Daily Journal
VERDICTS & SETTLEMENTS
FRIDAY, OCTOBER 23, 2026

Neutral Mark LeHocky approaches mediation as a rescue mission

Drawing on decades of experience as a litigator and a general counsel, ADR Services neutral Mark J. LeHocky helps parties assess litigation risks, confront difficult realities, and find practical solutions to complex disputes.

By Shane Nelson
Special to the Daily Journal



Gary Wagner / Special to the Daily Journal

Longtime mediator Mark J. LeHocky believes understanding how a dispute arose can be essential to resolving it. But he doesn't see mediation as an exercise in assigning blame.

He sees it as a rescue mission.

"If we're doing our job right as neutrals, we're basically operating as lifeguards," LeHocky said. "Our goal is to save everybody — not to shine a light on anybody who dropped the ball. But sometimes, knowing how a problem got to this point provides some insight about how you can help fix it."

LeHocky spent two decades representing plaintiffs and defendants in complex antitrust, trade secret and business litigation before moving in-house. He served seven years as general counsel at Dreyer's Grand Ice Cream Inc. and another five at Ross Stores Inc.

He began mediating cases in the 1990s while still practicing law, then became a full-time private neutral in 2012. For the past seven years, he has worked with ADR Services, Inc., handling employment, intellectual property, mass tort, commercial and product liability disputes as a mediator and arbitrator.

That varied background shapes his approach to resolving disputes, particularly his experience as a general counsel responsible for weighing litigation risks against broader business considerations.

"I think you respect the law, but you don't look at it with any bias to one side or the other," LeHocky said. "And I think it helps to home in on what's really important and get through the process as efficiently as possible."

He describes his mediation style as client-centric, often spending considerable time helping parties understand the financial, practical and personal consequences of continuing litigation.

"Sometimes you have to think short game and long game," he said. "There may be a short-term battle, a skirmish that may be won. There may be long-term implications to a lot of disputes that are hard to see right up front."

San Francisco defense attorney Rosha K. Jones, who has used LeHocky to resolve several employment disputes, said his ability to assess those competing considerations distinguishes him.

"He really focuses on the realistic risk assessments for both sides of proceeding to litigation," Jones said. "He spends a lot of time helping both sides evaluate the litigation costs, the business expenses and what the

Mark J. LeHocky

ADR Services, Inc.
San Francisco

Areas of Specialty:
Intellectual Property
Employment
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Product Liability
Commercial
Insurance

business' objectives are and how much time and impact that will have on the day-to-day lives of our clients."

His experience as a general counsel also gives him credibility with corporate clients, she said.

"That experience really resonates with our clients, who are trying to evaluate litigation risk and settlement authority," Jones said. "Our clients really respond well — particularly those that are in-house attorneys — to a mediator who's sat in the same position as them."

San Diego defense attorney Tracy A. Warren, who has worked with LeHocky on roughly a dozen employment disputes, agreed.

"He's been in that seat where ... the business he worked for has been sued," Warren said. "And when Mark speaks with clients, they really listen to him."

Warren said his measured demeanor helps overcome the skepticism some clients bring to mediation.

"He can speak to everyone effectively. He has a very unassuming personality that is direct, clear, reasoned and very measured," she said. "He's not one of those guys that throws a lot of gas on cases that need to settle. He's just creative in his problem-solving."

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— Person Quoting

Plaintiffs' attorneys offered similar assessments.

Santa Barbara attorney Matthew S. Da Vega has worked with LeHocky on employment, personal injury and data privacy class action disputes over the past decade. He described the mediator as thoughtful and evaluative, willing to give attorneys candid assessments of their cases.

"He's come to me on a case that may not be the best and told me, 'Hey, if I were you, I would — at least based on the evidence you have right now — I wouldn't push it,'" Da Vega recalled. "He's very discreet, and he's very understanding, and I think he's often the smartest guy in the room."

Santa Barbara plaintiffs' attorney Matthew H. Fisher, who has used LeHocky in employment and personal injury matters, praised his ability to guide parties without antagonizing them.

"He's not going to try to jam the defense version down the plaintiff's throat and make them even more indignant," Fisher said. "He's humble, soft-spoken, and he's always a step ahead mentally. And there's no ego."

LeHocky said he has deliberately maintained a diverse practice rather than concentrating on a single area of law. The variety, he explained, recalls his years as a general counsel, when unexpected problems routinely displaced the day's agenda.

"Every day is different," he said. "Every matter is different, much like it was being a general counsel."

For LeHocky, that unpredictability is part of the appeal.

"If you enjoy variety and are comfortable with a little bit of spontaneity, I think it keeps you energized."

Here are some attorneys who have used LeHocky's services: Matthew S. Da Vega, Da Vega Fisher Mechtenberg LLP; Tracy A. Warren, Buchalter; Rosha K. Jones, Folger Levin LLP; Matthew H. Fisher, Da Vega Fisher Mechtenberg LLP; Kenneth A. Kuwayti, Morrison & Foerster LLP

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