

TUESDAY WEDNESDAY THURSDAY FRIDAY **TODAY**JUDICIAL PROFILES CORPORATE COUNSEL Q&A **ADR PROFILES**[Search >>](#)[Bookmark](#) [Reprints](#)

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Friday, June 21, 2013

Paul J. Dubow

Lawyers say Paul Dubow's 'mediator's offers' help push parties toward resolutions in particularly contentious cases.

By Hadley Robinson

SAN FRANCISCO - With his proximity to Silicon Valley, and experience in employment law and commercial disputes, Paul J. Dubow often handles mediations with executives and upper managers at companies. The disputes frequently involve friends, close colleagues, or even fighting family members.



But Dubow says it's those cases he often finds the most interesting. "There's more fire," he said. "Obviously, there's money involved, but the main thing is the human relationship."

One of his most memorable such cases involved a Japanese man who had hired his friend to run his company in the U.S. and subsequently fired him. The friend sued and they ended up mediating with Dubow.

Dubow said the session was contentious, particularly between the lawyers, but he noticed the two men were still friendly with each other. He suggested they go into a separate room to try to resolve the matter on their own.

When that didn't work, Dubow gave them what is known as a "mediator's offer," in which he suggests to them separately what he thinks the settlement price should be. They rejected it, but when Dubow asked if he could keep working to settle the matter, they agreed.

A month later, he followed up with one of the attorneys, who informed him the case settled. The former employee had driven his friend to the airport, and on the way they agreed to take Dubow's offer after all.

Though that was an unusual matter, providing a mediator's offer and evaluating the situation is common for Dubow.

Solo attorney Cary S. Lapidus, who has done about a dozen securities mediations with Dubow, said many of the resolutions happen after he gives his opinion on how it should settle along with his reasons.

"It's a useful tool and very persuasive to both sides," Lapidus said.

Daniel A. Croley, a partner at Futterman Dupree Dodd Croley Maier LLP, represented a plaintiff in an employment dispute in which he said Dubow sent a two-page letter to the defendant explaining some of the problems with their case.

"I think, at the appropriate time, he wasn't afraid to become more evaluative," Croley said.

Questions and Comments

NEWS RULINGS VERDICTS

SPECIAL REPORT In-House Counsel



Monday, June 24, 2013

Corporate

Lawyers help China-U.S. deals navigate oversight

In recent years, the Committee on Foreign Investment in the United States has played an increasingly prominent role assessing the national security implications of cross-border transactions - especially those with Chinese companies.

Government

Attorneys frustrated by court cutbacks of settlement officers, mediation services

Many attorneys and litigants have experienced frustrations, including settling on unfavorable terms, as superior courts pare back their alternative dispute resolution services and delay settlement conferences - sometimes indefinitely.

Intellectual Property

Ultramercial wins 2nd patent decision in Federal Circuit

A long-standing patent infringement lawsuit originally filed by Rancho Palos Verdes-based Ultramercial LLC may ultimately provide more explicit guidelines on how to determine the eligibility of software patents.

Litigation

Video game developer's suit can proceed

A federal jury Friday gave a former software developer the go-ahead to pursue claims that he deserves royalties from Electronic Arts' popular John Madden football video games, which he says were derived from his original source code.

Judges and Judiciary

San Diego courts battered by cuts, societal costs "profound," report says

A new report details how cuts have impacted San Diego courts. Published at a time when lawyers are looking to lawmakers for money, the numbers tell a story familiar across the state: courts spiraling into slow-motion and dysfunction.

Mergers & Acquisitions

California firms handle 3-D printer company sale

O'Melveny & Myers LLP is representing 3-D printer manufacturer MakerBot Industries LLC in the company's upcoming sale to Stratasys Ltd. Cooley LLP represented Stratasys. The all-stock deal is valued at \$403 million

Law Practice On the Move

When a case doesn't quickly settle, Dubow often asks the parties if he can keep working on it, and attorneys say he sends letters and emails, as well as telephone calls to follow up.

"His work ethic is very good," Lapidus said.

In one copyright case he handled, the opening bids from the two parties were \$15,000 and \$9 million. It was the longest mediation he ever had, involving four separate sessions, but he settled it.

But attorneys also say Dubow has a way of making connections and being empathetic to the parties while still resolving the case. Robert L. Gonser, shareholder attorney at Hunsucker Goodstein PC in Lafayette, has used Dubow for mediations four times and noted his skill at dealing with intense feelings.

"Litigation often becomes a very emotional experience for those who've suffered loss. It's not always about money, it's about feeling victimized," Gonser said.

"Paul is very empathetic in his manner and he's able to go to the level where the client is and really understand what the client is going through and turn it around and say let's look at the facts, and take the emotion out of it," Gonser added.

Dubow said he never intended to be a lawyer. He was in the Reserve Officers' Training Corps (ROTC) while working on his undergraduate degree at Rutgers University. The U.S. Air Force told him to report for duty nine months after graduation. But he figured he couldn't get a job for such a short time, and decided he would go to law school for a semester.

After taking the admission test and starting at school, the Air Force notified him he could finish law school and defer his duty until he finished.

He became a judge advocate general for the Air Force in New York, where he mostly defended court marshals. He found he liked being a litigator and decided to pursue that after the service.

"The Air Force had a lot to do with my career," Dubow said.

