



Jeffrey Krivis
FIRST MEDIATION



Mariam Zadeh
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Alternative Dispute Resolution

IN MEDIATION, WE STRIVE TO FOSTER A SAFE FORUM

Welcome to Las Vegas, the gambling capital of the world. Litigation has a lot in common with gambling. There's a sense of excitement and uncertainty. Big risk takers reap big rewards but also fall into hard times. This special ADR issue has taken these themes and woven them into a kaleidoscope of articles that touch upon a range of processes that help generate results for clients.

The articles vary from managing wage and hour class action to personal injury disputes, with some important advice on handling tax and insurance issues in employment disputes along the way. We have perspectives from inside the "room where it happens" (defense decision makers) to the controversial litigation-funding mechanisms, managing bias in mediation and many more.

Against this backdrop, we continue to be idealists in the way dispute resolution is applied. We encourage you to consider dispute resolution in its broader sense, truest form, and its application not only in the context of our professional lives as advocates, but its application in our daily lives, which we believe is more critical now than it has ever been in recent history.

Consider this quote from a decision written by CA Supreme Court Justice Tobriner in 1963:

We must note... the integrated and specialized society of today, structured upon mutual dependency.... From the observance of simple standards of due care in the driving of a car to the performance of the high standards of hospital practice, the individual citizen must be completely dependent upon the responsibility of others. The fabric of this pattern is so closely woven that the

snarling of a single thread affects the whole.

(Tunkl v. Regents of University of Cal. (1963) 60 Cal.2d 92, 104.)

News and data tailored to polarize

We are living in a time where the sociopolitical climate has fostered a state of everyday conflict, unease, distrust, and heightened daily anxiety. "Breaking News" is everywhere 24/7, with dissemination of data in a manner tailored to polarize individuals. Rather than presenting facts for the public's consideration, we are instead drowned in a tsunami of antagonizing positional arguments that discourages discourse, deepens dissonance, distrust and divisiveness.

The "I'm right, you're wrong; If you're not with me, you're against me."

This stance does nothing more than function as a catalyst to conflict: internal, interpersonal, collegial, familial, and even global.

In mediation we strive to foster a safe forum for open professional discourse, zealous respectful debate, transparent factual exchange and persuasive legal argument; parties may see matters differently, but can remain open to understanding (not necessarily agreeing with) the other's position or stance on an issue, large or small. It behooves us to expand this view of dispute resolution to our everyday lives, where we can have the greatest impact.

Let us reflect deeply on the profundity of Justice Tobriner's choice of words, "the individual citizen must be completely dependent upon the responsibility of others." We are a collective, a people, first and foremost before we are advocates, and that is where each and every one of us, can turn

to the higher purpose of dispute resolution, and consider with every thought, every action, every inaction... am I advancing the cause of peace, humanity, interconnection, and the collective good, which is really at the heart of dispute resolution and this issue.

We stand together, united

In the last six months alone, we have proudly witnessed our colleagues who have risen above the micro-chatter, fear-mongering, and repeated blows to the cohesiveness of the public collective, to stand together as advocates for the individual, and their civil liberties. They have made their voices heard, whether plaintiff or defense: "We stand together, united" and will work tirelessly to resolve any infliction on the threads of the societal fabric that binds us as human beings and our mutual dependency, ensuring the integrity of our profession and carrying out the words Justice Tobriner spoke of so astutely in 1963.

Jeffrey Krivis practices complex commercial mediation with an emphasis on class action and labor and employment disputes. He has taught at Pepperdine Law School and the Straus Institute for Dispute Resolution and is Past President of the International Academy of Mediators.

Mariam Zadeh, admitted in NY, NJ, and CA, has resolved thousands of disputes nationally including complex insurance, labor and employment, catastrophic injury and class-action matters. She obtained her LL.M. from the Straus Institute at Pepperdine University and is a Distinguished Fellow of the International Academy of Mediators, a global organization committed to integrity and competence in mediation.