

VERDICTS & SETTLEMENTS

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Persuasive Gifts

Mediator Linda Miller no longer relies on the power of a black robe to resolve disputes.

By Justin Kloczko
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IRVINE — As a former judge, Linda L. Miller misses making decisions.

“I miss being able to tell people what to do,” she laughed during an interview in a JAMS conference room.

Now that she’s a mediator, parties who hire her do what they want to do. She can only hope to persuade them.

“In court I had the power of the black robe. Here I do not. Power is only in what they give me,” said Miller.

But mediation, and also her arbitration work, affords her other tools, such as the chance to actually talk to clients.

“As a judge I didn’t get that chance. I would hear what the lawyers wanted me to hear,” said Miller.

Even then, her hands are sometimes tied in being able to tell one party what the other party said.

“You walk a very thin line because you want to encourage one side to resolve, but you can’t necessarily use everything that was told to you,” said Miller.

“Family law is different because there are no secrets. Disclosure is mandated. You hope you don’t wait for that Perry Mason moment,” added Miller.

Miller has been mediating and arbitrating family law and business cases for the past year. For 16 years she worked a number of calendars, mainly family law, as an Orange County Superior Court judge.

One recent morning she was on phone with attorneys and self-represented litigants as part of a program JAMS has for mediating cases between banks and customers over the phone.

She enjoys them because they’ve sharpened her skills by searching for clues she



Justin Kloczko / Daily Journal

being adaptable and coming in prepared are the biggest advantages an attorney can have entering into a mediation or arbitration, according to Miller.

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— Linda L. Miller

wouldn’t normally pick up on face to face.

“It forces you to listen, to connect with a person that you can’t see,” she said, adding most of those cases settle.

She also handles Title IX sexual misconduct cases.

“It’s a totally different set of rules. We are not judges. We are neutral hearing officers,” she said.

Knowing the value of the case,

you come in. Otherwise, we might be wasting our time,” she said.

And it’s a sign of strength, not weakness, to resolve a case, Miller said.

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JAMS
Irvine

Areas of specialty:
Family law, Title IX,
business and commercial,
employment

guaranteed,” said Miller.

It gets dangerous when an attorney adopts the client’s views to the point of no longer serving as an independent set of eyes, said Miller. And she advises against becoming too adversarial.

“This isn’t a trial,” she noted.

Despite helping conduct more than 1,200 settlement conferences as a judge, Miller wasn’t exactly sure why she was good at it. It wasn’t until she took a couple of classes on mediation that she was able to shed more light on her approach.

“But I just don’t want to think

about it too much because when you start to think about the rules of mediation too much, it can interfere with getting it done,” she said.

She believes she combines facilitative and evaluative approaches, knowing when to be forceful but also encouraging.

She will often ask for a settlement number that she will keep in her back pocket and away from other parties. Or she’ll present a number and ask for parties to get there.

“If I can get that from you, I won’t come back and ask for a dollar more,” said Miller.

With a looming trial date, Keith E. Dolnick, an Irvine family law attorney, did not think his case was going to settle when he went into mediation with Miller.

“If you asked me going in what the chances were of settling I would’ve put it under 10%,” recalled Dolnick.

But over the course of nine hours, Dolnick said Miller was able to patiently get the parties to come together and not in a situation where they were going to get buyer’s remorse.

“She really helped them understand that everything they wanted wasn’t everything they were going to get,” said Dolnick.

Ada Cordero-Sacks said her case resolved after Miller had already left for the day. The parties hung back because of traffic, and in the meantime settled on the terms that Miller recommended. “In my humble opinion, a good mediator shows each side their weakness with not just opinion, but case law or at least CACI [California Civil Instructions]. She did that,” said Cordero-Sacks in an email.

Miller grew up in Los Angeles and attended UC Berkeley in the turbulent, late 1960s but described herself as

“the kid who went to class.” Because of the 1970 shooting at Kent State, in which the National Guard killed four students, Berkeley didn’t have a graduation ceremony. Miller finally walked through a commemorative ceremony 30 years later.

During a trip to Europe, Miller met a girl who was about to start law school, which peaked Miller’s interest after her ambitions to be a teacher dried up because of a lack of jobs at the time.

After graduating from the University of San Diego School of Law in 1973, Miller spent two years in the Los Angeles County district attorney’s office. She realized it wasn’t for her and went into civil litigation, working for Pizer & Michaelson. She eventually became a certified family law specialist with her own practice, staying tethered to the practice

of family law for the next 40 years, as an attorney, judge and now mediator.

She cites her biggest mentor as former 4th District Court of Appeal Justice Sheila Prell Sonenshine, whom she worked for starting out as a young private attorney.

Although much has changed in the world since she began her legal career, the law has stayed relatively the same, she said.

“The law is still the one place where you need to write to persuade,” said Miller.

Here are some of the attorneys who have used Miller’s services: Jeff LeBlanc, Anderson & LeBlanc APLC; Keith Dolnick, Irvine; Ada Cordero-Sacks, Encino; David Outwater, Outwater & Pinckes LLP; Bonnie Rosen, Rosen & Rosen LLP.

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