

VERDICTS & SETTLEMENTS

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‘Good People Sense’

Attorneys say neutral Peter Marx brings an especially effective human touch to mediations.

By Shane Nelson

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Longtime mediator Peter J. Marx knows sometimes it's the little things that resolve disputes.

“One of the true advantages of mediation is you have an opportunity to explore matters which aren't admissible at trial,” Marx said, “matters which are extraneous or tangential or at best peripheral to the issues of law and fact that would be heard at trial.”

No matter how irrelevant those issues may be in a courtroom, they can prove tremendously important during the course of a mediation, Marx said.

“They may be what is really motivating a party, making that party resistant or recalcitrant or just plain difficult,” Marx explained, “and ultimately preventing that party from engaging in the process.”

Marx said he refers to these as “client's interests,” and he said it's his job as a mediator to explore those with the parties.

“You don't necessarily resolve all the questions - or any of the questions that may be reflected by those interests, but you give the party a comfort level,” Marx explained. “The party's been heard; those interests have been acknowledged. ... That's one of the beauties of mediation: the ability to surface those interests which may be lurking beneath the surface, but are of real importance to the parties. And if you can address those interests, you're on your way to resolution.”

A 1966 New York University School of Law graduate, Marx struck out on his own in Los Angeles as a litigator and transactional attorney in 1972, tackling a diverse collection of business, employment



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and entertainment cases. Marx said he mediated his first case in 1988, however, and he found bringing people together much more gratifying.

“Litigation is not user-friendly,” Marx said. “And even if you prevail, you sometimes wonder if it's worth it. ... Whereas if you can sit down with two or more parties and bring them to an agreement whereby they resolve the case themselves without all the expense and burden and disruption and stress of litigation, I think you've done something worthwhile. You've accomplished something that benefits people.”

Marx continued to work as an attorney while building his mediation practice up until to 2015, when he finally closed his law office en-

tirely to focus fulltime on alternative dispute resolution. Now a member of the Alternative Resolution Centers' (ARC) roster of private neutrals, Marx said he no longer handles disputes as an arbitrator but still tackles a robust caseload as a mediator, focusing regularly these days on business, employment and entertainment matters.

“I have mediated a huge variety of cases,” he said. “Everything from complaints about the noisy dog next door to six- or seven-figure business and employment matters.”

Marx noted that he likes to receive briefs from all the parties prior to a mediation, and he tries to talk over the phone with counsel beforehand, a conversation during which he always tries to ask about whether

Peter J. Marx

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“their client has any particular sensibilities or sensitivities.”

“You need to know a little bit about them,” Marx added. “Any particular concerns that they have or any tendencies or habits or whatever that is in their mental and emotional makeup that I should be aware of, so I can avoid areas that are sensitive but also utilize areas that might be helpful to building rapport.”

Along with the work Marx mentioned he does on the day of mediation aimed at really hearing from the parties and building genuine rapport, the ARC neutral said he also tries to provide perspective on case value.

“Sometimes an attorney is concerned their client may have unrealistic views about the case,” he explained. “And they ask me to be an agent of reality. ... I tend not to be evaluative per se, but I do highlight areas that might affect

the value of the case in one way or the other. The goal is to have the parties reach an agreement, and it’s their agreement.”

Agoura Hills plaintiffs’ attorney Timothy B. Sottile has used Marx to resolve several employment disputes, and he described the ARC neutral as very relatable and patient.

“He just has good people sense, and I think that’s very important if you’re going to help parties strike a deal and resolve their matter,” Sottile said. “He has a very human touch. He’s someone who - if one needs to have a client interact with the mediator - he can put them at ease and help them understand the process and feel comfortable with it.”

Los Angeles business litigator Jeffrey A. Cohen used Marx to resolve a contentious business partner dispute last year, and he agreed that the mediator was terrific with clients.

“He had a soft touch that was appropriate in our case to get a heated exchange between the parties under control,” Cohen said, noting the dispute became emotional at times. “Peter supplemented the efforts of opposing counsel nicely in trying to get his client under control.”

Los Angeles plaintiffs’ attorney O. David Natanzi used Marx last spring to resolve a wrongful termination suit that featured sexual harassment allegations.

“My client was very young. She was 23,” Natanzi said. “Peter’s a little older, but despite the age gap and the difference in their lives, he could relate to her. He was very empathetic to her situation. He listened to her. He understood where she was coming from. And I think that helped convince the other side in terms of where the emotional distress claim also might impact the value of the case.”

Natanzi noted the dispute didn’t settle on the day of mediation, but Marx didn’t give up.

“Peter stayed on the case for another three or four months, going back and forth with myself and opposing counsel, negotiating demands, offers,” Natanzi recalled. “I’ve never seen a mediator stay on a case that long. ... He was tenacious, and ultimately, it resolved at the range that it should of, so it was a fair resolution.”

Here are some attorneys who have used Marx’s services: O. David Natanzi, Jay S. Rothman & Associates; Timothy B. Sottile, Sottile Baltaxe; Jeffrey A. Cohen, Cohen Business Law Group APC; R. Michael Ghilezan, The Ghilezan Law Firm; Joseph J. Gigliotti, Gigliotti & Gigliotti LLP

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