVISOR'S GUIDE TO DISCIPLINE, 1979, revised 1985; "Management Negotiators: A New Breed," NATION'S CITIES, May 1978; "Rights of Criminals While Incarcerated," OHIO STATE UNIVERSITY LAW JOURNAL, 1978; DISCIPLINE AND GRIEVANCE HANDLING, 1973, revised 1986.

Alternative Dispute Resolution Training AAA Arbitrator Update 2003; AAA Labor Arbitrator II Training, 2003; Attended AAA Neutrals Conference, 2003.

Compensation \$1,600 Per Day

Daily rate for each day of hearing and each day spent in consideration of evidence and preparation of Award. Cancellation fee: fee in the amount of one per diem for each scheduled day of hearing will be assessed if not notified within 30 days prior to the scheduled hearing date.

Languages Italian

Citizenship United States of America

Locale Windsor, CO

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