

Get to Know Hon. Marc Gross(Ret.)

“A Mediator Has to be a Creative Problem Solver”: A Conversation with Hon. Marc D. Gross (Ret.)

By Katy Jones

For more than 40 years, **Hon. Marc D. Gross (Ret.)** has viewed litigation from all angles: trial lawyer, judge, and now neutral.

During his 30-plus years in private practice, he handled a broad range of business and tort disputes, including matters involving real estate, probate, contracts, and complex civil litigation. He handled all aspects of his cases, including pleadings, discovery, trial, writs and appeals and collection. Judge Gross began his judicial career in the family law department at Mosk, moving on to the PI Hub and then making a natural transition to an IC Court in Santa Monica where his docket included a wide array of sophisticated cases common in the West District, often involving multiple parties and cross-claims, including complex business, tort, contract, real estate (e.g. neighbor and contractor disputes, HOA cases) and other challenging matters. He also served as a trial court judge in Beverly Hills. But it was Judge Gross' over 4 years (2022 – 2026) as the Mandatory Settlement Conference Judge in the West District of Los Angeles Superior Court—when he served as the district's dedicated MSC judge—that cemented his reputation as a creative and determined problem solver.

Over those years, Judge Gross handled more than 500 settlement conferences, often in cases involving significant financial exposure, novel legal questions, and parties who arrived convinced resolution was impossible. Judge Gross' track



record was impressive by any measure as his settlement average won high praise from litigants, counsel and the West District bench. He received countless notes of appreciation which include descriptions of Judge Gross as having “the patience of a saint” and “achieving what we all thought was impossible”.

Judge Gross attributes his success as an MSC Judge to his experience on both sides of the bench, his dogged preparation and his unwillingness to accept defeat. Judge Gross told us that it gave him the greatest satisfaction to assist parties in reaching agreed resolutions of their disputes. Today, he brings that same practical, direct, and preparation-driven approach to his work as a mediator, arbitrator, and referee with ADR Services, Inc.

We sat down with Judge Gross to discuss what drives settlement, why preparation matters, and what separates a good mediator from an average one.

Q: After decades as a litigator and judge, what drew you to dispute resolution?

Gross: Serving as the Mandatory Settlement Conference judge in the West District really opened my eyes to the benefits of dispute resolution.

For over 4 years, civil settlement conferences were my primary assignment as the West District's

Areas of Expertise:

- Business & Contract
- Construction
- Insurance
- Personal Injury
- Complex Litigation
- Entertainment
- Landlord/Tenant
- Professional Liability
- Fee Disputes
- Neighbor Disputes
- Real Estate
- HOA Disputes
- Partnership & Corporate Dissolution
- Tort Matters

dedicated MSC judge, I discovered I really enjoyed the challenge.

Every case presents different problems to solve.
Different personalities. Different obstacles.
Different motivations.

I found helping parties navigate those issues and reach a resolution incredibly rewarding.

"I enjoyed accomplishing an often extremely challenging task that results in a true win-win outcome for the parties and for the court."

Q: What did handling more than 500 settlement conferences teach you about how cases settle?

Gross: First, there is no formula. Each approach needs to be tailored to the specific matter and the individuals involved. Like most areas in life, people skills, such as patience, persuasiveness and the ability to establish a rapport are critical.

Second, successful settlements rarely happen by accident. They require a real understanding of the case and the determination to explore all options.

Many of the cases I handled involved substantial financial exposure, difficult personalities and/or unsettled legal issues. Mediators should do more than simply carry offers from one room to another. A mediator needs to be able to identify leverage points early on and help parties understand both the risks they face and the opportunities that settlement presents.

Often, once people understand those realities clearly, movement becomes possible.

"The key is identifying leverage points early and helping parties understand both risk and opportunity."

Q: Your resume describes your style as direct and preparation-driven. What does that mean in practice?

Gross: Preparation is non-negotiable.

Before a mediation, I review the briefs carefully and make extensive notes to ensure I fully understand each side's arguments and evidence so that I am prepared to make the most efficient use of our time. If I have legal questions after reviewing the briefs, I may ask questions of counsel and am prepared to conduct independent research if necessary.

You cannot credibly discuss trial risk unless you understand both the facts and the law.

That preparation allows me to provide objective assessments which help facilitate settlement.

Q: How would attorneys who have appeared before you describe your approach?

Gross: Probably persistent.

Hopefully diligent, patient and reasonable as well.

I believe parties deserve their mediator's legal analysis and frank observations based on their experience. That means thoroughly evaluating the merits of a case as well as understanding the parties' perspectives. This requires the ability to listen thoughtfully and treat everyone fairly, while also being able to have candid conversations when necessary.

"A mediator should be prepared to identify and discuss challenging issues while respecting counsel's expertise and role as an advocate."

Q: When negotiations stall, how do you help parties move past impasse?

Gross: Again, every case is different...

A mediator's proposal is sometimes the right tool. Often a bracket changes the discussion. Occasionally I'll suggest a proposal and, if acceptable, ask permission to present it to the other side as my own idea.

The important thing is flexibility and the ability to pivot.

A mediator should have multiple tools available and know when to use them.

Q: You spent more than 30 years as a litigator before joining the bench. How does that influence your work as a neutral?

Gross: I think it gives me credibility when discussing risk.

I've represented parties in business disputes, tort matters, real estate cases, probate litigation, and many other areas. I've tried cases, argued motions, and handled appeals.

That breadth of experience helps me understand not only the legal issues but also the practical realities that influence settlement decisions, including the challenges of collection.

"Lawyers and clients know when the person across the table understands what trial actually looks like."

Q: Are there particular types of matters that you especially enjoy handling?

Gross: I always enjoy the process, but challenging cases with legal issues are especially interesting.

Many of the matters I worked on as both an attorney and a judge involved significant financial exposure or difficult legal questions of first impression.

Those are often the cases where parties benefit most from an experienced neutral who can provide a realistic assessment of risk and help identify paths to resolution.

Q: What values guide your work as a neutral?

Gross: Integrity, diligence and persistence.

Those values matter in the practice of law, and they are equally important in mediation.

Parties need to have confidence that the mediator is credible and even handed.

Without that trust, it is difficult to move negotiations forward.

"Honesty and integrity are vital—in mediation just as they are in the practice of law."

Q: What continues to motivate you after more than four decades in the legal profession?

Gross: I'm competitive by nature. I enjoy success.

In mediation, success means helping people find a practical resolution to a difficult problem and allowing them to move forward with their lives and businesses.

There is a great deal of satisfaction in that.

"A mediator's job is not merely to facilitate discussion. It is to help parties make informed decisions based on a realistic understanding of risk and reward."

After more than four decades in the legal profession, Judge Gross brings to every matter the perspective of an advocate, trial lawyer, and settlement judge. A settlement-focused former MSC judge, he combines judicial credibility, rigorous preparation, candid risk analysis, and active negotiation skills and management to help parties move beyond impasse and toward resolution. Whether confronting novel legal issues, significant financial exposure, or deeply entrenched positions, Judge Gross approaches each case with the same objective: providing parties with the information, perspective, and guidance necessary to make informed decisions and reach practical, durable solutions.

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