



PREMIUM PODCASTS FOR THE 21ST CENTURY

MASTERS OF DISPUTE RESOLUTION
AN UNPLANNED WATERFALL IN THE LIVING ROOM



This is Masters of Dispute Resolution on Pod Clips.

Masters of Dispute Resolution is designed to provide those involved in the mediation process with the views of the most experienced and accomplished mediators and others experienced in the process.

Through our discussions, you will gain insight into how to address and overcome difficult issues and achieve more satisfying results in mediation.

Your host is Len Levy, mediator and arbitrator with ADR Services, Inc., a leading alternative dispute resolution provider.

Len litigated complex cases for more than 30 years and has been a mediator since 1998 and is a member of the National Academy of Distinguished Neutrals. He has been recognized as a super lawyer in alternative dispute resolution each year since 2014. And now your host, Len Levy. Thank you, Darrell. Welcome everyone and thank you for joining us for the final episode of season four of Masters of Dispute Resolution, a podcast which we'll add tools to your mediation toolbox.

We're brought to you by the National Academy of Distinguished Neutrals and ADR Services, Inc.

In each of the podcast episodes you've been listening to this season, you've heard a story about conflict, the impact that conflict had on the lives of the parties involved, how resolution was reached and the lessons to be taken from that conflict and its resolutions.

And many of the details of the story you're about to hear have been modified to preserve the confidentiality essential to mediation while also conveying the essence of the conflict and its resolution.

Today, we are going to be discussing a story about, well, it's a home remodel that became a sale and resulted in numerous disputes,

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a sad, sad tale, which is not necessarily that uncommon.
But what did it take here to resolve that dispute?
That is what we are going to be hearing about
from Bob Friedenberg.
And Bob, aside from being a friend of mine
and being on the ADR services panel,
He and I discuss a lot of things throughout the year, not just mediation, baseball, Padres,
Dodgers, those types of things.
But Bob is a full-time mediator and arbitrator and discovery referee, and he has 38 years of legal
experience
and 33 years of mediation and arbitration experience,
the last 18 of which have been exclusively as a mediator, arbitrator, discovery referee, and
special master.
Aside from handling over 2,000 cases, Bob has really a variety of cases that he handles.
I mean, his subject matter ranges from large multi-party construction cases, both public and
private,
with claims exceeding \$10 million
down to the smaller value cases
and a wide variety of civil matters.
Bob has spoken frequently at national conferences
on topics including the future of virtual mediation
and civility in the law.
This year, he was a panelist
for a half-day negotiation workshop
at the CLM National Conference in San Francisco in April.
He will also be one of the instructors at the 3-day CLM claims college in Austin, Texas,
training insurance professionals in the art of mediation.
Bob, welcome to Masters of Dispute Resolution.
Thank you for having me.
Good to see you again, Len.
And all the numbers, I think I haven't updated my chart.
They're all two years more, so I'm 40 years since graduation from law school.

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Wow.

Wow, long time ago at UCLA. Yes

Go Bruins. So Bob the, the story that you're gonna tell us about today started I think with a

grandmother and granddaughter living in a house in

One of the beach cities in California, right?

Correct.

Okay, so what happened to it?

It's fairly complicated in a sense, and in a sense it isn't. It starts off in a nice neighborhood with older houses. Ironically, my brother used to be an elementary school principal

down the street from this house several years ago for a long time. And they wanted it updated and remodeled.

I mean, they're all built probably in the 50s in that area, before it was beanfields.

And I'm not sure how they found the contractor, but they did essentially a tear-down.

It was virtually a new construction and built from kind of a charming old bungalow-type house to one of those big modern things with lots of square footage on not real big lots.

So they did that and at some point, they decided

at a time when people were flipping houses,

they changed the plan and so why don't we try to sell

and you'll make some good money

and you guys can move somewhere else.

It was a nursing student living with her grandma

and they did that and they had a contract

So they ended up being the seller of the house

and essentially the owner of the remodeling portion for permits status.

And they were kind of owner builder.

And then there was a general contractor.

