

LACBA to CAALA: Here's What Kept Us Busy



Women Lawyers of Ventura County - Anthony Khoury, Esq., Hon. Mary Thornton House, Ret., Marissa Salinas, Lori Dobrin, Esq., Marjorie Luna, Hon. Vincent O'Neill, Ret., Andrew Smith, Esq.



LACBA Family Law Event with Hon. Aviva Bobb, Ret. & Marjorie Luna

Our busy month started with the Los Angeles County Bar Association (LACBA) Family Law Event.

One of the highlights of the month was seeing Lori honored with the Holly Spevak Award from the Women Lawyers of Ventura County. It was such a wonderful night and an especially meaningful moment for our team to see Lori recognized for all that she brings to the legal community. We were so happy to be there to celebrate with her and share in the evening.

We're always glad to show up, support our colleagues, and spend time with the people who make this community so great!



We had such a great time at the California Association of Los Angeles Attorneys (CAALA) Vegas! A big thank you to everyone who stopped by Booth #809 to say hello and catch up with our team. We brought back our mimosa bar, which was once again a crowd favorite, and our team got to enjoy a relaxing yoga session and sound bath headed by ARC Neutral, Anthony Khoury. Between the great conversations, a little fun, and plenty of memories, it was another CAALA Vegas for the books!



Marissa Salinas, Nicole Bethurum



Yoga Session taught by
Anthony Khoury



Enjoying the mimosa bar



Anthony S. Khoury and sound bath
facilitator

Checkout our Instagram @alternativeresolutioncenters for more from CAALA Vegas!

New Neutral

Hon. Kimberley Baker Guillemet

Los Angeles County Superior Court, Retired

Kimberley Baker Guillemet is a highly respected mediator, arbitrator, public servant, law professor, author, and jurist whose career is defined by a commitment to justice, equity, and effective dispute resolution. Drawing on her experience as the founding director of the Los Angeles Mayor's Office of Reentry, a Los Angeles Superior Court judicial officer, educator, and private neutral, she brings a thoughtful, balanced, and solutions-oriented approach to resolving complex disputes. Her work spans dispute resolution, public policy, board governance, authorship, and strategic academic and philanthropic leadership. Judge Guillemet is particularly skilled at bridging divides, fostering productive dialogue, and helping parties navigate challenging conflicts with empathy, creativity, and practical judgment to achieve meaningful and lasting resolutions.



After graduating from University of the Americas in 1999, Judge Guillemet attended Stanford University then the University of Southern California's Gould School of Law, graduating in 2005 where she was part of the Alpha Kappa Alpha sorority. Since then, Judge Guillemet has taught at Pepperdine Law School, Los Angeles Unified School District, and Southwestern Law School. Judge Guillemet served as a Judge with the Los Angeles Superior Court for eight years and has extensive experience in dispute resolution and public service. During her tenure as a policy director for the City of Los Angeles, she regularly resolved high-stakes disputes, balanced the competing interests of diverse constituencies, and engineered creative and cost-effective solutions that preserved vital business and community partnerships. She has represented state professional and licensing boards in administrative hearings and settlement negotiations, as well as plaintiffs in disability rights matters against school districts and local education agencies in due process hearings, mediations, and IEP meetings, achieving a 100% success rate. She is a member of the Association of African American California Judicial Officers and the California Association of Black Lawyers- Judicial Section. In 2021, Judge Guillemet published *Black Prep: Life Lessons of a Perpetual Outsider*.

Her main practice areas today are appellate, disability, family law, elder care, legal malpractice, faith disputes, sexual assault, etc.



Jeffrey S. Kramer, Esq. Is Now a Full Time Mediator and Arbitrator

A highly respected attorney and neutral with more than four decades of experience, Jeff Kramer has mediated and arbitrated more than 3,500 cases. Known for sound judgment, strategic insight, and the ability to bring parties together, Jeff is particularly effective in navigating complex, multi-party disputes involving competing interests and challenging legal issues.

Jeff's extensive experience encompasses a broad range of matters, including personal injury, professional

malpractice, construction defect, general liability, habitability, and lemon law claims. Throughout a distinguished career, he has developed a reputation for thoughtfully evaluating complex disputes, facilitating productive negotiations, and helping parties achieve practical and effective resolutions.

