HAROLD P. (PETER) SMITH, ESQ.

Mediator • Arbitrator • Referee

ADR SERVICES, INC.
Your Partner in Resolution

Peter Smith, Esq. handles disputes spanning the spectrum of civil litigation, and is particularly adept at dealing with matters rendered complex through the prevalence of high emotions, personal pride, preconceptions, complications regarding expression and content, uncertainty about intellectual property, and policy or political underpinnings. He is able to break through the barriers to resolution created by this array of competing forces and to reach practical solutions through a delicate combination of patience, understanding, balance, fairness, and humor. Never one to simply find the "middle ground," he does not hesitate to reach or push for a solution that may be closer to one or the other position if the circumstances merit such a resolution.

Mr. Smith's philosophy is informed by decades of work as an attorney, mediator, and member of private, public, and non-profit governing bodies. As an attorney, his practice was to secure an early resolution through collaboration with his clients and the opposition prior to incurring large attorney fees. As a mediator, his practice has included pre-litigation mediation (primarily through the California Association of Realtors and C-level employment terminations), court-ordered early mediation (as a panelist for the Federal District Court for Northern California), and as a settlement mentor and court mediator for cases closer to the day of trial. Most importantly, it is his work bringing colleagues to consensus on private and sometimes very public disputes. Whether it is a boardroom dispute for a private company, a difficult decision to terminate a high-level employee, or a public or quasi-public issue of broad interest, Mr. Smith has decades of experience and a style that combines listening, consensus building, and thoughtful resolution.

MEDIATION METHODOLOGY

Mr. Smith breaks down the mediation process into component parts, the nature of which is driven by the situation. Initially, and prior to the mediation itself, he conducts an extensive understanding of the underlying facts, law, motivations, and preconceptions. In doing so, he draws in equal parts on the materials and discussions presented to him and on his own personal experiences at bringing disputes to resolution. In the mediation session itself, the initial goal is two-fold: making sure that he has an accurate understanding of the events and emotions underpinning the dispute and giving the litigants a compelling feeling that they have been heard. Depending on what arises during this initial phase, he shifts into a problem-solving mode, always in collaboration with the parties and their attorneys. Finally, if not resolved and only if asked, he moves to an evaluative mode, advising all parties where he believes, as the neutral, that the resolution should be. This methodology can, in some instances, lead to a conclusion in relatively short order (as in most Americans with Disabilities Act and real estate cases). In others, such as business dissolutions or internet content cases, a conclusion may take several sessions over days or even weeks. Every mediation is different in one respect or another, so these components may shift or other strategies may be employed depending on circumstances.

ARBITRATION PHILOSOPHY

Arbitration presents a slightly different challenge to the neutral. The skills required of an arbitrator are several-fold. First, the arbitrator must be able to determine the "signal from the noise." Second, the arbitrator must hear the issues accurately and convey that all parties have been heard. Third, the arbitrator must understand all inherent bias, including his own, to ensure that any decision is not influenced by improper preconceptions. Finally, an arbitrator must be able to make a decision – one that is fair, balanced, and demonstrates a full understanding of the of the case.

Mr. Smith's decades of decision making in private, public, and non-profit settings have prepared him for such arbitrations. He is frequently retained as an arbitrator at the conclusion of a mediation where there are some unresolved issues or where disputes over the settlement may arise after the agreement is reached.

OTHER RELEVANT EXPERIENCE

Prior to becoming a full-time mediator, Mr. Smith had a 35-year career as a litigator and trial lawyer.

He began his career as Deputy District Attorney for the County of Alameda, where he tried more than 20 jury trials to verdict and well over 500 preliminary hearings and court trials on a wide variety of criminal matters.

He then joined and formed a series of civil litigation firms, working as a trial lawyer on a wide range of civil litigation matters, with particular emphasis in the fields of business, corporate and shareholder disputes, facilities development and land use, construction, real estate, adjoining property owner disputes (property lines, easements, encroachments, and views), corporate governance, and C-level employment termination. He also handled matters involving internet content, particularly under the Digital Millennium Copyright Act and the Right to be Forgotten (EU), and freedom of expression, particularly concerning political and religious matters.