General contractor did a bunch of the work himself,

which will turn out later to be kind of important.

And they sold it to a nice family.

I think they were both affiliated

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with our respective alma mater and had a couple kids. They were going to have some family come in and stay for long periods of time.

It was an Asian family that was very close and so there were always the elders around. And when things started changing in California, we went from no rain to lots of rain in short periods of time. They started having big problems, leaks, and leaks and leaks everywhere.

And they were having to move furniture out of rooms that were getting wet, and they hired some people to take a look at the house and they opened up walls and decks and stucco and windows it was a two-story place and virtually everything that was built was screwed up and leaked like a sieve and nobody could dispute it nobody could say I you're exaggerating or anything like that, it was bad, and when water gets if it doesn't have a way to get out, sometimes mold starts growing. It's another fine feature of this place.

So they found an attorney, solid attorney, who had done work in that field and other fields as well, including insurance, which also became important later. The owners, the people who sold, actually had a contract with a general contractor. In this case, general contractor hired only about three subs, and he did the rest himself.

That was the only good contract.

And it had the general contractor supposed to be defending and indemnifying the owner if anything happened, which is nice.

A lot of people don't put that in contract.

So they said, well, take care of us.

You have insurance.

That was the whole point of the contract.

And the general contractor kind of blew them off.

So, they filed a cross-complaint back against him for the defense and indemnity, and then the general sued whatever subs he had.

And the goal in all of this is to try to get insurance money, at least.

All of his subs had insurance.

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One of them, it turned out, was turned down, and this was a couple that were barely scraping by who did roofing work, so they were represented by their own counsel. They started working on it. They started hiring experts, all the sides, they got their people. And they all kind of confirmed, yeah, it's really bad. And they looked at what plaintiff had said, what's gonna have to be done, and they said, well, it might not have to go that far, but there's a lot of work to be done. In a lot of these cases, people will fight over saying, hey, there's no real damage, it's technical, who cares? But this one, it's like, yeah, that's the basics of the case. So this is one where the experts actually agreed in terms of what the problem was, essentially, In this case, yeah, you put a hose out there on a deck, and water's flooding in where it's not supposed to be going. It's pretty obvious that this is effed up. Okay. That was the easy part. Then there's always going to be finger-pointing with experts in these cases because they're retained by one side to, number one, be honest and talk about what's happening, but also, hey, here are some reasons why it might be the other guy's fault. You have the, the scene sort of set in terms of what the dispute is. I would imagine that the new owners of the house have really one overriding question. How is this going to get fixed and who's going to pay for it? And how fast because they're living there. They pretty much had their whole family living in one or two rooms of this three or 3,500 square foot house. There was actually a room that didn't leak? Pretty much. They could keep that dry.

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But even that was a little suspicious.

But going into the rest of the house and trying to go into the kitchen and cook, and they had two little kids, and then they had an older family.

It was bad.

So you're basically, at some point, the attorneys decide, OK, we need to mediate this, right?

Yeah, and, and so they get ahold of, of you or your case manager and, and you're brought into this picture.

So, when, when you were brought into the picture, what, what did you...?

What were you provided to be able to assess how you would approach this, this dispute?

Well, I'm in, in this case it helps as a mediator doing this for a long time

I knew the people involved. I knew the lawyers. I knew the experts. So I

had the reports from the plaintiffs and I had the main

report from the general contractor and their experts and, and

I could talk to all of them. The plaintiff's experts I didn't talk to directly.

One of them, ironically, I think 25 years earlier had been one of my experts when I represented a roofing contract,

but he wasn't involved, just his work.

And then we organized meetings of experts to go over things and talk about, to the extent we can, where do you agree,

and you can maybe mediate what the cost would be, and we had a lot of those discussions.

So a lot of it was set up with essentially me kind of trying to be conductor and orchestrate this orchestra to try to play together.

Then we eventually set a mediation date with the goal of okay, we've talked about it enough.

Everybody's seen what they have to see.

