

VERDICTS & SETTLEMENTS

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Trial-Tested

Veteran litigator Mark D. Kramer brings a calm, human touch — and decades of experience to ADR

By Shane Nelson

Special to the Daily Journal

After more than 50 trials over 40 years as a litigator, mediator Mark D. Kramer understands what is required to settle a dispute.

"I feel I can share some of the knowledge from all of my trials over the years to help people resolve cases," said Kramer, who began mediating full-time in 2021, and then joined the ADR Services, Inc. roster of private neutrals in June last year.

As a trial lawyer, he handled a range of cases "from med-mal to products [liability] to construction to a false arrest trial and a lot of auto and slip and falls," Kramer said. Mostly, he was on the defense side of those cases but, he said, he always had "one or two plaintiffs' cases going on."

A 1979 Loyola Law School graduate, Kramer said he got a taste for alternative dispute resolution when he volunteered to mediate cases for the Ventura County and Los Angeles County Superior Courts roughly 20 years ago. He added private mediation work to his litigation practice a little over a decade ago.

At ADR Services, Inc. he has handled matters including personal injury, employment and real estate. Before his mediations, Kramer likes to receive briefs from all the parties, but he said he doesn't insist on phone calls beforehand with counsel.

"I know when I was litigating, I was very busy," he explained. "So, I wasn't real thrilled when a mediator wanted to have a long pre-mediation conference with me like a week before the mediation because, frankly, I had other matters that were more immediate. So, I



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don't require [calls], but I've done them."

Early on the day of mediation, Kramer wants to hear from the clients.

"I think it's really important to talk to the parties, make them feel comfortable," he said. "If it's a personal injury matter, I'm always asking about how they felt after the accident, what injuries they had and how that's affected them throughout whatever time period has elapsed. And I ask about how they're doing now, what future medical procedures they're anticipating - if any."

Santa Ana defense attorney Connie L. Benson worked on cases

with Kramer when he was litigating and has since used him to successfully mediate an insurance dispute. Benson said one of the things she's always appreciated about Kramer is his professionalism.

"He knows what he's doing, but he never loses his humanity," Benson said. "Mark realizes that we're all professionals, but we also are people. And so, you just feel comfortable and respected by him."

San Francisco litigator Jeremiah J. Harvey recently used Kramer to resolve what he described as a contentious negligence and sexual abuse case, during which he said the parties were really at odds.

Mark D. Kramer

ADR Services, Inc.
Los Angeles

Areas of Specialty:

Personal Injury
Employment
Business
Sexual Assault
Construction Defects
HOA Disputes

"Mark did a great job of managing the personalities," Harvey said. "His general legal experience and acumen were clearly on display, and he was able to help us reach a resolution in a very contentious case that involved some very, very hostile parties."

Kramer won't hesitate to weigh in on a case's strengths and weaknesses during his mediations.

"That's something I always do because, obviously, that's what's going to get you to settle," Kramer said. "That's the way to try to move the parties together - discuss in each room what the strengths of their cases are versus what the warts might be on their case, if you will, and how do you expect to deal with that."

Benson noted that the extensive experience behind Kramer's evaluative input is a distinguishing strong suit.

"He's seen a lot and done a lot," she explained. "So, you know he knows what he's talking about when he tells you, 'Based on my experience this is the value of your case,' or

"This is where I see your problems as a defendant or as a plaintiff."

Harvey noted that Kramer pulled him and another defense attorney - who was representing a separate client in the dispute - into a joint session during their mediation.

"We were coming at loggerheads," Harvey recalled. "So, he brought me into a room with one of the other defendants, and he was able to mediate even our dispute between each other."

Chatsworth defense attorney Gabriel H. Wainfeld has used Kramer several times over the years to resolve premises liability cases.

"I think I settle basically every case with him," Wainfeld said. "And if it doesn't settle at the initial session, they usually settle soon after that."

Kramer noted that he will do as much follow-up over the phone as he feels is necessary to resolve a case.

"Sometimes I worry I'm becoming a pest," he said with a chuckle. "I had a dog bite case. ... And I counted how many phone calls it took before we got the whole thing settled. There were multiple parties

in that case, and it was very contentious, and I made 37 phone calls before we got the whole thing resolved. So, I was definitely a little worried I was pestering everybody on that one, but it finally got done."

Like Benson and Harvey, Wainfeld said Kramer is a terrific communicator.

"He's very calm. He listens to both sides. He's very patient," Wainfeld explained. "He's always well prepared, and he knows how to talk to the clients."

Benson noted much of that comes from Kramer's balanced approach.

"I think probably the best thing about him as a neutral is both sides end up feeling respected by him," she said. "And I think that's important because sometimes you go into mediations and you feel like the mediator is coming at you to the point you just get very defensive. And Mark has a nice way of just keeping everybody on an even keel."

Kramer said he still takes a great deal of satisfaction from helping litigants resolve their cases.

"The thrill of getting one settled has not worn off," he explained. "I can't say I'm running around, jumping for joy. But I've always got a smile on my face, and I'm really happy when they get resolved."

Kramer added that he doesn't subscribe to the idea that the best settlements leave both sides equally unhappy.

"I'd rather that both sides - or however many sides there are - are all happy," Kramer said. "I know that's probably idealistic and probably not always going to happen, but I'd rather not have anybody particularly unhappy at the end of a mediation. I'd like them to be happy."

Here are some attorneys who have used Kramer's services: Gabriel H. Wainfeld, York & Wainfeld APC; Connie L. Benson, Williamson Law Group; Jeremiah J. Harvey, Kaufman Dolowich LLP; James W. Lewis, Slater Slater Schulman LLP; Mitchell E. Rosensweig, Law Offices of Mitchell Rosensweig.

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