

MICHAEL E. DICKSTEIN

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EDUCATION

HARVARD LAW SCHOOL, J.D. 1985
HARVARD UNIVERSITY, A.B. 1981

WORK EXPERIENCE

MEDIATOR, ARBITRATOR, ADR INSTRUCTOR, & CONSULTANT 1992-
Dickstein Dispute Resolution

I have successfully mediated a wide variety of employment and other cases (including disputes involving class action, contract, discrimination, sexual harassment, termination, wage, benefits, misclassification, independent contractor, non-compete, tort, intellectual property, commercial, personal injury, defamation, malpractice, franchise, partnership, and real estate issues). Examples include: mediating a series of more than 20 interconnected wage and hour class actions, with over a billion dollars in dispute; facilitating contract negotiations between Canada's theater actors and major theater owners; mediating the intellectual property, tangible property, contract, and discrimination issues between a well-known dance company and its artistic director; arbitrating claims in a high profile sex discrimination case against a leading financial institution; being chosen to help mediate, and allocate settlement funds, with respect to thousands of sex and race discrimination claims against a major brokerage house; mediating a constructive discharge case with novel COVID-19 theories; and mediating and arbitrating the full spectrum of individual and class employment claims.

Class & Collective Actions: I have mediated more than 650 class and collective actions across North America (including in New York, Toronto, Chicago, Boston, Washington D.C., Philadelphia, Pittsburgh, Montreal, Detroit, Buffalo, Miami, Atlanta, Nashville, Dallas, Houston, Minneapolis, Columbus, Kansas City, Portland, Denver, Las Vegas, San Francisco, Los Angeles, San Diego and Orange County), with class sizes ranging from fewer than 100 class members to more than 470,000. These actions have included wage, discrimination, consumer, retirement, stock drop, and employment issues, and ranged across industries including the financial, retail, technology, government, restaurant, transportation, energy, medical, customer service, security, sales, academic, casino, gig economy, and service industries.

JUDGE PRO TEM/ MEDIATOR 1992-
San Francisco Superior & Municipal Courts, & Alameda Municipal Court

I have worked as a mediator/settlement judge in the Superior Courts, a trial judge in Small Claims Court, and an appeals judge in Superior Court.

NATIONAL CO-CHAIR/ ADVISORY BOARD 2001-2004/ Post 2004
Workplace Section of ACR (Association for Conflict Resolution)

I ran this approximately 1,100 member section of the leading organization for professionals in dispute resolution.

LECTURER 2005-
Stanford Law School

I teach negotiation and mediation to law, business and other students, as a member of the Gould Center for Conflict Resolution.

PARTNER 1992
ASSOCIATE 1985-91
Heller, Ehrman, White & McAuliffe- San Francisco office

(One of the leading American law firms at that time, it had approximately 700 lawyers worldwide)
As a partner, and an associate, in the firm's labour department, I assessed, managed and successfully resolved my clients' complex employment issues. My cases varied from large discrimination class actions, to individual sexual harassment disputes, and from lawsuits to resolve the meaning of a policy affecting tens of thousands of employees, to solitary contract disputes. I spoke on employment issues to clients, industry groups and others, and counselled my clients on avoiding the gamut of problems that arise at work. My clients ranged from major national banks and corporations to public interest groups, and from a plaintiff class of over 300 people, to individual named defendants.

ADJUNCT PROFESSOR

2003-2004

University of San Francisco (MBA program)

I designed and taught courses on "The Art of Negotiation, Mediation, and Conflict Resolution in Business" to MBA students.

MEDIATION & NEGOTIATION INSTRUCTOR

1996-

Stitt, Feld et al. (The Law Schools of the Universities of Notre Dame, Melbourne, and Windsor); The U.S District Court for N.D. CA; MWI; Mobius; Other leading ADR groups

I teach introductory and advanced classes on negotiation and mediation worldwide. I have taught professional organizations, corporations, judges, executives, attorneys, academics, senior military officers, legislators, professionals, civil servants, HR representatives, actors, salespeople, IT workers, and the general public (for details see "Selected Presentations & Teaching").

LECTURER IN APPELLATE ADVOCACY

1990

U.C. Berkeley Law School

I taught sexual discrimination law, legal writing, and oral advocacy, to first year law students.

