

VERDICTS & SETTLEMENTS

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Handling with Care

Longtime trial attorney Dave Carothers now focuses on settling employment disputes.

By Shane Nelson

Special to the Daily Journal

ADR Services Inc. neutral Dave Carothers wants litigants to know he really cares.

“That was my attitude when I was litigating, that’s my attitude in mediation and it’s definitely my attitude in arbitrations,” Carothers said. “I want the lawyers’ clients to know I care. I’m not just some person who woke up this morning, picked up the file and walked in here and said, ‘Let’s go.’ ... To me it’s critical that I do care, and it’s an honored process to me.”

Raised in South Central Los Angeles, Carothers said he knew he wanted to be an attorney at about 8, when he watched Gregory Peck play Atticus Finch in “To Kill a Mockingbird” for the first time.

“I’ve watched that movie 50 times, and I still cry,” he said with a chuckle. “Other kids had NBA players and hot rod posters on the walls of their bedroom. I had posters of Thurgood Marshall.”

A 1985 USC Gould School of Law graduate, Carothers spent most of his 40 years of practice as a trial attorney tackling employment cases. He typically defended clients but on occasion represented plaintiffs.

“I’ve tried over 100 jury trials,” Carothers said, adding that in 2015 colleagues started reaching out to him about mediating their cases. “A lot of people started calling me up just to leverage my trial experience in the settlement context.”

Carothers left his litigation practice to focus full-time on private neutral work in spring 2022, and he joined ADR Services, Inc. in January 2024. He settles employment disputes primarily as a mediator, but



Thomas Kurtz / Special to the Daily Journal

he’s also now available as an arbitrator, a role he said he first undertook in 2013.

“It’s a process that prioritizes efficiency, that prioritizes making sure each side felt they got their day in court, so to speak - particularly the clients,” Carothers said of arbitration. “I really want the clients to think and believe that ‘I got heard.’”

Before mediations, Carothers likes to receive briefs from all the parties and to speak over the phone with counsel.

“As far as I’m concerned, that’s where I get most of my information, in that pre-mediation call,” he said. “I think people are more candid in those calls.”

Early on the day of mediation, Carothers does his best to make it clear to the parties he’s there to facilitate resolution.

“I always try to stress that it’s not my mediation - it’s not a Carothers mediation,” he explained. “This is your mediation. I’m here to facilitate and hopefully we can get you

Dave Carothers

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guys together and come to some resolution that works for both sides.”

Carothers did note, however, that he will provide his opinions on the case’s merits when asked, if he feels the timing is appropriate.

“Sometimes lawyers don’t want my evaluative [take]. ... It’s like, ‘Carothers, I know my case, OK? I know the upside, I know the downside,’” he explained. “But at the same time, some lawyers will say, ‘Well, Carothers, you’ve tried over 100 of these things. What do you think?’ And I’ll ask them, ‘Do you want my opinion on how a jury’s going to react to your stance on this particular issue?’ I will gladly do that, but I will only do it if asked. I don’t just automatically throw myself into doing an evaluation of another lawyer’s case.”

Carothers added that he’s not a big fan of mediators’ proposals.

“When I was a lawyer, sometimes when the mediator would go to a mediator’s proposal, I used to think it was lazy,” he said. “It’s like, ‘OK, this mediator is giving up. Maybe if we go a few more rounds, we can get this done without a mediator’s proposal.’ So, I’m reluctant to do

mediator’s proposals. I have, but they’ve been more the exception than the rule.”

Sacramento litigator Michael E. Mechill used Carothers recently to resolve an employment dispute and described him as very thorough.

“He truly understood the case,” Mechill said. “He called, chatted with me prior. I’m sure he did with plaintiffs’ counsel, as well, and he got a really good handle on the case. ... He understood everybody’s position. He definitely didn’t come in wondering.”

Camarillo litigator Breann D. Cortes has used Carothers five times to resolve employment disputes, and she also mentioned the mediator’s thoroughness.

“Unfortunately, I have encountered neutrals that just skim through things and are not really thorough on the facts, but that is definitely not Dave’s approach,” Cortes said. “He’s very diligent, very persistent. He is absolutely dedicated to do his absolute best to keep the parties talking and to try to reach a resolution.”

Cortes added that Carothers is unbiased and terrific with clients.

“He would ask them questions to try and get their view of things,” she said. “And they found him to be a great listener.”

Pennsylvania litigator Oliver Mitchell used Carothers to resolve an emotional race discrimination case first filed in Los Angeles County Superior Court.

“I represented a corporate executive ... and I was looking for a Black mediator,” Mitchell said. “And I’ll tell you this: It is not easy to find Black mediators in this country. You have to search pretty diligently and very carefully to find a Black mediator.”

Mitchell noted that while he will use retired judges for arbitrations, he prefers to avoid retired bench officers when selecting mediators.

“For mediations, you need a person with a really decent personality, who’s obviously insightful and smart, who’s perceptive and who is experienced,” Mitchell said. “And I found all those traits in Dave.”

Like Mechill and Cortes, Mitchell described Carothers as very thorough and diligent, and he agreed that the mediator is wonderful with clients.

“He spoke to the client in my presence and in the presence of my co-counsel, and he’s very warm, very human, and he was engaging. Above all, he was an active listener,” Mitchell said. “He asks the right questions as follow-ups ... and he treated my client with dignity and respect, and he treated him like he was a human being.”

Carothers said refocusing his career on assisting litigants to move beyond the acrimony of dispute has been an excellent decision.

“It is so satisfying to be able to help people move on,” he explained. “It’s definitely trauma for both sides ... so, to be able to get a case resolved so everybody can get back to normal is a big thing to me. I love it.”

Here are some attorneys who have used Carothers’ services: Breann D. Cortes, LightGabler LLP; Oliver Mitchell, Law Offices of Oliver Mitchell; Michael E. Mechill, Michael E. Mechill Attorney at Law; Mia Farber, Jackson Lewis PC; Arlen Koorn, Littler Mendelson PC

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