

# VERDICTS & SETTLEMENTS

FRIDAY, SEPTEMBER 3, 2021

## People Person

*Wayne Marshall, a neutral at ARC, has a talent for getting people to open up to him.*

By Don DeBenedictis

Special to the Daily Journal

Wayne S. Marshall says that if he were dropped into a room of 100 strangers, at least two of them would spill out their life stories to him within an hour.

“People just like to talk to me,” he said. “They open up, and they talk to me. I’m really good with people.”

They like to listen to him as well, he said. “I have an ability to cut through and communicate with people and get them to understand that I understand them.”

Those abilities are part of why in 2019 he chose to transition away from his busy real estate and business litigation practice into one as a mediator and arbitrator. “I just love it,” he said about his new work.

Retired Los Angeles County Judge Gregg Marcus was able to observe Marshall conduct a mediation a while back and found him to indeed be “a good people person.”

“He was very calm and rational, polite, didn’t seem to have an agenda, didn’t seem to be in a rush,” Marcus said. “He had a real good demeanor, good attitude.”

Sole practitioner Mark Mazda described Marshall as a nice guy who could be very pragmatic and who dealt easily with the emotional aspects of an inter-family business dispute.

“He’s very personable but very opinionated,” Mazda said. When one side would make emotional statements or unrealistic demands, Marshall would just say, “Oh, come on,” according to Mazda. “He could see through the posturing on both sides.”



Nicole Tyau / Daily Journal

“Then he’d give you his hands-on [recommendations from his] decades of litigation experience. He’d give specifics about why what you’re saying isn’t in your best interest.”

Marshall does have experience. He opened his own law office in 1978 after graduating from California Western School of Law the year before. With help from the small law firm next door, where he had clerked as a law student, he did well.

“Practicing [law] kind of came naturally to me,” he said.

He gives some of the credit for his success to the entrepreneurial spirit he inherited from his father. Along with a twin brother, his father founded and built Marshall Tool & Supply Corp. into what was the largest machine shop and tooling supply house in the Western United States.

His father and uncle persuaded young Marshall to go to law school after he graduated from what is now Cal State University, Northridge. At Cal Western, Marshall found a mentor in real property expert and casebook author William Burby, for whom he worked as a research assistant.

He also discovered a knack for real estate law. “I just spoke the language. I just understood it,” he said.

Marshall’s law practice did particularly well after his success in a high-profile federal investment fraud lawsuit in the early 1980s. He represented one of the general partners in a limited partnership being sued over a multi-million-dollar townhouse development in Westwood. The lead plaintiff was aluminum magnate and philanthropist Lawrence Harvey. The first named defendant was American City Bank.

The trial lasted about 1½ months. “Of the nine defendants, there was only one who prevailed, and it was my client,” Marshall said. He said U.S. District Judge A. Wallace Tashima fully adopted his rationale for why his general-partner client should be treated as a limited partner.

That result, he said, “may be the greatest thing I ever did for any client.” When Tashima quoted Marshall’s pleading into the record, Marshall said he felt as though he were floating on a cloud. “I don’t think I’ve ever felt anything quite as intense as that.”

After that win, he took on a great deal of federal litigation, especially representing groups of investors alleging they had been defrauded by promoters of speculative investments. “I did a whole slew of them” over the next 17 years.

In about 2000, Coldwell Banker Real Estate LLC signed Marshall on as one of its regular outside counsel to represent it and its offices in litigation. That assignment also provides him referrals when agents’ clients need an attorney, he said. Currently, Coldwell Banker and related matters make up more than half his caseload.

As a busy litigator, he took many matters to mediation. He began to notice that he sometimes could get a tricky matter resolved when the outside mediator could not. He also occasionally would act as a mediator himself informally when colleagues would ask.

So when someone from Alternative Resolution Centers approached him a couple of years ago to join its panel, he said yes.

His wife also encouraged him. “You’re so good with people,” Marshall recalled she told him. “You’re a social chameleon. You communicate with different people in different ways.”

As a neutral, Marshall requests briefs in advance from the parties. If the two sides present conflicting versions of the facts, he contacts the attorneys in advance to determine which is accurate. He said he has no trouble coping with contentious parties.

“For me, it’s just a challenge,” he said. “It’s enjoyable for me to be able to dissipate or deflate some of the ego on both sides and get the parties to act in a respectable manner.”

In one arbitration he handled, there was tension between the two attorneys, but he kept them

in line, he said. “I laid down the law, in a manner of speaking, and they respected me.”

Alana B. Anaya of Anaya Law Group was part of that arbitration, and she said Marshall managed the problems and the overall case well. “He handled the parties and the attorneys very professionally, and we were able to get through the arbitration without any issues,” she said. When, after the matter was concluded, her opposing counsel criticized Marshall, “he handled himself well in his response.”

Barry P. King described Marshall as “perfect” in the case he arbitrated. “He was listening to all sides, he took notes, he was attentive, he was ... completely balanced.”

Mazda said Marshall used an

unusual technique to deal with tensions in the family business dispute. The mediation took two days, and in the first, emotions ran high, but Marshall got the parties focused on the straightforward business deal they needed to work out.

“Then he gave us homework,” Mazda said.

Marshall told each side to come back in a couple of weeks with accountings of the damages and assets in various categories, plus data to back those up.

“We settled the second day,” Mazda said. “Everything was done, signed, in the room, over.”

The key to settling a case is what Marshall calls the smoking gun or Achilles’ heel. “There’s always going to be at least one issue ... that will make or break the

case for one side,” he said. “Once I understand that, I’ll start working on the parties accordingly.”

Marshall said that during the pandemic, his litigation practice became very busy and his work as a neutral declined. But now he is planning a campaign to market his mediation work and build it up further.

---

*Here are some attorneys who have used Marshall’s services:* Alana B. Anaya, Anaya Law Group; Fredric W. Trester, Manning & Kass, Ellrod, Ramirez, Trester LLP; Mark Mazda, Law Office of Mark Mazda; Frank Revere, Revere & Wallace Lawyers; Anjelica J. Varela, Varela Law Group APC; Barry P. King, Law Office of Barry P. King. ■