After the Air Force, and a stint as a trial attorney for the Federal Trade Commission, he ended up in San Francisco as director of litigation at brokerage firm Dean Witter Reynolds, now Morgan Stanley, in 1970.

It was at Dean Witter that Dubow found himself drawn toward negotiation and settlement, and he estimates he tried 125 arbitration disputes as an advocate for his company.

Dubow liked it enough that he got on a list as an arbitrator for the New York Stock Exchange and National Association of Securities Dealers. In 1994, he began working as a part-time mediator, and was on the panel for the Northern District federal court. He became involved in arbitration organizations and started the Mediation Society of San Francisco with six others in 1998, which has grown to include 150 members. In 2000, he left Dean Witter to go full-time as a neutral.

Apart from his daily work mediating and arbitrating, he has advocated for ADR providers at the state government level for the past 10 years as the legislative chair of the California Dispute Resolution Council.

Cliff Palefsky, a partner at McGuinn, Hillsman & Palefsky in San Francisco, has known Dubow for many years for his policy work.

An employment litigator, Palefsky said he and Dubow haven't always been on the same side on every issue, such as whether arbitration should be voluntary or mandatory, but they are both staunch supporters of alternative dispute resolution.

"Paul has had a long involvement in and belief in ADR, even when he was in-house," Palefsky said. "I think he's made the transition very nicely."

Palefsky also had Dubow as an arbitrator for an employment-related dispute.

"I thought he did a terrific job in controlling the process," Palefsky said. "I just remember being very impressed with the time he took and his independent research and his analysis of some complicated legal issues."

Labor and employment firm Littler Mendelson PC hired JoAnna Brooks as a shareholder in the firm's San Francisco office from Jackson Lewis LLP.

Intellectual Property

Patent holding company, undaunted by push against it, sues Google subsidiary

Even as government agencies and Congress scramble to take the lead in the fight against so-called patent holding companies, Intellectual Ventures LLC has taken aim again at a Google Inc. subsidiary.

Environmental

Prop. 65 reform moves forward, but some view push with skepticism

State leaders' efforts to overhaul California's controversial hazardous chemical exposure warning law, Proposition 65, is chugging along, but many remain skeptical that the reforms will significantly reduce lawsuits against businesses.

Entertainment & Sports

2nd suit filed over royalties to "Happy Birthday" song

Two Los Angeles plaintiffs have come forward to challenge Warner/Chappell Music Inc.'s ownership of the song "Happy Birthday to You."

Judges and Judiciary

Judicial Council may make e-filing mandatory

The state Judicial Council will consider a proposal to require parties in civil cases file and serve documents electronically.

Government

Twitter in-house lawyer heads to White House

After weeks of speculation, the White House has confirmed that Twitter Inc. executive Nicole A. Wong will join the Obama administration as deputy U.S. chief technology officer.

Natural Resources

Battle for the Colorado River

A court's recent validation of the "quantification settlement agreement" will hopefully ensure the reliability of Southern California's water supply for the foreseeable future. By **Lisabeth Rothman and Amy Steinfeld**

Perspective

Valuing privacy violations

A central problem posed by consumer privacy litigation is how to place a dollar value on privacy violations. By **Brian S. Kabateck**

Litigation

Plaintiffs face tough initial hurdles bringing data breach claims

Plaintiffs who have not suffered actual losses from the use of their personal information have had a difficult time surviving the pleading stage. By **Adam J. Thurston**

International

Trend: banning adoptions from countries that have legalized same-sex marriage

A proposed Russian law, for example, would even ban single heterosexuals from adopting if from a nation where same-sex marriage is legal. By **Jennifer Mertus**

Here are some attorneys who have used Dubow as a mediator or arbitrator: Robert L. Gonser, Hunsucker Goodstein PC, Lafayette; Cliff Palefsky, McGuinn, Hillsman & Palefsky, San Francisco; Kaipo K.B. Young, Bartlett, Leader-Picone & Young LLP, Oakland; Cary S. Lapidus, Law Offices of Cary S. Lapidus, San Francisco; Daniel A. Croley, Futterman Dupree Dodd Croley Maier LLP, San Francisco; Gordon Young, Barr & Young Attorneys, Danville.

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Immigration

MCLE: Crimes and immigration consequences

The objective of this article is to familiarize readers regarding the immigration consequences of state criminal proceedings in California and the 9th U.S. Circuit Court of Appeals. By **Rodin Rooyani and Curtis A. Kin**

Letter to the Editor

Concerns over proposed fee rules are unfounded

Re: "Proposed rules encourage 'sky's the limit' fee gouging," June 17. By **Stanley W. Lamport and Robert L. Kehr**

Litigants entitled to full explanations of decisions

Re: Profile of Justice Stephen J. Kane, June 13. By **Joel Drum**

Corporate Counsel

Eric M. Bowen

Vice President, Corporate Business Development and Legal Affairs, of Renewable Energy Group Inc. San Francisco

Judicial Profile

Arthur A. Gilbert

Presiding Justice 2nd District Court of Appeal, Division 6

Government

State Bar explores state, federal legislation to forestall immigration fraud

If Congress passes comprehensive immigration reform legislation, the State Bar intends to be ready with state laws to target lawyers defrauding immigrants and a federal provision to avoid pre-emption.