MEDIATION & ADR PANEL MEMBERSHIPS

-ADR Chambers International (the leading Canadian International Arbitration and Mediation Organization): Mediation & Arbitration Panel

-Merrill Lynch Claims Resolution Process: Mediation panel for sex discrimination class action of 900 women

-Merrill Lynch Claims Distribution Process: Neutral panel to hear claims and assist special master in allocating a fund arising from the settlement of approximately 700 race discrimination claims

-Smith Barney Dispute Resolution Process: Arbitration Panels for employment class action

-U.S. District Court for the Northern District of California: Mediation Panel

-California Court of Appeals: Mediation Panel

-San Mateo Superior Court Multi-option ADR Project: Arbitration, Mediation, Early Neutral Evaluation, and Settlement Conference Panels

-Santa Clara Superior Court: Mediation and Early Neutral Evaluation Panels

-Contra Costa Superior Court: Mediation, Pro Tem, and Settlement Conference Panels

-Marin Superior Court/ Marin County Bar Association: ADR Panels

SELECTED PUBLICATIONS

- “Strategy or Bad Habit? Avoiding Lawyers’ Most Common Mediation Pitfalls”**, Int’l Academy of Mediators Blog October 2018 (iamed.org) & ABA Mediation Committee Newsletter, December 2018.
- “Commercial Mediation: The United States & Europe”**, Commentator, Dispute Resolution Magazine, Fall 2017.
- “Twelve Sure ways to Ensure a Bad Result in Mediation”**, Advocate August 2018 & Plaintiff: ADR Issue, August 2017.
- “Advice to Those Pondering a Mediation Career”**, Int’l Academy of Mediators Blog, Dec 17, 2015 (iamed.org).
- “A day in the life of a Federal mediator...”**, interview comments on NPR’s “Marketplace”, October 18, 2013.
- “8 Steps to Negotiating a Deal.”**, *CNN.com* (labeled a “Must Read” by CNN), October 10, 2013.
- “The 10 Fastest Ways To Insure A Bad Result In Class Action Mediations”**, *Canadian Arbitration and Mediation Journal*, Vol. 19 No 1 Spring 2010.
- “Let’s NOT Just Get To The Point: Effectively Mediating Class Action Settlements”**, *American Bar Association Class Action and Derivative Suit Newsletter*, Vol. 18 No. 3 Spring/Summer 2008.
- “Balancing Act”**, dialogue on ADR between 7 “leaders from both the bar and dispute resolution field”, *Daily Journal Extra*, January 20, 2004, p. 12-17.
- “Arbitration of Discrimination Claims in the Ninth Circuit” and “Arbitration of Discrimination Claims: The Fog Shrouded Ninth Circuit”**, summaries for the National Employment Law Institute’s Human Resources Workbook (2002) and Employment Discrimination Law Update Manual (2001).
- “Preparing for, and Attending, Mediation”**, a chapter in the *Alternative Dispute Resolution Practice Manual*, published by CCH Canadian Limited (2000).
- “Mediating Employment Disputes”**, a chapter in the National Employment Law Institute’s 2003 Employment Litigation Workbook, 2001 Employment Law Briefing Manual, 2001 Employment Litigation Workbook, 2000 Employment Law Litigation Manual, and 1999 Employment Discrimination Law Update Manual.
- “Revitalizing the International Law Governing Concession Agreements”**, 6 Int’l Tax and Bus. Law. 54 (1988 U.C. Berkeley). Excerpted and republished in Weston, Falk & D’Amato, *International Law and World Order* (2d ed. 1990) (a leading international law text).
- “Canada’s Example Shows Drawback of English-Only Laws”**, Chicago Tribune, May 13 1997. Republished in *The Contemporary Reader* (6th ed. 1998), G. Goshgarian editor (a college level English text containing notable essays on contemporary issues by writers that have included Alice Walker, Arthur Schlesinger, Dave Barry, Maya Angelou, Camille Paglia, Susan Faludi, Cornel West, and William Bennett).

SELECTED SPEECHES & PRESENTATIONS

- “Negotiations at the Mediation”**, Osgoode Hall LLM program, Toronto/Zoom, February 3, 2021.

-**“Tips for Effective Advocacy in Mediations”**, Canadian Bar Assn. Webinar, November 20, 2018.

-**Negotiation Essentials & Influence Skills**, given to Meridiam executives & public infrastructure investment negotiators, NY 9/21-10/3, 2017; Paris, France 10/4-10/12, 2018; 9/15-9/16, 2016; 3/21-3/24, 2016; Lakeville, CT, 11/19-11/20, 2015.

