



JOAN B. KESSLER, JD, PHD



With a law career spanning over 20 years and a Ph.D. in communications, Joan Kessler, Esq. is a uniquely qualified mediator whose training and education allow her to communicate effectively with attorneys and all parties involved in her mediations. She has the legal experience and knowledge to understand even the most complex of legal issues, as well as a background in communication which helps her to develop a rapport with even the most challenging, combative and high profile personalities.

As a successful mediator, Ms. Kessler possesses a keen ability to bring parties together to reach resolution on even the most contentious of matters. A *Los Angeles Daily Journal* article stated “Once Joan gets her teeth into something, there’s no shaking her off...she has boundless energy.” Ms. Kessler brings that energy to each mediation she handles, and is always focused on bringing them to a successful resolution. A recent *Los Angeles Daily Journal* article stated, “She is absolutely driven to get parties to settlement...There is constant follow-up”, “With her background as a lawyer and jury consultant, she is able to show people how a case could play out in front of a jury which gets them to become more realistic.” Attorneys have great regard for Ms. Kessler’s abilities, as stated in the *Los Angeles Daily Journal*, “She’s just extremely bright and has a lot of litigation experience from a lawyer’s perspective, so she knows the pressures that the attorneys are facing, as well as the clients”, “She had a good assessment of the parties, of where they might or might not be willing to go, and she worked the parties to get them to a place where an agreement could be reached, which really required major effort on her part.” Ms. Kessler, a mediator, arbitrator and discovery referee has handled diverse matters including: trust and estate cases, real estate, commercial litigation, business matters (including partnership disputes and shareholder disputes), employment, insurance as well as entertainment cases.

AREAS OF EXPERTISE

- Probate/Trusts & Estates
- Real Estate
- Commercial Contract/General Business
- Partnership/Shareholder Disputes
- Employment/Sexual Harassment/Wrongful Termination
- Entertainment

EDUCATION

- Loyola Law School, Los Angeles, CA – J.D. 1986; Chief Articles Editor, Loyola of Los Angeles International and Comparative Law Journal
- University of Michigan, Ph.D. Speech Communication, 1973
- University of California, Los Angeles, M.A. Speech Communication, 1969
- University of Michigan, A.B. English, 1967

EXAMPLES OF ALTERNATIVE DISPUTE RESOLUTION EXPERIENCE

TRUST/ ESTATE/PROBATE

- Dispute over the proper beneficiary of a large bequest including real estate.
- Beneficiaries of Trust assets alleged that Trustee breached fiduciary duties in administering Trust
- Beneficiaries of Trust disputed division of real property and personal property (pre-litigation).
- Warring family members fought an emotionally charged Breach of Fiduciary Duty case regarding management of real estate. Longstanding family feud issues and millions of dollars in real estate were at issue.
- Co-Trustee brought action to remove the other Co-Trustee for breach of Fiduciary Duty.
- Children of deceased father in dispute with second wife over division of assets pursuant to Trust. Extensive accounting issues.
- Dispute between Co-Trustee and contingent beneficiaries over disposition of real estate of the Trust and other issues.
- Transfer of property related to testamentary bequest was in dispute. Undue influence was alleged.
- Special administrator for real estate with extensive tax and real property issues.

REAL ESTATE

- Breach of Contract and alleged conversion of rents and rescission in sale of commercial real estate.
- Residential lot line and easement dispute between property owners.
- Alleged concealment of prior debt in real estate transaction.
- Fraud and Breach of Contract in purchase and sale of residential real estate where mold was found after close of escrow.
- Real estate dispute over whether transaction was a lease or whether there was a veiled security (or loan).
- Real estate broker case alleging failure to disclose termite and water damage.
- Dispute over construction work at a condominium which resulted in damages to a downstairs neighbor unit owner.
- Borrower dispute with lender over alleged oral agreement related to terms of real estate refinancing agreement.

