

# MEDIATOR PROFILE

## Roy Scott Kobert

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**Florida Supreme Court Certified Mediator:** #36341 R

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**Certified Federal Court Mediator, Middle District of Florida**

**Bankruptcy Court Mediator**

**Florida Supreme Court Trained Arbitrator**



### Experience:

After 30 years of practicing law, Roy has been repeatedly called upon over the last decade to serve as a designated neutral in a myriad of substantive cases. Board certified for nearly 20 years, he is a recognized expert in all facets of bankruptcy matters (drafting of consensual Chapter 11 plans of reorganization, pre-suit and pending adversary proceedings, voidable preferences, fraudulent transfer litigation, fraud in the inducement, claims objections and objections to discharge). The West Palm Beach Bankruptcy Court ratified Roy's selection as the exclusive mediator for up to 42 adversary cases. In 2021, this time the Orlando Bankruptcy Court ratified Roy's selection as the exclusive mediator for up to 50 adversary cases. He has mediated a broad range of civil and commercial disputes in state and federal courts including breach of contract; non-compete and restrictive covenants; partnership disputes; banking and U.C.C. Article 9 issues; receiverships; insurance coverage and bad faith claims; employment, eminent domain; valuation disputes, business dissolution; legal malpractice; lender liability; landlord/tenant disputes and foreclosure/lien contests amongst others. On several occasions, Roy was retained for the first time to mediate cases following prior impasses.

### Virtual Mediations:

Roy can mediate your case seamlessly on either *Zoom Video Communications, Inc.* or *Cisco Webex* platforms. He also offers a complimentary pre-mediation practice session of the virtual mediation process to ensure that all parties feel comfortable with the technology.

### Mediation Training:

Roy is the first Florida based graduate of the forty hour advanced mediation course conducted by the St. John's University School of Law (New York City) at the Governor Hugh L. Carey Center for Dispute Resolution.

## Mediation-Related Comments from the Judiciary:

- Following mediation successfully concluded the night before the pre-trial conference, the Court told the litigants, “And tell Mr. Kobert thank you when you talk to him next.” *In re: Krueger (Wesbanco Bank, Inc. v. Nett Construction Co., LLC.)*, Case No.: 6:20-ap-00119-KSJ, (August 12, 2021) (Orlando Division).
- In open Court discussing a 3 party mediation, the Chief Judge stated, “Mr. Kobert did a phenomenal job [in a prior mediation]... Mr. Kobert exhibited incredible skill. I would say he was sort of my assistant mediator, in negotiations between counsel, who definitely had their horns locked in a death battle. I have also heard very complimentary remarks about Mr. Kobert’s skill as a mediator in a number of other cases. So to the extent that you are thinking about Mr. Kobert, he would be great. Mr. Kobert is excellent.” *In re: Tampa Bay Marine*, Case No. 8:20-bk-01418-CED (October 5, 2020) (Tampa Division)
- In discussing the ideal mediator to handle a complex commercial business dispute involving allegations of (i) fraud; (ii) embezzlement; and (iii) willful and malicious injury, the Chief Judge commented that “[Kobert] is a good lawyer and a good mediator.” *In re: Talanga*, Case No. 8:17-09357-MGW (February 28, 2019) (Tampa Division)
- At a hearing held in open court to confirm the consensual Plan of Reorganization drafted at mediation, the presiding Judge commented on a 4-party mediation, “I do want to thank Mr. Kobert for his services. I have had the good fortune of working with Mr. Kobert as almost a co-mediator in another case and he does a very good job and doesn’t give up, even when the going gets rough... So thank you to Mr. Kobert for his hard work.” *In re: C&D Fruit and Vegetable Co., Inc.*, Case No. 8:18-00997-CED (September 24, 2018) (Tampa Division)
- “I thank you Mr. Kobert for resolving this mediation. Mr. Kobert is one of the best lawyers in the Middle District. He appears before all the bankruptcy courts in the Middle District and we look forward to him coming in because he does such a good job.”; *In re: Lou Webber Tire, Inc.*, Case No. 3:16-03574-PMG (February 6, 2018) (Jacksonville Division)
- Following an 8 party mediation, during consideration of the Mediator’s Fee Application the Court commented “I will approve 100% of the fees and 100% of the costs and Mr. Kobert, I do think you did an excellent job here. You really did.” *In re: Chariots of Palm Beach, Inc.*, Case No. 9:17-19455-PGH (October 11, 2017) (West Palm Beach Division)
- At a hearing held in open court to discuss potential mediators for a complicated commercial foreclosure action, the presiding judge commented, “Mr. Kobert would be an outstanding choice to resolve this.” *In re: David W Goldman*, Case No. 8:12-17503-KRM (March 2, 2017) (Tampa Division).
- “The Mediator did an excellent job and successfully mediated [3 related] controversies.” See December 30, 2013 Order Approving Application for Allowance of Mediation Fees and Reimbursement of Expenses to Mediator, Roy Kobert, Esq. (Docket #366) *In re: Lourdes Zaczac*, Case No. 6:08-12225-CCJ (Orlando Division)

