

VERDICTS & SETTLEMENTS

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Pursuing Harmony

Michael Diliberto of ADR Services reconnected the ‘Reunited’ soul singers Peaches & Herb.

By Carter Stoddard

Daily Journal Staff Writer

Michael Diliberto really means it when he says he wants to help parties get “reunited.”

Whether it's convincing a 70s soul duo to hit the road together again or settling a bitter dispute between rival grocery suppliers, attorneys agree he's the one to get it done.

“I dig into the facts,” Diliberto said of his process. “Mediation goes through different stages, and the first one is building trust with both sides.”

When beginning a mediation, Diliberto said he always has a preliminary phone call with the attorneys. “I want to find out are there any ego problems, are there any factual disagreements I need to be aware of, are there any problems between the parties or counsel themselves? Is there somebody who should attend that may be helpful, some third party that might shed some light?”

His goal is to set the scene, so when the parties arrive, he has an understanding of

their individual issues and which might act as a barrier to settlement. He typically does not start with a joint session, but will revert to it if individual caucuses don't work.

That last extra effort came into play in one of the many entertainment related cases Diliberto has handled.

He was involved in settling litigation over ownership of the copyright for songs by the 1960s-70s soul duo Peaches & Herb, whose hits included “Reunited (and it feels so good)” and “Shake Your Groove Thing.”

“During the mediation,” Diliberto wrote, “I learned that some of the parties wanted to get the group back together and go on tour. I settled the federal copyright case. Then, at no charge, I spent hours over a few weeks reaching out to the duo's creative and tour team, who had not been on speaking terms for years, and I was able to get them to agree to put another tour together.”

He has worked as a full-time mediator and arbitrator since 2003. He is also a part-time administrative law judge for the Office of Administrative Hearings



Emilio Aldea / Daily Journal

and an adjunct professor at Loyola Law School, where he teaches negotiations.

“My practice involves a mixture of civil cases, employment, entertainment and intellectual property, with some business and real estate as well. I also do other aspects through public agencies, where I'm hearing employment matters for the City of Los Angeles and Orange County,” Diliberto said.

In addition to his legal work, Diliberto said he also sits on a civilian review board, which oversees board of rights hearings, listening to cases of police officers attempting to get discipline against them revoked.

Michael R. Diliberto

ADR Services Inc.
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Areas of specialty:
Business, employment,
entertainment, real estate

The mediator said he recently sat on the first all-civilian panel to go to hearing.

In his arbitration work, Diliberto begins proceedings with a conference where parameters are set. He then oversees discovery issues as they arise and rules on motions to dismiss and

strike. "And then if it doesn't settle of their own accord beforehand, we have a hearing," Diliberto said.

"That's an interesting piece about being an arbitrator, you really dig into the law and become an expert on areas like procedure. A lot of interesting issues are brought before you, and I get to figure them out and rule on them."

Diliberto said his work as an arbitrator closely informed his mediation work.

"I don't start off as an evaluative mediator, but I certainly do evaluate when the time is right, to help people understand risk, and these days, people are looking for that," he said.

Marcus Chaney of Johnson & Pham LLP said he primarily used Diliberto on mediation cases involving trademark and copyright issues.

Chaney recalled a dispute in which two parties were reviewing financial disclosures for settlement purposes when it became apparent one side hedged their numbers.

"Some of the disclosures were lacking. We knew aspects of their finances to

exist that were not included," Chaney said. "I had written it off as a total loss for the day and likely, the case."

To his surprise, though, Chaney said Diliberto was able to pull a settlement from those circumstances by reminding each side of the considerable time and money they poured into negotiations and urged them not to throw that away over one, albeit major, indiscretion.

Diliberto said he has a love for people, which he deploys in such cases, that he's developed through extensive international travel.

"We all have essentially the same needs and wants no matter what part of the world you're from," he said. "It starts with a dialogue and hopefully that continues throughout the whole process."

Diliberto also mentioned he's settled many #MeToo sexual harassment cases.

"I had a recent one with an actress who booked a modeling job, and the CEO of the company was harassing her sexually during the trade show. I was able to get that settled," he said.

The mediator also named

pregnancy, wage and hour and disability discrimination cases as a significant part of his business.

Charles C.H. Wu, a sole practitioner in Irvine, said Diliberto defused a year-long feud between rival food delivery companies.

"It was a fairly complicated matter where these two sides were very litigious and adversarial towards each other as direct competitors in the food industry. The weekend before trial in August of last year Mr. Diliberto was able to get each side to come to a settlement.

It was a very long battle, based on how long the case had been going on, and I was surprised he was able to settle the case," Wu said.

James Bryant of The Cochran Firm said, "He will literally stay as late as he needs to" in order to get a matter resolved. Bryant noted every proceeding for which he has used Diliberto's services has been resolved. "Sure people aren't always happy, but I do think he gives parties a certain relief that a matter is resolved," Bryant said.

"He likes how I can speak

to not just his entertainment clients, but also his business clients who run the studios," Diliberto said, referring to his work with Bryant.

Diliberto said he will meet with just the principals after asking counsel for permission and employ a written proposal as a matter of last resort.

"If I feel I have enough information to make an intelligent proposal, then I will ask the parties first are they OK with me making a recommendation. Then I'll make my proposal," Diliberto said.

He made a point to note that almost all his cases settle. "I'm usually surprised when they don't," Diliberto concluded.

Here are some attorneys who have used Diliberto's services: James A. Bryant, The Cochran Firm; Charles C.H. Wu, and Vikram M. Reddy, Wu & Reddy APC.; Marcus F. Chaney, Johnson & Pham, LLP; Karl P. Schlecht, Esq., Tressler, LLP; Dennis P. Wilson, Law Offices of Dennis P. Wilson

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