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Diligent and Eager

Mediator Barry Appell follows up right away and repeatedly to resolve disputes, until someone tells him to stop.

By Don DeBenedictis

Special to the Daily Journal

If a case can't be settled in a day's session, many mediators will phone or email the attorneys a few days later to offer to continue helping them reach a resolution. Attorneys who have brought difficult cases to Barry Appell to mediate say he is more persistent than most.

"He's very diligent," said Lauren J. Katunich of Raines Feldman LLP. She represented an employer in a dispute that didn't settle at first. Appell followed up the very next day and got the case settled by Day 3. "I think he prides himself on getting the deal done."

In another case, he pushed for almost two months before achieving a resolution, said plaintiffs' attorney Taylor M. Prainito of the Southern California Labor Law Group. "He goes above and beyond," she said. "He'll stay involved for weeks on a case."

Appell acknowledges that when a case doesn't settle, he feels frustrated. That's why he keeps at the lawyers. "I do so much follow-up that I'm a pest," he joked. He tells the attorneys, "I'll keep doing this until someone tells me to leave them alone or they stop responding."

"He doesn't stop," said employees' attorney David Keledjian of the Setareh Law Group. "You don't have to chase him. He'll chase you to get the job done."

Another reason Appell is successful at settling employment lawsuits is that he litigated those kinds of cases himself, on both the employer and employee sides,



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for more than 20 years. That experience gives him the ability to understand each side's arguments and positions thoroughly and to explain them to the other side convincingly, according to Prainito.

"He doesn't blow smoke," Katunich said. "I trust what he is conveying."

Employers' attorney Linda Miller Savitt of Ballard Rosenberg Golper & Savitt LLP remembers Appell as opposing counsel years ago. She recently took a whistleblower lawsuit to him that her client feared would never settle. But she found that her old opponent approached the case positively.

"He did not get discouraged when the parties were too far apart," she said. "He understood the issues from both perspectives [and] was really able to convey both sides' position in a clear way and allow challenges to those positions."

Eventually, he managed "to maneuver both parties to a position where the case could be resolved. ... He stuck with it."

Appell grew up in the Los Angeles area. He first became interested in law when he was an 11-year-old about to enter sixth grade; he rode his bike to the Van Nuys courthouse and watched trials. "It was just inter-

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esting to watch the procedures and the personalities,” he said.

He didn’t always enjoy school, but he managed to graduate from Cal State Northridge with honors in 1991.

He graduated from UC Hastings College of the Law in 1994 and landed his first job with a firm litigating disputes from big public construction projects. As a new lawyer, he was stuck with “giant boxes of documents ... about slurry mix and tolerances and junction boxes,” he said. “It was not that interesting.”

But then he got to work on some of the employment cases the builders had. He enjoyed those more because they were “about people and circumstances and interactions,” he said.

So in 1998, he moved to an employment law defense firm. He litigated for his clients, but he also counseled them frequently, he said. If some sort of employment issue arose, they would call him to ask how best to handle it.

He and another associate left to form their own firm in 2004, this time to represent employees. But many of his employer clients came with him, and he continued to advise them on the best way to navigate any problems that arose. “They really wanted to do the right thing,” he said.

He had some good success litigating for employees. He brought in several big settlements, including one for \$25 million in a misclassification class action

and another for \$1.25 million in a Private Attorneys General Act case.

In 2012, Appell formed a new firm with a good friend, Scott Shapiro, whom he had met when they were on opposite sides of a case years before. Appell continued to represent employees primarily, while Shapiro also handled other civil litigation.

A few years later, Appell took a short course on mediation from the Straus Institute for Dispute Resolution at Pepperdine University in order to represent his clients better in settlement talks.

Then, in 2016, looking for a way to give back, he volunteered to mediate small claims cases for the Los Angeles County Superior Court. The work proved to be good training.

Most small claims cases are very personal. “Usually it’s a claim for money, but somebody is really upset about something,” Appell said. It required letting the parties “vent and hearing their story and then trying to problem solve beyond just a money settlement. I liked it a lot.”

In 2018, he began mediating small claims matters for the Ventura County Superior Court, and in 2019, he added on smaller civil cases from the L.A. courts through the Mediation Center of Los Angeles. By then, he had also launched Appell Mediation as a side business along with his employment litigation practice.

Finally, he joined Alternative Resolution Centers early last year

as a full-time mediator, focusing primarily on employment matters.

“I like the challenge,” he said. “I enjoy the satisfaction of working with the parties and helping them solve problems.”

He begins work on each case by reading the attorneys’ mediation briefs. “Everything I’m given, I read carefully. I take notes. I really pride myself on walking into the mediation having read everything.”

Then, he usually calls each attorney separately to learn about aspects of the case they might not have put in their briefs.

At the mediation session, he also likes to talk directly with the parties. “I think it’s really helpful often for the parties themselves to have that interaction and have an opportunity to tell their story, particularly if there’s an emotional distress aspect to the case,” he said.

“He’s got a good bedside manner,” defense attorney Katunich said. “He doesn’t talk down to anybody. ... He’s a nice person, and he knows how to deliver the message in a way that you’re going to listen to him.”

Other lawyers also said Appell can talk about possible outcomes of a case in a way that clients understand and appreciate. “He’s adept at dealing with people,” plaintiffs’ attorney Michael A. Zelman from the Southern California Labor Law Group said, adding that his clients liked Appell.

“He didn’t stray from the facts, and he didn’t take it personally

when we didn’t move the way he wanted us to. There was never any hostility or tense moments in our room,” Zelman elaborated.

Appell described his overall approach to mediation as collaborative, explaining, “I think being adaptable to different people and their needs and how they communicate and how they perceive is important.”

And he loves being a mediator, even more than he did being a litigator. His only frustration is that mediation sessions typically don’t start until 10 a.m.

“The day before, the morning of, I’m excited. I can’t wait to start,” Appell said. “I’m not even an early riser and I wish they would start earlier. I want to get going.”

Here are some attorneys who have used Appell’s services: Jessica W. Dent, Morgan, Lewis & Bockius LLP; Timothy L. Hix, Seyfarth Shaw LLP; Lauren J. Katunich, Raines Feldman LLP; David Keledjian, Setareh Law Group; Edwin Pairavi, Pairavi Law P.C.; Taylor M. Prainito, Southern California Labor Law Group; Linda Miller Savitt, Ballard Rosenberg Golper & Savitt LLP; Beth A. Schroeder, Raines Feldman LLP; Sarkis Sirmabekian, Sirmabekian Law Firm PC; Tracy R. Williams, Littler Mendelson P.C.; Jennifer B. Zargarof, Morgan, Lewis & Bockius LLP; Michael A. Zelman, Southern California Labor Law Group