

Wearing Many Hats

Neutral Mark LeHocky brings a diverse set of experiences to every session

By Kevin Lee / Daily Journal Staff Writer

SAN FRANCISCO — When Mark J. LeHocky was in the market for a new business card to showcase his mediation services, his daughter wanted him to include an image that represented his diverse career.

That is how a black-and-white photograph of a dozen dark-ribboned fedoras ended up opposite LeHocky's contact information. Some fedoras have teardrop tops with pinched indentations shaped like high cheekbones; others have smoothly rounded faces with crowns that resemble shallow frying pans.

"She brought up this point, 'Dad, you've worn all of these hats. That's what's different about you,'" LeHocky said. "I thought about it initially: 'Is that going to be a little corny?' But it is true."

Before jumping into full-time neutral work, LeHocky spent lengthy stints as a private civil litigator, large company general counsel and federal court panel mediator.

From 1987 to 2000, LeHocky spent much of his litigation career at San Francisco firm Freeland, Cooper, LeHocky & Hamburg, now Freeland Cooper & Foreman LLP, serving clients as prominent as Apple Inc. and Steve Jobs.

In 2000, he became general counsel for one of his litigation clients, Dreyer's Grand Ice Cream Inc. During his seven-year stint, LeHocky guided the Oakland-based company through a merger with international food conglomerate Nestle SA.

LeHocky remained at Dreyer's until 2007, when he became general counsel at national retailer Ross Stores Inc.

Outside of his paid legal work, LeHocky also served as a member of the Northern District of California's volunteer mediation panel. U.S. District Judge Wayne D. Brazil, now retired, appointed LeHocky to the panel in 1999.

"I will never leave the panel until they kick me off," LeHocky said. "I will always do it because I think it is a great honor to be on the panel, I think it's a great public service."

Mark J. LeHocky

Judicate West
San Francisco

Areas of specialty: Intellectual property, antitrust, employment, consumer class action

"It's an eye-opening experience of the potential of this [mediation] process if properly executed," LeHocky added.

Spurred on by his experience as a Northern District neutral, LeHocky departed Ross Stores in 2012 to move to full-time private mediation work. He entered a temporary stint in 2014 as of counsel at Kilpatrick Townsend & Stockton LLP to assist with a complex antitrust case.

LeHocky then joined Judicate West last year as part of the Southern California ADR service provider's foray into the San Francisco Bay Area.

His mediation practice encompasses intellectual property claims, antitrust disputes, employment cases at both a class and individual level, consumer class actions, real estate and litigation that arises out of business transactions.

LeHocky enjoys developing creative solutions to try and resolve cases at early inflection points. He is uniquely situated to communicate with both advocate and client because of his experience in both roles.

"I try to wrap up all of those different perspectives together and my practice is sort of about sharing all the perspectives, as I've worn all of the different hats in the legal arena," LeHocky said.

Karen Vogel Weil, a Knobbe, Martens, Olson & Bear LLP practitioner in Los Angeles, represented an alleged infringer in a federal trademark dispute in which the Northern District assigned LeHocky to mediate.

"He was very involved in the process, he had done his homework. He really wanted, and it was very apparent, that he wanted to find some mutually accepted ground," Weil said. "Sometimes you find mediators and they just go through the motions."

To maximize the effectiveness of a mediation session, LeHocky advised companies and attorneys to engage in pre-session conversations to get an early sense of their counterparts' perspectives.

"Hopefully that's taken place, but



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often times, it hasn't," LeHocky said. "So I do like to have a joint session where we can talk about as many things that shouldn't be controversial, clear up the main facts."

LeHocky acknowledges that there are some cases that lawyers and their clients will insist on bringing to trial, but he feels that is more the exception than the rule.

The vast majority of cases, in LeHocky's opinion, "are solvable sooner if the right effort is put in and the right advocacy is done by the attorneys."

While his process of mediating a dispute varies on a case-by-case basis, LeHocky said he typically accepts pre-session briefs to understand where the case stands.

Aaron L. Agenbroad, the partner-in-charge of Jones Day's San Francisco office, said LeHocky will typically get a "read on the room" and engage both sides before figuring out how to advance the mediation process.

Agenbroad, a lawyer who represents defendants in labor and employment disputes, said practitioners can be candid with LeHocky without concern their statements could be used against them.

"I think establishing that rapport and that credibility is something that works well and gets reciprocated," Agenbroad said. "Whatever you felt should be confidential will be kept confidential."

Joseph A. Meckes, a Squire Patton Boggs partner in San Francisco, represented a client involved in a patent dispute in the Northern District. As a court-appointed neutral, LeHocky helped resolve the case.

Meckes praised LeHocky for his ability to talk in a down-to-earth fashion and defuse conflicts.

"He can say, 'I've been the lawyer, I've been the client, I've made the business decisions, I know you're looking at being killed by attorneys' fees,'" Meckes said.

Companies and attorneys look to LeHocky, Meckes said, when they need "an outsider to talk to them in a matter-of-fact and reasonable way."

LeHocky has actively sought to educate the next generation of lawyers and business executives as of late. Last year, he served as an adjunct professor at UC Davis School of Law and this year, he plans to guest lecture at both Davis and UC Berkeley.

He emphasizes to students that mediation is not a "white-flag, throw-in-the-towel exercise."

"This process is usable on so many fronts. It's not about, we have to find a way to split the baby in half, it's not about waiting until you're on the courtroom steps," LeHocky said. "There is so much that can be accomplished by attacking the problem sooner."

Attorneys who have used LeHocky's services include:

Aaron L. Agenbroad, Jones Day; James C. Ashworth, The Ashworth Law Office; Cabrach J. Connor, Taylor Dunham and Rodriguez LLP; Timothy P. Fraelich, Jones Day; Manuel A. Juarez, Law Office of Manuel A. Juarez; Joseph A. Meckes, Squire Patton Boggs; Robert E. Schaberg, Shartsis Friese LLP; Karen Vogel Weil, Knobbe, Martens, Olson & Bear LLP; Glenn P. Zwang, Buchalter Nemer