Practice Areas

Construction Defect: Jeff was among the first wave of attorneys to handle large-scale construction defect litigation involving tract-home and condominium developments. He has extensive experience with construction defect matters arising from the development, construction, renovation, and ownership of residential, commercial, and mixed use properties throughout California.

General Liability: Jeff has handled a wide range of general liability matters, including commercial trucking, automobile, premises, and product liability claims, as well as habitability and lemon law disputes.

Professional Malpractice: Jeff has substantial experience handling professional malpractice claims involving physicians, architects, engineers, insurance agents, and other professionals.

Conflict Resolution Experience

Dispute Resolution: As a mediator, arbitrator, and neutral, Jeff brings decades of litigation experience and a deep understanding of the dynamics that drive complex disputes. His ability to identify the critical issues, understand the interests of all parties, and facilitate meaningful negotiations makes him an effective neutral in high-stakes and multi-party matters.

Mr. Kramer is available throughout California.



Message from a Mediator...

WINNING AT MEDIATION

And Why A Mediated Settlement is More Often a Better Resolution Than Going to Trial

Over the years, I have heard many people talk about "winning" a mediation. I have never felt comfortable with that expression because I truly think it is an oxymoron.

Mediation Starts from a Different Place Than Trial

Litigation is built upon the concepts of winning and losing. Each side presents evidence and ultimately asks a judge or jury to enter judgment in its favor. At the end of a trial, there is usually a winner and a loser.

Mediation starts from a different place. Its purpose is not to defeat the opposing party, but to determine whether the parties can resolve their dispute on terms they can accept before surrendering control - and accepting the accompanying uncertainty - to a judge, jury, or arbitrator. The mediator does not decide who is right, award damages, enter judgment, or force either side to settle.

For that reason, it is rare for one side truly to "win" a mediation at the expense of the other. Settlement requires mutual consent. Both sides must decide that the negotiated agreement is preferable to continued litigation and the risks of trial.

Most mediated settlements involve some measure of disappointment. A plaintiff may accept less than expected, perhaps even below a stated bottom line. A defendant may pay more than anticipated. That is compromise. It does not mean that anyone lost. It means that the parties concluded that settlement was in their best interests when compared with further delay, legal uncertainty, financial expense, and emotional strain.

Advocacy with a Different Purpose

Good lawyers advocate vigorously at mediation. They know the facts, understand the law, evaluate the evidence, and prepare their clients for difficult decisions and possible compromises. They also recognize weaknesses in their own cases because those weaknesses will nearly always become part of the discussion.

At trial, lawyers try to persuade a judge or jury to rule against the opposing side. At mediation, the lawyer, with the assistance of the mediator, must persuade the opposing party to agree to a negotiated resolution. This requires a fundamentally different kind of persuasion.



Robert M. Cohen, Esq.
Mediator/Arbitrator

A Difficult Homeowners Association Dispute

Several years ago, I mediated a difficult homeowners association dispute. The HOA was represented by a highly regarded statewide law firm that regularly handled HOA matters. The homeowner had retained a local attorney.

As often happens in HOA cases, the disagreement had become personal. Money was no longer the driving issue. The case had become a matter of principle, and both sides were determined not to give in. After several hours with little progress, the HOA representatives asked me to do everything possible to end the matter. They believed the association was right and hoped I could convince the homeowner to accept the HOA's position.

I explained that HOA disputes are among the hardest legal cases to settle. The parties are not strangers who can resolve a lawsuit and go their separate ways. They may continue living across the street, sharing common areas, attending the same meetings, and disagreeing over the same CC&Rs and association rules long after the lawyers have closed their files.

I told them that, in my experience, perhaps only half of my HOA disputes had resolved at mediation. The HOA's attorney disagreed.

"I've won many HOA mediations," she said.

That stopped me in my tracks. Won? Winning a mediation? A party can certainly negotiate a favorable agreement, and sometimes one side does considerably better than the other. But a negotiated settlement is not a verdict. No judge declares a prevailing party, and no jury announces that one side was right and the other was wrong.

