

VERDICTS & SETTLEMENTS

FRIDAY, OCTOBER 16, 2020

Bridging the gap

Mediator Glenn Barger's 30-year defense career aids settlement, plaintiffs' lawyers say.

By Blaise Scemama
Daily Journal Staff Writer

Mediator Glenn T. Barger does not subscribe to the adage that “a good negotiation is one where both parties walk away equally unhappy.”

His experience has been the opposite.

“I have actually had a lot of cases now where a plaintiff’s attorney, and most importantly their client, are extremely grateful the case is settled and they can move on with their lives,” Barger said in a recent interview. “And in the exact same case, the defense attorney and their principal, whether it be a business entity or insurance carrier, is equally appreciative the case got settled within their authority. I enjoy that challenge and helping them get the case resolved and both sides walking away feeling good that the case is closed, and they got the result they were looking for.”

Born in Orange County, Barger spent most of his 30-year career as a defense attorney and partner with Chapman Glucksman Dean Roeb & Barger, focusing on personal injury, professional liability and construction matters until he turned to fulltime mediation in late 2018, some say at the prime

of his career. His mediation work largely focuses on the same area of law he practiced as an attorney.

Plaintiffs’ attorneys who have used his services in the last year, some of whom were recently his legal adversaries, say his history as a defense attorney has not affected his ability to be impartial and in fact has helped bridge the gap to the defense side.

Manhattan Beach plaintiffs’ attorney Dave M. Ring of Taylor & Ring, who was the former president of Consumer Attorneys Association of Los Angeles at the same time Barger was president of the Association of Southern California Defense Counsel, recently used Barger in a mediation and said he was effective at settling the case precisely because he is so well respected in the defense bar.

“Glenn came from a defense lawyer background, so that’s always concerning to me as a plaintiffs’ lawyer to go to a mediator who did defense work their entire career,” Ring said. “But he got the case resolved, and did a great job and so we returned to him a couple more times. I think it’s valuable that he can go sit down with a defense attorney, and they’re going to trust him, because he’s been in the



Justin Stewart / Special to the Daily Journal

trenches doing what they’re doing. They may not like what he’s telling them, but they’re going to respect him for saying it because he’s been a defense attorney, too.”

Torrance plaintiffs’ attorney Victor L. George, who focuses on catastrophic personal injury and employment discrimination, also said he is often apprehensive when considering a neutral who spent so much time on one side of the aisle but took a chance on Barger because of his reputation as attorney.

“As a lifelong plaintiffs’ attorney, there’s always a hesitancy to use as a mediator or arbitrator someone who has had a defense prejudice for prior decades and I think that’s where it’s beneficial that it’s someone like Glenn, who I know, is a good person, and I believe can be open-minded and neutral and fair,” George said. “He left his defense firm to go to work in alternative dispute resolution and in trying

Glenn T. Barger

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him, I found out that yes, indeed, he can. And he did very well and both sides were very pleased with him. So now, of course, I refer him to a lot of my other plaintiff buddies.”

Before going into mediation fulltime, Barger worked with then-presiding judge Daniel Buckley and various bars to help create and Annual Joint Litigation Conference with the Consumer Attorneys Association of Los Angeles, Association of Southern California Defense Counsel and American Board of Trial

Advocates to develop and implement the mandatory settlement conference program in the personal injury courts at the Los Angeles County Superior Court.

“That’s where a plaintiffs’ lawyer and a defense lawyer serve as mediators together and conduct a mandatory settlement conference at the courthouse and work together to help settle a case,” Barger said. “And the statistics were pretty impressive as far as the number of cases that were resolved. What we found was the attorneys/mediators were enjoying working together to help settle these cases. That was another area where I did mediations before I left my firm.”

While he picked up a lot from the program and likewise from the mediation classes he took while studying law at Pepperdine University School of Law in 1991, Barger said the bulk of his experience as a mediator was gained while practicing as an attorney, settling cases with some of the best mediators in the country.

“I always wanted a mediator to tell me what their thoughts were, let me know whether they agreed or disagreed, as I thought it was helpful to have

a neutral take a fresh look at a case and give both sides their take on it,” Barger said. “And with the quality of lawyers I work with now as a mediator on both sides, usually they know a reasonable and realistic resolution when they see it.”

The biggest mistake an attorney can make when going into a mediation is being too aggressive and making arguments lacking in credibility, Barger said.

“When attorneys come in and are too aggressive, and sometimes that’s based on their client’s position, but are too aggressive or make an argument they can’t back up with facts or the law, I think that ends up biting them in the end,” Barger said. “You’re better off taking a credible position that you can stand behind and stick with.”

Barger said he will only offer a mediator’s proposal when both parties ask for it. He starts thinking about offering a proposal when he suspects parties might be more flexible than the outward posture they have taken, he said.

“Throughout a mediation, I try to get a feel for where the party ultimately wants to end up,” Barger said. “Some counsel are very direct, and

will tell me in the first five minutes of the mediation. Others want to see how it plays out first. But oftentimes, their formal numbers are much higher than where I know, informally, they will agree to settle a case. So once I know their ships are going to cross at least in the middle of the night at some point, that’s when I start thinking about making a mediator’s proposal.”

While exchanging briefs might help the mediator better understand the underlying issues at the heart of a given dispute, Barger said he is somewhat reluctant to suggest doing so because it can derail negotiations before they begin.

“There can be danger in exchanging them with the other side if it’s going to really sabotage the process before you even get started,” Barger said. “A lot of the time the attorneys are very aggressive in their briefs but when they actually get to mediation, they’re willing to compromise and they can see a reasonable path to resolution.”

Although he has practiced as a full-time mediator for just over a year, Barger has quickly gained the respect of the plaintiffs’ bar and a reputation for being a fact-

driven neutral who cuts to the chase while remaining personable to clients and attorneys, lawyers say.

Los Angeles civil litigator Christa Haggai Ramey of Ramey Law PC said Barger keeps mediation discussions focused on settling rather than fixating on superfluous arguments that could inflame parties who would otherwise be ready to compromise. “Making the client feel like the defense is hung up on something that is not really relevant or not important can sometimes create a situation that makes the case much more difficult to settle because the client then gets upset and pushes back,” Ramey said, referring to what some other mediators do. “Glenn is really good at cutting through that.”

Here are some attorneys who have used Barger’s services: Dave Ring, Taylor and Ring; Victor George, Law Offices of Victor George; Christa Ramey, Ramey Law PC; Joseph Potocki, Balestreri Potocki & Holmes; Stephen C. Pasarow, Knapp Petersen & Clarke PC; Adrienne Cohen, Law Offices of Adrienne Cohen.

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