

ARC April Events Recap

April kept our team on the move as we networked and represented ARC at several industry events across Los Angeles and Mexico. Here's a quick look at what we were up to last month!



South Bay Bar Association Judges Night - Nicole Bethurum, Marjorie Luna, SBBA President Esther Kim and Hon. Andrew Kauffman, Ret.



Los Angeles County Bar Association - Probate Raffle winner, Angela Hawekotte and Nicole Bethurum



Women in Trial Travel Summit - Marjorie Luna & Lauren Wood

MCLE Presentation: AI, Insurance Liability & Mediation: Who Pays



**Speaker: Jeffrey S.
Kravitz, Esq.
Mediator/Arbitrator
(ARC)**

This highly interactive 60-minute CLE uses three provocative hypotheticals to show how AI-linked harm turns into predictable “who pays” fights: how claims get pled to trigger coverage, which policy “lanes” get argued, what carrier positions reliably follow, and how mediators convert finger-pointing into structured allocation and settlement. Format is fast and practical, short scenario set-ups, audience “pick a lane” votes, cold-call discussion on the single controlling fact, and a mediation module that teaches how to stop the blame loop, separate defense-cost urgency from indemnity certainty, and build a decision-tree path to resolution.

**MCLE Credits provided
General – 1 hour**

**Date: June 2nd, 2026
Time: 12:15 – 1:15 PM
Format: Zoom**

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Whose Mediation is it Anyway? Employment Lawyers, Step Up

By Cynthia E. Gitt Esq.

Our courts in California are fiscally challenged but overwhelmed with employment-related cases. Our strong broad laws protecting employees in the workplace are well-known to employers and employees alike.

While every case and court is different, several large awards in certain jurisdictions demonstrate the importance of employee protections to those who serve on juries. The attorneys fees generated or awarded in these cases can be breathtaking. The trouble is, cases still take years to wend their way from filing through trial, and then through the appeal process, the remand, and potentially collection actions, before resolution is finally achieved. We all know the adage: Justice delayed is Justice denied. To that caveat is added the incredible stress on the parties, if not the lawyers (and the courts), throughout the process. Life and productivity are derailed.

These factors have propelled mediations into a central role in the litigation and dispute resolution process. Many courts require some sort of court-sponsored or independent mediation at some point during the litigation process. A multitude of private mediators are anxious to assist. The majority of cases ultimately do resolve voluntarily, without a trial. But some do not. Why?

Sadly but truly, in some cases the lawyers themselves are hostile to mediation and resolution short of trial. Sometimes the lawyers are reflecting the recalcitrance of their clients, and sometimes the lawyers reflect their own recalcitrance onto their clients. Yet, in my experience as both a long-time litigator and a mediator, settlements often provide substantial benefits to the parties themselves. And at some point into the litigation, the parties want to explore this option.

For the plaintiff, some of the obvious benefits include reducing the stress of appearing for deposition, searching for ancient notes, texts, emails, telephone records, time records, medical records, and the like, and enduring the negative feedback that usually emanates from the employer to counter the allegations. And worst of all, plaintiffs are forced to relive their trauma, making recovery and "moving on" very difficult.



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For the employer, litigation significantly disrupts the company's mission and business. Some months into litigation, supervisors and managers must take time from their business responsibilities to respond to internal and external discovery, and sit for stressful depositions, finger-pointing and criticism of their decisions. Soon the entire workforce becomes aware of the dispute, distracting other employees and inspiring other employees to examine their own experiences. All the employer's policies come under scrutiny. The company may have to fight with sub-contractors or service providers who played a part in the events, or fight with the insurance company on coverage, selection of counsel, counsel fees, and strategy decisions. And unlike employees, employers have to pay their lawyers, and court reporters, experts and other providers upfront. The costs quickly mount, exceeding initial expectations and budgets.

How do the lawyers fit in? Our Rules of Professional Conduct mandate that lawyers act with commitment and dedication to the interests of their clients, to act with the mental and emotional ability reasonably necessary to the performance of legal services, to reasonably consult with the client about the means by which to accomplish the client's objectives in the representation, explain a matter to the extent reasonably necessary to make informed decisions regarding the representation, communicate with the client about all written offers of settlement made to the client, exercise independent professional judgment and render candid advice.