- Alleged non-disclosure of prior water damage in sale of residential real property.
- Alleged Breach of Contract in sale of commercial real estate and related Assignment Agreement.
- Alleged real estate appraisal fraud related to subprime lending.
- Breach of Contract regarding sale of commercial real estate resulting in alleged lost sales and revenues.
- Dispute between Broker and Seller over payment of Real Estate Commissions.
- Dispute over payment of Broker's commission in residential real estate sale and alleged fraud.
- Alleged failure to disclose a material fact in the sale of a residence against major brokerage.
- Default on the lease by subtenant. Cross Complaint alleged defects to the real property (leaks, etc.).
- A major national corporation sued individuals and a large national bank for millions of dollars. The case involved the allegation that after a sister state judgment was entered, the defendants transferred ownership of the property.
- Adverse possession and prescriptive right claim.
- A lot line dispute with cross complaints that went on for many years before mediation.
- Partners in a real estate transaction disputed distribution of proceeds after sale of property.
- Alleged that seller/seller's agents failed to disclose material fact in sale of property.
- Neighbors dispute over responsibility for damage caused by landslide.

COMMERCIAL / BUSINESS

- The Managing Member of an LLC (a very high profile) who owned and ran a well known restaurant sued another high profile person who had raised funds for the restaurant/club. A cross claim ensued.
- A Fortune 500 company sued a corporation and employees for submitting false invoices for services and equipment and for bribing employees to mask the fraud. A whistle blower disclosed the fraud.
- Plaintiff sued for failure to repay on Promissory Note and for fraud in inducing the loan through fraudulent financial statements.
- Shareholders on one side disputed valuation of shares in a buyout. Extensive accounting issues.
- Alleged Breach of Contract for monies due on assignment of health insurance benefits, breach of oral contract, unfair business practices claimed.
- Lender's claim for breach of Promissory Note.
- Contract dispute over a partnership agreement alleging fraud and breach of fiduciary duty.
- Commercial property dispute over signage and parking issues.
- Alleged negligent loan processing and packaging by a loan broker to a bank and resulting indemnification issues.
- Breach of Contract / Implied Warranty action.
- Dispute over Construction contract in large shopping mall.
- Breach of Contract claim against Defendant for failure to honor its guarantees on retail

installment sales contracts assigned to Plaintiff.

- Breach of contract regarding breach in licensing/distribution rights.
- Dispute over terms and enforcement of commercial lease.
- Alleged Breach of Contract for sale of goods.
- Alleged Breach of Property Management Agreement.
- Dispute over various retail installment sales contracts related to the issue of recourse or non-recourse.
- Plaintiff sued on Promissory Note. Defendant raised set offs.
- Plaintiff sued for attorney's fees and Defendant filed a cross-complaint.
- Large law firm accused of overcharging/failure to communicate with client.
- Breach of Contract claims and alleged fraud and misrepresentations raised by national mortgage company against packager of subprime mortgages

EMPLOYMENT

- Various age discrimination cases.
- Various race discrimination cases.
- Plaintiff sued for Wrongful Termination including sexual harassment issues.
- Plaintiff corporation sued for improper taking of client lists and other trade secrets.
- Plaintiff claimed supervisor of employer created a hostile work environment by causing Plaintiff to view sexually explicit information.
- Plaintiff alleged she was wrongfully terminated and denied promotion and was discriminated against based on her sexual orientation and wrongfully accused of sexually harassing someone in the workplace.
- Plaintiff alleged wage/hour improprieties.

ENTERTAINMENT

- Dispute between Talent and Manager regarding payments due related to TV project.
- Dispute between special effects company and producer related to negligence on commercial project.
- Dispute related to use of likeness.
- Dispute over alleged defamation on documentary project.
- Dispute over profit participation.
- Dispute over royalty calculations.
- Allegations of improper withholding of distributions related to profit participation on film project.
- Allegations related to failure to secure tax credits on film project.

PERSONAL INJURY

- Various cases of alleged personal injury damages resulting from a motor vehicle accidents.
- Various cases of personal Injury and worker's compensation matters related to industrial accidents.

- Personal Injury claim against vendor alleging damages from slip and fall incident on the job.
- Personal Injury claim resulting from industrial accident in operation of machinery.
- Personal Injury action related to automobile accident. Plaintiff sought damages against Defendant and Defendant's employer for damages.
- Discovery Referee for depositions and related discovery.

