

VERDICTS & SETTLEMENTS

www.dailyjournal.com

FRIDAY, SEPTEMBER 30, 2016

Mediator plays different roles to resolve disputes

Judicate West mediator Ed Oster views his task as similar to a river guide

By **Steven Crighton**
Daily Journal Staff Writer

ORANGE — Ed Oster thinks of parties working through a mediation as paddlers fighting against the current of a raging river. And as mediator, it's his job to guide them safely to shore.

"Everyone's in the same boat — plaintiff and defendant. No one wants to go over the falls, which would be a trial, and who knows what happens there," Oster said. "The river guide is getting everyone to work together, to get everyone rowing in the same direction."

To align everyone's expectations, Oster works hard from the outset of mediation to establish relationships with all individuals involved and earn their trust. It's an approach that lets him find where common ground exists between parties that could provide the blueprint for a resolution.

"Each case is different. Sometimes you have to be the psychologist, sometimes you have to be the teacher, sometimes a construction worker — or a demolition expert when you have to blow up someone's position," Oster said. "But the one constant through all of it is that you have to be genuine, 100 percent of the time."

Oster became a mediator in 2013 after 38 years as a trial lawyer. He initially worked independently, but joined Judicate West as a fulltime mediator in 2015.

He studied pre-med in college, looking to follow in the steps of his father, a small-town doctor who died when Oster was young. But his formative years were peppered with experiences that nudged him toward a legal career.

Oster was active in debate tournaments throughout high school and college, where he learned skills that helped him during his 38 years as a trial lawyer and, later, in mediations.

"It forced you to look at things from the other side. In advocacy, there's



Courtesy of Judicate West

such a tendency when you're representing someone to concentrate on your own position so much that you can't see things from the other side's position," Oster said. "As a mediator, you've got to have the whole field open to you."

Another important mediation lesson — keeping calm when others can't — came while working as a dispatcher for an emergency road service to help pay his way through college.

"My job was to take the telephone call and to radio the trucks to make the individual service calls," Oster said. "The people that would call, they were really stressed. It was my job to be calm and to calm them down, and say, 'Look, I've got your back, help is on the way.' It was really the best training I could possibly get for being a mediator."

Instilling calm can be especially important in cases involving multiple defendants, where the stakes are typically higher and all defendants are working to mitigate their own liability by pointing the blame elsewhere.

In those situations, Oster prefers to plainly lay out the facts of the case. It helps everyone get on the same page, making them more likely to work in tandem to find a resolution, he said.

"The defendants, as you can readily

imagine, want to know how this gets divided," Oster said.

"So you have to help the defendants understand that they could improve their own position and get to where they want to be by helping out someone who is opposed to them but similarly situated," he added. "Not just paying lip service, but really doing it."

Paul R. Dixon, a partner at Dixon & Daley LLP, said Oster is adept at guiding the parties to "figure things out on their own."

"He's very even-mannered, doesn't come out real strong, telling them outright that they're right or they're wrong. He just lays out the pros and the cons, the good and the bad. He kind of draws it out and analyzes it along with them," Dixon said.

But when those parties aren't willing to budge, Oster said, "sometimes you have got to be really blunt."

"There's a nuance to be sure, but I want to err on the side of making sure they get the message," Oster said. "You say, 'Look, we need to be real simple about this: You can blow them out of the water, but you're going to create a tidal wave when you do that, and it's going to swamp you too.'"

A longtime colleague of Oster's, Gail Cohen, said his tendency to be a

Edwin Oster

Judicate West
Santa Ana

Areas of specialty:

insurance, ERISA, personal injury, commercial, real estate, professional liability

"straight shooter" is one of his strongest attributes. His integrity is another, recalling a time they co-chaired a case when they were practicing together.

Oster pointed out to the court a potentially conflicting relationship between his client and a prospective juror that could have tipped the scales in his favor.

"In terms of integrity, probably the best measure of that is that as a mediator he's gotten so many clients who were once opposing counsel," Cohen said. "When your adversaries who you've had trials against are willing to use you as a mediator, that kind of speaks volumes about their perception of your integrity and skill set."

No matter his approach, Dixon said Oster's strongest attribute is his ability to get the job done.

"He closes files — that's the biggest thing for a neutral," Dixon said.

Here is a list of attorneys who have used Oster's services: Alex Behar, Panish Shea & Boyle LLP; Christian Rowley, Seyfarth Shaw LLP; Jillisa O'Brien, Murtaugh Meyer Nelson & Treglia LLP; David Ezra, Berger Kahn; Mark Quigley, Greene Broillet & Wheeler; Amir Schlesinger, Reed Smith LLP; Abe Zukor, Zukor and Nelson APC; Michelle Arbitrio, Wilson Elser Moskowitz Edelman & Dicker LLP, Dan Spradlin, Woodruff Spradlin & Smart APC; Linda Lawson, Meserve Mumper & Hughes LLP; Robert K. Scott, Newmeyer & Dillion; Jack Stennett, Stennett & Casino; Paul Dixon, Dixon & Daley LLP.