

# VERDICTS & SETTLEMENTS

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## Let Them Talk

*Neutral Charles Margines wants disputing litigants to know he's heard them.*

By Shane Nelson

Special to the Daily Journal

Before his 1993 appointment to the bench, retired judge Charles Margines spent 18 years as a criminal defense attorney, including six years as a deputy public defender in Orange County.

"Let's face it, the majority of people who are charged with crimes in the United States are guilty of something – maybe not the crime they're charged with, but with something," said Margines, who went to work as a public defender shortly after graduating from UCLA School of Law in 1974.

"That's really important because if innocent people were being charged, we would not have a democracy," Margines continued. "Given that, we still had some people who were factually innocent, and those are the ones you live for professionally – in other words, to be able to help people who have been wrongly prosecuted. It was, of course, challenging, but I greatly enjoyed seeing a verdict come in that I know was the right one against extraordinarily high odds."

After working for the county, Margines struck out on his own as a sole practitioner in 1981, representing criminal defendants. But he eventually started sitting pro tem in municipal court and found he enjoyed that even more than trial work. So he applied for an Orange County Municipal Court judgeship and was appointed in 1993.

"I'm told I'm the only – or one of the very few criminal defense lawyers – who was appointed to the bench by Gov. Pete Wilson, a Republican," Margines recalled.



Thomas Kurtz /Special to the Daily Journal

He was elevated in 1998 to the Superior Court, where he handled criminal, civil and appellate calendars. He was presiding judge for two years before his retirement in the winter of 2021. Margines has since worked full-time as a mediator, arbitrator and a special master for JAMS, tackling employment, real estate and personal injury disputes.

"As a judge for more than 28 years – and as a lawyer for 18 years before that – I handled more court trials than a great majority of the arbitrators out there," Margines said. "I have seen it all. I am real good on the law of evidence, I'm real good on the law ... and I'm very

fair. I think if you ask lawyers about my time on the bench, they'll tell you I'm very fair. I'm even-tempered. I don't blow up at people. I give them a full opportunity to be heard."

Orange County litigator Joel S. Miliband used Margines as an arbitrator for a difficult commercial code case last year, and said the JAMS neutral grasped the dispute's many complex legal issues very quickly.

"If you're looking for a well-run arbitration that has some certainty to it – as if you were in court as opposed to some arbitrations that are kind of free-for-alls – then you would do well with Judge Margines," Miliband said. He noted that his

### Hon. Charles Margines (Ret.)

JAMS  
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Professional Liability  
Construction

clients in the case were lawyers. “He was very professional, very much like you were in court. He was very efficient. ... And I think the biggest thing is that the clients will have a sense that justice is being done. They’ll have confidence in the process; and not all the time does that happen in arbitration.”

Before mediations, meanwhile, Margines said he likes to receive briefs from all the parties and speak over the phone with attorneys.

San Francisco business litigator Samuel Z. Hyams used Margines to successfully mediate a contract dispute a couple months ago, and said the retired judge did his homework.

“So don’t be afraid to put the details into your brief and then talk to him about your case,” Hyams said. “He really focused on what we were talking about beforehand and then cut through and figured out what the core issues were, which not every mediator does. ... He really focused in on what were these things that were dividing the parties and how to get the parties closer by focusing on these core elements.”

Acknowledging that each case is, of course, different, Margines noted that he views active listening as a critical strategy in his mediation approach.

“I do that because clients feel as if they are muzzled sometimes because of the nature of litigation,” Margines explained. “They want to talk, and their lawyers say, ‘Don’t talk. Don’t volunteer anything. Let me handle it.’ But the client has a story to tell, and they want to be heard. Sometimes mediation is the most important aspect of litigation because of that ability to talk. So I let them talk. I don’t cut them off. I occasionally repeat what they tell me, or I summarize what they tell me because I want them to know I’m actually listening.”

Los Angeles litigator Felix T. Woo used Margines recently to settle a multimillion-dollar corporate loan dispute, and said the neutral was good with his client – a highly successful Korean immigrant who spoke barely any English.

“He does not have a very heavy-handed style,” Woo said. “Some judges come in and basically try to make it seem like they’re still on

the bench, and they’ll tell you, ‘Oh, this is what I would do and you better tell your clients.’ ... He didn’t do that. He was more of a facilitator. He really let each side describe what the issues were that were most important to them.”

Margines added that he’s not a big fan of mediator’s proposals and really tries to help parties reach a deal of their own. He also prefers to have parties hammer out and sign a settlement agreement at the end of a successful mediation. While he typically keeps disputing parties separate, Margines said he will make the occasional exception if the circumstances are right.

“What I like about mediations is the ability to be creative because in court it’s all about money – if we’re talking about a typical civil lawsuit,” he explained. “All you can get from the judge or the jury is money, and sometimes money is not everything that you want. Sometimes it’s not even the most important thing you want.”

Margines pointed to a personal injury case he handled in a settlement conference during his time on the bench, involving a car accident.

Margines recalled that the defendant wanted to apologize to the plaintiff, but the defendant’s attorney advised against it.

“The defendant’s lawyer – being a good lawyer – said, ‘Don’t do it. Don’t open your mouth. You apologize, and you are basically saying: ‘I did it. I am liable,’” Margines explained. “But that’s what the defendant really wanted to do. He just wanted to apologize. So we worked out a settlement, where he apologized to the plaintiff. And I’ll tell you, it just melted [the plaintiff’s] heart, too, because until then she viewed the guy just like an evil person. But he was just this decent guy who made a mistake – just made a mistake like we all do. ... That’s the kind of thing you can do in mediation, which you just couldn’t do in a trial.”

*Here are some attorneys who have used Margines’ services:* Felix T. Woo, FTW Law Group APC; Samuel Z. Hyams, Kilpatrick Townsend & Stockton LLP; Joel S. Miliband, Brown Rudnick LLP; Nicholas A. Rogers, O’Toole Rogers LLP; David A. Wankel, Iger Wankel & Bonkowski LLP.