

VERDICTS & SETTLEMENTS

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Understanding Objectives

Mediator Greg Derin tries to learn litigants' goals and find alternative paths to meeting them.

By Henrik Nilsson
Daily Journal Staff Writer

Greg D. Derin became an ADR neutral by happenstance.

Because of his background in volunteering and pro bono litigation, Derin applied to the Los Angeles County Superior Court's pro bono mediation panel in 2002.

But the court rejected his application because he lacked the proper training. So Derin took a mediation training course at Pepperdine University Straus Institute for Dispute Resolution that got him hooked.

"You would have two sides who were in conflict and were having difficulty resolving their controversies," Derin said. "And as an impartial participant in that process, rather than being at war with one another, helping each side try to accomplish their goal by communicating more clearly with one another what their objectives were. And that was enormously gratifying. And still is."

Derin continued taking mediation classes and ended up assisting as a teacher at the Harvard Law School Negotiation Institute's mediation workshop under ADR pioneer Professor Frank E.A. Sander twice a year from 2004 to 2012.

Derin started his legal career as an entertainment litigator at the boutique Dern, Mason &

Floum and then became a partner at Del, Rubel, Shaw, Mason & Derin. He joined Signature Resolution earlier this year.

Derin mediates cases related to the entertainment sector, including matters on copyright infringement, right of privacy and general commercial disputes. Recently, he has mediated disputes involving cryptocurrency and blockchain.

Derin tries to conduct conferences the day before a mediation session. He spends an hour or more with attorneys after reading the briefs to help them prepare and make sure he understands the facts. This makes the mediation session much more efficient, he said.

Parties will usually talk in terms of money, but a good mediator wants to understand what's actually important to the people involved in the dispute, according to Derin.

For example, should somebody tell him that they want \$1 million, a mediator's role is to understand the underlying objective and why they want the money in the first place, Derin explained.

"Depending on what your goals are and what your needs are, there are other ways to perhaps achieve what your objectives are," Derin said. "Rather than somebody just writing you a check."

Throughout the years, Derin has seen lawyers make the mis-



Gary Wagner / Special to the Daily Journal

take of advocating during a mediation as if it were a courtroom instead of actual negotiation. He's been in situations where both sides tell Derin to persuade the other side that they're going to lose.

"One of the big mistakes is trying to win," Derin said. "But some of the best lawyers that I know who are aggressive, aggressive litigators are terrific mediation advocates because they know that they leave the advocacy at the courtroom step. And when they come into mediation, they're there to try to negotiate the best deal that they can, because mediation is a different beast."

Although he's been able to achieve positive results in joint sessions, by and large, negotiations tend to end up in private caucuses because tensions usually run high, Derin said. But he

Greg D. Derin

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Areas of specialty:

Complex business and commercial, entertainment, sports, copyright, trademark, trade secrets, right of publicity, employment and cryptocurrency.

always hopes to achieve a joint session. Derin spends the majority of his time mediating but sometimes arbitrates cases. He said he is often called upon to mediate disputes where others have been unsuccessful.

In one case, Derin was the third mediator in an employment case.

"It was clear to me that this

poor plaintiff had never had the opportunity to tell her story to the mediator. And after she had done that, I think she was much more prepared to settle the case,” Derin said.

For Derin, mediation is a trust-building process.

“We may have worked with the lawyers multiple times, but by and large, we’re meeting the clients for the first time,” Derin said.

Ronald J. Nessim, principal at Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow P.C. had a mediation with Derin over the summer in a large entertainment case. Nessim represented a television show creator bringing profit participation claims against a major studio.

Nessim picked Derin as a neutral for several reasons.

“Subject matter knowledge, the ability to get along with everybody, ability to come up with creative solutions and a dogged commitment to settle

the case if at all possible,” Nessim said. “Even after our mediation failed, he contacts me constantly with new ideas to restart settlement discussions.”

In a complicated contract action involving transactions and documents dating back several decades ago, Derin mediated the case in September. Ezra D. Landes, partner at Spertus, Landes & Umhofer, said that the litigation had been contentious.

“Even through Zoom, Greg was able to create an environment where our client’s grievances could be aired and felt heard,” Landes said. “Greg held space in a way that allowed the tensions that had built over many months to naturally diffuse over the course of a single day to the point where a settlement could be reached.”

Michael E. Williams, partner at Quinn Emanuel Urquhart & Sullivan LLP, worked with Derin many years earlier before Williams asked Derin to mediate a case in August. Williams

said they needed someone effective and able to work with various personalities.

“He is quick to understand the key issues in the case, not only from a legal standpoint but from a business standpoint,” Williams said. “He worked diligently well past midnight in order to get a settlement between the parties.”

Building trust is key to Derin’s approach. In a case last year, where the parties were down to the last steps of the mediation, Derin tried to close the gap. He had never worked with either of the parties before. One of the lawyers asked him if the deal on the table was the best that their side could get, and Derin explained that he’s confident that the other party wouldn’t go any further. To Derin’s surprise, the lawyer told him to take the deal.

The lawyer told Derin that he had been honest with them throughout the entire mediation and that they trusted him.

“And it was just one of those remarkable moments that make you feel so good as a mediator,” Derin said.

Here is a list of attorneys who have used Derin’s services: Jeffrey G. Huron Esq. of Dykema Gossett PLLC; Peter J. Anderson Esq. of Davis Wright Tremaine; Edward M. Anderson Esq. of Anderson Yeh PC; David Grossman Esq. of Loeb & Loeb LLP; Brian E. Klein Esq. of Baker Marquart LLP; Ronald J. Nessim Esq. of Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C.; Michael E. Williams Esq. of Quinn Emanuel Urquhart & Sullivan, LLP; Ezra D. Landes Esq. of Spertus Landes & Umhofer LLP; Amy R. Lucas, Esq. of O’Melveny & Myers LLP; Maureen M. Michail Esq. of Daniels, Fine, Israel, Schonbuch & Levovits, LLP.

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