

## Hon. John Leo Wagner (Ret.)

### EXEMPLAR CASES

Judge Wagner has personally conducted thousands of mediations over the last 20 years. He is constantly developing and adapting new settlement techniques. The following are examples of major settlement efforts where Judge Wagner employed innovative techniques:

- **The Non-Insured Financial Institution Collapse Cases**  
More than five thousand uninsured depositors lost their savings when a non-insured Bank collapsed. Many lawsuits were filed and over the course of six years and all these matters were settled with Judge Wagner's help. Over \$60 million was obtained on behalf of the defrauded creditors, which constituted the entire principal loss.
- **The Multi-State Electrical Power Contract Case**  
High priced electrical power contracts were entered into during a power shortage that had resulted in brownouts in California. Once new sources of power came on line, the high-priced contracts were not honored by the purchasing utility. By means of a persistent mediation effort, Judge Wagner assisted the parties in resolving this high dollar, high stakes litigation.
- **Suit to Educate Developmentally Disabled Children**  
Suit to provide educational services to children with multiple disabilities institutionalized in a state institution for the developmentally disabled, which was ordered closed after a contentious trial. Due to the settlement achieved, over 120 severely disabled children were successfully placed in 10 different public school districts.
- **The Heptachlor Cases**  
Cattle feed contaminated with heptachlor was sold to dairy farmers. Four lawsuits resulted, brought in three different states. Over 100 individually named plaintiffs and three defendants were involved when settlement efforts commenced. A global settlement was undertaken and achieved.
- **The Power Company Construction Defect Case**  
This case involved a dispute over the construction of a power company's \$400 million power plant and included over 160 separate contract claims, all of which were settled.
- **The Voting Rights Act Case**  
This lawsuit was an effort to forcibly redraw the existing judicial districts in two large counties, so that concentrated populations of African-Americans would not be disenfranchised. The lawsuit generated formidable political opposition and required an inclusive settlement process that enlisted the incumbent district judges; the Governor; the Legislature; the Attorney General; the state and county Bar Associations and the NAACP Legal Defense Fund. The settlement reached was implemented through special legislation.

- **The Water District Dispute**  
 The rural water district purchased all of its water from a metropolitan water district and served numerous residences. The case had become so contentious that the Mayor (as the chairman of the metropolitan water district board) had publicly threatened to terminate the water purchase contract at issue and cut off the water to the significant number of homes served by the district. The case was resolved through a process designed and implemented by Judge Wagner.
- **The Ancient Securities Fraud Class Action**  
 Pending 23 years, this case had been appealed to the Circuit Court of Appeals five times and the United States Supreme Court three times. At one time, the plaintiffs in this case had a judgment worth approximately \$170 million. The verdict had been reversed on appeal to the Circuit and the U.S. Supreme Court had affirmed the reversal. A special act of Congress was then passed that abrogated the reversal and reinstated the case. Judge Wagner settled it prior to the second trial.
- **The Telecommunications Switch Case**  
 A highly technical dispute regarding alleged defective telephone switching equipment was resolved with Judge Wagner's help.
- **Pollution-Free Engine Case**  
 The inventor claimed that he had invented an engine that ran on "air" which he mixed from ordinary gases in a secret, proprietary manner. The prototype had been built at great expense and was observed running by credible technicians and government officials. The resulting fight over the patent rights lasted many years and was ultimately resolved by Judge Wagner.
- **The Intraocular Lens Patent Case**  
 The doctor was a brilliant and dedicated eye surgeon. He developed a new surgical process and artificial lens for replacement of natural lenses clouded by disease. The patent was sold to a corporation and the product was wildly successful and very lucrative. The doctor sued to enforce his contract rights and Judge Wagner quickly resolved the matter.
- **The Electronic Fish-Finder Patent Cases**  
 These sonar devices with user-friendly electronic interfaces constitute a lucrative and therefore highly competitive market segment. Lawsuits were filed whenever a significant new development in technology was made that gave a competitive edge. Judge Wagner resolved each case.
- **Refinery Heater Patent Case**  
 A patent for a double-fired coker heater used in oil refining spawned bitter litigation. Judge Wagner finally brought the parties together and settled the case.
- **The Cellular Video Patent Case**  
 This was a declaratory judgment action to determine the validity of the patent rights claimed by the co-developer of a video camera that transmitted images via cellular phone. The technology involved on-site transmission of images useful for news media and rescue operations. Its value was demonstrated in the rescue efforts conducted in the aftermath of the Oklahoma City bombing. Judge Wagner resolved the matter without trial.

