

FRIDAY, NOVEMBER 19, 2021

PERSPECTIVE

# On the '50-yard line'

By Shane Nelson

*Special to the Daily Journal*

Retired judge Rita J. Miller says with a laugh that the work she's doing now as a neutral is "like going to a movie."

As an arbitrator and mediator with ADR Services Inc. for the past three years, she explained, "I sit there and watch the story unfold, and it's usually very interesting. Sometimes it's kind of like a mystery. ... And I like solving mysteries."

Since retiring from the Los Angeles County Superior Court in 2018 Miller has handled a wide variety of disputes, often working to resolve professional malpractice and employment disputes as well as tackling intellectual property, civil rights, real property and personal injury cases.

A big fan of Zoom, Miller said she's mediated a great many cases to settlement using the online platform during the pandemic. While she's not done an arbitration solely over Zoom, she's handled many with a hybrid in-person and online approach. One benefit of having witnesses appear over Zoom in an arbitration is they don't wear masks, Miller said.

"I think most judges would tell you information shows up on a person's face when they're testifying," Miller said. "And that information may not be available when they're masked."

Miller completed an undergraduate degree at Connecticut College before graduating from Loyola Law School in 1979. She spent the next 20 years at Munger, Tolles & Olson LLP, representing plaintiffs and defendants in complex litigation.

In 2000, Gov. Gray Davis appointed her to the LA County



Justin L. Stewart / Special to the Daily Journal

bench, where she handled everything from misdemeanors, traffic and a drug court before spending 14 years presiding over a general civil calendar.

"I loved being a judge. It's the best job in the world," Miller said. "You get up in the morning and you go to work, and your intention is simply to do the right thing. It's not to pursue the interests of X or Y. It's to do the right thing. ... And you're on the 50-yard line of life. You see human beings in every conceivable situation. It's really interesting if you're interested in people."

Miller said her skyrocketing caseload and the resulting late hours each night led her to retire

after 18 years on the bench, but as a private neutral, she has since thoroughly enjoyed the chance to apply her natural people skills to help disputing parties.

Miller said she employs a very informal, friendly approach as a mediator, asking both sides to submit briefs to her beforehand but also encouraging them to exchange their briefs.

"If there is something secret, they can always either put it in a separate secret brief to me or just tell me confidentially what it is," Miller explained. "But if somebody is marshaling really good arguments, they may benefit from showing them to the other side."

On the day of mediation, Miller

## Rita J. Miller

ADR Services, Inc.  
Los Angeles

### Areas of specialty:

Professional Malpractice  
Employment  
Business Disputes  
Civil Rights  
Real Property  
Personal Injury

noted she generally avoids joint sessions, saying parties “tend to ratchet up the antagonism” in those circumstances, and “mediations are more effective when each side is calm.”

Taking time to really hear from both parties is critical, Miller said.

“As a mediator, it’s more important for me to empathize with each side, to understand where they’re coming from, to understand what their needs are,” she said. “To do that, of course, you have to listen. I think people trust you when they sense you have empathy for them and you’re listening to them.”

Miller said she has settled many cases with mediator’s proposals and finds that strategy to be especially helpful when the timing is right. And while she won’t hesitate to offer case evaluations during the mediation process, she stressed she prefers not to spend too much time evaluating.

“I like to spend most of my time working with people and seeing what their needs really are,” she said, “and seeing if I can find a way that those needs get fulfilled.”

Peter J. Bezek of Foley Bezek Behle & Curtis LLP in Santa Barbara recently used Miller as an arbitrator in a complex commercial merger dispute that settled a week before the arbitration was scheduled to finish.

“In the 45 years I’ve been trying cases, she ranks probably at the top of my list of judges I would want to return to if I want to get a fair and complete hearing on the issues,” Bezek said.

Describing Miller as extremely smart and extraordinarily well prepared, Bezek said she made good use of her judicial experience but always did so in a very respectful manner.

“I can’t remember a single decision that she made throughout — win or lose — that I didn’t feel as though I had a complete opportunity to develop my record and to develop my argument,” Bezek said. “I want to say she was wrong when she ruled against me, but I can’t think of any situation where that was true.”

Alan I. Schimmel of Schimmel & Parks APLC in Sherman Oaks

used Miller to settle sexual abuse and sexual harassment cases, and said she’s one of the best mediators he’s worked with in his 40-year career.

“She’s seen all kinds of cases, and she’s seen all kinds of lawyers,” Schimmel said. “I think she figures out the sides and what’s either nonsensical or what’s practical or what’s in line with the law, and then she tries to advise the parties accordingly, so they can at least attempt to settle.”

Schimmel also noted Miller really shines in cases where a neutral needs to “go deep into the weeds.”

“If you have a case that’s complex, I think she’s a really good pick,” he said.

Los Angeles real estate attorney Lee A. Dresie tried a case in front of Miller about 10 years ago and has since used her to mediate several disputes. While her role today is different, Dresie said Miller’s judicial experience remains an important asset.

“She’s very smart both in terms of understanding the law and the

issues,” Dresie said. “But she’s also a good people person in terms of being able to communicate effectively and understanding what the parties and the attorneys are most focused on.”

Miller said she’s enjoying more time today with her dogs and still takes part in overnight horseback riding excursions in the mountains with the Cowboy Lawyers Association, which she’s been a member of for nearly 30 years.

In general, she said, she still really appreciates the chance to put her people skills to good use. “I really like people, and I really like lawyers,” Miller said. “I find that being a people person really makes mediation more successful and more fulfilling.”

*Here are some attorneys who have used Miller’s services:* Lee A. Dresie, Greenberg Glusker Fields Claman & Machtinger LLP; Alan I. Schimmel, Schimmel & Parks APLC; Zachary D. Schorr, Schorr Law APC; Amitabh Banerji, Elkins Kalt; Peter J. Bezek, Foley Bezek Behle & Curtis LLP