

Four-Part Harmony

Mediator Michael R. Diliberto draws on his experience as a musician and with other cultures to help bring parties together.

By Susan McRae

LOS ANGELES - Jazz musicians use the term "big ears" to describe someone who listens well - and therefore plays well.

Michael R. Diliberto, who grew up playing drums and percussion, likes to apply the expression to his work as a neutral. A drummer, he said, is also the "ultimate multitasker," another important asset in ADR work.

"I've got one leg on the high hat, one leg on the bass drum, one arm on the ride cymbal, one arm on the snare, and they're moving constantly," he said, "so I've got this multitasking going on."

"It's similar to mediation, where I've got people in four different rooms, all telling me to tell other people why they're wrong. You've got to hear different voices and make sense out of them. And at the end of the day, you want to make something that is in harmony."

But a musician's good ears and nimbleness are only part of the equation that Diliberto says helps him conduct mediations. He also credits his world travel, which has allowed him to soak up different cultures. He spent three years between college and law school touring in a band throughout Europe, the Middle East and Asia - literally playing for his supper once in Shanghai - and has done more recent traveling as a neutral, lecturing on mediation techniques in Ecuador and Macedonia.

He's also fluent in Spanish - a language he learned growing up in Miami and attending grammar school with children of Cuban exiles - and often conducts mediations in the language with permission of the lawyers and their clients.

He said his combination of skills has allowed him to carve out a niche in cross-cultural mediations and arbitrations at ADR Services Inc., where he's worked full time since 2006.

He also works as an administrative law judge, presiding over a variety of disputes brought by state agencies and as a hearing officer for the state in mediations involving special education issues. In addition, he works as a hearing officer for the cities of Santa Monica, Long Beach and in Orange County.

The son of a securities lawyer, Diliberto said that though music is his first love, he decided even before being accepted by the University of Miami Law School to follow his father's profession. He said he saw too many talented musicians struggling to get by and knew he wanted to buy a house one day and be unrestricted financially.

After graduating from law school in 1987, he joined his father's firm, Diliberto, Booth, Sibley & Gutheries in Miami. Three years later, he answered an ad for an



international law firm in Australia and spent the next year at Sydney's Allen, Allen & Hemsley Solicitors. He wasn't admitted to practice in that country, but the firm let him do research and some transactional work drafting recording artists contracts.

But Diliberto's goal was to move to Los Angeles for the big-city life and cultural diversity that would complement his background and experience. So in 1989, he joined Los Angeles' Sheldon & Mak LLP as a civil litigation associate. From 1993 to 2003, he was a partner at the Los Angeles intellectual property firm Kleinberg & Lerner LLP.

Almost from the moment he began practicing in Los Angeles, he also embarked on a side career as a mediator. He took a course through the Los Angeles County Bar Association's Dispute Resolution Services and soon became so effective at resolving disputes that he said several colleagues encouraged him to do it full time.

Ten years later, he said he came to a point financially and professionally when he was able to give up his practice for a full-time commitment as a neutral. He set up his own mediation service in 2003, before joining ADR Services three years later.

"I wasn't someone who hated litigation," he said. "I enjoyed the challenge, and trying cases was exciting. But having made the switch, I do enjoy this process of mediation, and it's at a point now where it's really a culmination of my life experiences.

"I've been a litigator, traveled around the world, interacted with different cultures and am able to communicate with music. I think all those elements culminate in what I bring to the table as a mediator."

Lawyers who've used Diliberto's services point to those qualities as reasons they choose him to conduct their mediations when they involve differences in culture and language.

"The first time I ever used him was when I heard he was fluent in Spanish," said Leonora M. Schloss of Los Angeles' Jackson Lewis LLP, a national employment defense firm.

Schloss, who represented an employer, said she wanted to make sure the plaintiff understood everything his lawyer's translator was interpreting. So having a mediator who could talk directly to the plaintiff added an objective, outside perspective, she said.

Schloss also credited Diliberto's persistence and calm demeanor with bringing resolution to the case, which she said she never thought would settle.

Jeffrey G. Huron, a business litigator with Huron Law Group in Los Angeles, selected Diliberto to conduct a mediation involving a multicultural dispute between his client, a mainland Chinese bank, and a Taiwanese bank officer the bank had fired. The employee attended the mediation via conference call from Taiwan, while the man's wife and daughter appeared at the mediation in person.

The dispute involved the employee's termination and his vested stock options. But Huron said more than those disputes were issues of personalities and egos. He said the plaintiff insisted he wasn't fired but resigned and demanded a face-saving letter of apology from the bank chairman that he'd done nothing wrong, something highly valued in Asian cultures.

In the end, Huron said, Diliberto was able to assure the plaintiff that his family respected his termination and convinced the plaintiff that confidence had more value than a letter from the bank. He said the plaintiff ended up accepting a deal that included stock options but no letter of apology.

Huron said Diliberto's ability to distinguish the difference in nuances between the plaintiff's and bank's demands was key in resolving the case.

"He's very persistent and doesn't give up and allow the mediation to end," said Huron, who said the mediation lasted from 10 a.m. to 3 a.m. the following morning.

Diliberto said that while he loves his work, he hasn't abandoned music. He plays drums and percussion with the 100-member Los Angeles Lawyers Philharmonic and sings tenor with its spinoff, Legal Voices. Last year, the orchestra performed Beethoven's Symphony No. 9 at Disney Hall to a sold-out crowd. For that performance, Diliberto relinquished his place in the orchestra to join Legal Voices in what he said was a once-in-a-lifetime experience to sing the libretto in German.

"It's a nice mix," he said of combining his career and music. "I can still indulge my passion but have a wonderful day job."

Here are some lawyers who've used Diliberto's services: Jeffrey G. Huron, Huron Law Group, Los Angeles; Eric A. Panitz, DesJardins & Panitz LLP, Riverside; Wilkie Cheong, Cheong, Denove, Rowell & Bennett, Los Angeles; Leonora M. Schloss, Jackson Lewis LLP, Los Angeles; Lee R. Petillon, Petillon Hiraide & Loomis LLP, Los Angeles; Louis P. Petrich, Leopold, Petrich & Smith PC, Los Angeles