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PERSPECTIVE

A calming influence

Mediator Peter Weinberger treats settlements like a business issue.

By Don DeBenedictis
Special to the Daily Journal

Peter L. Weinberger was in the middle of defending an affordable housing developer against tenants who said their apartment building was uninhabitable when he discovered he'd made a couple of big mistakes.

Fixing those mistakes eventually inspired him to become a mediator. The first mistake was getting angry at the plaintiffs for claiming his client had set the building on fire. It turned out the on site property manager had done just that.

Then Weinberger realized he should not have gotten the class action allegations struck from the case. A class settlement would eliminate any further liability of the owner to tenants, making the building much easier to sell, which the client wanted to do.

"First, I had to sheepishly go to the plaintiffs' lawyer and tell him he was right; we had set the building on fire," Weinberger said. "Then I had to sheepishly go to him and say I think we should put those [class allegations] back."

After that, he had to convince the judge and the developer's insurance company to go along.

"I basically made myself the mediator because there was a different way to settle," he said. Devising a class settlement "was a neat solution. It was fun."

It was years later that Weinberger quit law practice to be a full-time neutral. But the anecdote illustrates two elements of his approach to mediation. The first is that high emotions, like anger, don't help. The second is that reaching a settlement is a business decision because ultimately all civil litigation is about money.

"When you try your case [and] win, the judge doesn't hand you a stick ... to beat the defendant with," he said. "At the end of the day, all that it's going to be about is money. So let's get away from talking about all the emotions and treat this like a business issue."

But what about parties who feel a need to express their emotions as part of the settling



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process? "When people say they just want to be heard, that's code for they just want to yell at someone," he said. "That's silly."

Attorneys who have brought cases to [Weinberger to mediate say he actually is quite good at dealing with emotions.

"He's very unassuming and able to manage a lot of personalities," said Michael Halvorsen of Phillips, Spallas & Angstadt LLP. He lets upset parties vent, then tells them, "I hear you, but here's the reality," the defense lawyer added.

Weinberger mediated a property line dispute that had become quite heated for Craig Collins of Blum Collins LLP. "They started to hate each other," Collins said. He represented the plaintiffs.

Weinberger "listened to everybody and was very empathetic," but he got them "to focus not on the emotions but on the dollars and cents."

In fact, he managed to craft a settlement between the plaintiffs and defendant's insurance company over the objection of the defendant. Weinberger had to convince the insurer and the defense attorney that there was no conflict or bad faith with such a deal, Collins said.

Peter L. Weinberger

Alternative Resolution Centers
LLC, Century City

Areas of Specialty:

Habitability, Real estate, Insurance
Coverage, Discovery Disputes

"It looked like a simple case, but it became much more complicated," he said. "Peter just dealt with it all as it came."

Weinberger has an easygoing manner peppered with some blunt opinions and a fair number of amusing stories about himself.

Born and raised in the Westwood area of Los Angeles, where he still lives, he dropped out of college for a while to work in the movie business. His first job was as an assistant to the up-and-coming producer Gale Anne Hurd while she was making "The Terminator."

“One of my jobs was feeding her two Dobermans, neither of which liked me,” Weinberger recalled. He said one day they got inside the house, took him by the arm and dragged him around “like a rag doll.”

“Gale comes home and says, ‘Down boy. Put that nice man down.’”

When Weinberger went back to college at UCLA, he also got involved with the group that incorporated West Hollywood as a city. He later served on the new city’s first planning commission.

After getting his degree in 1987, he worked for the state Democratic Party in Illinois for about a year.

He came back to Los Angeles to attend Loyola Law School, graduating in 1991. He worked briefly for an insurance defense firm before joining a successful plaintiffs’ firm, known at the time as Fogel, Feldman, Ostrov, Ringle & Klevens.

When he went out on his own about seven years later, the firm let him keep his office and do firm work on an hourly basis while developing his own clients.

Over the next 20 years, he took on a wide variety of civil litigation, from representing “hard money” lenders to suing the ACLU to keep open some special schools for disabled students.

In that matter, he intervened in a federal appeal over the major consent decree that lays out guidelines for educating special needs students in Los Angeles. The parties settled without an appellate hearing. *Chanda Smith v. Los Angeles Unified School District*, 2:93-cv-7044 (C.D. Cal., filed Nov. 22, 1993).

He represented a worker who contracted valley fever from a job site.

And he represented a developer in a tangled case involving the Northridge earthquake, a lender taken over by the Federal Deposit Insurance Corp. and, on appeal, something called the D’Oench Duhme doctrine. “I think even the [9th U.S. Circuit Court of Appeals] judges were confused by the fact pattern,” Weinberger said. *Henrichs v. Valley View Development*, 474 F.3d 609 (9th Cir. 2007).

He said he considered becoming a mediator because “I really got sick of what a poor job that some of the mediators did. All they were doing, as a lawyer I know describes it ... They were just being carrier pigeons.”

In about 2018, he started adding some mediation matters to his law practice. But as the mediation work grew, doing both proved too difficult. So in 2019, he closed his practice and joined Alternative Resolution Centers full time.

“I like being a problem solver,” Weinberger said. “I like working with the lawyers.”

Lawyers seem to like working with him. “The thing about Peter that makes him a very good mediator, he was a very good lawyer,” said Mario Vega of Vega & Rivera LLP, who litigated against Weinberger years ago and now has had two mediations with him.

“Peter relates well to the lawyers. He knows right away what the lawyer wants,” Vega said. He also is “really good at homing in on what the issue is.”

Weinberger said he prides himself on thoroughly understanding the facts of a case. After receiving briefs before a mediation, he

usually sends the attorneys emails with additional questions he wants answered.

Halverson said he has received three-page, detailed emails of questions about cases. “I would take a case to Peter just to see what his thoughts are because he puts in so much more effort than other mediators,” he said.

Weinberger said his approach to mediations is to be completely honest with the attorneys and especially with their clients. He tells clients that mediators are neutral but are biased in favor of settlement.

“That settlement may not be the fair result, but it may be what everybody decides is a good result for them in light of the potential risks,” he will say. “If you actually talk honestly with people, they get it.”

Recently, he has begun serving as a discovery referee. “Often, after he rules on a discovery motion, he will suggest that he and the parties try to resolve any other likely problems informally. For instance, they will try to reach agreements on a set of interrogatories one by one. If some can’t be resolved, then just those few can be put into a formal discovery motion.

“The lawyers get along better when the judge or discovery referee is not being a jerk to them,” Weinberger said. ■

Here are some attorneys who have used Weinberger’s services: Jason Friedman, The Law Office of Friedman & Chapman; Mario Vega, Vega & Rivera LLP; Michelle McCliman, Tickner McCliman APC; Hannah Bentley, Blum Collins LLP; Craig Collins, Blum Collins LLP.