

VERDICTS & SETTLEMENTS

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A Closer

Mediator Peter Lichtman is down-to-earth and known for putting pressure on both sides.

By Justin Kloczko
Daily Journal Staff Writer

Peter D. Lichtman didn't become a neutral because it was an easy way to sunset his legal career. He had been settling cases for virtually his entire 18 years on the bench. More importantly, he liked doing it and was good at it.

When Lichtman was appointed to the Los Angeles County Superior Court in the early 1990s, he was doing settlements from the get-go, overseeing drunk driving cases during the morning calendar and then helping settle matters in the afternoon.

"I did them my entire judicial career," said Lichtman.

Now after 10 years at JAMS, Lichtman has moved shop to Signature Resolution, the relatively new ADR firm started by a collective of judges. Lichtman analogizes his arrival to moving to the Yankees during the golden era of baseball.

"It is mediators who have started a shop for mediators," said Lichtman. "They've done everything right in my opinion. At least in LA, Signature has become the premier place to be for mediators and for attorneys who want cases resolved."

Lichtman is regarded as one of the best settlement judges around, but don't expect him

to wave a magic wand around a case and solve all of its problems, attorneys say. Lawyers have to know how to approach a mediation, he said.

"Sometimes I am mediating whether you should even have a mediation," said Lichtman. "I think there is too much punting."

Hypothetically, Lichtman said, the plaintiff makes a \$1 million demand, and is flabbergasted when an offer of \$5,000 is made. It will often come out that parties never communicated a range.

"So now I have a mediation where they are at \$5,000 to a seven-figure number. I got three decimal points to bridge. How is that going to happen?" explained Lichtman.

A major issue he sees in modern mediation is attorneys who don't take well to having an unsuccessful mediation.

"Back in the day if a mediation didn't work, attorneys would say, 'Thank you, guess we'll have to try the case.' And that's it."

Today a younger attorney might be mystified as to why a case didn't settle and have trouble accepting it, he said.

"They are not used to that disappointment and facing the reality of a trial," said Lichtman.

Underlying all of this, Lichtman believes, is a lack of court-



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room experience and fundamental changes to how people communicate. Actual conversations don't take place, he said. They are now fragmented through texts and emails. He urges parties to simply pick up the phone and talk to one another.

When he started in the 1970s the phone was his primary tool.

"Now you're dealing with a generation of people who have lost the phone as a skill, lost communication as a skill," he said.

As a result a mediation often morphs into a de facto trial, and that's not good, said Lichtman.

He likes to get right into it: Why are the parties there?

He dislikes when attorneys show up to his mediation and say, "We're here your honor because we have to be."

"I cringe when I get those. I really do," said the judge.

He urges parties to test the waters, "because you will come back. No question about it," he said.

Peter D. Lichtman

Signature Resolution
Los Angeles

Areas of specialty:

personal injury, complex construction defect, insurance, environmental, securities, real estate, employment

He said mediations are least effective when they are required.

"The ADR community may be up in arms about what I have to say, but the truth of the matter is I have never had much success with built-in provisions mandating mediation before either filing or initiating arbitration," said Lichtman. "I find attorneys use that provision as a way to check the box."

Lichtman cites two keys that can make for a successful mediation: Good communication between attorneys and shedding an

adversarial attitude in exchange for a settlement one.

Many factors go into a mediation, such as relevant rulings, a trial date, and who is really driving it, he said. Is it the client? The insurer? The attorney?

“There’s a huge psychological element to all of this,” said Lichtman.

The hardest part is having to make a more pro-active decision, such as a mediator’s proposal. Parties have to be close enough numerically and swayed without lines in the sand being drawn.

“The fate of this settlement is in your hands,” said Lichtman.

He said effective mediators can see from the beginning if there is a chance for settlement or not.

“Most of the time I can predict where the settlement range can be the night before,” said Lichtman.

Joseph Lovretovich of JML Law APLC, who has used Lichtman’s mediation services several times, said he is fiercely

independent and doesn’t like to be manipulated by counsel.

“He doesn’t like to be used by one side or the other to send a message,” said Lovretovich, who described the mediator as evaluative compared to facilitative.

The judge is honest and will tell attorneys what he thinks their case is worth, Lovretovich said. “He has said to me, ‘You should try this one.’”

Amber Healy has litigated employment cases for plaintiffs and defendants, using Lichtman about 30 times over the last decade. She said he stands among the top mediators she has used.

“He is very effective conveying to clients the reality of a courtroom and not just facts of the case,” said Healy, of Amber Healy, Atkinson, Andelson, Loya. “His judicial experience combined with his down to earth approach appeals to parties.”

Healy recommended attorneys keep their mediation briefs short and direct.

Carney Shegerian of Shegerian & Associates, an employee-side labor attorney, said Lichtman would make a list of top three mediators in the state.

“He is not the mediator to go to if you want to have a *kumbaya* moment,” said Shegerian. “If he says you are overvaluing a case you can be sure he is right.”

Lichtman was appointed to the bench by Gov. Pete Wilson in 1993. He began overseeing complex cases soon after. As a judge he handled major cases, including the Southern California clergy abuse case, a civil suit against private investigator Anthony Pelicano, and the Chatsworth Metrolink crash matter. He remained as a complex judge for 10 years until heading up the court’s mandatory settlement conference program.

Lichtman speaks fluent Portuguese. For a time after college he taught tennis in Brazil.

He observed that attorneys mediating cases remotely with

him during the pandemic have been pretty calm.

“In the comforts of their own home, or wherever they’re calling from, they seem to be more relaxed,” said the judge.

Asked why Lichtman thinks attorneys hire him, he said he’s “efficient,” and “a closer.”

“I’ll put pressure on both sides, relentlessly, if I have to,” he said. “I don’t really care about losing one side.”

He said he has a list of fans and enemies.

“There are plenty of people that don’t want to hire me,” he laughed.

Here are some attorneys who have used Lichtman’s services: Marc J. Jacobs, Fisher Phillips LLP; Julie E. Van Wert, London Fischer LLP; Amber Healy, Atkinson, Andelson, Loya, Ruud & Romo; Michael Bidart, Shernoff Bidart Echeverria LLP; Joseph M. Lovretovich, JML Law APLC.

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