-**Wage & Hour Mediations and Settlement**, PLI, NY February 13, 2018.

-**Mediating FLSA Cases**, given to the ABA ADR in Labor and Employment Law Committee, Palm Springs CA, February 13, 2015.

-**“Building a Career in ADR”**, given to the American Arbitration Association Higginbotham Fellows (A program for “up and coming diverse alternative dispute resolution professionals”), May 16, 2014.

-**Applied Mediation Course**, given to employees of the Government of Nunavut, Iqaluit, Canada, February 18-21, 2014.

-**Enhanced Negotiation Skills Workshop**, given to the United Food & Commercial Workers Union (UFCW) locals 175 & 633, Niagara-on-the Lake ON, June 24-26, 2013.

-**Advanced Negotiation Training**, given to General Dynamics, London ON, November 14-15, 2012.

-**“Successfully Mediating Multi-Party Cases: Looking Beyond The Litigation”**, given to the Marin County Bar Association, Marin CA, October 17, 2012.

-**Mediating Wage & Hour Class Actions**, given to in-house and outside employment counsel, Calistoga, CA, March 11, 2011.

-**Difficult Conversations and Negotiation**, given to lawyers at Devry Smith law firm, Deerhurst, Ontario, February 17, 2011.

-**Class Action Summit: Effectively Mediating and Settling Class Actions**, given to clients and attorneys of Littler Mendelson law firm, Rancho Palos Verdes, California, September 23, 2010.

-**Class Action Mediation Training**, given as part of the Impact Fund’s “Class Action Training Institute”, May 30, 2009.

-**“The Music of Negotiation: A Conversation in Concert”**, with the St. Lawrence String Quartet and Rob Kapilow, given to the public, at Stanford University, Palo Alto, California, October 30, 2008.

-**Mediating Employment Class Actions: Lessons From The US Experience**, given as part of the Law Society of Ontario’s *Six-Minute Employment Lawyer* program, Toronto, Ontario, June 12, 2008.

-**Class Action Summit and Roundtable: Mediation Mistakes and Challenges**, given to clients and attorneys of Littler Mendelson law firm, Laguna Beach, California, March 6 2008.

-**Labour Negotiations Workshop**, given to the government of Bermuda’s core negotiating team, heads of departments, and other key negotiators, Bermuda, December 10-14, 2007.

-**Negotiation Skills Workshops**, given to product and sales employees of Analog Devices, Munich, Germany November 13-16, and Munich Germany and Paris, France, May 8-11, 2007.

-**Effective Negotiation Training**, given to commercial bankers with the Canadian Imperial Bank of Commerce, Toronto, Canada, February 6-7, 2007.

-Intensive Negotiation Training, given to Vertex Corporation, Berwyn, Pennsylvania, November 7-9, 2006.

-“The Advanced Practitioner at Work: Narrative Mediation & Other Issues” and “Workplace Opportunities in ADR”, given at the Association for Conflict Resolution’s annual conference, Philadelphia, PA, October 26- October 28, 2006.

-Mediation Training, given to the Chartered Institute of Arbitrators, Hamilton, Bermuda, June 28-July 1, 2006.

-“Expectations, Skills and Success in Mediation: An Interactive Discussion Between Leading Mediators, Advocates, and Court Administrators”, given to the Mediation Society and Bar Association of San Francisco, San Francisco, California, April 28, 2006.

-Advanced Mediation and Negotiation Training, given to a group including senior members of the military, judiciary, legislature and government, Port of Spain, Trinidad, November 29-December 2, 2005.

-“Mediation and Settlement Strategies for Class and Collective Actions”, given to the National Employment Lawyers Association (NELA), Cambridge, Massachusetts, October 14, 2005.

-Intensive Negotiation Training, given to human resources and other employees at Vertex Corporation, Berwyn, Pennsylvania, October 17-19, 2005.

-“The Advanced Practitioner at Work: Focusing on Issues of Interest to Advanced Practitioners of Workplace Mediation” and “Building and Expanding an Employment, Labor and Workplace Conflict Resolution Practice”, given at the Association for Conflict Resolution’s annual conference, Minneapolis, Minnesota, September 29- October 1, 2005.

-Intensive Negotiation Training, given to employees at Vertex Corporation, Berwyn, Pennsylvania, April 26-28, 2005.

-Negotiation Training, given to employees of Norcal, in conjunction with MWI, San Francisco, California, January 19, 2005.