Let's start talking bucks and maybe enough to get these things repaired quickly so people could go on with their lives

Well, you, you've just, you've just set out something that's very, very important for people approaching a construction case,

and that is you can't just walk into a mediation on a construction case and decide to, oh, now we're going to exchange information and now we're going to figure out what to do.

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There's a lot of groundwork that needs to be done prior to actually even scheduling a mediation session, correct?

Yeah, yeah, this one more than most, but I mean, you can have a simple case and you don't need a lot of work up because they're consistent.

This one had lots of issues.

All right.

Well, we're going to take a break and when we get back, we're going to be talking about how the mediation session set up, what happened at the initial mediation session, and get some insights from Bob Friedenberg.

I'm Len Levy on Masters of Dispute Resolution.

Masters of Dispute Resolution would like to thank ADR Services Incorporated, your partner in resolution and its founder Lucy Baron for supporting this podcast.

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When you seek the services of a neutral and you want results and satisfied clients, contact ADR Services, www.ADRServices.com.

Welcome back to Masters of Dispute Resolution. I'm Len Levy. I'm chatting with Bob Friedenberg,

who is talking about a very, very complex case involving a house and a remodel.

And Bob, we were at the point where, okay, you've met with everybody, at least from a standpoint of having telephone conversations, things of that nature.

and you've, you've kind of gotten a feel for where the, where the issues are, you

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know, what, what is, the what are the things that need to be addressed and so I'm going to ask you what, what were the things that needed to be addressed. going into that mediation session?

Well, we had pretty much addressed what the problems were and people's thoughts on those problems and what needed to be done.

There's a difference of opinion on what it might cost, but it was, both sides were saying it was significant. Just one was more significant.

Coverage, I learned, was a big problem for everybody. I had one that got their claim denied. There was some fluky reason, and their attorney didn't know anything about insurance. I don't even know if they had tendered other people or what they had done. So there was someone who was bare. And that's something I learned and we talked about more at the first mediation. And the plaintiffs knew where they were. The other side, the general contractor and the other subcontractors, one of them kind of had decent authority, was getting decent authority early. The others were, you know, were not quite ready. We should have it by the mediation. It was that sort of thing. So a lot of cajoling and talking on my part, like, let's not waste time, let's just get going. And then not long before the mediation, plaintiff's attorney said, I think we might have another big issue that hadn't really been dealt with. So all of that was leading into this first mediation. We had the date saying, we're gonna go forward, we're gonna talk. And not all of these get settled. In fact, most don't on the complicated one-house cases in one session.

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But it's bad when something new comes up that's significant right before, because then it's easy for the defense to say, hey, we need to look more. If you want money for it, we've got to check it out. What was the new issue? There was one expert who was looking at the plans who thought some major structural member was not strong enough. And that's a big deal to take out. I mean, it's like, oh, it's not that big, only maybe 150, 200,000. That's a lot of money. And the other side said, I think that's BS, and I ain't buying it. So they ended up having some disagreement on that. But what happened, you were gonna ask me about the first mediation. One of the things was agreeing to go out there and take a look at that. Maybe you have to come back because the plaintiff's side had to get a cost for it, like you can't, you know, you've got some defect it might be big it might be a few thousand bucks to make some minor repairs. So you schedule a site inspection, and I've found in my experience in dealing with construction cases that there may be different agendas from the various parties with respect to that site inspection. The plaintiff wants to show, look how terrible it is. There might be somebody saying, well, look, here's alternative ways to go. And then what are you looking for as a mediator when you're looking at the site? Because it can be very helpful for you to know what actually it looks like on the ground. In this case, they had most of the site inspections even before I was retained. I could see photos. They had 1,200 photos, so there was no, thank God for digital photography, it would have cost a fortune. I have gone on cases where when I can, I said, if you're okay with it, I'll go

