



## ***MAX FACTOR III, ESQ.***

After thirty-plus years of public service and private practice as a “deal maker” and a litigator of complex real estate, business practices, employment and partnership dissolutions, Max Factor III, Esq. brings his substantial knowledge of commercial and legal matters to the field of alternative dispute resolution. In the six years that Mr. Factor has been a full-time neutral, he has established himself as a principled and effective mediator with a keen ability to settle civil (and not so civil) litigation. Max has a successful track record of bringing parties together to reach resolution in a variety of areas, including real estate, employment, insurance coverage, business contracts and unfair trade practices, intellectual property and partnership dissolutions. Attorneys applaud his unique understanding of complex matters as well as his flexible approach to bringing both sides together. His expertise is widely respected by both defense and plaintiff counsel.

His peers have consistently recognized Mr. Factor. He serves as President of the Southern California Mediation Association; is an elected Fellow of the International Academy of Mediators, Chair of the State Bar Committee on Administration of Justice and was chosen as a Southern California Super Lawyer (2006 & 2007) in his full time service as a Mediator and Arbitrator.

### ***EDUCATION***

- Yale Law School, J.D. (1969) *Member of Board of Editors of Yale Law Review*
- Harvard College, B.A. (1966) *Magna Cum Laude in Economics*

### ***AREAS OF EXPERTISE***

- Commercial and Residential Real Estate Sales and Leasing
- Construction, Development and Investment
- Employment and Labor Practices
- Business Contracts and Breakups
- Insurance Coverage
- Unfair Business Practices
- Professional Malpractice
- Partnership Dissolutions in Real Estate and Professional

### ***ALTERNATIVE DISPUTE RESOLUTION EXPERIENCE***

Following is a sample of the matters Mr. Factor has mediated.

#### **REAL ESTATE**

- Several partnership dissolutions between developers and investors, and between two or more general partners.
- Multi-party breach of contract dispute among general contractors, subs and property owner in residential and commercial developments.
- Land movement, soil erosion and drainage dispute among adjacent landowners in several hillside properties.

- Numerous restructuring of loans and equity on real estate ventures in which partners have filed breach of fiduciary duty, fraud and accounting claims and/or sought dissolution of partnership and partition by sale of in kind.
- Constructive eviction of undesirable national tenant by major investment group seeking to upgrade commercial tenancies for sale of office park.
- Real estate investors' claims a licensee either misrepresented material facts or failed to competently handle commercial and residential real estate transactions involving several million dollars.
- Probate contests involving complex real estate, business partnership and successor liability issues.
- Special Master in partition action involving hundreds of acres of developable property and more than thirty ownership interests.
- Easement disputes for property owners with limited or no reasonable public access.
- Real estate expert hired by prosecutor to evaluate fourteen (14) property transfers of a non-profit organization that effectively resulted in the embezzlement of millions of dollars. The result was full rescission of below market sales and jail time for the white collar criminal.

#### **BUSINESS CONTRACT, CONSUMER TORT, MALPRACTICE, PARTNERSHIP DISSOLUTION, AND INTELLECTUAL PROPERTY**

- Bankruptcy of a major national retailer and successor liability issues.
- Breach of fiduciary duty and accounting claims when one of the founding partners of a law firm split off to join another downtown firm.
- Countless commercial disputes in the garment industry, diamond trade, construction trades and transportation industry, generally over failure to pay contracted rates and/or failure to deliver timely and/or accurately the goods ordered.
- Multi-party accounting claims arising from several partnership dissolutions of physicians in specialty groups that held hospital contracts.
- Million dollar-plus attorneys' fee dispute for defense of a class action.
- Licensing and franchise disputes in which the licensee or franchisee has copied product or service and is competing with original holder of protected business property rights.
- Commercial contract disputes involving development of computer hardware and computer software systems.
- The reorganization of business partnership assets involving millions of dollars of commercial contracts in the travel industry.
- Shareholder/directors' suit involving medical technology in rapidly developing international markets.
- Patent infringement dispute involving high-tech imaging company and hardware developer.
- Legal malpractice dispute surrounding the advice offered in post mortem tax planning of a family business.

#### **EMPLOYMENT**

- Wage and Hours claims in many service industries.
- Wrongful terminations based on national origin and/or gender.
- Constructive discharge based on sexual harassment and hostile work environment.
- Defamation and public humiliation claims arising from workplace disputes.
- Sexual harassment and hostile work environment lawsuits by EEOC and individuals.

### ***EMPLOYMENT HISTORY***

1978-2000: Private practice: emphasizing litigation and transactional work involving Real Estate Development/Sales/Commercial Leasing; Partnerships; Business Negotiations; and Consumer Torts. In private practice, Mr. Factor served as an advocate for plaintiff or defendant, in more than 100 mediations, arbitrations and dispute resolution procedures.

