

VERDICTS & SETTLEMENTS

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The Catalyst

*Charles Dick brings parties together at the right point, avoiding explosions.*By Mark Armao
Daily Journal Staff Writer

Even the most complex, high-dollar business disputes can stem from simple allegations of fraud or deceit — charges that often evoke emotionally explosive conflicts between parties.

A mediator's job is to calculate how to bring those sometimes unstable elements together in a way that avoids spontaneous combustion, which is why Charles H. Dick Jr. sometimes compares settling a lawsuit to a chemical reaction.

"That reaction will not occur unless you have the right ingredients at the right temperature at the right time," he said. "You may have two of the three ingredients, but you need something more to make the reaction take place. It's my job to supply that third ingredient."

Donning one of his signature bow ties in lieu of a lab coat, the former attorney mediates business related disputes involving antitrust, securities, employment and professional liability. Dick's career as a trial lawyer spanned nearly 50 years, a decade of which was spent as lead counsel in a series of securities class actions.

After winding down some lingering legal battles, the former Baker McKenzie partner joined JAMS' Southern California team last year, marking the end of a courtroom career that began on a different battlefield.

Dick had recently graduated from The University of Iowa College of Law when, in 1967, he was drafted to serve in the Vietnam War. He was selected for the U.S. Navy's Judge Advocate General's Corps, an assignment that entailed spending a year in Saigon, providing support to Vietnamese military lawyers as a staff officer under Gen. Creighton W. Abrams.

Although the young attorney didn't know it at the time, the skills he honed while trying to earn the foreign lawyers' trust would prove invaluable throughout his career, Dick said.

"I was green as all could be," he said. "It was a very important training ground for me to practice the skills that one needs to earn the trust and confidence of the people you're trying to help."

Dick now employs those skills in his mediations, which he often begins by interacting with the parties on each side to gain a better understanding of the emotional underpinnings of a dispute. The insight enables him to more effectively explain why accepting a settlement proposal may



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be in the parties' best interests, he said.

San Diego-based attorney Robert J. Solis, who is in the midst of a multi-session mediation with Dick, said the neutral's sincere, professional demeanor and legal acuity afford him instant credibility with litigants.

"When the parties hear him offer his insight into a case, it's apparent that he's got a great wealth of experience in complex litigation matters, and people listen," Solis said.

Dick's ability to communicate clearly with parties also streamlines the process because the lawyers don't have to "turn around and translate his comments," Solis added.

During the ongoing dispute, which Solis described as a high-stakes suit involving parties that provide services and equipment to the government, Dick convinced attorneys from both sides to allow the parties to meet in the same room to discuss the details of the case.

Solis said while most lawyers are reluctant to let parties speak directly to each other for fear of making a misstep, the attorneys in the case trusted Dick to facilitate a productive conversation.

"Chuck did a really masterful job of eliciting information from both sides that would allow a more constructive and meaningful discussion to take place," Solis said, adding the joint session probably saved the attorneys hours of discovery work.

Timothy R. Pestotnik, a partner with San Diego-based Pestotnik LLP, also

appreciates the attention Dick gives to parties, saying it makes them feel they've "had their day in court."

The trial lawyer currently represents the plaintiffs in a complex consumer class action that has required multiple full-day sessions. Pestotnik said Dick not only knew "how much to listen and how much to talk," but was amenable to a creative arrangement suggested by one side.

"Chuck Dick's approach in attempting to settle was detailed, very specific and very cooperative with counsel, who made proposals that were more unusual than those previously proposed," Pestotnik said. "He is creative, persistent and dogged in attempting to resolve complex cases."

Dick will sometimes craft his own proposals but tries to avoid doing so unless there is an obvious impasse.

"In a perfect world, mediation works best and produces the most lasting results if the mediator can assist the parties themselves in fashioning a solution that both of them can live with," he said. "When people talk about facilitative mediation, they're describing an effort on part of the mediator to get two antagonistic parties to design for themselves something they all can embrace. That's the ideal."

But, as a practical matter, Dick finds at some point during the course of most mediations the parties will look to the mediator to "express some view as to what the world looks like," he said.

Regardless of how a proposal finds its way onto the table, Dick added, getting the parties to the point at which they

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can say, "I can probably live with that" greatly increases the likelihood of their embracing the solution in the days and weeks that follow.

"The sooner you can get parties to put their problems behind them and start looking at how they can live a better life tomorrow, the better off we all are," he said.

Dick also finds fulfillment in serving his community.

Solis was mulling mediator choices as he perused the aisles of his local grocery store in December 2017. As he left the store, groceries in hand, he found his mediator.

"Who do I see dressed as Santa Claus, ringing the Salvation Army bell, but Chuck Dick," Solis said. "It was a sign that Chuck had to be our mediator."

And while Dick sometimes dresses like Saint Nick, he is far more recognizable for another fashion choice.

Dick owns upward of 100 bow ties. He cannot recall the last time he wore a standard necktie but believes it was during his daughter's wedding 22 years ago.

Early in his career, the attorney tied bow knots occasionally but was reluctant to wear the accoutrement in front of a jury for fear of appearing whimsical. In the late 1980s, he expressed his reservations to a high-profile California lawyer who wore bow ties all the time.

The elder attorney, as Dick clearly recalls, said: "Young man, there is not a person on that jury who wouldn't concede that, if you really want to dignify an event with your apparel, you will show up wearing a tuxedo with a black bow tie. It's the people who don't wear bow ties who are dressing down."

Here are some attorneys who have used Dick's services: Jennie Lee Anderson, Andrus Anderson LLP; Andrew B. Kaplan, Kaplan Law Firm; Timothy R. Pestotnik, Pestotnik LLP; Dick Semerdjian, Schwartz Semerdjian Cauley & Moot; Logan D. Smith, McNamara Smith LLP.