

Teaching Talent

Shirish Gupta uses creative techniques to teach and to conduct mediation

By Kevin Lee
Daily Journal Staff Writer

JAMS Inc. mediator Shirish Gupta holds a trump card when he is teaching the next generation of practitioners at UC Hastings College of the Law.

Rather than talk about “interspace negotiation” and leverage in a vacuum, Gupta shows clips from popular TV shows and movies to demonstrate these linchpin mediation concepts.

One video features Saul Goodman, the hard-luck huckster-lawyer of the hit drama “Better Call Saul.” Questionable ethics aside, Goodman successfully negotiates with a gang leader over the fate of two skateboarders by identifying, then satisfying the bloodthirsty gangster’s interest in justice.

Comedy also features in Gupta’s educational watch list, including scenes from British troupe Monty Python and ESPN commercials spoofing stingy sports agents.

“Students and lawyers will often send me clips,” said Gupta, who has served as an adjunct professor at UC Hastings since 2014. “They are just fun.”

Gupta joined the advisory faculty at UC Hastings at the invitation of Sheila Purcell, the director of the university’s Center for Negotiation and Dispute Resolution. Gupta participated in the public/private dispute resolution partnership at San Mateo County Superior Court that Purcell formerly directed.

Gupta joined JAMS in San Francisco last year after running a solo law and mediation practice based in San Mateo, known separately as Flashpoint Law and Flashpoint Mediation, since 2008.

Before launching Flashpoint, Gupta spent six years at Mayer Brown LLP and two years at Howard Rice Nemerovski Canady Falk & Rabkin PC. The Howard Rice firm was acquired by Arnold & Porter LLP in 2011.

Gupta thought neutral work might

Shirish Gupta

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Areas of specialty: intellectual property, labor and employment, banking and financial services, commercial, class action.

make for a better career fit after seeing how mediation played a major role in many commercial and business disputes.

I recognized my temperament is well-suited to mediation,” Gupta said. “I am pretty patient, I let people speak their mind, I really care about the people and the parties in mediation and the pain that they are going through.”

“Litigation can be time-consuming, mentally draining for lawyers and parties and I try to give them back that focus, that ability to focus on other issues,” Gupta added.

Gupta’s work at JAMS primarily focuses on intellectual property, labor and employment and general commercial or class action claims. He said that JAMS has provided him a broader referral network and additional work opportunities in Southern California.

Hunter R. Eley, the managing shareholder at Doll Amir & Eley LLP in Century City, represented financial institutions as defendants in 34 disputes brought by consumers.

Eley said Gupta grouped together similarly situated claims and extracted common themes to arrive at a complete resolution of both pending claims and pre-litigation matters.

“He has the ability to figure out what drives a client’s emotional interest in a case and also simultaneously an ability to create or embark upon a path that really focuses on a result or outcome,” Eley said. “Those two things don’t go hand-in-hand in litigation.”

Gupta typically begins reviewing a case by reading over the information submitted and then schedules a pre-mediation call with both parties. If the case advances to an in-person meeting, Gupta prefers to have both parties present for a joint session.



Alexander Drecun / Special to the Daily Journal

“In my experience, it makes the process quicker, it’s a better exchange of information, it allows the attorneys to get their questions answered,” Gupta said. “I usually take the lead, I ask one side to tell me their views of the case, I’ll ask opposing counsel to ask clarifying questions, not combative questions.

“I’m trying to find the areas of agreement and disagreement so I can figure out what we need to discuss that day,” Gupta added.

Jamie E. Wrage, a shareholder at the San Bernardino office of Gresham Savage Nolan & Tilden PC, has worked with Gupta on labor disputes.

Wrage, who typically represents employers, said Gupta has the ability to defuse emotionally wrought, volatile situations.

“He’s very calm and logical. He’s able to give the litigants the feeling that he is listening to them and get them to redirect their anger,” Wrage said. “He focuses on the big picture for them rather than the little picture, the forest rather than the trees.”

Gupta finds that the parties who achieve the most success in mediation have a road map to their ultimate destination and the flexibility to adjust when obstacles arise.

“What’s a reasonable goal that you can achieve here? I’m looking for a plan,” Gupta said. “Is there enough there for the other side to convince them that they should move closer? Is there something that’s clearly thought out? It might not be effective but it

shows they’ve done their homework and they have a plan.”

Harmeet K. Dhillon, the founding partner of Dhillon Law Group Inc. in San Francisco, said Gupta has helped resolve sensitive business cases that involve the Indian American and South Asian American communities.

“I think he’s empathetic and credible,” Dillon said. “He’s very low-key, he doesn’t raise his voice, but he’s not a pushover. He is a very hard working and effective mediator.”

Gupta also likes to take teaching and learning outside of the classroom. He invites law students to shadow him during a mediation, with permission from the parties. He also likes to shadow other neutrals during their matters to see how he can improve.

“What are different skills that people have that I can incorporate in my practice?” Gupta said. “I’m constantly learning because I want to get better at my craft.”

When he is not working, Gupta enjoys reading, writing, coaching and refereeing youth soccer teams and camping with his wife and two children.

These are some of the lawyers who have used Gupta’s services: Hunter R. Eley, Doll Amir & Eley LLP, Century City; Chelsea L. Diaz, Doll Amir & Eley LLP, Century City; Jamie E. Wrage, Gresham Savage Nolan & Tilden PC, San Bernardino; Harmeet K. Dhillon, Dhillon Law Group Inc., San Francisco; Sarju A. Naran, Hoge Fenton Jones & Appel.