

VERDICTS & SETTLEMENTS

FRIDAY, MAY 23, 2025

Empathetic Justice

Retired Alameda County Superior Court judge Evelio M. Grillo has discovered a deeper sense of purpose in private dispute resolution.

By Shane Nelson

Special to the Daily Journal

Retired judge Evelio M. Grillo has traded the formality of the courtroom for the human connection of the conference room – and he said he couldn't be more fulfilled.

Now a neutral affiliated with ADR Services, Inc., Grillo said the most rewarding part of his new role is the opportunity to engage directly with litigants, helping them resolve disputes through mediation and arbitration with a personal touch that was off-limits from the bench.

"When you're a judge, if you decide a case, the people go away and you never talk to them again, and that's by design. A judge can't get off the bench and shake someone's hand," Grillo said. "When you're a private neutral and you settle a case, you can shake hands with both parties. You can talk to them as human beings, and so you get the type of personal satisfaction you just don't get as a judge. And that's something I really like."

A 1985 Harvard Law School graduate, Grillo spent 18 years as a litigator, representing plaintiffs and defendants in civil rights, employment, business, real estate and personal injury cases. He was appointed to the Alameda County Superior Court in 2003 and spent two decades there as a judge, overseeing family law, criminal and civil calendars before his retirement in March 2024.

Grillo also helped to create the dedicated settlement department for the Alameda County Superior Court and was the supervising settlement judge for two years.

"I had a fairly long history while I was working with the courts as a judge doing settlement work," he said.



Jana Ašenbrennerová / Special to the Daily Journal

Since joining ADR Services, Inc. last April, Grillo has been working to resolve employment, business, elder abuse and personal injury matters as a mediator. He's also been hired as an arbitrator in several disputes.

"I always strive to be fair to both parties, and I'm also pragmatic," Grillo said of his approach to arbitration. "You can waste a lot of time in an arbitration with procedural jockeying that gets you no closer to resolving a case on the substance at all. ... If there's discovery that's needed, you should agree on the discovery. If there needs to be some limitations, you should try to work that out. If you can't, I'll work it out for you, but I'll do it in a pragmatic fashion."

Before his mediations, Grillo said he likes to receive briefs from all

the parties, and he tries to speak over the phone with counsel. He likes to begin on the day of mediation, however, by talking with the parties.

"I try to get an understanding of how they view their case. I try to understand them as individuals," Grillo explained. "And I try to demonstrate to them that I understand their case, that I've read the brief, I've considered the exhibits. I want them to know I can talk fluently with them about what the facts of the case are, and I think that builds trust."

Grillo added that he tries to make use of facilitative – typically earlier in the day – as well as evaluative strategies during his mediations.

Parties will rarely [begin with], "We want you to tell us what the

Hon. Evelio M. Grillo (Ret.)

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value of the case is.' I don't think I've had that happen more than a couple of times," he explained. "But as you start getting past the midpoint in a mediation, parties do typically want to know what your view is."

Los Angeles defense attorney Diana M. Rivera has used Grillo to resolve several products and premises liability cases and described his evaluative input as especially helpful.

"He's just, obviously, got so much trial experience from when he was a judge, so it's very credible when he tells the parties, 'Look, this is what you're likely to face if this case went to trial,'" Rivera said. "His words really hold a lot of weight."

San Francisco litigator Fred M. Blum has used Grillo twice as a mediator in personal injury cases, and said he appreciated the retired judge's straightforward approach.

"His analysis was right on point and credible," Blum said. "I never had the impression that he was telling me what he thought I needed to hear in order to get the case settled."

Like Rivera, Blum said Grillo's experience is most definitely a strong suit. "He was very good in telling us what the weaknesses are of the case, which clients always need to hear," Blum explained. "As people, we are very good at knowing what helps us but sometimes not so good at knowing what doesn't. Lawyers are no different, and clients definitely are no different. He had the credibility to say, 'Look, you do have a strong case but,' and it's that 'but' that's always the important part."

Rocklin litigator Kenneth C. Brooks used Grillo recently to resolve a homeowner's association dispute and called him an "awesome" mediator.

"I never thought we would resolve this issue," Brooks said. "But he got right in and bam! I was really stunned at how effective he was in just four hours."

Brooks also appreciated Grillo's open-minded approach.

"He has such a wide breadth of the law that he can grasp the issues quickly," Brooks said. "But he was

also creative in the way he formulated the agreement we reached. He introduced solutions that he came up with, and the parties would go, 'Oh yeah, that's a great way of angling it.'"

Rivera noted that she's been recommending Grillo to colleagues looking to resolve high-exposure cases - in part because of his tenacious follow-up.

"He's very dogged and adamant on getting the cases resolved," she said. "And we really need that with more high-exposure personal injury cases, where you've got plaintiffs asking for seven-, eight-, sometimes nine-figure settlement amounts. ... If there's a case that seems like, 'Oh, it might go to trial' and there's just a ton of exposure, those are the good cases you want to go to him for because he - more so than some other mediators - will be able to get it done."

Grillo reiterated that he gets a great deal of satisfaction from working closely with parties to resolve their disputes.

"One of the problems of being a judge is sometimes you're solving the problem for people, and sometimes the result isn't what they would want," he explained. "But in mediation, it's a collaborative process, and when you solve a problem, you are solving it with the active engagement of the parties who are involved. ... Having the parties go away with ownership of it and understanding they had a lot to do with how this got solved, it empowers people. And when you can do that for someone, it's really pretty special."

Here are some attorneys who have used Grillo's services: Diana M. Rivera, Skane Mills LLP; Kenneth C. Brooks, Law Office of Kenneth C. Brooks; Fred M. Blum, Edlin Gallagher Huie + Blum LLP; Ian B. Kelley, Bryant Law Group; Paul J. Steiner, Law Offices of Paul J. Steiner.

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