In the context of mediation and determining if settlement, and on what terms, would accomplish the client's objectives, attorneys often have to alter their strategy and approach to the litigation for that moment. A take-no-prisoners approach that an attorney may be taking to the litigation is unlikely to contribute to a successful settlement that may actually serve the client better. Attorneys must consult with their clients in a dispassionate way, exercise independent professional judgment, and exercise candor. They have to conduct themselves in a manner calculated to achieve the client's objectives, even if the client's objectives are different from the attorneys.

We all know that focused preparation, analysis and presentation by the lawyers to their constituents, their clients (the decision-makers), their insurance carrier, and themselves, are prerequisites to effective mediations. But attorneys also must examine and address how their own objectives and hopes relate to their client's interests. Despite rumors to the contrary, lawyers are human beings too. Lawyers tend to bond with, or enmesh with, their clients. They sometimes uncritically accept the client's point of view. Lawyers want to earn fees, whether by winning or by providing extended paid legal services.

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Lawyers have their reputations in the community to uphold and want to show they are winners.

To competently and effectively perform their professional responsibilities and serve their clients' interests in mediation, the lawyers first need to examine and address their own emotional investments, objectives, and unconscious biases that might obstruct a mediation. They must dispassionately evaluate their cases in order to render candid advice and meet their professional responsibilities. They must be open to the viewpoints of others, including the mediator and even the opposing side. They must evaluate their client's case dispassionately and candidly, as candid advice requires.

As human beings, lawyers, as well as their clients, are particularly prone to three common implicit psychological biases: confirmation bias, attribution bias, and affiliation bias. Confirmation bias creates a filter, where the lawyer or client hears and accepts only information that confirms the preconceived notion that the client is right, and disregards all information to the contrary. Attribution bias is present where credibility is ascribed to the source of information; for example, the lawyer uncritically accepts the client's views as infallible due to loyalty to the client, such as uncritically accepting the client's definition of his or her nemesis as malicious or untruthful rather than considering other alternatives. Sometimes affiliation bias, which credits or discredits information from members of discrete groups, pushes the lawyer to unconsciously favor the views of client managers or disfavor the facts proffered by employees or other groups, or to overestimate the CEO's or the plaintiff's effectiveness as a witness. If the lawyers have not examined and taken steps to counteract these natural biases prior to mediation, they often overestimate the strength of their client's case, underestimate the strengths in their opponent's case, and give unrealistic expectations to the clients that impede the successful exercise of their professional responsibilities and scuttle what should have been a successful resolution.

Psychology also comes into play when lawyers for a party are actually defending decisions made on advice that the lawyers themselves gave, thereby conflating their own interests with their client's interests. Conflicts of interest between lawyers and their clients are often the unspoken presence in mediations that can interfere with resolutions that the clients want and need.

Facing and resolving all of these issues before the mediation and working with the clients (with the help of the mediator) to temper expectations and risk evaluation, will enhance the chances of successful and productive mediation. And even if the mediation does not succeed on that day, the candid assessment will likely yield benefits down the line.

ARC Perspective

A note from the CEO
Nicole Bethurum



Month 4: Matching the Right Neutral to the Right Case

One of the most important factors in any mediation is selecting the right neutral. Experience, subject matter familiarity, and approach can all significantly influence how a case progresses—and ultimately, whether it resolves.

No two matters are exactly alike. A complex business dispute may benefit from a different style than an employment matter or a multi-party case. Understanding those nuances—and aligning them with the right neutral—is something we take seriously at ARC.

We encourage counsel to reach out directly when considering mediation. A quick conversation with our team can help identify the best fit based on the specific dynamics of your case. Our case managers and I are always available to discuss options and make thoughtful recommendations.

Our goal is simple: to ensure that each matter is paired with a neutral who can move the case forward efficiently and effectively.

Please feel free to call me or any member of our case management team to discuss your next matter.



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