

VERDICTS & SETTLEMENTS

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Human Factor

Retired Judge Paul A. Bacigalupo brings empathy and trial-tested expertise to his work as a neutral.

By Shane Nelson

Special to the Daily Journal

Retired Judge Paul A. Bacigalupo knows every case is different, but the ADR Services, Inc. neutral believes they all share at least one thing in common.

"I try to assess what are the human factors involved, what are the human dynamics involved in a case," Bacigalupo said. "Because every case has its own human story."

Bacigalupo joined ADR Services, Inc. last March after more than two decades as a Los Angeles County Superior Court judge. He's since been tackling a wide range of business/partnerships, employment, personal injury, real estate, construction, and civil rights cases as a mediator and arbitrator.

"The last five years of my assignment with LA Superior Court I was a full-time dedicated mandatory settlement conference judge," Bacigalupo explained. "So, it was a fairly easy transition for me."

A 1987 McGeorge School of Law graduate, Bacigalupo spent much of his career as a litigator focusing on construction cases - routinely representing clients in both the public and private sector. He was appointed as a hearing judge for the State Bar Court in 2000 and then elected in 2002 as a Los Angeles County Superior Court judge.

Bacigalupo spent his first 13 years on the Los Angeles Superior Court bench running a criminal calendar, an assignment he said helped him hone his case settlement skills.

"Most criminal cases resolve," Bacigalupo explained. "I would say 99% of them, and lawyers would actively ask me to get involved in their



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cases to try to get them settled. So, I've been settling cases my entire career."

The retired judge noted that he leans on his extensive experience with bench trials, however, in his role of arbitrator.

"It's important for me to be sensitive and aware of the challenges a lawyer may be facing in the presentation of their case," Bacigalupo said. "In the private sector, I want to be as accommodating as possible so that lawyers can present their case in a way that's most effective for them."

Prior to his mediations, meanwhile, the neutral said he likes to receive

briefs from all the parties and speak over the phone beforehand with counsel. Bacigalupo also encourages parties to exchange their briefs.

"I think it's really important to spell out [the details] in advance," he said. "So that decisionmakers who I may not be talking to are aware of what the other side is looking for."

On the day of mediation, Bacigalupo prefers to begin with introductions, but he moves quickly into a phase of careful listening.

"What I'm trying to do is have some appreciation about what may be driving the dispute or the controversy," he explained. "Because underlying many claims for money could

Hon. Paul A. Bacigalupo (Ret.)

ADR Services, Inc.
Los Angeles

Areas of Specialty:

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also be deeply entrenched disputes related to betrayal, anger, fear, trust, or pride. ... And if that's the case, I may have to invite the parties to build creative solutions."

Irvine corporate litigator Christine E. Howson used Bacigalupo recently to resolve what she described as an emotionally charged case, and she said the mediator exceeded her expectations.

"He knew the facts on a pretty granular level," Howson said. "And he didn't seem rushed. He really took his time."

Howson said the retired judge also navigated the dispute's intense emotions well.

"He put both sides at ease and was very respectful," she said. "He had really good insights into our area and our issues, and I think that gained the trust of both sides. ... He was able to bring us first to kind of a common ground and then build upon that to achieve a resolution."

Bacigalupo noted that he won't hesitate to move into a more evaluative strategy during his mediations if the timing is right.

"I'm quite familiar with how cases play out in front of a jury in different venues throughout Los Angeles County," he said. "And I'm comfortable providing an evaluation on a specific point or on a big picture item as well as the human factors."

Pasadena litigator D. Jay Ritt appeared before Bacigalupo when he was on the bench and has since used the retired judge to resolve a banking dispute and an employment case.

"He's very unflappable," Ritt said. "And the cases I've had with him are pretty diverse and distinct with different personalities - both in terms of opposing counsel and the parties involved. And he's really good, really skillful at sussing out the pressure points that matter most - both on a personal level, involving the personalities of the people involved, as well as on the practical legal side. ... He's got a skill set that allows him to do both."

Ritt added that the diverse collection of disputes Bacigalupo encountered on the bench serves him well these days as a private neutral.

"He's clearly had lots of experience with different kinds of cases," Ritt said. "So whether it's an employment case or a business litigation case or a commercial case or a banking case, he seems to be able to speak fluently in whatever the language of that case is."

Encino litigator Barry L. Cohen worked recently on a contentious attorney fees dispute with Bacigalupo, during which the ADR Services, Inc. neutral started out as an arbitrator but ultimately helped to settle the case as a mediator.

"He saw an opening, and he asked the parties basically whether they would like to switch gears and instead of finishing up the arbitration, try to mediate the dispute," Cohen said. "It's unusual to trust your arbitrator to switch gears and be a mediator ... because this is the guy who's going to be deciding your case if you don't settle it. But nobody had any qualms about agreeing to him as the mediator and letting him do that. They trusted him enough."

Cohen said Bacigalupo's temperament played a big role in developing that trust.

"You want somebody who everyone's going to respect and who you can work with and who's somewhat disarming - especially when you're dealing with a case like mine where there's nothing but eight lawyers in the courtroom," Cohen explained. "That's a lot of strong personalities to deal with, and he handled it really, really well. Everyone respected him, and everyone was happy with him at the end of the day."

Bacigalupo said it's an honor to be asked to work with parties in the midst of a dispute.

"It's a privilege," he said, "to be trusted to play some part in helping parties resolve their matters."

Here are some attorneys who have used Bacigalupo's services: Barry L. Cohen, Cohen & Cohen LLP; D. Jay Ritt, Ritt Hodges LLP; Christine E. Howson, Klinedinst PC; Colleen A. Déziel, Anderson, McPharlin & Connors LLP; Raul F. Salinas, Frost Brown Todd LLP

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