

VERDICTS & SETTLEMENTS

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Finding a Connection

Retired judge Clifford Klein establishes a rapport with mediating parties through personal stories.

By Don DeBenedictis

Special to the Daily Journal

One of the first things Clifford L. Klein does at the beginning of a mediation session is try to establish a rapport or connection with each of the parties. It doesn't have to be much.

"Whatever it may be, I try to connect in some way," Klein said. "If the person's from another country and I happened to have traveled to that country, that can be something."

That approach worked for him on a recent Sunday with a woman who initially seemed hostile to the mediation. She had grown up in Krakow, Poland, a city Klein had visited on a tour. He told her that he had found the city to be beautiful, especially a large church he'd seen, which he thinks might have been the church she attended.

"We had a wonderful conversation," he said.

Another time, a party commented on the pencil cup on Klein's desk shaped like a tool bag and labeled Klein's Tools, a prominent maker of hand tools. Because the person had used those tools in his work, his comment started a conversation that helped break down some of the initial hostility and discomfort.

Then there was the party who was very proud of his top-of-the-line boat. Klein knew from a boat owner in his own family that its builder was called the Rolls Royce of boats, so they chatted about that.

"You're looking for something to connect," he said.

The goal of these little points of connection is to establish trust and credibility for when he later discusses the strengths and weaknesses of their cases.



Justin L. Stewart / Special to the Daily Journal

He also tells the parties of his background as a deputy district attorney in Los Angeles for 25 years and as a superior court judge for another 20 years more, ending with 6½ years handling probate cases. Those are the main sorts of disputes he mediates now.

"I want to let them know what my experience is, that ... virtually every type of case that's presented to me in mediation, I've seen in the courtroom," Klein said. "I have to say virtually because a couple of weeks ago, there was an issue I'd never handled."

His approach works well, according to some attorneys who've mediated cases with him.

"He really tries to put everyone at ease and make them comfortable,"

said Jeffrey Forer of Hinojosa & Forer LLP. As a former criminal court judge, Klein also is good at reading people, he added. "He's good at getting a gauge of the client and how they would fare in trial."

Sheppard Mullin Richter & Hampton LLP's Nicholas J. Van Brunt said Klein has "good emotional intelligence and the ability to figure out what will speak to a particular client to help them." He is skilled at "focusing on the pressure points that can help a party recognize what they should do to compromise."

"He really does spend time to get an understanding of ... what makes people tick," said Sandra Khalili of Resch Polster & Berger LLP. He also chatted with her about

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his travels in Iran, her homeland. "I developed a relationship of trust with him," she said. "It really helps move the matter forward."

Klein grew up in Venice and Pacific Palisades, where his father

was a CPA and his mother ran a youth employment office for the state Department of Employment. She put him in jobs doing yardwork as soon as he was old enough. “Nothing made her happier than seeing young people sweating, being miserable, ... on a hot day pulling weeds,” he said. “To her, that was beautiful.”

His mother also got him involved in antiwar marches, political campaigns and other social activism, which led him to study law. He earned his undergraduate degree from UC Riverside and then went on to UC Berkeley’s law school.

He joined the Los Angeles County district attorney’s office in 1975 right out of Berkeley. “I thought it was just a great place to start. Little did I know that I would stay there 25 years.” In addition to misdemeanor and felony assignments, he handled juvenile, environmental and white-collar cases. His last assignment was prosecuting official and police misconduct.

Klein also worked extensively with the prosecution office’s lobbyist in Sacramento, especially on some anti-gang legislation and other bills to close some loopholes in laws on juveniles and to create a sentencing enhancement for high-speed drunk driving.

Gov. Gray Davis named him to the superior court in 2000, and he

spent most of the following year hearing traffic and misdemeanor cases. Then, he was asked to create the state’s first full-time juvenile mental health court.

Building the specialized collaborative court from the ground up was an interesting assignment, he said. He brought together knowledgeable personnel from the probation, public defender’s and district attorney’s offices, as well as an education specialist, a UCLA psychiatrist and two county psychologists. “That was a challenge. You have to get everybody to work together.”

He led that program for a couple of years, then heard felony cases for a couple more. Klein then moved to the adult mental health court for a while.

When he returned to handling felony cases, he found the knowledge he’d gained on the mental health calendars very helpful. He even occasionally hired outside expert witnesses for difficult cases. “I tried to make it my own little collab court, which is not as hard as people think,” he said.

But after more than a dozen years on criminal and related matters, he wanted something different. He asked to be assigned to probate cases. “It turned out to be the most interesting assignment I had.”

The reason is family drama. “If you look at the 100 greatest novels

of all time, a lot of them would be family battles,” he said. He also mentioned “King Lear,” “Succession” and “The Lion King.”

Among the drama-filled cases he heard as a probate judge was one in which a mother and daughter hadn’t spoken for years ever since the daughter changed her college major. He also handled part of the fight over where famed disk jockey Casey Kasem would be buried. *Kasem, Casey—Decedent*, BP157461 (L.A. Super. Ct., filed Nov. 7, 2014)

Klein retired from the court in May 2021 and joined Signature a little while later. To prepare, he took classes in the mediation programs run by both Pepperdine University’s and Harvard’s law schools. He said he liked Harvard’s approach of beginning mediation sessions with a joint meeting of the parties, but he doesn’t do that now because lawyers in California object to it.

Lawyers who have worked with him here say he is doing well. Adam L. Streltzer said he appreciated that Klein “went the extra mile” in the two matters he’s had with the retired judge. “He stayed late at night, and he communicated effectively,” Streltzer said.

Forer said Klein is not only willing to stay late to resolve a case, he also will continue the mediation without charge.

“He’s extremely hard working,” Khalili said.

Klein said he begins mediation sessions by talking with the parties on each side about the value of settlement and the risks of going to trial.

He tells them that in probate matters, which very often are highly emotional, “you have to put aside anger and other emotions and realistically assess the case and somehow translate these emotions into the cold world of dollars.”

Sometimes those high emotions trace back to a comment one person made 20 years ago that horrified another member of the family.

But he has no formal playbook for resolving disputes. As Mike Tyson once observed, “the fight plan changes after the first punch,” Klein said. “I do find that in probate mediations.”

Here are some attorneys who have used Klein’s services: Marc D. Baute, Baute Crochetiere & Hartley LLP; Larry S. Dushkes, Dushkes Law Corp.; Jeffrey Forer, Hinojosa & Forer LLP; Justin B. Gold, Oldman, Cooley, Sallus, Birnberg, Coleman & Gold LLP; Nathan B. Hoffman, Hoffman Law Firm; Sandra Khalili, Resch Polster & Berger LLP; Adam L. Streltzer, Attorney at Law; Nicholas J. Van Brunt, Sheppard Mullin Richter & Hampton LLP