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out there and essentially it's an on-site impromptu expert meeting where I can get both sides to say,
okay, we're looking at this same stucco crack at the same time.
We're seeing the measurements, there's there's no disagreement over whether this is a hairline that you just try to make look big
with a, with a camera angle, or this is a Grand Canyon and that helps a lot.
And then we talk about things
I remember years ago being on a project and we were walking on the roofs and I was mediating and the experts were there and
One expert had said, oh we have to take them all off
You know they and it was a huge amount of money for a hundred homes
And we looked around and said, what's wrong, is anything wrong with this roof that we're on?
He said, no, this one's okay.
And I said, so it's not all of them that have to come off.
And then the next one was the same thing.
So there was an understanding of, all right, they're backing off of this big number.
And being there, you know, in my little pain-in-the-ass way got them to agree.
Yeah, okay, we'll modify that.
So those are good things.
And then when I talk later, I said, hey, I saw those windows, they're bad.
You can't tell me it's no big deal when I'm talking to the defense side and vice versa to the plaintiffs.
It's like, you know, you're telling me this roof is terrible and it's all bad.
You've had two years of, you know, biblical rainstorms and nothing's happened,
so you should be writing them a thank you card.
Your subject matter expertise in this, particular mediation, and perhaps construction mediation in general,
does require subject matter expertise, understanding construction, and understanding one other thing that I think you mentioned earlier.
And that is, how does the insurance play in
this, what role do they play? Because who's going to fund this? Who's going to fund the cost of repair?

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Typically, it's going to be insurance.
Correct. I mean, if you're dealing with things like residential construction, that's typically it. I've had cases where there's, you know, a main player doesn't have insurance
And I've even had them, you know, bring, you know, cases against their broker or not, you know, putting them in a policy that doesn't cover them for what they do, you know, maybe it was cheaper,
but it's not too much of a damn bit of good when it counts.
We could do a whole segment on insurance, what, what it covers, what it doesn't cover.
Yeah.
And we'd all be asleep though.
That's the problem.
Yeah.
Well, let's not do that.
So, the podcast could be good bedtime listening, but that's not intentional.
I like the rain noise, you know, that's good for me.
So now you have this session, you have site inspection, and what are the attitudes of the parties at this point,
now that you've completed all of that?
Well at the first session, which was Halloween a couple years ago, the plaintiffs were there, everything's on Zoom,
we're still doing it during Covid.
Nobody's, I can see them and talk to them,
so it helped a lot because I got to hear what they were going through.
So, um I can tell the other side, they hadn't taken depositions yet,
this is what you're facing.
You've got wonderful plaintiffs here, as opposed to people who might not be so wonderful as witnesses,
and I, you know, having that experience of trials and uh over the years
You know, I can do that better than, say, the plaintiff's attorney who, like you said, has an agenda like,
like everybody does.
So, you know, that helped, and then

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The insurance people who were there, and you know, talking with them, seeing, listening to their positions and what they need. Like I said the first session, there really wasn't anything put up. I had one party who was ready, but with nobody else being ready and then blaming it on well, we still need to look at this other issue. It came and went and I essentially said, well I'm going to kind of be the mother hen on this and you go do your investigation. And it took, it was going to be 10 months later and then it was almost a year later that we actually had a second session. Then right before the second session the main player who had not received authority yet, told me I still don't have authority yet, Bob. You know I can tell you in my tale of woe but that's what's gonna happen. So and, and I had to start talking with the insurance people myself and then there was a coverage counsel for one of the insurance people sometimes they'll them in big cases where they want to take a hard position. So I brought that guy in and I knew him for a long time so I've tried to enlist him as an ally of let's get as much as we can. Okay, so, so your, your goal even after the mediation session is to move this closer to resolution and it sounds like you're having to pull the laboring oar, as it were. In this case, I did a lot of the work that counsel weren't doing and was trying to push all the buttons that I could push to get things moving. They had a trial date, and it was coming up. I think you also mentioned to me, was this a case in which one of the attorneys died in the middle of this? Yes, another bonus for this case, the party that didn't have insurance because their company denied it and I tried to help them with this is who you write, this is what you do. That guy wasn't responding to emails. And I finally heard from someone else or I called the office, oh, he died.

