

Finding Common Ground

For neutral Michael Weaver, solutions come from keeping all parties closely engaged

By Lyle Moran
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SAN DIEGO — A case before mediator Michael J. Weaver involved a multi-million-dollar dispute between a father and son over the sale of a family business.

Weaver said he learned by talking to both parties that the father, who felt he didn't receive what he was owed from the sale, was less concerned about the money and more about the breakdown of the relationship with his son.

The son, on the other hand, was reluctant to admit any guilt in the matter.

Weaver said he worked for several hours during mediation to try to mend the relationship. By the end of the day, the two men reached a settlement.

"When the two of them reconciled a little bit, that made it possible," he said.

Weaver, who has been with JAMS since late 2014, highlighted the case as an example of how he makes sure the clients of the lawyers appearing before him remain very involved in the mediation process.

It's an approach he called one of the keys to helping parties reach settlement in his more than 15 years as a mediator.

"Historically, it was more common that the lawyers would be in one room and their clients would be sitting somewhere else," Weaver said. "Occasionally, the lawyers would go back and inform them of what is going on. I often felt that was very unfair to the clients."

Weaver said that while he will have some conversations solely with the lawyers prior to a mediation session being held, he prefers to have the clients closely engaged at the actual sessions.

"They need to know what is going on around them," he said. "They need to have a sense I'm trying to be fair with them."

Attorneys who have appeared before Weaver said they have found him to be very skilled in communicating with their clients, which helps produce settlements.

Gordon L. Gerson, managing principal of Gerson Law Firm APC in San Diego, said Weaver is able to quickly understand the motivations and needs

Michael J. Weaver

JAMS
San Diego

Areas of specialty:

Business disputes, professional liability, complex civil, employment

of the different parties.

"As lawyers and sometimes judges, we can get lost in the abstract concepts," Gerson said. "But people who have disputes need to be understood. He really perceives what the needs are of everybody there."

Regis Guerin, principal of The Guerin Law Firm in Irvine, said Weaver has a good way with people and listened very closely to his client in the one case Guerin had before him.

Guerin represented the defendant in a business dispute between two shareholders.

"When your client needs a push, he is not afraid to give the client a push," Guerin said. "I thought he was very effective at taking little pieces of things my client said and using them to encourage settlement."

Weaver most often handles professional liability, complex civil, partnership dispute and employment law cases in Southern California.

He said another essential part of his approach as a neutral is trying to find areas of agreement between the parties, especially when it comes to damages.

One way he does that is by pressing each side to explain how they came up with the figures for what they believe certain claims are worth.

"I've had people tell me that one of the reasons they wanted to come to me is because they wanted me to go through this analysis with them and help them shape the case in the eyes of their own client in terms of what it might really be worth," Weaver said.

His experience trying more than 80 cases to verdict, judgment or award at large law firms helps him determine whether he thinks the numbers parties present to him are reasonable.

His legal career dating back to 1973 included stints as a trial lawyer at Latham & Watkins LLP and Sheppard, Mullin, Richter & Hampton LLP, as well as more than 10 years at the former Luce, Forward, Hamilton & Scripps.



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Valentine S. Hoy, a partner at Allen Matkins Leck Gamble Mallory & Natisis LLP, said Weaver demonstrated a strong grasp of the damages issues at play in a business torts case involving real estate he had before him.

"In many cases I deal with, a good analysis of damages can be the difference between reaching a reasonable settlement and litigating a case that shouldn't go trial," said San Diego-based Hoy. "Because Mike's career was spent representing corporate clients and high-net-worth individuals in high-stakes litigation, he is a quick study when it comes to financial and damages issues."

Richard J. Elliott, a sole practitioner in La Mesa, mediated a contractual business dispute before Weaver late last year.

He said Weaver had both sides narrow the dispute about damages involving multiple variables to a small range, which helped pave the way for a settlement soon after the formal mediation session.

"It was a complicated 'Who owes who how much?' case," said Elliott. "The 'How much?' part he worked very hard on and got us together on."

Attorneys also praised Weaver for the amount of preparation he does before the mediation sessions.

Frederick Gordon, a partner at Gordon & Holmes in San Diego, had two parallel complex civil cases before Weaver. He said he appreciated how Weaver met several times with the parties individually before a session with all the parties.

"The thing I like most about him is he knows that it is a waste of time on a complex case for the parties to go to mediation without previously having met with the mediator," Gordon said.

Weaver said his advance work, which is especially important in complex cases, is designed to ensure that the most is made of mediation sessions when all the parties are present.

"That starts the day moving to the merits of the discussion rather than, 'Gee, what is this about and why are we here?'" Weaver said.

Weaver retired from Latham & Watkins in 2012 to focus solely on mediation and arbitration.

He has been doing arbitration for 20 years, even longer than his time as a mediator. He said he handles similar types of cases and tries to make sure arbitration hearings move at a steady pace once they begin.

"I try to as closely as possible replicate a result somebody would get in a courtroom, but I try to make it more efficient," Weaver said.

He spent many years handling arbitrations through work with the American Arbitration Association, known as AAA.

Among the cases was a three-panel arbitration involving a dispute between a gaming tribe and the financiers of its casino. The hearing in San Francisco lasted seven weeks.

"I enjoy arbitration because most of the time you get to see really good lawyers and you get to learn about things in more detail than you ever cared to," Weaver said.