- Mr. Kobert was found to be both “an experienced mediator” and “a talented mediator” in a reported decision ratifying a mediated result over an objection to the settlement. See *In re: Johnson; Afflis v. Johnson*, 2010 Bankr. LEXIS 3671 (Orlando Division)

### Mediation Publications:

- Contributing Author, *Bankruptcy Mediation* (intermediate level paperback training book)
- *ZOOMing Along...How to Get the Most Out of Your Next Virtual Mediation*; Spring 2021 publication by the *Tampa Bay Bankruptcy Bar Association*

### Instructor at Mediation Seminars:

- “Effective Use of Mediation in Commercial Bankruptcy Matters,” (37th Annual Paskay/American Bankruptcy Institute Seminar)
- “Mediation as an Effective Cost Saving Measure in Chapter 11” (Jacksonville Bankruptcy Bar Association Annual Seminar)

### Mediation Professional Associations:

- Diplomate, National Academy of Distinguished Neutrals (by invitation only)
- Federal Model Mediation Rules Committee
- Alternate Dispute Resolution Committee, The Florida Bar
- Board of Directors, American Board of Certification, 2009-2011

### Testimonials From Past Mediation Participants (actual litigants):

- “Mr. Kobert was engaged to mediate a 4 party business dispute, in which he was *selected by the borrower*. As a banker, I appreciated his ability to parse through the substantive issues; achieving not only a financial resolution but resolving competing non-financial issues as well.” M. M., Vice President, Special Assets Manager, (North Florida Region)
- “The Court appointed me as its receiver for a successful intellectual property enterprise in which the co-founders could not agree on ownership of their business. During periodic sessions over 4 months, Mr. Kobert painstakingly guided us through the process, resulting in a settlement agreement. Over an objection, the Circuit Court ratified the mediated result thus avoiding a three-week special set trial.” L. H., CPA, PA, Receiver (Tampa)
- “I had a unique vantage point wherein I worked alongside Mr. Kobert addressing investment banking issues, while Mr. Kobert mediated the business issues. Roy has the required legal acumen, but also comprehends the human psyche along with a large dose of common sense to get the job done.” F.L., CIRA (Atlanta)
- Based upon my prior mediation experience, most other mediators, after 2 days and nights, would have simply declared an impasse since I too thought that a settlement was inconceivable. Mr. Kobert wouldn't quit on the process. Dr. G., M.D. (Polk County, Florida)

- “[Kobert] is the best I’ve ever seen. Although the case he mediated did not (yet) settle, the effort, passion and sheer intellect, not to mention momentum, is present in this guy...He gets litigation in its deepest respects and I think all parties will appreciate him...Now that the Court has ordered compulsory mediation, this is the guy for us. I have never before recommended a mediator. This guy is top flight.” M.S. (New York)

## Awards and Recognitions:

- AV Preeminent™ rated by *Martindale-Hubbell*, consistently since 2004 (Bankruptcy) (Alternative Dispute Resolution, 2015)
- *Best Lawyers in America*, consistently since 2006
- Florida *Super Lawyers*, consistently since 2006
  - Top 50 Lawyers in Orlando, 2018-2020
- *Chambers USA*, Bankruptcy/Restructuring, consistently since 2005 (Band 2)
- Litigation Counsel of America, Fellow, 2013-2015
- *Orlando Magazine*, Best Lawyers, 2006-2007, 2009-2020
  - Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, consistently since 2009; Litigation – Bankruptcy, consistently since 2009
- *Florida Trend*, Legal Elite, 2005, 2009, 2012, 2014-2020
- Leading Florida Attorney, Bankruptcy and Workout Law, consistently since 2007
- Named "Top 10 Businessmen to Watch in 2009," *Orlando Business Journal*
- America’s Top 100 Bet-the-Company Litigators, Northern Florida 2019

## Venues:

Sometimes a neutral site facilitates the overall mediation process. Mr. Kobert offers, at no charge to participants, use of his Florida conference centers in (i) Boca Raton, (ii) Ft. Lauderdale, (iii) Ft. Myers, (iv) Gainesville, (v) Jacksonville, (vi) Key West, (vii) Lakeland, (viii) Melbourne, (ix) Miami, (x) Naples, (xi) Orlando, (xii) Tallahassee, (xiii) Tampa, and (xiv) West Palm Beach.

## Rates:

\$220/hour/party for a two party mediation. For three or more parties, please call for rates.