

VERDICTS & SETTLEMENTS

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Relentless

Frank Burke has a reputation as a shrewd mediator with an ability to settle difficult cases.

By Craig Anderson
Daily Journal Staff Writer

After more than four decades in civil practice, Frank Burke took classes at Pepperdine University Law School's Straus Dispute Resolution Program in 2016 and had what he describes as an epiphany.

"This is something I really want to do," he recalls thinking. Though he decided it was time to give up his career as a practicing attorney, Burke said he felt very energetic.

He handled settlement conferences in San Francisco Bay Area superior courts, then joined ADR Services Inc. in October 2017 as a neutral.

Burke has since developed a reputation as a shrewd mediator with a businesslike manner and an ability to settle difficult cases.

"Mediations are hard work," he said in an interview. "It's a very demanding job."

Burke, who spent years handling antitrust and business litigation at several national law firms, wins praise from attorneys for his ability to help them and their clients reach practical solutions to disputes that seem unlikely to settle.

"He is relentless," said Samuel A. Chuck, a partner with Rossi, Hamerslough, Reischl & Chuck in San Jose.

Chuck said he was especially impressed with Burke's



Gary Wagner / Special to the Daily Journal

handling of two emotional disputes between family members over ownership of a home. "They are often very hard to settle," the attorney said, because of the hard feelings that go back years between family members on opposite sides.

"Rarely do you see a mediator stick with it as long as he did," Chuck said. "He was calling me on my anniversary, with my permission. It took a week and a half."

Like other attorneys, Chuck said Burke does a fine job getting the parties to think in terms of reaching practical results and giving them news they might not want to hear.

Burke said parties often need someone to explain why their position is not reasonable.

"You have to be the angel of reality at some point," he said.

Burke said he likes to get to know the clients, and not just their attorneys. "This may be their only opportunity to tell somebody, except their own lawyer, how they got into the case," he said.

Some attorneys push back a bit about not getting to talk as much themselves, but Burke said he thinks it's important to hear from the parties.

One told him, "You're the first person who ever suggested I might lose this case," Burke said.

Burke's career as an attorney includes a stint at the U.S. attorney's office in Seattle in the economic crime enforcement unit and stints as partner

Frank Burke

ADR Services Inc.
San Francisco

Areas of specialty:
business, real estate,
employment, personal
injury, technology, trade
secrets, patent law

and practice group leader at Steptoe & Johnson LLP, Seyfarth Shaw LLP and Foley & Lardner LLP.

"I can relate very closely to where the lawyers are coming from, because I did it for 42 years," he said. "That's an advantage I have that some judges don't."

A native of Massachusetts, Burke grew up in a city 20

miles south of Boston in a blue-collar family. His father was a truck driver for the Boston Globe, his mother was a hairdresser, and he attended Cornell University on a Teamsters' scholarship.

"I had no professional role model," he said.

Burke originally thought he would be a chemistry major but switched to economics and later graduated from Harvard Law School.

"He's just real," said James P. Collins, an attorney with The Boccardo Law Firm in San Jose who represents plaintiffs in personal injury cases and has used Burke's services twice. "He comes with impressive credentials but he never tells you. He has a natural ability to get people to talk to him."

"Frank's strength is that he listens," Collins added. "He doesn't tell you what to do but has this affability about him."

Burke helped Collins' Spanish-speaking clients reach a settlement with an insurance company that had taken a hard line.

For mediations, he charges a flat fee of \$2,500 for a half day and \$5,000 for a full day. Arbitrations cost \$500 an hour.

Philip J. Wang of Putterman Yu LLP in San Francisco said Burke helped settle an employment discrimination and whistleblower case against his client, a startup business owner. The dispute was a difficult one, as the two sides knew each other well.

"After the first day, nothing got done," Wang said. "So he scheduled a day to come to my client's office," displaying an unusual interest for a mediator in the client's company.

"He could speak business to my client and take some of the emotions out of the case," Wang said. "He was able to convince my client fighting this was not going to be in his business interest. Frank showed a real personal touch."

Allen J. Ruby, of counsel at Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates in Palo Alto, said Burke has handled mediations and settlement conferences for his clients and describes his approach as "businesslike."

"He's very direct," Ruby said. "You don't waste any time. He's not trying to dictate things. On the other hand, he's not bashful."

Ruby said Burke displays a

diplomatic touch when speaking with attorneys.

"If he thinks you're way off base, he has a way to tell you but never in an overbearing way," Ruby said. "He's looking to offer his insights when he thinks it's appropriate."

Burke and his wife, Mary, have two children and two grandchildren.

He said COVID-19 first slowed down mediation in March and April but added it's picking up again due to videoconferencing. Burke said Zoom allows mediators to virtually recreate breakout rooms.

"People are starting to realize this actually works," he said.

Burke said the advantages of mediation sessions by videoconference are becoming more apparent, because it avoids the high costs of air travel and hotel rooms.

Still, it's different. "This is definitely a brave new world for ADR," he said.

One pet peeve of Burke's is that he wants attorneys to get him mediation papers seven days in advance. "I need to read the lease if it's a lease dispute," he said. Getting the

briefs and supporting documents gives him "the opportunity to do a better job for them."

Burke said he's very motivated about settling cases.

"People are surprised at how tenacious I am," he said. "Part of it is the joy you can see on the clients' face when the case is resolved for them."

Here are some attorneys who have used Burke's services: Allen J. Ruby, Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates, Palo Alto; B. Robert Allard, Corsiglia, McMahon & Allard LLP, San Jose; James P. Collins, The Boccardo Law Firm, San Jose; Samuel A. Chuck, Rossi, Hamerslough, Reischl & Chuck, San Jose; B. Richard Bowles, Bowles & Verna LLP, Walnut Creek; Bradley J. Mancuso, Bohm Law Group, Woodland Hills; Bryan K. Anderson, Santa Clara County Counsel's Office, San Jose; Edward P. Garson, Wilson Elser Moskowitz Edelman & Dicker LLP, San Francisco; Philip J. Wang, Putterman Yu LLP, San Francisco

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