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There's a new attorney on it and here's the name.
And that guy was just a family friend and he didn't know anything about it. He said, we're not going to participate.
We don't have any money. Maybe they could put a few grand up, you know, out of their own pocket paying over, you know, a dollar a year for a million years or something.
But that happened too. So that added to the saga, but they were still in the case. They weren't dismissed and there were still issues involving their work.
Got it. Got it. So, okay. So you have all of these moving parts. How did you pull it together?
Again, kind of working lots of levers and buttons and things.
I had a coverage counsel that was willing to get in and try to advocate.
He had told me the first mediation, hey, I think I've got some money, but it wasn't going to be offered at that first time.
They weren't ready.
And he was working on them.
They had the coverage issues had to be explained to the plaintiff's attorney saying, we're not going to get to that big number that you're looking for.
There's a lot more things that are going on. And I enlisted coverage counsel, actually, amazingly, they got them to agree to send over the whole policy and to send over this, what they call the reservation of rights letter, where the insurance says, here you go, we're going to defend you, but there's 25 reasons why you might not have coverage. But there's a couple that there might be, so we'll be in there, but don't expect the motherload of money.
And they shared that. So that helped a lot, because the plaintiff's attorney had the background to be able to talk to his clients about it.
So the lowering of expectations was made because you were able to demonstrate, not just throw out a hypothetical, well, what if we can't get the money? Here's a real problem.
So, the alternatives are being presented to the plaintiffs in terms of, okay, we know all the work that needs to be done, but where's the money coming from if you go to trial?

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We're going to take a break again and we're going to, in our last segment, we are going to discuss with Bob

what the resolution was and how we and what lessons we can learn from that resolution.

We'll be back.

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For more information, please visit www.nadrn.org today.

Welcome back to Masters of Dispute Resolution.

I'm Len Levy and I'm chatting with Bob Friedenber.

Bob, we were just about at the point in the story where you had reached a, or just about to reach a resolution, but I think there were maybe at least one, maybe two other miracles.

Yes, we had, again, a year after the first mediation, we finally got the second one to go.

It had been continued a couple times during the year.

And they got a trial date that was not too far off, just a few months ahead.

So if it didn't settle, you'd have those, oh, let's take lots of expert depositions that are gonna go for days at a time.

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And the costs of that are humongous, as people know who litigate, especially with experts who charge a lot of money. So there was the insurance for the main general contractor and one of the three subcontractors, one of the two that actually had coverage. One company bought another and files moved from the one company to another. They call it TPA, a third-party administrator for different insurance company. And it was, there were thousands and thousands of these files that were being moved. While they're being moved, nobody was in charge. So you didn't know the attorneys didn't know who to talk to. They said nobody's assigned to this. And some of the attorneys were very good about it. It's like I got to protect my client and they figured out a way to get somebody to take a look at this thing, and meanwhile, they're starting depositions and sending bills hoping that someone's gonna pay those bills because right now there's nobody to send a, an invoice to they don't even know I was it was pretty crazy and this happened a lot of my cases around that time but this one was more pivotal. And ultimately, stepping back, I made sure the plaintiff's attorney was well aware of, hey, this is real. They're not just BSing you. And he had given a policy limits demand, which is one of those things that has to be dealt with. That's a subject for another whole session. And I'd worked with him on what to do and how to structure it, and having some alternatives of other deals and assignments. So there was a lot of the what I call the inside baseball stuff going on with, with me and the plaintiff's attorney, and also the defense attorney. A lot of times though they will work in concert to get something to happen and get the case resolved. Defense side want to get wants to get their guy out of harm's way.

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Because if it's uninsured that'll destroy them. They'll have to go bankrupt or whatever would happen, uh, lose their house.

So, you know, those, those things.

It sounds like you've got a great rapport with plaintiff's attorney, but you have not mentioned what, what were you trying to help him do vis-a-vis his own client?

Well, once things became more problematic, um, it's to temper their expectations.

They had a, you know, like on a lot of these cases, they'll get a rep, the plaintiff will get an expert and they'll price it not unreasonably high but high.

They're doing the full repair. So these people are in their heads. They're not construction people.

