

Get to Know Hon. James “Reg” Reilly (Ret.)



Why Most Cases Don't Need a Trial— They Need the Right Conversation: A Conversation with Hon. James "Reg" Reilly (Ret.)

By Katy Jones

For **Hon. James "Reg" Reilly (Ret.)**, dispute resolution isn't simply the final stage of litigation—it's where decades of courtroom experience come together.

Over the course of a distinguished career spanning more than forty years, Judge Reilly has represented clients in nationally coordinated pharmaceutical litigation, managed one of San Francisco's largest litigation offices, presided over complex civil trials, supervised Alameda County's Settlement Department, and chaired the court's Alternative Dispute Resolution Committee. Each chapter reinforced the same conclusion: while every case deserves to be prepared for trial, very few actually need one.

Today, he brings that perspective to mediation and arbitration, helping attorneys and clients make informed decisions grounded in experience rather than emotion.

"I want to encourage a resolution because it is efficient, cost-effective, and mutual—the parties decide the outcome."

Q: Your pre-bench career centered on business litigation and complex product liability. How has that background shaped the way you approach mediation?

Reilly: Those practice areas teach you to evaluate risk carefully.

Business disputes often involve relationships, financial realities, and difficult strategic decisions. Product liability cases—particularly pharmaceutical and medical device litigation—bring an entirely different level of complexity, involving extensive expert testimony, scientific evidence regarding causation, and significant financial exposure.

During my career as an attorney, I was involved in multidistrict product liability litigation involving breast implants, Fen-Phen, phenylpropanolamine, amiodarone, metoclopramide and other products. Those cases required managing complicated litigation across different jurisdictions while balancing legal issues with practical business considerations.

No matter how complex a case becomes, however, the questions remain remarkably similar.

What are the risks? What will it cost to continue? And is there a better outcome available through settlement?

"Complex litigation teaches you that every decision ultimately comes back to understanding risk."

Q: Was there a defining moment that drew you toward dispute resolution?

Reilly: It developed over time.

Areas of Expertise:

- Business Litigation
- Complex Litigation
- Elder Abuse
- Employment Litigation
- Landlord-Tenant Litigation
- Personal Injury
- Product Liability
- Professional Malpractice
- Real Property

As a trial lawyer, I participated in dozens—probably hundreds—of mediations. After joining the bench, I spent more than two years assigned to Alameda County Superior Court’s Settlement Department, where I presided over hundreds of mandatory settlement conferences. I also had the privilege of chairing the court's ADR Committee.

The more settlement conferences I handled, the more convinced I became that most cases can settle—and that most cases should settle.

Not because trial lacks value, but because resolution often gives parties something a verdict cannot: **certainty**.

Q: What do you believe is the mediator's primary responsibility?

Reilly: It’s really two-fold: (1) Listen—really listen—to the attorneys and parties; and (2) keep the negotiations moving forward.

When parties become stuck, there's always a reason. Sometimes it's a legal issue; sometimes it's an emotional issue; sometimes it's simply that one side hasn't fully appreciated the risks they face.

My responsibility is to identify what's preventing movement and help the parties work through it.

That may involve asking difficult questions, reframing issues, or, when appropriate, using a mediator's proposal.

But the objective never changes. We're there to resolve the case.

"When negotiations stop moving, I want to understand why before deciding how to move them forward."

Q: You frequently discuss what you call the two major risks of trial. What are they?

Reilly : Every mediation eventually comes back to two realities.

The first is **monetary risk**.

People naturally focus on the verdict, but that's only part of the equation.

What will it cost to win?

What will it cost to lose?

How much attorney time, expert expense, and business disruption will occur before anyone reaches a courtroom?

Is there an outstanding CCP section 998 offer?

Are there any liens?

The second is **evidentiary risk**.

It is difficult to know exactly what evidence will be admitted.

It is also difficult to predict how witnesses will perform under oath on the witness stand, and how the jury will evaluate witness credibility.

Even excellent cases carry uncertainty.

Helping parties honestly evaluate those two risks often changes the conversation.

Q: Attorneys often describe you as persistent. How does persistence contribute to successful mediations?

Reilly: Persistence doesn't necessarily mean pressuring people.

It means remaining engaged.

Settlement isn't always achieved in one conversation.

Sometimes parties need time to process information, reconsider assumptions and risks, or evaluate alternatives.

My role is to continue asking questions, continue listening, and continue moving the discussion forward.

Q: You've handled everything from nationally coordinated pharmaceutical litigation to election law, catastrophic injury, and medical malpractice. Does that breadth matter as a neutral?

Reilly: I think it does.

As an attorney and as a judge I have worked on matters involving breach of contract, personal injury, product liability, medical malpractice, election issues, employment, dangerous conditions of public property, real property, elder abuse and others.

Different subject matter presents different legal questions, but people experience and confront conflict in surprisingly similar ways.

Experience across many practice areas helps one recognize those patterns and understand what drives the negotiation.

Q: You often emphasize that parties—not judges—should decide outcomes whenever possible.

Reilly: Absolutely.

One of the greatest strengths of mediation is that the parties retain control, they decide.

If the case goes to trial, someone else decides.

Settlement allows the parties themselves to shape and control the outcome.

That's usually more efficient. It's certainly more cost-effective. And in many cases, it produces a result both sides can live with.

That's why I believe so strongly in the process.

"Resolution works because the parties—not the court—decide the outcome."

Q: Looking back over your career, what accomplishments are you most proud of?

Reilly: Being appointed to the Superior Court by Governor Jerry Brown was certainly an extraordinary honor.

Serving as a Naval Officer remains one of the defining experiences of my life.

Professionally, I was proud to serve as Managing Partner of the San Francisco office of Gordon Rees, to act as national coordinating counsel in significant multidistrict litigation, and to be recognized as Trial Judge of the Year by the Alameda-Contra Costa Trial Lawyers Association (ACCTLA).

But some accomplishments that stay with me are often much quieter.

Helping people resolve difficult disputes.

Watching attorneys shake hands after months—or years—of litigation.

Knowing the parties can finally move on.

Q: What do you hope attorneys take away after working with you?

Reilly: That I was prepared, that I listened, that I understood both the law and the realities of litigation, and that I was genuinely committed to helping them resolve their case.

Preparation, persistence, professionalism, civility, and honesty have guided me throughout my career.

I believe those same qualities are what make an effective neutral.

Judge Reilly's career reflects a rare combination of national litigation experience, judicial leadership, and an unwavering commitment to practical resolution. Having handled complex business disputes and nationally coordinated product liability litigation before presiding over hundreds of settlement conferences and leading Alameda County's ADR initiatives, he understands both what it takes to prepare a case for trial and what it takes to resolve one before ever reaching the courtroom. That perspective informs every mediation he conducts. Grounded in thorough preparation, candid risk analysis, and steady persistence, Judge Reilly helps parties move beyond entrenched positions toward informed, efficient, and durable resolutions—because while every case deserves to be trial-ready, he firmly believes the best outcomes are often achieved through settlement.

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