- Negotiation Advocacy: What litigators and corporate attorneys can learn from each other, a half-day program given to attorneys in the bankruptcy and finance departments of Sheppard Mullin law firm, San Diego, CA, October 23, 2004.

- “The Advanced Practitioner at Work: Challenges and Emerging Issues for Workplace Mediators”; “Building and Expanding an Employment, Labor and Workplace Conflict Resolution Practice”; and “Dialogue with the Joint Leadership of the ACR Workplace and Organizational Conflict Management (OCM) Sections”, given at the Association for Conflict Resolution’s annual conference, Sacramento, California, September 29-October 2, 2004.

-Alternative Dispute Resolution Workshop, given in conjunction with the Bahamas Trade Union Congress, to top trade union officials, CEO’s and corporate representatives, Freeport, Bahamas, August 23-26, 2004.

-“Alternative Dispute Resolution of EEO Claims”, given to the National Employment Law Institute’s Employment Discrimination Law Update, San Francisco, California, July 22, 2004 & Chicago, Illinois, July 29, 2004.

-Alternative Dispute Resolution Workshop, opened by the Minister of Labour and closed by the Prime Minister of the Bahamas, given in conjunction with the Bahamas Trade Union Congress, to top trade union officials, corporate representatives, and adjudicators, Nassau, Bahamas, May 24-28, 2004.

- Designing and Implementing Corporate ADR Programs**, given to the National Employment Law Institute's Human Resources Conference, San Francisco, CA, May 6, 2004.
- "Building and Expanding an Employment ADR Practice"**, given to the American Bar Association, Section of Dispute Resolution, annual conference, New York, N.Y., April 17, 2004.
- Intensive Negotiation Training**, given to employees at Vertex Corporation, Berwyn, Pennsylvania, October 20-22, 2003.
- "Mediation Training"**, given to commissioners/judges of the Australian Industrial Relations Commission, Melbourne, Australia, October 7-10, 2003.
- "Mediation Advocacy: Thinking Like A Mediator To Get The Most For Your Employment Clients"**, given to the National Employment Lawyers Association (NELA), Vail, Colorado, June 27, 2003.
- "Mediation Advocacy"**, given to the National Employment Law Institute(NELI)'s Employment Litigation Workshop, San Francisco, California, June 13, 2003.
- "Mediation Advocacy"**, given to employment attorneys at Heller Ehrman law firm, Los Angeles, California, April 25, 2003.
- "Lessons in Mediation and Negotiation Learned from Working Internationally"**, given to law students at Hastings Law School, San Francisco, California, April 1, 2003.
- Negotiation Training**, given to senior executives (including CEO, CFO, and COO) of Norcal, St. Helena, California, March 12, 2003.
- Negotiation & Mediation Training**, given to the public at the Glencree Centre for Reconciliation, Wicklow, Ireland, February 25-28, 2003.
- Panel Discussion: Negotiators Speak on Negotiation**, given to the Princeton Club of Northern California, Palo Alto, California, February 12, 2003.
- "Negotiation In The Workplace"**, given to students at the University of San Francisco, School of Business and Management, San Francisco, California, October 1, 2002.
- "Speaking Softly and Carrying a Big Stick: How to Get More Through Negotiation and Mediation"**, given to the Barristers Club of San Francisco, Solo & Small Firm Practitioner Committee, San Francisco, California, September 19, 2002.
- Negotiation & Mediation Training**, given to representatives of the St. Lucia Board of Education, and the top administrators of Sir Arthur Lewis Community College, in conjunction with the Stitt, Feld, Handy Group, Castries, Saint Lucia, June 25-27, 2002.
- "Negotiating Like A Lawyer: How To Talk Your Parents Into Almost Anything"**, given to highschool seniors on behalf of the U.S. District Court for the Northern District of California, San Francisco, California, May 29, 2002.
- Intensive Negotiation Training**, given to employees at Vertex Corporation, in conjunction with Stitt, Feld, Handy Group, Berwyn, Pennsylvania, May 15-17, 2002.
- "Developments Affecting Arbitration & Mediation of Employment Disputes"**, given to the National Employment Law Institute's Human Resource Institute, San Francisco, California, May 9, 2002.
- Negotiation & Mediation Training**, given to Human Resource professionals, and managers, of Agriculture Canada, in conjunction with Stitt, Feld et al., Winnipeg, Canada, March 18-21, 2002.