They say, okay, it's going to cost that amount of money to fix my place and make it livable again. And then the idea of, well, you might have to take less is a problem. Well, they don't want to take less.

And then you have to go into the economic discussion. Well, you could go to trial and get more, but the cost of getting there is going to exceed the extra amount that you might get.

That doesn't make any sense.

You don't want to spend \$100,000 to make \$50,000.

So those discussions, and they were highly intelligent professionals, so they were able to get it, but they didn't like it.

They were grumbling a lot about it, and it was me talking a lot to the plaintiff's counsel about, you know,

ultimately the most I thought I could get and how to get his clients to hopefully agree to doing something like that,

versus just letting it go forward and go into trial and roll in the dice.

So the alternative of going to trial, given the price of admission, as I like to call it, paying for experts and the like, that would subtract from any net and it would ultimately not work in plaintiffs' favor to go to trial.

Did any of the other parties think that trial was a better alternative?

Well, they all recognize that it wasn't. Some of them said, well, if it goes to trial,

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then we've got our coverage defenses, and at least the insurance people could take the position, fine, you know, let that happen.
If we're so far apart, and then good luck trying to collect, and then it could be years down the road of fighting that fight.
Let's say someone got a huge judgment against them, they couldn't pay it, they filed bankruptcy for their business, and now you have to go after the insurance company, and then you've got to prove what's covered, and that was going to be a big problem in this case, because there were a lot of good defenses. I know enough about insurance to be dangerous sometimes, but I can recognize this insurance company has real good arguments.
They're going to try to do the right thing by their insured, but if it goes to trial and it doesn't happen, they're going to do the right thing by their officers and directors and shareholders, too. Got it.
So the resolution that was reached, essentially without getting into specific numbers, it's much less than the plaintiff had anticipated needing for repair. But getting the insurance companies to move on that seems to be the key. How did you do that?
Again, enlisting the coverage counsel I've been working with, finding out eventually, okay, we have claims representatives on these files and there's people in charge. And again, the one side had always put up a fair amount of money. And I told them and again, I know all these people, I'm going to try to make that work for you, I can't promise that it might be more but you're the only one playing ball here, so if you don't hear from me for a while, it's because I got a lot of work to do on the other end and ultimately getting in touch directly with the claims people themselves and hearing them out and listening to them, but also talking conceptually about you know, where could we go with this case and what can be done?
It was getting very close

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They were into those expensive expert depositions.
Those had just started.
And they had a trial that plaintiffs' attorney grudgingly
agreed to a continuance, but only a few weeks, not a few months.
So it was a big, mad scramble.
And then defense people were doing their trial reports.
And a lot of times, that's when
carriers start taking everything real seriously
and looking at the costs of going forward.
So I was constantly talking with counsel,
constantly working with the coverage counsel.
I talked to the claims reps directly
as it was getting close.
The one company that, where the files were in limbo,
had two different people, one for the general
and one for one of the main subs.
And the attorneys were doing their job
of trying to keep theirs low
and make everyone else's high.
And with their knowledge, I went and talked directly
to those insurance people and got them to move
And then got it to a point, well, you know, once things get close, then it becomes, you have to
settle,
you can't not settle and go for an extra \$50,000 when you're going to spend \$300,000 litigating.
So it got to a point and it was maybe a couple weeks before trial and finally got the final
numbers in to get the total.
And then there was this, I hadn't talked about for a while, the party that was the seller
that was trying to get the general contractor to pay their defense costs, which was becoming a
sizable amount of money.
I knew him as well and got him to agree. Hey, if we can do a deal, you have to walk away.
You're not going to get any money, but we're going to get the case settled. You're not going to
have to go to trial.

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And he was able to persuade his clients, who had been paying him out of pocket, that you're just gonna have to eat it.

And that was, because we wouldn't have, that chunk of money, it wasn't there.

And the whole deal would have folded.

So again, having the personal relationships with the counsel, and even then in the insurance people.

And one of the supervisors for both of those claims representatives, I had met at one of the conferences and he was part of one of my panel discussions.

So I knew him and could talk with him directly.

Here's his phone number, give him a call.

