

# VERDICTS & SETTLEMENTS

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## Comfortably Intuitive

*Neutral Monty McIntyre says his creative side helps him to connect with litigants*

By Shane Nelson

Special to the Daily Journal

Longtime neutral Monty A. McIntyre started playing music in the third grade and still performs his own songs, singing and playing acoustic guitar at a small church in Coronado.

“With music, you’re using the more creative side of your brain, and I think the fact that I’ve played music all my life probably helps me be more intuitive as a mediator, when reading the room or working with people,” McIntyre explained. “I’m very comfortable not only listening to the logic and the argument and legal details, but I’m also comfortable being intuitive.”

“I started playing guitar as a senior in high school in 1972,” said McIntyre, adding that he later paid a sizeable chunk of his bills in college with music. “I was performing at restaurants and making good money with tips ... or giving guitar lessons.”

McIntyre said the music he plays these days ranges from rock and roll to folk, country, blues, jazz and Celtic songs, and he noted there is some overlap between his music and the work he does as a mediator.

A 1980 University of San Diego School of Law graduate, McIntyre worked for more than 30 years as a litigator, representing plaintiffs and defendants in business, insurance, real property and tort matters. McIntyre added that he’s litigated more than 100 cases to conclusion.

“So that would include jury trials, judge trials, arbitrations,” he explained. “I’ve also had a number of administrative law hearings, where I’ve represented doctors or nurses in cases where the medical board was trying to take away their license.”



Thomas Kurtz / Special to the Daily Journal

First exposed to mediation in the early 1990s, McIntyre said he was initially attracted as a litigator to the discipline’s value for his clients, but eventually, focusing full-time on private neutral work seemed like a better career fit.

“For clients, the litigation process is extremely difficult,” said McIntyre, who added part-time work as a mediator to his litigation practice in 2001. “I still liked trying cases, but I felt like, ‘I’m helping people more if I help them settle a case and end the dispute as opposed to being a trial lawyer and taking them all the way through a trial.’ ... So, I just evolved into feeling that, ‘I think this is the best way I can help people.’”

In 2013, McIntyre struck out as a full-time private neutral, and he’s

still working as a mediator, arbitrator and discovery referee. With ADR Services, Inc., McIntyre tackles employment, commercial, personal injury, insurance and real property disputes.

“As an arbitrator, I enjoy providing a friendly and relaxed setting, where attorneys can try their cases,” McIntyre said. “I’ll hear the evidence and make decisions on evidence, and then after the case is presented, I’ll deliberate. ... And my goal is to make the correct legal decision under the law.”

Before his mediations, McIntyre likes to receive briefs from all the parties and encourages phone calls with counsel. On the day of mediation, building a rapport with the parties is an early objective.

### Monty A. McIntyre

ADR Services, Inc.  
San Diego

#### Areas of Specialty:

Employment  
Personal Injury  
Commercial  
Real Property  
Insurance

"I think it's important to let the parties speak and be heard, and it's important for me to understand what their feelings are and for me to let them know I understand," McIntyre explained. "That's very important in the plaintiff's room, but it can be very important in the defense room, too."

San Diego commercial litigator Micah L. Bailey has used McIntyre to settle a few business cases, calling him pragmatic and efficient.

"I know there's value in establishing a rapport with the litigants, but sometimes I feel some mediators don't get going until one o'clock because they focus too much time on establishing rapport and the meet-and-greet process," Bailey said. "Monty does that, but he gets through that process pretty quickly and gets down to nuts and bolts before lunch, which is good."

McIntyre also noted that he won't hesitate to shift into a discussion of the case's strengths and weaknesses when he feels the timing is right.

"When we get into evaluating different positions and talking about legal issues and differences of view

about facts or legal issues, I am very much a truth teller in each separate room," he said. "There's a general tendency for the clients and their lawyers to overestimate the strengths of their case and underestimate the risks. ... So, I'm trying to educate them and help them understand that a judge or jury may look at these things in some very different ways."

Bailey noted that many of his clients are small business owners, and said McIntyre has done a terrific job communicating with them.

"There is probably more of a psychological component to settling in small business litigation as opposed to a publicly traded [dispute]," Bailey explained. "If you're representing a defendant that's being sued - where there's no insurance - it's just challenging to get money, either out of the business or out of [the owner's] personal pocket. And Monty does a good job of communicating with owners of businesses, who have to go through that thought process of why resolution is really in the best interest of everybody. ... He does that really well."

San Diego plaintiffs' attorney Kenneth M. Sigelman has used McIntyre to resolve two personal injury cases involving motorcycle accidents and agreed that he is excellent with clients.

"Monty has very good people skills," Sigelman said. "I think he treats the parties with respect, he treats counsel with respect, and I think all of that is conducive to achieving a resolution."

Sigelman added that McIntyre will push both sides in a mediation.

"Monty is not afraid to ask confrontational questions in a nice way, and I think any mediator, to be effective, has to do that," he said. "You have to push back a little bit on both sides' positions - at least test them and see what their responses are. And Monty does not hesitate to do that."

San Diego defense attorney Alan B. Graves used McIntyre recently to mediate a difficult real estate dispute and said he has great deal of credibility in the San Diego legal community, thanks in part to his extensive experience as a trial attorney.

"And then on top of that, Monty is up to date on the new case law that comes out," Graves explained. "That's important to know when it comes to evaluating damages and what you're going to get into evidence and what won't, to give value to your case. And I think that [expertise] really works for both sides."

Like Bailey and Graves, Sigelman said he appreciated McIntyre's persistent focus on the issues.

"The conversations during the mediations with Monty I've had were always substantive - not sitting there listening to the mediator tell war stories or allowing the lawyers to tell endless war stories," Sigelman said. "They were very substantive and case-specific conversations."

*Here are some attorneys who have used McIntyre's services:* Kenneth M. Sigelman, Kenneth M. Sigelman & Associates; Micah L. Bailey, Purdy & Bailey LLP; Alan B. Graves, Neil Dymott Hudson APLC; Micaela P. Banach, Nukk-Freeman & Cerra; Norman M. Finkelstein, Law Offices of Norman M. Finkelstein APC.

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