1974-1977: Deputy and then Assistant City Attorney, heading Consumer Protection Section, Office of Los Angeles City Attorney, responsible for enforcement of State's regulatory laws governing licensed businesses and professions, as well as enforcement of business and trade practice violations. The Office of the Los Angeles City Attorney also vigorously prosecuted misdemeanor violations and civil penalty actions against in the health care field. More than 1000 cases per year were tried or negotiated to settlement. Also, served as the Hearing Examiner, L.A. County Hearings on Improving Conditions in Los Angeles County's 400 Nursing Homes.

1972-1974: Managing Attorney, the California Law Center, a non-profit, public interest center that engaged in litigation and educational programs on a wide range of consumer protection, credit reform, and employment discrimination issues. Filed landmark cases under the Civil Rights Act to cause the elimination of discrimination based on race and sex in the referral practices of local unions in the motion picture and in the restaurant industries, as well as class action civil rights cases to successfully protect the rights of African-Americans, Latinos and women working in Southern California.

1969-1971: US Court of Appeals (6th Circuit), Hon. Anthony J. Celebrezze, Law Clerk.

### ***PUBLICATION***

What "The Practice" could learn from "ER": Lessons from the Harvard Medical School Keynote Address, June 2005

THE DAILY JOURNAL: ALTERNATIVE DISPUTE RESOLUTION Section: Focus Column on Thursday, August 25, 2005

They Say it's about Dollars, but it's often about Emotion: How to Use Mediation to Restore Business Judgment to Business Disputes

Mediate.com website article, March 2005

Using Mandatory Early Mediation to Protect Clients and Attorneys

THE DAILY JOURNAL: ALTERNATIVE DISPUTE RESOLUTION Section: Focus Column on Thursday, March 25, 2005

Six Ways to Defuse Moore-Style Techniques Used in Mediation

THE DAILY JOURNAL: ALTERNATIVE DISPUTE RESOLUTION Section: Focus Column on Thursday, July 22, 2004

*Written shortly after Michael Moore's documentary "Fahrenheit 911" was released.*

Making Sure the Rojas Shield Doesn't Become a Weapon: How to Prevent Opposing Counsel from Cloaking Evidence with the Shield of Mediation Confidentiality

THE DAILY JOURNAL: ALTERNATIVE DISPUTE RESOLUTION Section: Focus Column on Thursday, September 20, 2004

Is Duck Hunting for Mediators?

Southern California Mediation Association Newsletter, September 2004

*Written after the Justice Scalia debacle, one in a series of articles exploring the ethical dilemmas of mediation participants.*

Thirty FAQ's for California Mediators on Ethical Minefields Involving Business, Construction, Employment and Real Estate Mediations

Questions re: Which Standards of Ethical Practice Govern Mediators' Conduct

*Written and published for the 15th Annual Conference of the Southern California Mediation Association, "Waves of Change", held at Pepperdine's Straus Institute for Dispute Resolution, on November 3, 2003.*

***SPEAKING ENGAGEMENTS:***

Adjunct Professor, Straus Institute for Dispute Resolution, Pepperdine University 2006

Moderator, International Academy of Mediators, Fall Conference, November 2005: "Beyond Yes: An Exploration of the Mind and Decision-Making"

Conference Chair, Southern California Mediation Association's 17th Annual Interactive Conference, "The Absolute Mediator", November 2005, Straus Institute

Founder, Beverly Hills Chamber of Commerce/BH Bar Association Monthly Lecture Series: "Business Needs 2 Know", on Real Estate, Employment and Insurance

Business Inn of the Court, West Los Angeles: Panelist on Insurance Coverage & Copyright Infringement Mediation and an ADR Program on Legal Malpractice & Real Estate Issues (January and May, 2005)

Litigation Inn of the Court (downtown L.A.): "Successful Techniques You Can Use to Achieve Litigation Objectives through Mediation and Make More Money" (June, 2004); Effective Negotiating Techniques (June, 2005); The Role of Deception and Hardball in Business, Employment and Real Estate Negotiations, (May, 2006)

Southern California Mediation Association, Roundtable Meeting: "Human Flaws that Interfere with Rational Decision-Making of Mediation Participants and What Mediators Can Do to Restore Rational Decision-Making" (April, 2004); "Bridging the Gap When Mediations Reach Impasse" (Summer, 2005).

Southern California Mediation Association, 15th Annual Interactive Conference: Presented session: "How to Avoid Mediator Malpractice, Build Trust and Resolve Ethical Dilemmas in Business/Consumer, Employment and Real Estate/Construction Defect Disputes" (November 2003)

California Institute of Technology (CalTech) and Art Center College of Design of Pasadena: "Proven Negotiating Techniques in Business Environments" (March 2002)

Southern California Mediation Association, Annual Employment Law Conference: "Building a Successful Mediation Practice" (May 2002)

Family Foundation Resource Center," Navigating Conflict in the Family Foundation" (December 2002)