

VERDICTS & SETTLEMENTS

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Practice Understanding *Neutral Nancy Zeltzer applies an empathetic approach to dispute resolution.*

By Shane Nelson

Special to the Daily Journal

Retired Judge Nancy E. Zeltzer is a people person. “I love interacting with people,” she said. “And I love trying to understand them.”

Zeltzer said she joined the ADR Services, Inc. roster of private neutrals late last spring, in part, because she wasn’t ready yet to leave the law, but also to try and help people avoid the many pitfalls of litigation.

“I always tell people, ‘It’s not an enjoyable thing to go through, and it really isn’t therapy,’” Zeltzer explained. “I know people say, ‘Well, I just want to go to court because I want to put this behind me.’ But all you’re going to do is impress it on your brain more.”

A 1977 Western State University College of Law graduate, Zeltzer worked for 36 years as a litigator, regularly representing public entities in employment matters. She was appointed in 2014 to the Orange County Superior Court, where she handled criminal, civil, settlement conference and law and motion assignments until her retirement in 2022.

Tackling dispute resolution these days as a mediator, Zeltzer has worked on a diverse range of employment, landlord-tenant, land use, product liability and wrongful death cases over the past year. And while she also has a number of arbitrations lined up, Zeltzer noted that none of those have yet entered the hearing phase.

“It has to be where the evidence takes you. What are the facts based upon that evidence? What does the law say?” Zeltzer said of arbitration. “It’s not a compromise, it’s not a



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settlement, it’s not a negotiation. ... And it’s just as in any trial - I may have sympathy or empathy for parties, but that is not what dictates us. It just has to be based on what’s the evidence, where the evidence takes you and what you conclude.”

Prior to mediations, meanwhile, Zeltzer said she likes to receive briefs from all the parties and will speak over the phone with attorneys beforehand. On the day of mediation, Zeltzer dedicates substantial time early on toward listening to the parties and allowing them a chance to tell their stories, but she will eventually get to a place where she’s providing assessments.

“What I often do is I try and focus on the strengths of the opposing party’s case as opposed to the weaknesses in the case of the party I’m addressing,” Zeltzer explained. “I’ll say things like, ‘This is what I think their strengths are. What are your plans to counter it?’”

Zeltzer added that she feels it’s especially important to apply an empathetic approach to mediation and tries to understand where both sides are coming from.

“In so many cases, the bottom line is there’s a lot of emotion,” Zeltzer said. “There’s a lot of hurt and sometimes a tremendous hurt. You need to be sensitive to that. ... I think it’s really important to try

Hon. Nancy E. Zeltzer

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to walk in the other side's shoes." Westlake Village attorney Christopher J. Olsen used Zeltzer recently to resolve a difficult landlord-tenant dispute, and he described the mediator as very even-keeled and understanding.

"People come in, and they have an emotional investment in their case, and sometimes that balloon has to be allowed to deflate a little bit before people get realistic," Olsen said. "There were some complicated personalities involved, and I think she managed to cut through the fog on that front. ... And she was able to get them to a place that everybody could live with, and we managed to settle it."

Los Angeles litigator Daniel M. Medioni has used Zeltzer to settle two different homeowner association (HOA) disputes, and he agreed that the ADR Services, Inc. neutral is terrific with clients.

"She really does put in the effort to make both parties feel like they're heard and that they're understood,"

Medioni said. "If you're looking for someone that genuinely cares to get the case resolved for you, she's going to do that. She's going to work tirelessly on both sides to try and find a resolution."

Medioni added that one of the HOA disputes Zeltzer ultimately helped to resolve ran into a snag at one point in relation to a recently rewritten law.

"We each provided her our understanding and support and analysis for what we believed the implications of the new law were," Medioni recalled. "And she ultimately weighed in and said, 'Listen, I hear you. I hear both sides, and ultimately, I think this is what it really means, and this is how it's going to be interpreted and these are the implications.' ... So she did give us some very substantive feedback on that issue, which in the end was really helpful."

Newport Beach attorney Gregory L. Dillion used Zeltzer recently to resolve a complex business dispute

featuring its own difficult personalities.

"Those personalities were definitely involved along with their emotions, and nobody was willing to give an inch," Dillion said. "And she was nevertheless able to resolve it."

Dillion insisted that the retired judge really stands out as a private neutral.

"There are mediators, and then there are go-to mediators, and Judge Zeltzer is a go-to mediator," Dillion said. "She's very sharp. She's very insightful. She's very considered. And she knows how in my room to make me feel exposed on my arguments, and I know - just because of the result - that she does likewise when she's in the other room. ... If you want to use someone who is very careful about spending your money and getting you a cost-effective and efficient result, then she should definitely be at the top of your list."

Zeltzer was quick to note that while she's spent more than four

decades in the law as a longtime litigator and judge, she is still refining her approach as a private neutral.

"It's a learning process, too, and probably different for everybody," Zeltzer said. "Some people probably slip into it just as smooth as silk. Others may struggle a bit to find their voice. The one thing is that whatever your background is, you can only be yourself in these mediations. ... In some ways, it's like being a trial attorney - you can't take somebody else's style. You've got to use your own."

Here are some attorneys who have used Karlan's services: Daniel M. Medioni, Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP; Gregory L. Dillion, Newmeyer & Dillion LLP; Christopher J. Olsen, Law Office of Christopher J. Olsen; Yaron F. Dunkel, Tyson & Mendes LLP; Douglas P. Vining, Resnick & Louis PC

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