-**Stanford Mediation Seminar**, coached Stanford Law Students in mediation techniques, Palo Alto, California, January 14, 2002.

-**“From International Training to Domestic Mediation: When Theory Meets Reality”**, given to the Bar Association of San Francisco, ADR section, January 10, 2002.

-**“Arbitration of Discrimination Claims”**, given to the National Employment Law Institute’s “Employment Discrimination Law Update” conference, San Francisco, California, July 20, 2001.

-**Negotiation & Mediation Training**, given to the public in conjunction with the Trillium Group and the University of Notre Dame Law School, Seattle, Washington, May 15-18, 2001.

-**Mediation Training**, given to arbitrators of the London Maritime Arbitrators Association, London, England, May 1-4, 2001.

-**“Mediation Advocacy”**, given to the National Employment Law Institute’s “Employment Law Briefing” conference, in Breckenridge, Colorado, March 1, 2001.

-**Advanced & Introductory Mediation and Negotiation trainings**, given to the public in conjunction with the Trillium group and the University of Melbourne, Melbourne, Australia, November 14-17, 2000 (introductory), November 21-24, 2000 (advanced).

-**Mediation Training**, given to retired Court of Appeals and High Court judges, senior barristers (QC’s), and other prominent barristers and solicitors, chosen for training by ADR Chambers (a mediation group composed of retired judges and senior lawyers), London, England, July 3-6, 2000.

-**Negotiation Training**, given to Deans and academic directors of Centennial College, with Stitt Feld et al., in Toronto Canada, June 25-27, 2000.

-**Training for Special Mediation Counsel**, given on behalf of the Federal District Court for the Northern District of California, to attorneys offering *pro bono* representation in Federal Court mediations, San Francisco, June 12, 2000.

-**“Mediation Advocacy”**, given to the National Employment Law Institute’s “Employment Law Litigation” conference, in San Francisco, June 8, 2000.

-**Advanced Mediation Training**, given to the public, with the Trillium Group and the University of Notre Dame Law School, in Phoenix, AZ, March 28 -31, 2000.

-**“The Power of Mediation: What Litigators and Business Lawyers Can Learn From Each Other”**, given to the Marin County Bar Association, Business Law and ADR sections, March 16, 2000.

-**“Mediation in the USA and Canada”**, given to the judges on the Victorian Civil and Administrative Tribunal, in Melbourne, Australia, March 8, 2000 (with Allan Stitt).

-**Mediation Training for the Australian Industrial Relations Board**, given to judges and commissioners on the Board, with Stitt, Feld et al. and the University of Melbourne, in Melbourne, Australia, March 7 -10, 2000.

-**Mediation and Negotiation Training**, given to the public, with the Trillium Group and the University of Notre Dame Law School, in Cleveland, OH, January 18-21, 2000.

-**Mediation and Negotiation Training for the British Dental Association**, with the Trillium Group, in London, England, October 20-22, 1999.

-**“Mediating Equal Employment Opportunity Disputes”**, given to the National Employment Law Institute’s “Employment Discrimination Law Update” Seminar, San Francisco, CA, July 22, 1999.

-**Mediation and Negotiation Training**, given to the public, with Stitt, Feld et al. and the University of Windsor, Port of Spain, Trinidad, June 22-25, 1999.

-**Mediation and Negotiation Training**, given to the public, with the Trillium Group and the University of Notre Dame Law School, Cleveland, OH, May 25-28, 1999.

-**“Mediation and Approaches to Negotiation”**, part of a presentation to Baker & Mckenzie law firm at their firm retreat, San Francisco, CA, May 1, 1999.

PROFESSIONAL ACTIVITIES & QUALIFICATIONS

DISTINGUISHED FELLOW: International Academy of Mediators.

ADVANCED PRACTITIONER, MEDIATION: Association for Conflict Resolution, Workplace Section.

BAR MEMBERSHIPS & COURT ADMISSIONS: I have been a member of the California Bar since 1985, and am admitted to practice before the California Supreme Court, California Trial Courts and Courts of Appeal, United States Court of Appeals for the Ninth Circuit, and United States District Courts for the Northern and Eastern Districts of California.

PROFESSIONAL RECOGNITION: Northern California “Super Lawyer” (ADR) 2006, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 (5% of lawyers chosen); Who’s Who of American Lawyers; Who’s Who in America; Who’s Who in the World.

MEMBER: Canadian Bar Association & American Bar Association.

LANGUAGES: English and French.