

## Family Business

*Neutral Robert McGuiness brings fatherly appeal to dispute resolution, attorneys say.*

By Shane Nelson

Special to the Daily Journal

**R**etired judge Robert D. McGuiness learned a great deal about mediation while watching his father settle cases.

“He was often better prepared than the lawyers, and he certainly knew how to deal with people - he was a master at that,” McGuiness said about his father, Judge William J. McGuiness, who served for 26 years on the Alameda County Superior Court.

McGuiness added that his father also regularly asked questions while working to settle disputes from the bench.

“He asked questions for a couple reasons: One, he wanted to know, and two, he wanted them to know he cared,” McGuiness said about his dad. “He was also terrific at listening.”

Part of an extended family of judicial officers, McGuiness was himself appointed to the Alameda County Superior Court by Gov. Arnold Schwarzenegger in 2005. Meanwhile, his brother, William R. McGuiness, was a 1st District Court of Appeal justice, and his wife, Yolanda N. Northridge, spent more than two decades as a judge on the Alameda County Superior Court Bench.

Fascinated by the law from a young age, McGuiness said his father started taking him to court to watch attorneys in action around age 7.

“I became a lawyer I think for two reasons,” McGuiness explained. “The exposure my father gave to

me and the joy he had [for the profession]. I mean he really jumped out of bed to go to work.”

A 1975 UCLA School of Law graduate, McGuiness represented plaintiffs and defendants as a civil litigator and trial attorney, tackling everything from securities cases to family law and class action work. On the bench, McGuiness handled criminal and civil assignments, and he spent three and half years as the supervising judge of the Alameda County Superior Court civil settlement unit before his retirement in 2023.

“I get a lot of quiet satisfaction from resolving people’s problems,” McGuiness said about his decision to join Signature Resolution’s port-

folio of private neutrals in January of 2024. “There’s just an elemental joy in that for me.”

Working most often these days as a mediator, McGuiness does arbitrate some cases, as well, and he said the civil disputes he’s hired to tackle often involve catastrophic injury, employment and family law.

Like his father, McGuiness said questions play an important part of his early strategy in mediations, and he often works from a list of queries that he’s prepared beforehand for the parties and their attorneys.

“Early on, you’ve got to lay a foundation. You have to build rapport. You have to build trust. You have to show knowledge,” he said. “I will



Gary Wagner/Special to the Daily Journal

### Robert D. McGuiness

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have questions that fill in gaps of knowledge for me, so later on, I'll be in a better position to consider and evaluate. ... But first of all, you have to make sure they feel heard."

Oakland plaintiffs' attorney Christopher A. Viadro used McGuinness recently to resolve a complex catastrophic injury case, and he described the retired judge as a very human mediator.

"That comes from his ability to relate to the litigants, helping them to feel more comfortable," Viadro said. "So that any friction the parties might be coming into a mediation with can be lessened."

Viadro added that McGuinness impressively handled the case's wide-ranging collection of personalities.

"He understands the psyches of all the players," Viadro explained. "In a case with three defendants and two plaintiffs and different insurances adjusters, ... he ended up working really well with all the different psyches he was dealt."

San Francisco defense attorney Peter O. Glaessner has used McGuinness to resolve three different cases - involving employment, wrongful death and lead contamination claims - and he agreed that the mediator applies an especially effective

approach when facing a divergent cast of litigants.

"He's cognizant of who he is communicating with in a mediation and calibrates the message to the audience," Glaessner said. "He just works hard for everybody."

McGuinness was quick to note, however, that mediations are all about timing and offered mediators' proposals as an example.

"Particularly with the defense - you've got to be very careful because a lot of times they've had a chain of evaluators, and they don't want to hear a mediator's proposal," McGuinness said. "If you ask them directly, they will tell you directly."

The retired judge said that often changes later in the day after "an extended opportunity to have a full-blown discussion."

"Candidly, I have a high rate of acceptance with mediator's proposals," McGuinness said. "But it's about timing. It's about having established the rapport. It's about having earned the respect of your knowledge and your efforts."

Glaessner added that McGuinness' long run on the Alameda County Superior Court bench has earned him terrific respect from counsel on either side of a dispute.

"He can communicate to both sides credibly what the case might look like in a courtroom before a jury," Glaessner said. "And he is also very adept at not only devising settlement strategies before a mediation but also adjusting strategies during a mediation - depending on how the events play out."

Burbank plaintiffs' attorney Aanand Mehtani has used McGuinness recently to resolve two different employment cases, and he agreed that the retired judge's extensive experience made a big difference.

"He's a really smart human being, and he's well respected," Mehtani said, "and has a lot of clout in both rooms in terms of finding a compromise."

Mehtani added that McGuinness' understanding of the law and the practical issues surrounding litigation allow for the mediator to push back on certain arguments and change people's minds.

"But he was also able to take yes for an answer," Mehtani said, referring to discussions about weak points in his case.

"I was able to say, 'You know judge, I've considered all these things,' Mehtani continued. "And while these might be some problems we have

on our end, I've taken them into consideration, and here's why I still think we might want to resolve this case in this range.' And he can take yes for an answer and doesn't need to fight just for the sake fighting, ... which can be true even with some very skilled mediators."

Like Viadro and Glaessner, Mehtani was also quick to praise McGuinness' work with his clients.

"Oftentimes in mediation these days, the rates are really high, but the clients sometimes feel like they are not being heard or prioritized," Mehtani said. "The atmosphere of the mediation with Judge McGinnis was just so positive. He's a very fatherly figure, and the clients really loved him, and that really makes them feel more complete in settling their cases and moving on."

*Here are some attorneys who have used McGuinness' services:* Peter O. Glaessner, Allen, Glaessner, Hazelwood & Werth LLP; Christopher A. Viadro, Viadro Law LLP; Aanand Mehtani, Mehtani Law Offices PC; Paul D. Caleo, Gordon Rees Scully Mansukhani LLP; Robert S. Arns, Arns Davis Law

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