So it finally came together.

And I was just, before we started,

I was looking at my little list of emails from that case, hundreds of emails.

There was a lot of communication back and forth.

I can imagine.

Bob, what are the main takeaways that you have for attorneys who are involved in situations like this?

And as a long time ago, former school teacher, don't wait till the last minute to start working on your paper.

And get things going early.

Get good people to work on your team that are responsible, mainly in construction cases, experts, primarily.

And be honest in your reporting to those people.

The insurance people do not like surprises at the end.

You're telling someone it's no big deal, and then close the trial, uh-oh, we have to pay the limits, it doesn't go over too well.

You're probably not gonna get too many other cases.

Same with any kind of business-type client.

And if you have a mediator who is willing to talk to you and to work with you, keep those lines of communication open.

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I tend to do that.
All my kids are grown and gone.
I'm not going to Little League games every third day,
or travel ball or soccer games or all that stuff
that I did 30-odd years ago.
Again, for the attorneys, be willing to work with them.
And, to toot my own horn a little bit, pick people for cases that are kind of right.
If it's a complex construction case, you can't just go
with someone who does auto rear-enders and mediates those two or three a day every day.
It helps. And having the relationships with the money people.
I'm going to these conferences and working with insurance people.
It's good to know the insurance people. It's good to be friendly with them.
It's good that they know you and you're going to be straight with
them, and that helps getting cases settled.
One other comment that I'd like you to make, and that is the importance of understanding what
interests the adjuster has.
And what I mean by that is they have to justify whatever decision they make to somebody,
right?
Correct.
One of my stock lines I tell people is, my job is to make sure you don't get yelled at.
If it's an insurance person, if those files aren't good and they're asking for money, you know, for
reserves or whatever,
if they check the boxes and do all the right things, they'll get it.
But if they surprise their higher-ups, they're going to get yelled at.
I work with them, you know, closely. What do you need? What can we do to get this done?
What else do you need?
Or, you know, what are the impediments going forward so I can help the attorneys get those
things done for those insurance people?
And the same with, with lawyers, if it's a younger attorney on it, this is what the senior partner
is going to want to see that you do,
and they're going to give you an atta boy or an atta girl or whatever you call that anymore.
I try to be helpful and get those things done.

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So I tell people, you know, here's a little hero money, you know, maybe I'll help you settle for a little less than what I know your authority is. Just one more thing, and that is people have sometimes they default to the we're going to exchange briefs. We're not going to exchange information. My own feeling, and please correct me if I'm wrong, but that is exactly the opposite of what you need to do in a construction case. Correct. And it happens a lot where it seems to be a modern trend, which I think is moronic, that you don't exchange those arguments. I tell people when that happens at mediation, hey, persuading me is interesting, persuading the other side, that's how things get done. Again, ADR puts on seminars, and some of the top trial lawyers in the country were on some of these seminars, and that subject, that exact subject came up, and they're just blown away that people don't exchange it. It's like, hey, here are all my best arguments. This is how we're going to kill you with trial. Read up, giving you a head start. Bob, unfortunately, we're out of time, and I want to thank you so much for, again, being a guest on Masters of Dispute Resolution. If someone wants to contact you to book a mediation or just to get in contact with you for a chat about something, what's the best way? Best way, I've got case managers up in one in LA, one in, some in San Diego. The ADR services website has links to all those. They can contact me directly at bob@freedenberg.com, that's my kind of non-ADR email, and I can talk directly. I was independent for 18 years before I joined ADR, so I'm used to people calling me, you know, saying, hey, we want to talk about doing something. So I have no problem with that. I can actually look at a calendar and see an open date and figure out that I could schedule something or talk. So those are the best ways. And don't get me talking about sports or we'll be there all day. Okay well thank you so much for this

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conversation Bob and I hope to have you back as a guest in the future.
Thank you Darryl Wayne, my engineer and producer and I'm your host Len Levy.
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I hope you will continue to enjoy the stories we bring you.
In the meantime, stay well, keep listening and remember peace of mind is enhanced when conflicts are resolved.
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