

VERDICTS & SETTLEMENTS

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Wordsmith

Neutral Claudia Hagadus Long takes a direct approach to dispute resolution, attorneys say

By Shane Nelson

Special to the Daily Journal

Longtime private neutral Claudia Hagadus Long has written seven novels.

While the focus of each differs a fair bit - traversing themes of romance, poetry and the Inquisition in colonial Mexico to murder mysteries solved by daughters of a Holocaust survivor - all of the books showcase the author's lifelong love for language.

"Words are currency," said Long, who is fluent in three languages and has mediated entirely in Spanish on many occasions.

"Litigation comprises two things: words and money," Long added. "It's the words that decide who pays the money. The only way you convince somebody is with your words."

Born in the U.S., Long grew up in Mexico City before returning to the United States for high school and college. A 1980 graduate of Georgetown University Law Center, Long said she decided to pursue a legal career, in part, because it would allow her to make a living working with words.

After law school, Long worked in-house as a litigator for Bank of America before moving into private practice. She handled construction, real estate, banking and commercial disputes as an attorney right up until her decision to focus full time on private neutral work in 1999.

"I would say probably 95% of my work is mediation, and maybe 5% is arbitration," Long said of her caseload these days, which features a diverse collection of employment, construction, commercial, banking,



Caption to go here | Photo Credit

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real estate and probate disputes. "I probably do one or two arbitrations a year."

Long, who joined the ADR Services, Inc. roster of private neutrals nine years ago, said she believes she's developed a reputation as more of a problem solver than a decision maker over her more than two decades as a private neutral.

"A trial is failure - they're a failure of negotiation. In a way, so are arbitrations. They're a failure of negotiation," Long explained. "People tend to come to me to solve it, not to decide it, and so I find myself doing vastly more - out of the ballpark more - mediations than arbitrations. And I think another thing is I try to have a lot of humor in my day and in my mediations, hoping to put people at ease. And there's

not a lot of room in an arbitration for a funny arbitrator."

Describing herself with a chuckle as a "preparation freak," Long likes to receive briefs prior to a mediation, and she will encourage all of the parties to exchange their briefs beforehand. If attorneys would like to speak over the phone prior, Long said she'll make time, but that step isn't a must for her.

Long noted, meanwhile, that just about all of her mediations are now conducted remotely online, and that she almost always starts out in a joint session.

"I want everybody - if possible - to see one another," she said, explaining that the disputing parties routinely haven't seen one another at all prior. "People have built up an image of the devil incarnate on

Claudia Hagadus Long

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the other side. But when people actually see one another and see that there are other human beings on the other side of the screen, I think it helps set a little tiny bit of a tone that these are human beings they are going to be talking to.”

Long was quick to mention, however, that she doesn’t allow opening statements in her introductory joint sessions.

“I’ve found that those just polarize,” she explained, “and are there to make a point, not to facilitate or encourage settlement.”

Long added that early in mediations she works hard to build confidence and trust with all of the parties, but she’ll be direct with her thoughts about a case’s strengths and weaknesses when the timing is right.

“I’ve been in practice for a long time - 43 years - so I have opinions on things,” she said with another chuckle.

Hayward litigator Glen L. Moss said he’s used Long to resolve numerous real estate disputes over

the past 20 years, and he said the ADR Services, Inc. neutral takes a very direct approach.

“If she thinks I’m wrong on an analysis or an issue or something, she has no hesitation about telling me why she thinks I’m wrong, and that’s something I value,” Moss said. “As basically a sole practitioner, I have nobody to bounce ideas or theories off of to be able to determine how good or bad they are. So having someone that I respect that can listen to what arguments I have in support of claims and getting her actual reaction to those arguments helps me to determine what kind of recommendation I should make to my client as to how to settle the case.”

Walnut Creek defense attorney K.P. Dean Harper said he’s used Long at least 50 times as a mediator over the last two decades, and he described her as “probably the best mediator I’ve ever dealt with.”

“I just think she’s very effective. She settles cases I think we’ll never get settled,” Harper said. “And

I don’t like the types of mediators who are touchy-feely. She rolls up her sleeves and tells you what she thinks. ... It’s not that she’s not sensitive. Usually, she’ll spend a lot of time with plaintiffs’ counsel, knowing that she has to let the plaintiffs vent and help them understand the process if you go forward and let them tell their story. She would never cut people off or tell them their opinion’s not worthy, but she can be direct.”

San Francisco defense attorney Madonna A. Herman used Long recently to resolve an employment dispute, and she agreed that the ADR Services, Inc. neutral isn’t afraid to frankly discuss her opinions about a case.

“She was very to the point,” Herman said. “She tells you what’s working and what’s not, and I think that’s extremely valuable in both rooms. ... There’s no mystery with Claudia. You know what’s going on.”

But Herman also described Long as very sympathetic, noting that

the mediator effectively navigated some especially raw emotions.

“In these cases, plaintiffs are often accusing individual defendants of doing some very, very bad things, and when it’s not the case, when there’s no evidence to support that, it’s extremely offensive and can be very personal,” Herman explained. “And from the beginning, she was able to come in and help assuage my client’s feelings about being accused of those terrible things. ... And in the end, Claudia was able to move us to a resolution pretty quickly and for a really great result, I thought, on all sides.”

Here are some attorneys who have used Long’s services: Glen L. Moss, Moss & Murphy; Madonna A. Herman, Wilson Elser; K.P. Dean Harper, Bowles & Verna LLP; Alyson S. Cabrera, Gordon Rees Scully Mansukhani LLP; Edward M. Lai, Fried, Williams & Grice Conner LLP

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