- **Gas Contract Class Action**  
 The plaintiff's claims in this hard-fought class action alleging breach of a gas purchase contract totaled well in excess of \$100 million. The case was settled with Judge Wagner's assistance.
- **Five Tribe Lease Dispute**  
 Trust property shared and collectively governed by five Native American Tribes was leased to an entity related to a religious organization for drug rehabilitation purposes. When promises of multi-million dollar revenues and property rehabilitation were not forthcoming, administrative termination was commenced and vigorously contested. After a substantial effort, Judge Wagner settled the matter.
- **Mass PCB Contamination Cases**  
 The plaintiffs worked in a federal building when a transformer containing PCBs exploded, spewing PCB laden smoke throughout the building. During clean-up efforts, a fire broke out in the containment area, causing further contamination. Judge Wagner settled the resulting personal injury cases.
- **Mass Toxic Tort Cases**  
 The plaintiffs lived down wind of a burning superfund toxic waste site and sued for personal injury. The primary defendant sought contribution from scores of third party defendants. Judge Wagner resolved all these cases through a joint settlement effort.
- **Multi-million Member Consumer Class Action**  
 After untrue representations regarding telecommunications services were mistakenly mailed to and relied upon by millions of consumers, litigation was commenced. Judge Wagner mediated the matter and obtained settlement before the class certification hearing. The innovative settlement reached initially drew objections, but was immediately approved by the court when all objectors withdrew their objections during the course of the fairness hearing.
- **Multi-Jurisdiction Bankruptcy Accord**  
 A corporation that owned a large underground natural gas storage facility went bankrupt in one state. The principal of the corporation, who had allegedly withdrawn large amounts of gas owned by others and sold them to third parties, took personal bankruptcy in another state. Eighteen corporate parties made substantial claims in both estates. All claims were resolved during the course of a coordinated, two-day mediation, allowing the closure of both bankruptcy estates and the dismissal of all pending litigation.
- **Bet-the-Company Accounting Malpractice Case**  
 A reputable regional accounting firm acquired a competitor and assumed its liabilities. Both were sued by former clients, which were indirectly owned by an Asian government. The plaintiffs contended that the failure of the acquired firm to discover fraud caused over \$100 million in damages. This multi-party matter required a tiered settlement effort, with the first stage between the Plaintiffs and Defendants to bring the claim into the professional liability policy limits and the second stage between the Plaintiff and the insurance carrier to finalize the settlement terms.

- **Double Wrongful Death Case**  
 A drunk driver, traveling 70 mph, topped a hill in a quiet residential neighborhood and slammed into a vehicle turning left. The mother of nine children was immediately killed. Her husband lingered for three weeks before he mercifully expired. The driver was tried for manslaughter and went to jail. A dram shop suit was brought on behalf of the children against the franchise restaurant that had served the driver eight shots of alcohol prior to the crash. With the assistance of a sincere apology, the settlement demand was brought within policy limits and a multi-million dollar settlement was reached.
- **Three Brother Wrongful Death Case**  
 Three brothers were traveling on a divided highway. A State employee was speeding home and he lost control of his truck. It went over the center divider and landed on the top of the brothers' car. The car was engulfed in flames and all three brothers died. Other attempts at mediation had failed. A multi-million dollar settlement was then reached with Judge Wagner's assistance.
- **Law Firm Letterhead Case**  
 A third-generation partner of a long-established law firm departed to establish a competing firm, and filed a federal case over the continued inclusion of his grandfather's name in the original firm's letterhead. This emotional case between former law partners was resolved with Judge Wagner's patient assistance.
- **Brother Against Brother Partnership Litigation**  
 Two brothers were involved in an extremely lucrative family business. They fell out and one brother sued the other for fraud. After a bitterly fought jury trial, a judgment for \$10 million plus fees, costs and interest was obtained by one brother and paid by the other. The losing brother then sued the prevailing brother for fraud and was in turn sued by corporate officers tailgating upon the prevailing brother's success. Using a variety of gap-bridging techniques culminating in "Cruise Missile Arbitration" (a closing technique developed specially for the final matter), Judge Wagner obtained sequential settlements of a total of eight lawsuits pending in both federal and state courts.
- **Triple Patent Litigation**  
 Presented with an entrenched patent dispute involving both validity and infringement issues in connection with three distinct patents, Judge Wagner invented the "Executive Summary Jury Trial." Using coordinated components from a modified summary jury trial procedure, the mini-trial procedure and mediation over a two-day period, Judge Wagner was able to resolve a case anticipated to take many months to try, and do so in a way that fully satisfied the parties' desire for a merits-based result.
- **Athlete Delayed Quadriplegia Case**  
 Three college wrestlers went to a party on a rainy weekend evening. On the way home, the speeding car missed a curve and rolled down an embankment. Miraculously, all three walked away from the wreck. A week later, while horsing around grabbing and lifting a friend at another party, one of the boys slumped to the ground, a final quadriplegic. He sued the driver (the son of an auto dealer with lots of insurance on the demo car involved) for his personal injuries. With the aid of a painstaking examination of the medical causation proof, Judge Wagner was able to facilitate a seven-figure settlement.