A settlement requires patience, compromise, and enough acknowledgment of the other side's concerns to produce an agreement that both parties will honor. In that HOA case, the real question was not whether the association or the homeowner could claim victory. It was whether they could end the dispute on acceptable terms and continue living in the same planned community without every future encounter becoming another confrontation.

The Better Question

The attorney's comment stayed with me because it reflects a common view among litigators. Lawyers naturally want to gain the upper hand. They may worry that reducing a demand or increasing an offer will be seen as weakness or will cause the negotiations to break down. Every movement can feel like a concession, and every concession can feel like a point scored by the other side. By the end of the mediation, counsel may be tempted to ask, "Did we beat them?"

I understand that instinct. Lawyers are trained to compete, protect their clients, and advocate. But does "Did we beat them?" have any useful meaning in mediation? The better question is: "Did this settlement serve our client's best interests, and was it better than the realistic alternatives?"

Evaluating the Alternatives

If a mediation does not result in settlement, the parties should expect additional legal fees, further discovery and motions, and months or even years of uncertainty. The lawsuit will continue to occupy the client's attention, often not merely in the back of the client's mind, but at the forefront of it.

Then there is the risk of trial. Even a strong case can take an unexpected turn. A witness may not testify as well as expected. Important evidence may be excluded before trial begins. A judge may interpret the law differently, and a jury may not connect with a party or may value the damages in a way no one predicted.

A mediated settlement replaces all of those potential risks with a result controlled and selected by the parties. The agreement may not resemble what either side envisioned when the dispute began, but that does not make it a poor result or a loss. Settlement may also provide certainty, privacy, closure, preservation of a relationship, or simply relief from having a lawsuit hanging over everyone involved. Payments can be structured, deadlines adjusted, and practical concerns addressed in ways a verdict may not permit.

Before accepting or rejecting a proposed settlement, counsel and clients should consider:

- The probable range of outcomes at trial, not merely the best possible result
- The additional fees, costs, and time that continued litigation will require
- The possibility that evidence will be excluded or witnesses will perform unexpectedly
- The value of certainty, privacy, closure, and preserved relationships
- The practical terms mediation can provide that a court judgment may not
- Whether the proposed agreement is better than the client's realistic alternatives

When the First Session Does Not Settle

A mediation should not automatically be called a failure simply because the case does not settle during the first session. Sometimes people need additional information, another deposition, a court ruling, or time to think about what they heard.

I have seen cases move substantially closer to settlement during mediation and resolve later. The first session may identify the real obstacle, narrow the disagreement, or give everyone a more realistic understanding of the risk. Often, the most useful work begins after the initial session ends.

What a Successful Mediation Requires

A successful mediation does not require one side to surrender while the other side celebrates victory! It requires prepared lawyers, informed clients, realistic expectations, and patience when the discussions become difficult.

Compromise is not weakness. It is often a deliberate decision to exchange the uncertainty of litigation for a result the client can accept. The proper measure of success is not whether one party can claim victory. It is whether the agreement protects the client's interests and offers a better result than continued litigation. In my opinion, a principled compromise and negotiated settlement provides something far more valuable than a courtroom trial: namely control by the parties, certainty, finality, and an end to a costly legal dispute. In the best sense, a negotiated settlement can even be magical for both sides.

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Latent Symptoms: The Medical Malpractice Plaintiff

By Paul J. Molinaro, M.D., Esq.

Having been an attorney or mediator in many medical malpractice cases, I know that most people see the plaintiff as its center. The plaintiff alleges to have been harmed by a physician who was trusted to do no harm. During discovery not only will the plaintiff's private medical history be revealed to attorneys and experts but his or her entire life history, emotional state, income, hobbies, family details, and whatever else may lead to something relevant. Should the case go to trial, all of this very personal and sensitive information will be provided to the jury in open court. As I addressed in the first part of this series, the physician defendant has consequences of his or her own to manage, but they are different.



