

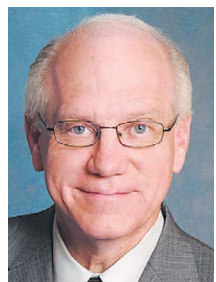
COMMENTARY

Disney Now Not the Happiest Place

As if we needed it, the rift between the Walt Disney Co. and the California state government widened last week, with one exasperated Disney executive blasting the state's new restrictions that will prevent Disneyland from reopening probably until next summer – and then at 25 percent capacity.

Disney has safely reopened its famous theme parks in Asia, Europe and Florida, Disneyland Resort President Ken Potrock pointed out, but “the state of California continues to ignore this fact, instead mandating arbitrary guidelines that it knows are unworkable ...”

Remember, last week's dustup was on top of Disney's decision a few weeks ago to dismiss 28,000 workers from its California parks division – workers it had been carrying for months with the expectation that Disneyland would be open by now.



ONE MORE THING

Charles Crumpley

Disney blamed the state for that decision. And about that time, Bob Iger, Disney's executive chair and former chief executive, resigned in a huff from Gov. Gavin Newsom's economic recovery task force.

It's gotten to the point that you'd imagine any meeting between Disney execs and state officials would be about as pleasant as a Trump-Biden debate with open mics.

Valley area leaders are quietly starting to fret. At least a few have begun wondering if Disney may move part or all of its Burbank headquarters out of the state. Even though Disney is all but absent from local civic leadership, it is still the Valley's biggest private employer with an estimated 11,750 local jobs (before the pandemic), and it anchors the Valley's studio and entertainment industry. A Disney move would be devastating.

That seems preposterous, doesn't it? I mean, where would Disney move to, exactly? On the other hand, weirder things have happened. What's

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more, Proposition 15, the so-called split roll question on the November ballot, would add, by one estimate, tens of millions of dollars annually to Disney's property tax bill. At some point, it would be uncomfortable for Disney execs to stand up at an annual meeting and try to convince shareholders that they're carrying out their fiduciary responsibility by staying in California.

...

I was shocked to read a survey a week or so ago that said Californians who are working from home are spending an average of 1.7 hours a week trying to resolve tech issues. I was shocked because I would spend at least 30 hours a week on such matters.

Working from home, as many workers have been doing for seven months now because of the pandemic, has given us a chance to look back with fondness about some aspects of our past life in the office. And you may have discovered that yes, there are some things you like about working in an actual workplace. For me, one of the very best things is calling the help desk to fix any tech problem. But if I'm working from home and am confounded by something, my best option is to call one of my kids. I'd spend 1.7 hours a week just

explaining my software mysteries.

The survey, put out by Ezvid Wiki, a video and media company in Portland, Ore, a city which no doubt has many people working from home, said this: “There are some good things about working in an office. Constant supplies of tea and coffee (if you're lucky), gossip with your co-workers, and paper clips in every color.” Remember office gossip?

I must confess that while I work from home on occasion I have worked in the office during the pandemic, so I don't have first-hand knowledge of what it's been like to be at home all day every day during these trying months. But I do talk to people, and I know that while there are some benefits to working from home – no commutes, you can work in your sweatpants, take afternoon naps – there are some things people miss. Interaction with colleagues is big – over one third of the survey respondents said they really miss that. But they also miss lunches out, the convenience of copiers and office supplies and several other things, including tech support.

We're going through a big adjustment. What we're really doing is evolving at an accelerated rate into the workplace of tomorrow. The work-from-home phenomenon probably won't completely disappear post-pandemic. For many office denizens, our workplaces likely will morph quickly into a hybrid in which we work a lot more from home and go to the office – probably a smaller office – for staff functions, face-to-face meeting with the boss and that kind of thing. That transformation probably would have taken place over 10 or 15 years or more, but we're doing it now, right now, and at least some of us will never again work our entire workweek in an office.

And there will be pluses and minuses to that transformation – some of which we're already experiencing and some of which we have yet to feel.

I'm just hoping we figure a better way to get tech help at home.

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Virus Makes Mediation Mainstream

By JONATHAN FRASER LIGHT

Much is being made about how mediation and arbitration are effective alternatives to the courts now that COVID-19 has made trials logistically problematic. Mediation, and to a lesser extent arbitration, have been at the forefront of the legal profession for a number of years. The current pandemic, however, has made these alternatives to court more mainstream. This is especially true in Los Angeles, where the courts are buried with cases, creating a huge backlog.

Mediation is a private process in which parties jointly pay for a private mediator to essentially knock heads for a day at a neutral site, going back and forth to reconcile facts and to hammer out a deal. I would estimate success at least 85 percent of the time so, in many cases, it's worth the \$6,000 to \$15,000 a day for a good mediator.

Early in my career, we rarely discussed mediation. About a month before trial – having spent tens of thousands of dollars, if not hundreds of thousands of dollars, on legal fees – the court would force the parties to participate in a “mandatory settlement conference” with another judge. Sometimes it worked, but given all the defense costs already spent, it rarely seemed like a great result from the client's perspective.

Mediation is now routine and is essentially required by every court in California. Over 98 percent of all civil cases settle before they reach trial so they either resolve through mediation or private discussions between the parties or their attorneys. Resolving disputes sooner than later in the litigation process can save a ton of money.

Arbitration is a contested and binding trial done in a private setting with a paid arbitrator (charging between \$8,000 and \$20,000 a day).

The cost of the arbitrator is significant, but the expense is generally outweighed by the attorney fees saved in lieu of a jury trial. Then there is the reduced risk of being in front of a retired judge or senior attorney as arbitrator instead of arguing a case in front of panel of jurors who may not be able to identify with or be as sympathetic to the client, especially in an employment dispute. If the client company has employment practices liability insurance, the carrier will pick up the cost of the arbitrator as part of its coverage.

Often ignored when considering whether to fight or settle is the corporate downtime required to deal with the legal issues brought to the company: strategy meetings, depositions, sitting in a trial or arbitration, the stress, the potential financial impact. We have successfully guided San Fernando Valley companies through that process, resulting in a successful mediation and

settlement later approved by the court as required by law.

Mediation can occur even before a lawsuit is filed – when a client receives a demand letter and there is enough perceived liability. Clients often feel morally outraged by the demand letter and refuse to put even a relatively nominal amount on the table to get this dispute off their desk and off their books as a contingent liability. Once I talk them off the ledge, however, they tend to see the rationale for early resolution. If I can't talk my way to settlement over the phone with the other side, we often will go to early mediation.

Once a company properly considers the potential risk, the costs, the fact that they may lose their employment practice insurance renewal, and the corporate downtime. Companies come to understand that they will pay a lot more in legal fees if they fight. The better strategy is almost always for them to pay and go home. Once they get over the moral dilemma of the issue, it's much easier to get to a business decision, leaving emotions at the door. This has never been more true as the COVID-19-related trial delays continue to mount.

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