- **Medical Qui Tam Case**  
 A physician group had been sued by a whistleblower alleging insurance fraud. The state was threatening to intervene. A three-way settlement was reached involving the medical group, its insurer (the whistleblower seeking reimbursement) and the state.
- **Embittered Abuse of Process Case**  
 A distributor found out that his trusted employees were stealing product from his warehouse and selling it to his competitor. He sued them and the competitor, alleging misappropriation and fraud. The employees fled the jurisdiction and the jury returned a verdict for the competitor, who brought a suit for malicious prosecution. Judge Wagner mediated and helped the parties settle this emotional matter.
- **The Air Transport Crash Cases**  
 Eight widows with minor children sued a jet engine overhaul company for the wrongful death of their husbands. They had died a fiery death when their Air Force transport plane (loaded with barrels of paint) burned and crashed into the ocean near Italy. Nothing useful was recovered and liability was skimpy or non-existent. Damages were heart wrenching. Judge Wagner dealt gently with the plaintiffs and obtained a settlement in each case that enabled them to maintain their accustomed standard of living and educate their children.
- **The Brain-Damaged Mother Case**  
 After the delivery of a healthy baby boy by c-section, his mother became constipated. She returned to the hospital, was given a laxative and was sent home. She later lapsed into unconsciousness at home and was rushed to the hospital, where emergency exploratory surgery was performed. During the surgery, she suffered a heart attack, but was revived through heroic effort of the attending surgeon. She suffered anoxia and severe brain damage, which the defendant physicians claimed rendered her a blind “vegetable” unaware of her quadriplegic state. The reaction she showed in a day-in-the-life videotape belied this claim. An appropriate settlement was reached.
- **The Abusive Tycoon Case**  
 The owner of a successful debt-collection company employed many single mothers, who were well motivated by the generous incentives and pay he provided. The company perpetrated a fraud on Wall Street. Debt that was not collectible was “sold” to an off-the-books shell company to inflate the apparent collection rate. When the fraud was revealed by an anonymous letter, the owner assembled his employees in an auditorium, locked and guarded the doors so no one could leave and obscenely berated them for hours, blaming them for the company’s collapse. Thirteen sued him for intentional infliction of emotional distress. Judge Wagner guided all thirteen of these emotionally-laden cases to settlement.
- **The Wireless Telecommunications Contract Case**  
 Two large telecommunications companies became involved in litigation surrounding the application of very technical regulations involving carrier segment billing. This stubborn multi-million dollar dispute was resolved with Judge Wagner’s assistance.
- **The Esoteric Industrial Gas Case**  
 A family-owned boutique chemical company with predominant expertise in the manufacture of esoteric industrial gasses entered into a research, development and marketing partnership with a multi-billion dollar international corporation. The relationship went sour and the boutique company sued, praying for \$80 million. Initial settlement efforts failed and the matter proceeded to trial. After plaintiff’s opening

statement, the court called counsel to the bench and gently broke the news that the spouse of the plaintiff's founder (who had been present in court) had suddenly died that morning. After a respectful adjournment, Judge Wagner engineered a multi-million dollar settlement and healed the rift between the companies, so that their business relationship was restored.

- **The Settlement Resistant Employment Case**

An employment dispute had resisted settlement through three previous mediation attempts. Two of these had been conducted by highly-regarded private employment mediators. The trial judge had intervened and sent it to a hand-picked judicial colleague, who also tried to mediate it. He was likewise unsuccessful. It finally settled through Judge Wagner's mediation process.

- **The Feuding Physician Shareholder Derivative Cases**

A large physician practice group was incorporated and did well. It spun off its practice service group to another corporation, with the intent that this separate corporation, unhindered by professional constraints, would be taken public. With this in mind, the practice group company entered into a contract for services that was far beyond market and very lucrative for the practice service group. The bubble burst and no public offering was ever made. Different factions within the group then began feuding. This dispute resulted in the filing of two shareholder derivative suits. Judge Wagner orchestrated the deal whereby the main (founding) shareholder was bought out and the cases were contingently settled. He was then retained to preside over contentious shareholder meetings where the deal was examined and approved, which was a prelude to Court approval. Once Court approval was obtained, Judge Wagner was retained to supervise the stock buyout.