

# VERDICTS & SETTLEMENTS

FRIDAY JANUARY 14, 2022

## The Reader

*Mediator Arnold Levinson is known for reading the room, and briefs submitted by parties.*

By Shane Nelson

Special to the Daily Journal

**A**DR Services Inc. neutral Arnold R. Levinson has refined a new technique for getting through the lengthy briefs attorneys occasionally send him right before a mediation.

“When these 200, 300-page briefing exhibits come in the night before, what I do is I put them under my pillow at night, sleep on them, and then I wake up in the morning, and I have the brief in my head,” he joked. “I get up in the morning, and I know the whole case — backwards and forwards.”

Levinson spent nearly four decades as a plaintiffs’ attorney representing clients in insurance bad faith cases before deciding to strike out full time as a private neutral in 2014. He said it was a change he’d been considering for 10 years, motivated in part by a desire to spend more time with his family. Volunteering as a mediator for the San Francisco County Superior Court in 2013 ended up being the final push he needed, Levinson said.

“I just really enjoyed it,” he said of the experience. “That was what finally put me over the edge.”

Perhaps not surprisingly, Levinson said he mediates a great many insurance cases, but also handles all sorts of personal injury matters and landlord-tenant disputes, along with what he described as “a smattering” of legal malpractice and commercial disputes.

In a scheduling letter sent out in advance of his mediations,



Jana Ašenbrennerová / Special to the Daily Journal

Levinson said he asks attorneys to send him anything worth reading about the dispute as soon as they can.

“If there’s a summary judgment motion out there or settlement demand letters or particular motions that summarize the case or orders, send them in,” he said. “Sometimes I get an awful lot of paper, and I can’t get through all of it — particularly when it comes the night before. If people want to start sending me stuff piecemeal, well in advance of the mediation, then by the time I get the mediation briefs, I’ve already gotten a picture of what the case is about. In fact, I may even have read the most important stuff of the case.”

Levinson described himself as a reader, and said he’ll read whatever he can get about a case as long as it’s helpful. He said speaking with attorneys before mediation day on the phone is, however, generally the exception and not the rule.

“I’ve actually found that in lots of situations it’s not that productive,” he explained. “If they feel it’s important to talk before the mediation, I’ll always find time to do that. Typically, I like to have read something before we talk, so I understand what they’re talking about, but that’s not always possible.”

It’s been a long time since he last conducted a mediation featuring a joint session, he said.

### Arnold R. Levinson

ADR Services, Inc. San Francisco

#### Areas of Specialty:

Insurance  
ERISA  
Legal Malpractice  
Real Estate  
Employment  
Commercial

“My experience is the lawyers never want them. The parties rarely want them,” he explained. “They can cause more harm than good because everybody’s got to

be careful about whether they're going to offend the other side or not."

Levinson noted that occasionally situations will develop during a mediation where he'll suggest a joint session to both sides, and just that suggestion will sometimes help to move negotiations forward.

"Once I make that joint session suggestion, somehow the issue gets resolved," he said, chuckling. "Lawyers, for some reason, aren't that anxious to listen to the other side."

Mediator's proposals are, on the other hand, a strategy Levinson said he employs frequently and has enjoyed a fair bit of success with, but he does put his own spin on the approach.

"I will do a mediator's proposed bracket in the middle of a mediation a lot of times. But it's a little bit different because they don't have to buy into the bracket when I propose it," Levinson explained. "I have a few rules I go over when I do it, but if I propose a bracket and they don't buy in, I ask them to give me a counter bracket. If somebody does buy in, then I'll tell them what the

other side's response was. If somebody doesn't buy in, I don't promise to tell them what the other side's response is."

Levinson added that 75% to 80% of the mediations in which he employs his mediator's bracket approach eventually resolve.

"I get some very valuable information when people are playing reasonably straight," he said. "And it allows the parties to move when they're at an impasse."

Northridge plaintiffs' attorney Glenn R. Kantor said he's used Levinson as a mediator about 10 times on insurance bad faith disputes, and they all settled.

"Don't use Arnie if you don't want a straight answer about your case," Kantor said. "He's going to give you an honest, thorough assessment, and he's not going to pull any punches. ... He's not someone who is going to dance around the truth to make you feel better."

Kantor also noted Levinson is terrific at recognizing what number will get a case resolved.

"Neither party is going to leave that settled case particularly happy or think they got a great deal," Kantor said. "But they'll think

it was a fair settlement. Arnie's excellent at finding that point of mutual pain to get a case settled."

San Diego defense attorney Peter H. Klee has also used Levinson as a mediator for many insurance disputes, and agreed that the neutral has a talent for resolution.

"The thing that makes him stand out in my mind is he's a closer," Klee said. "He successfully settles more cases than any other mediator I can think of."

Klee also noted that despite his extensive career as a plaintiffs' trial attorney, Levinson is popular as a neutral with lawyers from either side of the case.

"It's hard to find a mediator both sides are equally clamoring for, which is a testament to the fact he is truly a neutral," Klee said. "And he doesn't make one side or the other feel like they've been hometowned."

San Francisco plaintiffs' attorney Kathryn A. Stebner said she's used Levinson more than a dozen times to mediate elder abuse cases and described him as an extremely patient neutral who rapidly gets to the core challenges.

"The difference between him and some other mediators is he just zeros in on the issue immediately," Stebner explained. "Right when he walks through the door, he's just like, 'OK, how are you going to prove this, Kathryn?' The one thing I'm nervous about he just zeros in on immediately."

Stebner also said Levinson is one of the most emotionally intelligent mediators she's met.

"He has the ability to see other's needs," she explained. "He can tell who's upset about what, and by knowing emotions, it helps you get to resolution. Some mediators just go back and forth with numbers, really not seeing what's really happening and not reading the tea leaves in the room. But Arnie reads the tea leaves."

*Here are some attorneys who have used Levinson's services: Kathryn A. Stebner, Stebner Gertler Guadagni & Kawamoto; Peter H. Klee, Sheppard Mullin; Glenn R. Kantor, Kantor & Kantor; Travis M. Corby, Shernoff Bidart Echeverria; Jordan S. Altura; Gordon Rees Scully Mansukhani.*