The job of plaintiff's counsel is to help everyone in the case see the plaintiff as a real person who suffered real and specific harm. Defense counsel will do its best to counter that effort. Attorneys on both sides do their jobs better when they understand what the plaintiff is actually experiencing and what the plaintiff actually wants. A common assumption is that plaintiffs have physical pain and want money. This assumption is as oversimplified as it is untrue. The truth is that every plaintiff has suffered differently and wants something different. Recognizing these differences is key to understanding a plaintiff and resolving a case.

The Manifestation of Symptoms

The first emotion a plaintiff experiences is anger, and it is usually directed at the physician who caused the harm. Anger is expected, but what is less expected is betrayal. Most people believe that physicians do not make serious mistakes. They learned that from television shows where the most complicated diseases are diagnosed in one thirty-minute episode and commercials where there is a drug that cures every ailment. Patients place enormous trust and faith in their physicians. The old saying, "Trust me. I'm a doctor." reflects how people generally view physicians. To say that patients trust physicians with their very lives is not an overstatement.

When patients believe that their trust was betrayed, they may feel foolish for having trusted so completely, as though their trust itself was the mistake they made. Underneath that feeling of foolishness is shame. Plaintiff's attorneys are sometimes called ambulance chasers. When a plaintiff who already feels foolish for trusting a physician learns that the standard of care does not require perfection, that plaintiff may start to wonder whether he or she is simply being an opportunist. Friends do not help. When a plaintiff tells friends about the lawsuit, the first question is usually, "How much are you going to get" and not "What are you doing to get better?"

The Underlying Causes

Physical injury often brings a loss of independence, and that loss has more impact than the physical limitation itself. A plaintiff who becomes dependent on others for driving, for chores, for basic care, loses a part of his or her identity. For someone who was previously an independent, functioning adult, needing that kind of help can feel like evidence of diminished worth, even though the injury was caused by someone else. That loss of independence, combined with learning what the standard of care and acceptable risk actually mean, often leaves plaintiffs believing their case is less clear-cut than they expected. Many plaintiffs enter litigation believing physicians are held to a standard of near perfection. Learning otherwise reshapes what they expect from the case and from any resolution. That reshaping should not happen for the first time at a deposition, mediation table, or trial.

Knowledge Is the Cure

I have found that the plaintiff's counsel who addresses these emotions early, rather than waiting for them to surface under pressure, gets a better result for the client. By recognizing all of these conflicting emotions in his or her client at the very beginning of representation, plaintiff's counsel can discuss them with the plaintiff and provide reassurance that these feelings are normal responses. Providing knowledge about the standard of care, acceptable risk, and how the legal system is designed to compensate people who were harmed by others (not reward them for simply getting hurt or for bringing a lawsuit) can help the plaintiff move away from the subconscious self-blame and shame. Self-blame and shame make people minimize, apologize, or undermine their credibility when testifying. When the attorney provides the right treatment (counseling in this situation), the plaintiff can provide his or her best testimony.

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Preparation is the key to managing misguided beliefs and strong emotions. A plaintiff who is not able to manage these symptoms will minimize, apologize, and undercut his or her own credibility on the stand. The goal of counsel is not to coach the client into a performance but to help the client present as what he or she actually is: a credible person who was harmed.

The first part of this series addressed what allows a physician defendant to walk into mediation and evaluate a resolution on its actual merits. The same principle applies here. When a party witness is prepared, honest, and emotionally grounded, a case resolves more fairly. Stated plainly, justice is best served when everyone is allowed to do their best. Part three of this series will address the mediator's role in recognizing and addressing the latent symptoms of both parties.

Paul J. Molinaro, M.D., Esq. is a mediator and arbitrator with Alternative Resolution Centers specializing in medical malpractice, personal injury, and products liability. He can be reached at pmolinaro@arc4adr.com.

ARC Perspective

A note from the CEO

Nicole Bethurum



Accessibility and Responsiveness in ADR Services

In today's litigation environment, responsiveness is more important than ever. Counsel often need timely scheduling, quick coordination, and direct access to case management support.

At ARC, we prioritize accessibility and communication throughout the mediation process. Our case management team works closely with counsel to ensure that matters are scheduled efficiently and that any logistical needs are addressed promptly.

We believe that effective ADR administration should support, not slow down, the resolution process.