

VERDICTS & SETTLEMENTS

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Bedside Manner

Mediator Stephen Sundvold tries to establish a bond with parties to settle cases.

By Paula Lehman-Ewing
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ORANGE — At first glance, Stephen J. Sundvold's legal pad looks like that of any other mediator: Dates and dollar amounts are scribbled in blue ink across the yellow paper, premediation notes are scrawled on a diagonal in the margins. But each pad has a secret buried in its depths — a dollar amount Sundvold estimates the deal will settle at etched into the cardboard backing.

It's a game he likes to play, with no particular opponent, just to see how close he can get to fortunetelling. More often than not, he said, he's right on the money, both literally and figuratively speaking.

"You try enough cases and you settle enough cases, you know about what a case is worth," said Sundvold, who has been mediating at JAMS since 2010. "It's just a matter of bringing the parties to that realization: Is it the best settlement they've ever had? No, but is it something that's fair? Is it better than the risk of trial? Absolutely."

Sundvold showed promise as a mediator long before he joined JAMS. When he was a superior court judge in Orange County, a judge in San Diego wanted to erect a statue of him in front of the San Diego courthouse because of his handling of *One Harbor Drive Homeowners Assoc. v. Harbor Drive Ventures*, GIC767787 (San Diego County Super. Ct., filed May 22, 2001).

It was a giant construction defect case involving the twin,



Thomas Kurtz / Special to the Daily Journal

42-story condominium towers on the water's edge downtown. Judge Ronald L. Styn, who proposed the statue idea, said at the time he'd "never seen anything like" Sundvold's ability to settle certain cases.

Sundvold spent 12 years on Orange County's superior court and eight years on the municipal bench. But before that, he was mainly a trial attorney.

After graduating from the University of San Diego School of Law, Sundvold did criminal appellate work, opposing petitions for certiorari for the Department of Justice. He spent a summer trying cases for the District of Columbia's U.S. attorney's office before going into private practice and eventually moving in-house at Safeco Insurance Company of America Inc.

Working for an insurance carrier meant two things: trying a lot of cases and a crash course in people skills.

"I tried as many or more cases than anybody in the office, but I also had the management side of having to do more management stuff," Sundvold said of his time at Safeco. "That maybe enhanced my people skills to a degree as opposed to my trial skills."

Between his work at Safeco and his appointment to the superior court complex civil panel, Sundvold developed a niche in construction defect litigation. But rather than hone in on one area, Sundvold is handling more matters in more legal sectors now than ever in his career, he said.

The cases he's handled this year covered employment, homeowners associations and a lot of cannabis-related litigation.

"I'm an inquisitive guy," Sundvold said. "It's fun and interesting to learn something new, whether it's construction or nuclear physics or whatever the case is about."

Sundvold attributes his suc-

Stephen J. Sundvold

JAMS
Orange

Areas of Specialty:
Business/Commercial, Civil Rights, Construction Defect, Employment, Insurance, Personal Injury/Torts, Professional Liability, Real Property

cess as a mediator to his "bedside manner." He bemoaned the dreaded four-hour mediation when time for courtship is limited.

"I usually joke with them and say, 'I'm not going to be able to show you pictures of my grandkids and all,'" Sundvold said. "I don't set out in every mediation to show pictures of my grandkids, but I want people by about midday to think that I really care about them, which I do, and they know that I really have their best interest in mind. Once you've establish that bond, then it becomes really easy to get the case resolved."

Sundvold often settles business disputes, which he says can be as passion-infused as a divorce. But attorneys who have used his services believe in his bedside manner.

"He has a good temperament to deal with difficult people," said Jean M. Moriarty, a partner at Berding & Weil LLP. "He listens to everyone's side and comes up with solutions, sometimes outside of what people are even asking for."

Moriarty remembers the judge's dedication to settlements when he was on the bench.

Sundvold worked on a mandatory settlement conference with Moriarty and opposing counsel well into the evening.

“That’s pretty impressive for a sitting judge,” Moriarty said.

Sundvold also has a way with attorneys, having practiced so many years himself. His usual pitch, he said, involves his personal experience with the risky business of going to trial. Among the last three cases he tried, one was the best of his career, and one was the worst, he said.

“The difference was almost unintelligible as far as it’s just a roll of the dice,” Sundvold said. “I tell them, ‘If these numbers work for you, you have the ability to be the master of your own fate rather than have 12 licensed drivers determine whether you’re going to win or not.’”

Sundvold, who fondly remembers his days on the high school debate team, likes to entertain heated discussions in order to get a sense of how to approach the parties. He rarely holds joint sessions but will often have attorneys in the same room hammering out a case to get a sense of what tactics he might use to reach a settlement.

“It’s not that I love a good fight, but I love to watch good lawyers joust with each other a little bit,” Sundvold said. “I think you can gain a lot in a short period of time by putting the lawyers in and watch that boiling point. You don’t want to boil over, but you want to bring it to a nice rolling boil sometimes.”

Javier H. VanOordt, who tries complex business disputes as a partner for Callahan & Blaine,

agrees with Sundvold’s perception of business litigation as often emotional. He said the judge’s ability to read the room and handle the parties accordingly has never failed in the mediations he’s been involved in.

“Part of it is his personality,” VanOordt said. “He rolls with it pretty well and can control the personalities. He’s good at funneling everything into something you can work with.”

Attorneys describe his demeanor as easygoing, but once he’s on a case Sundvold has a hard time letting go. He describes himself as a “dog with a bone” and still conducts follow-up calls on a case he mediated five years ago.

Jackson Lewis PC attorney Michael D. Drenan, who has used Sundvold’s settlement skills

since his days on the bench, currently has a case for which Sundvold submitted a mediator’s proposal. The two left for vacation, but once Sundvold returned, Drenan said, he was quick to get back on the phone.

“It takes that never-say-die kind of attitude to resolve things,” Drenan said.

Here are some attorneys who have used Sundvold’s services: Jean M. Moriarty, Berding & Weil LLP; Michael D. Drenan, Jackson Lewis PC.; Cristian L. Peirano, Peirano & Associates Inc.; *James V. Kurkhill*, Law Offices of Jim Kurkhill; Michael J. Buley, Buley Law APC; Javier H. VanOordt, Callahan & Blaine; Stephanie P. Alexander, Smith LC.