

OCTOBER 23, 2009 | ALTERNATIVE DISPUTE RESOLUTION

Fact Finding

Former Los Angeles Superior Court Judge Gregory C. O'Brien Jr. — who majored in journalism in college — says he sees his job as a mediator and arbitrator as getting to the heart of the matter.

By Catherine Ho

Daily Journal Staff Writer

LOS ANGELES - Though a veteran judge and lawyer by trade, former Los Angeles Superior Court Judge Gregory C. O'Brien Jr. has the instincts of a journalist.

"I ask a lot of questions," O'Brien, 64, said of his current role as a mediator and arbitrator at ADR Services. "My job is to find out the facts."



The two decades that the Whittier Law School graduate spent on the bench spill over to his mediation philosophy, which is grounded in respect, fairness and "the spirit of friendly consultation," he said.

"I don't believe I need to be unnaturally forceful or threatening or rely on the use of the robe," he said. "I may suggest that in a softer way. When I was on the court, I ruled with a light touch. I believe in reward, not punishment, and always try to put things in a way that's positive."

Colleagues know O'Brien for his unwavering civility, but he won't hesitate to call a lawyer out on a weak case and has been known to "borrow" clients' lawyers to level with them in private. Usually, he said, they can hammer out a strategy to talk a client down from unrealistic expectations.

"I don't believe in lying to people," he said. "I'll tell them a case is weak if I think it's weak. I'll tell them there will be a lot of hills to climb."

O'Brien joined ADR Services in 2005 after stepping down as head of the Los Angeles Superior Court's Mandatory Settlement Department, which capped a 20-year judicial career that began in Citrus Municipal Court.

"For a long time, I missed the court and my colleagues, and missed being part of the judicial environment," he said.

But as a neutral, his caseload is roughly 25 percent arbitrations, which allows him to continue duties he once loved as a judge - making decisions, writing decisions and ruling on motions. About 65 percent of his cases are mediations, and he estimates that about 75 percent of them settle that day, and more with follow up.

Prior to his appointment by Gov. George Deukmejian, O'Brien was in-house counsel for Southern California Edison Co., a post he acquired after six years as a deputy with the Los Angeles city attorney's office, where he specialized in land use and environmental issues. To this day, he still feels most at home hearing cases involving environmental impact, municipal law, subdivisions and zoning, he said.

With every case, he uses a collaborative approach to nail down the history of the conflict and the best way to resolve it.

"What always interests me are the personal dynamics," he said. "What's the background? How did they get to that point in time? The story of personal conflict is always there."

O'Brien commits to the process of mediation to a degree unmatched by most others, said John Jackman of David M. Shaby II & Associates, who recently used O'Brien to settle a wrongful death case in Riverside County.

"He understood the case at a level that I don't see a lot of mediators get into cases," Jackman said. "He's a very persuasive guy, extremely intelligent, and uses it all to get to the bottom line."

Jackman was especially impressed with the mediator's ability to draw details out of the plaintiffs that they were reluctant to discuss in an emotional wrongful death case.

"He got them to talk in an open and forthright way that really impressed the heck out of the defense," Jackman said.

Still, O'Brien's sensitivity should not be confused with a lack of persistence, the attorney said.

"He doesn't tolerate a lot of the typical defense nonsense," Jackman said. "He expects you to participate in an honest and forthright way. He doesn't accept 'no.'"

Joseph Yanny of Yanny & Smith, who arbitrated with O'Brien in 2007 and has since used him in mediation, said the former judge never shies away from making the right call, though it may not be the easiest one.

"He's no-nonsense and knows how to get the job done," Yanny said. "I've not always been in favor of alternative dispute resolution but he has changed my mind. I've seen him make some tough choices. He has the courage to do the right thing when a business arrangement might dictate something different."

O'Brien grew up in West Covina and graduated from USC in 1968 with a bachelor's in journalism. The avid traveler and "wannabe travel writer" has been to Japan, Indonesia, Mexico and taken cruises to the Mediterranean and the Baltic. Next year, he will travel with wife Carolyn to Oxford with the California Judges Association, where he remains **active on the Board of Directors and as a member of the group's ADR Committee.**

Here are some attorneys who have used O'Brien's mediation and arbitration services:

Steve B. Mikhov, Romano Stancroff & Mikhov, Los Angeles; Jay R Stein, Century City; Gary R. Carlin, Carlin & Buchsbaum, Long Beach; Philip A. Metson, Century City; Robert J. Roche, Newell Campbell & Roche, Los Angeles; John J. Jackman, David M. Shaby II & Associates, Culver City; Larry N. Willis, Willis & DePasquale, Orange; Edith R. Matthai, Robie & Matthai, Los Angeles; Eric M. George, Browne Woods George, Century City; Raul Salinas, city attorney's office, South Gate; Joseph Yanny, Yanny & Smith, Century City; Michael A. Lotman, Santa Monica; and John S. Peterson, Peterson Law Group, Los Angeles

catherine_ho@dailyjournal.com