

# Daily Journal

## VERDICTS & SETTLEMENTS

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# Better than being right

## *Former litigator Christopher Keele finds being open-minded works best as a mediator.*

By Don DeBenedictis  
Special to the Daily Journal

When after three and a half decades as a litigator Christopher Keele decided to become a mediator, his wife issued a warning.

"You know, Chris, you [will] no longer have the right to be right," she told him. "You're going to have a problem because you always think you're right."

After almost two years as a neutral with JAMS, Keele says his wife had that part correct. "I am no longer right in mediations," he said. "That's not my job."

In fact, he said, being open-minded rather than right is one of the values he holds as a mediator. His most important value is being neutral. Keele said he tries "to be fair and to be empathetic and to listen to all positions, all the stories, all points of view," during a session.

He also strives to be genuine. "My style is: I'm just me," he said. "I try to be transparent in my process. I think out loud a lot with the parties."

David Yashida of Lagerlof LLP said Keele was "very receptive to both sides" in a prelitigation mediation. "He gave good input and was honest and straightforward with his opinions."

He also was easygoing, Yashida said. "He has a relaxing charm about him."

Sole practitioner Vincent Van Ho also described Keele as being even handed during his client's mediation session. "There were some intense moments between the parties," Ho said. "He was able



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to keep the mood professional, keep each party's expectations levelheaded."

Keele seeks to build trust from the parties and counsel, not only in himself but in each other. "Trust," he said, "is perhaps the most important element of mediation."

To achieve it, he likes to begin each session with a joint meeting of the parties and counsel. "I find that to be critically important," he said. "It's not only to learn about the case, it's to learn about each other. They get to know me; I get to know them."

Two other qualities of a good mediator that Keele said he strives to exhibit are perseverance and patience. "You cannot give up," he said. "You cannot throw up your arms and go, 'We're done.'"

Mediation is a process, and it takes time to reach resolution. "I do not give up on the parties; I do not give up on the process. It is so important to allow everyone to take what time they need to express themselves and to try to come together."

Buchalter health care attorney Andrew H. Selesnick praised

### Christopher Keele

JAMS  
Los Angeles  
San Francisco

**Areas of Specialty:**  
Health Care  
Commercial

Keele's perseverance in a dispute between a medical provider and a payer. "He was tenacious. He was willing to go back and back and back again," Selesnick said.

Selesnick also appreciated the fact that Keele had extensive experience with health care litigation himself. Because he readily grasped the issues, he was able to quickly identify the sticking points and resolve the case by day's end, Selesnick said.

James W. Boswell's case did not settle in a day, but Keele didn't give up. "He sticks with the parties and continues to try hard to resolve cases even after the mediation day is over," the health care attorney from King & Spalding's Boston office said. Moreover, Keele came up with ideas and proposed potential offers, including some nonmonetary terms, to try to settle the matter. "He helped to conceptualize settlement solutions that I found were very helpful."

For about his last 10 years in practice, Keele worked on health care matters himself, primarily by managing litigation for companies such as DaVita HealthCare Partners. "I effectively served as in-house litigation counsel and would serve as the bridge or the connection between the client ... and outside counsel," he said.

Earlier in his career, he'd handled insurance defense, environmental, asbestos and general com-

mercial litigation.

Keele grew up in Peoria, Ill., where his father was a pharmacist. He earned his undergraduate degree from Wabash College in Indiana and his law degree in 1984 from Indiana University. He then went to work for Wildman, Harrold, Allen & Dixon in Chicago.

"It was a very aggressive, defense-oriented trial firm with some just amazing litigators who were my mentors," he said. After a few years, he began to specialize in representing companies in Clean Water Act, CERCLA and similar matters.

Seven years later, he and his wife moved to the Bay Area, where she had found a good career opportunity. He knocked on doors until he landed a post with Morrison & Foerster to build up the firm's environmental practice in Palo Alto.

"It was fascinating because it was on the fringes of Silicon Valley at the time when it was just starting to really explode, and there were a lot of hazardous waste issues," he said.

In 1993, he left MoFo for Washburn, Briscoe & McCarthy to continue to defend environmental cases. But within a few years, his practice broadened to general business litigation, and he became "one of the more active trial lawyers in the firm for several years."

Stoel Rives acquired the firm in

2001. Meanwhile, his work shifted to managing asbestos exposure litigation for Rockwell subsidiary Allen-Bradley. He became the managing partner of Stoel Rives' California offices in 2006.

The following year, he joined Irvine-based Thomas, Whitelaw & Tyler as the managing partner of its San Francisco office. He left in 2011 to start his own firm, which is when he began managing health care litigation for DaVita.

In about 2019, Keele said, he began to feel his work was no longer creative or exciting. "I felt it was time for the next chapter," which turned out to be working as a neutral, he said. He attended programs and classes at Pepperdine University, BASF, the American Health Law Association and others before joining JAMS in February 2021.

He said the company brought him in to be part of its health care bench. He also is a member of a JAMS team that is now offering ADR as a service to head off health care-related disputes. "We're developing a process to facilitate early resolution of tensions or conflicts within the health system," he said.

Most of the cases he's handled so far do come out of health care, everything from typical reimbursement disputes to contract fights. He has also mediated and arbitrated other sorts of business matters, including a commercial

lease case and an employment discrimination action.

In one recent case, he served on a panel of arbitrators who decided a contract fight between a large cannabis producer and a company it had hired to do its marketing.

Keele said about half his cases have been arbitrations. He takes a managerial approach to those by being detail-oriented, developing a plan for the litigation and keeping the case moving along. "I try to keep the parties on track," he said.

But for arbitrations, his wife's warning about being right is wrong. "I am not shy about ... being decisive," he said. "That's what we're trained to do and are paid to do, to make decisions."

*Here are some attorneys who have used Keele's services:* Annie Smith Amaral, Downey Brand LLP; James W. Boswell III, King & Spalding LLP; Thomas Fowler, Lichten & Liss-Riordan PC; Courtney Culwell Hill, Gordon Rees Scully Mansukhani LLP; Vincent Van Ho, Law Office of Vincent Van Ho; Moe Keshavarzi, Sheppard Mullin Richter & Hampton LLP; David A. King, Polsinelli PC; Molly Moriarty Lane, Morgan, Lewis & Bockius LLP; Tracy V. Schaffer, Jones Day; Andrew H. Selesnick, Buchalter; David Yoshida, Lagerlof LLP.