

VERDICTS & SETTLEMENTS

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What would a jury do?

Former insurance defense lawyer Wendy Kramer handles PI cases with complex medical issues.

By Don DeBenedictis

Special to the Daily Journal

When she is mediating a dispute, Wendy Kramer says what she thinks about the case is not too important. What matters is what the parties think “and what do they think a jury is going to conclude.”

She describes her mediation style as facilitative. That entails “a lot of heavy listening trying to get to the heart of why it is that the case hasn’t settled and what we can do to resolve it,” Kramer said.

“I try not to be evaluative. I am more questioning: ‘What do you think this is going to be interpreted as? What do you believe?’”

That approach impresses lawyers who’ve brought cases to her. “At the outset of a mediation, [Kramer] really does a good job of allowing the client to speak and explaining how this particular accident impacted their lives,” said personal injury plaintiffs’ attorney Morris Stern of Gilbert & Stern, who described her as “extremely compassionate.”

She also pays attention to the defendants. In separate cases last year, Kramer “actually took the time ... to allow my client to be heard,” said defense attorney Judson Price of Price Pelletier. And she “definitely conveyed the other side’s message in a way that was received.”

Kramer is a former insurance defense attorney herself, and these days about 90% of her mediation caseload is personal injury matters. She has a high-volume practice and regularly handles five to seven cases a week. “I tend to do half days, so I’ll do two a day,” she said.

In some personal injury cases, busy attorneys and clients may not have exchanged all the pertinent



Justin L. Stewart / Special to the Daily Journal

information they need to evaluate the cases and decide whether to settle or go to trial. So sometimes much of the heavy listening she does needs to focus on the evidence. “We spend a fair bit of time discussing what the evidence will show if the case were to go to trial,” she said. “There’s a lot of fact finding.”

Price settled a pair of multimillion-dollar catastrophic injury cases with Kramer. “She gives you the time and attention necessary when dealing with complex medical issues,” the defense attorney said. “I think she understands the medicine and

how to turn that into ... a realistic expectation of the damages for those injuries.”

“Not all mediators focus on the facts,” said Janice Yun Walshok of Pettit Kohn Ingrassia Lutz & Dolin in San Diego who also has represented defendants in high dollar matters before Kramer. “She spends a lot of time getting to know where each side is coming from and ... then later starts picking out holes.”

Once she has allowed each side to expound on the facts and the emotional impact of a dispute, “she gets down to brass tacks,” said

Wendy W. Kramer

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Margarit Mardirosian, a defense attorney in Glendale. “She doesn’t waste time with war stories. ... She comes across as someone who knows what she’s doing.”

Kramer described the next step as “trying to move people into the present” and beyond the traumas of the past. “We can’t undo it ... but what do we want to have going forward?”

Anthony Miera, a managing assistant city attorney in Los Angeles, said Kramer is very empathetic to plaintiffs but also “makes very clear what’s needed to settle a case. ... She really conveys my bottom line to them.”

“She’s great with clients,” agreed Beverly Hills plaintiffs’ attorney Daniel Setareh. “Sometimes it’s difficult to get clients to understand ... how risky it is to go to trial. She listens to the clients, sympathizes with them and gets the point across.”

Setareh called her his go-to mediator. “It’s hard booking her because everyone loves her,” he said. “She’s extremely diligent and stays involved” with a case if it doesn’t settle at first.

Kramer said that when a case isn’t resolved during the mediation session, she sets up a plan for staying in touch with the attorneys to be sure they have all the necessary discovery and information.

“I have a diary system where I check back in. I’ll say, ‘Does it sound like if I call you sometime around the first part of May you’ll be in a position to re-engage?’” she said. “Most cases do settle through follow up. It’s very rare for a case not to.”

Originally from Latrobe, a Pittsburgh suburb famous for Rolling Rock beer, television’s “Mr. Rogers” and Arnold Palmer, Kramer and her family moved to Long Beach when she was 7. She began thinking about becoming a lawyer because she did well at debate in middle school.

She earned her undergraduate degree from California State University, Long Beach, while working as a waitress and her law degree from Loyola Law School while working as a legal secretary and law clerk at an insurance defense firm.

Kramer stayed with that firm after graduating in 1985, initially defending many medical malpractice cases.

Later she moved to a larger defense firm, where she met Mark D. Kramer, who would become her husband. He started his own firm in 1992, and she joined it soon after their second child was born. “I was the managing partner, and he was the other partner, and we had a lot of employees and a lot of responsibility and two little kids,” Wendy said. Her husband is also now a mediator.

As the practice developed, they came to handle many insurance fraud cases. Many were first-party claims brought by policyholders against their insurance companies over accidents they appeared to have staged. The cases demanded careful investigation; sometimes she worked with the FBI and other law enforcement agencies.

Most of the cases went to arbitration as required by the policies, and

Kramer enjoyed the process. So, in 1990, as soon as she had the minimum required time in practice, she volunteered to be an arbitrator for the Los Angeles County Superior Court, for which she mostly ruled on minor accident and slip-and-fall cases.

She stayed with the pro bono program when the court expanded it into mediation. “So, in my free time while I was raising two kids, managing a law firm, and litigating cases, I was also volunteering through the court system to be a pro bono mediator and an arbitrator.”

Kramer enjoyed mediating so much that she took a full-time mediator to lunch to ask how to do it full time herself. That woman told Kramer to take the Pepperdine School of Law course called Mediating the Litigated Case.

“I took that in the spring of 2004, and I came back to my office and said to my husband, ‘Don’t assign me any more cases to litigate. I want to see if I can make this into my full-time practice,’” she recalled. “I really drank the Kool-Aid.”

She started by working out of the Kramer & Kramer offices. In 2014, she joined ADR Services, Inc. By now, she has mediated more than 4,000 matters and arbitrated more than 300, according to the company.

About the same time that she became a private mediator, Kramer joined the Southern California Mediation Association. “I joined right away and got very involved with them and still am to this day.” She was the group’s president in 2013.

The following year, she helped

start the association’s mentorship program. She had noticed that in addition to Pepperdine, UCLA, Cal State Long Beach and Cal State Dominguez Hills had mediation degree and certificate programs. But there weren’t many job opportunities. Students still needed to learn how to launch their practices if they wanted it to be their career.

The mentorship program she created for the association provides classes in doing just that. Through monthly meetings, it showed new mediators “the steps from A to Z of how to create a practice,” including creating a website, designing a business card, obtaining insurance and marketing the business.

In about 2020, Kramer became active in the International Association of Mediators, which asked her to help restructure its mentorship program.

It puts on monthly webinars rather than formal classes. Currently, it has 26 mediator mentor-mentee pairs scattered across the U.S., Canada, India, Brazil, Serbia and France, she said.

“That’s my baby,” Kramer said. “I like to mentor people to become mediators.”

Here are some attorneys who have used Kramer’s services: Jeffrey Cabot Myers, Law Offices of Kirk & Myers; Dallas J. O’Day, Law Office of Jill A. Wood; Judson H. Price, Price Pelletier LLP; Jonathan M. Ritter, Eldabe Ritter Trial Lawyers; Aaron R. Stiegler, Carpenter & Zuckerman LLP; Mirth I. White, Murchison & Cumming LLP.