Although most matters resolved, he has conducted numerous jury trials and complex commercial arbitrations on this variety of matters.

Mr. Smith has been awarded the prestigious designation of Northern California Super Lawyer in business litigation by Thomson/West Publishing, an accolade reserved for the top 5% of lawyers in the jurisdiction.

EDUCATION AND ACTIVITIES

Mr. Smith received his A.B. in Economics from Harvard University in 1982 and his J.D. from the University of San Francisco School of Law in 1986.

He is a member of the State Bar of California, The Mediation Society, the United States District Court Mediation Panel for the Northern District of California, and the Mediation Panel for the California Association of Realtors, and the neutrals panels for counties across the State of California.

He is admitted to practice before all trial and appellate courts in the State of California and the United States District Courts for the Northern, Central, and Eastern Federal Districts of California.

Mr. Smith has served as a faculty member for the Stanford Law School Advocacy Skills Workshop and as a panelist and commentator on transit-oriented development, green technology, planning, and economic development issues.

AREAS OF EXPERTISE

Real Estate

Business & Commercial

Facilities Development and Land Use

Construction

Employment Terminations

Corporate Governance

Internet Content

EDUCATION

University Of San Francisco School of Law, J.D. May 1986.

Harvard University, A.B., Economics, June 1982.

Head Royce School, High School Diploma, June 1978

PROFESSIONAL RECOGNITION

Northern California Super Lawyers. 2014-2022.

The Mediation Society of Northern California. 2016-Present, Board of Directors, 2018- 2021.

PROFESSIONAL EXPERIENCE

ADR Services, Inc., 2021 - Present

Smith Mediation and Arbitration, 2019-2021

Smith, LLP, Partner, 2014-2018

Dhillon & Smith LLP, Partner, 2006-2014

Law Offices of Harold P. Smith, Partner, 2002-2006

Stein, Smith, Rudser & Cohen, LLP, Partner, 1997-2002

Stein & Smith, Partner, 1992-1997

Birka-White & Stein, Senior Associate, 1989-1992

California State Legislature, Joint Legislative Audit Committee, Counsel, 1989

Alameda County District Attorney, Deputy District Attorney, 1986-1989

Alameda County District Attorney, Certified Law Clerk, 1985-1986

DISPUTE RESOLUTION TRAINING & CERTIFICATIONS

U.S. District Court, Northern District of California, Certificate of Completion, Mediation Training Program, 2011. Mediation Panel Member, 2011-Present.

U.S. District Court, Northern District of California, Certificate of Completion, ADA Access Training Program, 2018. ADA Mediation Panel Member, 2018-Present.

Alameda County Superior Court, Court Mediation Program, Mediator, 2021-Present.

Contra Costa Superior Court, Discovery Facilitator, Settlement Mentor, 2017-Present.

California Association of Realtors, Mediator, 2018-Present.

University of California, Berkeley, Certificate of Participation in Mediation and Conflict Resolution, Ron Kelly (40 hours) 2001.

Harvard University, Getting to Yes – Harvard Negotiation Project, Roger Fisher, 1981.

AFFILIATIONS

Planning Commission, City of Oakland, Chair and Commissioner of seven-member panel, 1991-1996

General Plan Congress, City of Oakland, Chair of 32-member citizen panel charged with writing the Oakland General Plan, 1993-1998

The Head Royce School, Board of Trustees, Board Member on and off 1988 to present, current Board Chair.

Claremont Country Club, Board of Directors, 2009 – 2013, Club President.

Davis Street Family Resource Center, Board Member, 2017-2019

Youth Tennis Advantage, Board Member, 2014-2019

Estuary Plan Advisory Committee, Oakland, Member, 1997-1998

Task Force on Community Restoration & Emergency Preparedness following the 1991 Oakland Hills Fire, Oakland, 1991-1992.

Oakland Commerce Corporation, Board of Directors, 1992-2000

Oakland Coliseum Redevelopment Advisory Committee, 1992-2000.

Metropolitan Task Force on Downtown Redevelopment, 1992-1993

Alameda Contra Costa Transit District, Member of the Board of Directors, 1986-1988

The Head Royce School, Distinguished Alumnus of the Year, 1991