EMPLOYMENT HISTORY

- Mediator, Arbitrator, Discovery Referee - ADR Services, Inc., 2006 - Present
- Attorney and Mediator – Kessler & Kessler, A Law Corporation. President and shareholder, 1994 – Present
- Attorney – Gold, Marks, Ring & Pepper, 1990 – 1993
- Attorney – Frandzel & Share, A Law Corporation, 1986 – 1990
- Extern – California Court of Appeal, 1985-1986
- Associate Professor – California State University, Northridge. Tenured, Department of Speech Communication, 1977-1983; Honors, Danforth Fellowship, 1981-1986; National Endowment for the Humanities Fellowship, 1977-1979; Women's Center Board of Directors
- Assistant Professor – Loyola U. of Chicago, Department of Communication, 1973-1976

PROFESSIONAL AFFILIATIONS/AWARDS

- Admitted to the State Bar of California (1987). AV rating, Martindale-Hubbell.
- Member, American, Los Angeles County and Beverly Hills Bar Associations.
- Member, Women Lawyers Association of Los Angeles
- Member, Organization of Women Executives, 1996-Present
- Southern California Super Lawyer, 2006, 2007, 2008
- Daily Journal's 2006 Top Women Litigators
- Los Angeles Superior Court Awardee in Mediation - 2008

COMMUNITY SERVICE

- Los Angeles City Attorney's Office Transition/Advisory Team Member, 2001 - Present.
- Board of Governors, City of Hope, Member of Executive Committee. 1994 - 1999.
- Advisory Council, University of Michigan Rackham Graduate School. 1992 - Present.
- Board of Directors (Western States Board), National Jewish Center for Immunology & Respiratory Medicine, Denver, Colorado. 1991 - 1995.
- Board of Directors, St. Vincent's Hospital Foundation. 1990 – 2007.
- Board of Directors, St. Vincent's Meals on Wheels, 2007 – Present.
- Board of Directors, American Cancer Society, San Fernando Valley Unit. 1982 - 1983.
- Advisory Board, Kauai Film Commission. 2003 - Present.
- Advisory Board, Turks & Caicos International Film Festival – 2006.
- Advisory Board, Loyola Law School Center for Conflict Resolution, 2008 – Present.

SELECTED PAPERS AND PUBLICATIONS

- Note, An Empirical Study of Six- and Twelve-member Jury Decision-making Processes, 6 U. of Mich. J. L. Ref. 712 (1973) (CITED IN) Colgrove v. Battin 413 U.S. 149, 159 (1973); Georgia v. Ballew 435 U.S. 223, 238, 242 (1978).
- Kessler, A Content Analytic Comparison of the Six- and Twelve-member Jury Decision-making Process. Unpublished Ph.D. dissertation, University of Michigan (1973).
- Kessler, The Social Psychology of Jury Deliberation, in R. J. Simon (Ed.), The Jury System in America, A Critical Overview, Beverly Hills: Sage Publications (1975).
- Kessler, Karnes & Follert, "The Effect of Juror Sex on the Decision-making of Student and Actual Jurors in a Simulated Civil Case," S C A convention paper, Houston (1975).
- Kulka & Kessler, "Is Justice Really Blind? -- The Influence of Litigant Physical Attractiveness on Juridical Judgment," 8 Journal of Applied Social Psychology 366 (1978).
- Kessler, "Use of Videotape for the Expert Witness," 28 Journal of the American Academy of Forensic Science (April, 1983).
- Benson and Kessler, "Legalese v. Plain English: An Empirical Study of Persuasion and Credibility in Appellate Brief Writing," 20 Loyola of Los Angeles Law Review (January, 1987).
- Kessler, "The Lawyer's Intercultural Communication Problems with Clients from Diverse Cultures," Northwestern Journal of International Law and Business 64 (Spring, 1988).
- Kessler, "Are Lender Liability Actions Alive and Well?" Western Independent Bankers Newslines (October, 1989).
- University of Michigan, Rackham School, Alumni Magazine, 2005, article, page 10.
- Moderator, Women's Lawyers Association of Los Angeles seminar "Get a Life and Stay Successful - Balancing Work, Life, and Family" (May, 2006).
- Moderator, Women's Lawyers Association of Los Angeles seminar "Communication Strategies In Dispute Resolution: How To Have A Successful Mediation - And Make The Settlement Stick" (April, 2007).
- Kessler, "Beyond the Golden Rule: Successful Intercultural Mediations" Volume 34, Number 10, Advocate (October, 2007).
- Kessler, "Cross-Cultural Communication in Mediations" Southern California Mediation Association Annual Conference (November, 2007).
- "Mediator Draws on Her Multifaceted Careers", Los Angeles Daily Journal (April 18, 2008).