

## Neutral Works to Help Clients Know Themselves

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It's all about weighing the interests for mediator Greg David Derin, who has turned 30 years practicing business and entertainment litigation into a successful mediation practice.

"Mediation at its best seeks to determine the interests of everybody that's involved in the process, not just the interest of your client but the interest of the other side, and to try to find a solution," he said. "The best way to find a solution is to at least be attentive to the interests of everybody else involved in the process."

Derin, 53, said his experience representing both plaintiffs and defendants in entertainment and intellectual-property litigation has helped him understand the motivation of the parties who come before him in mediations.

"That has always been my approach to litigating, to help my clients really understand their own interests," he said. "In a mediation process, you can go way beyond the four corners of a lease. There's so much more flexibility that you can have.

"Now, as a mediator, trying to get everybody to appreciate that is not always easy."

Derin, who mediates a hundred cases a year, handles mostly entertainment and intellectual property cases but also deals with some commercial, real estate, and labor and employment cases.

He continues to represent a handful of longtime clients in entertainment litigation, but his main focus is now on his mediation practice.

Colleen M. Regan, a labor and employment partner at Seyfarth Shaw in Los Angeles, said she uses Derin's services in employment cases, when the parties need an objective analysis of the strengths and weaknesses of their case.

"He's a good listener and is able to divine what is most important to the litigants," said Regan, who first met Derin in litigation when he represented a talent agent against her client, Creative Artists Agency. "He takes a case apart and shows it to the parties like a judge would and tries to persuade people that it's in their best interest to resolve it privately."

She described a dispute between an employer and a payroll company that involved distressed economic circumstances in which she used Derin as a mediator.

"They needed a creative payment plan, and he found a resolution," Regan said. "He's particularly gifted in sorting out the business aspects of a dispute and helping parties close the gap. And he's a quiet persuader. He doesn't pound the table, doesn't yell at people. His best tool is reasonableness."

Derin describes his mediation style as facilitative, transitioning to evaluative only when necessary.

"The facilitative process helps the parties clarify what their own interests are, rather than on what they think they can win," he said. "If you become evaluative too early, someone is going to be unhappy with the evaluation. And all we have as mediators is the trust we build up in the room."

Derin said that beginning the mediation process with an evaluation can be problematic because the mediator never knows as much about the case as the lawyer and the client.

"If the lawyer has been telling the client, 'You have this great case,' and you tell them they don't, why should they believe you?" he said.



GERARD BURKHART / for the Daily Journal

Armed with this insight, Derin has proved effective, especially in entertainment mediations.

"He understands the ins and outs of the entertainment industry," said Michael J. Plonsker, co-chair of the entertainment and media department at Dreier Stein Kahan Browne Woods George, who has used Derin at least twice. "He's pragmatic, listens to both sides and tries to find a reasonable business solution. He's the type of mediator who adapts his approach to the parties, attorneys and issues before him."

Joseph R. Taylor, an entertainment litigation partner at Liner Yankelevitz Sunshine & Regenstreif, also pointed out Derin's knowledge of the industry.

"He is extremely well-versed in entertainment law and the business of entertainment," Taylor said. "He's cognizant of the personalities of entertainment companies. He can see it from the talent perspective and the studio perspective, with a minimum of explanation, because of his experience. To be able to see both of those things as a mediator is really important."

Taylor, who has used Derin's services several times over the last five years, said that Derin is "really, really good" with "contract-specific matters in heavy-duty entertainment cases because of the idiosyncratic way they're written."

Derin's experience in the entertainment field comes from his litigation experience. A 1979 graduate of Boalt Hall, he moved to the Los Angeles area after graduation because that's what his wife wanted.

"I call that my first failed negotiation," said Derin, who was born and raised in San Francisco.

He joined the now-defunct Los Angeles litigation firm Dern, Mason, Swerdlow & Floum, which dissolved in 1989. On the firm's break-up, Derin and a group of lawyers from Dern Mason started their own firm, Del, Rubel, Shaw, Mason & Derin, which is now Santa Monica-based Del, Shaw, Moonves, Tanaka, Finkelstein & Lezcano.

At the time, the office had only two litigation attorneys, including him. So he decided to start his own practice in 1997, with a focus on entertainment, intellectual property and business litigation.

"[Entertainment law] wasn't something I came out of law school with a burning desire to do," Derin said. "I grew up in San Francisco, a small-city boy. It just kind of happened. But I don't have my head in the glamour areas of life."

He first became interested in mediation doing pro bono work, and he decided to volunteer time on the Los Angeles County Superior Court mediation panel - but he was rejected.

"It turned out you needed training, but I didn't know that because I had never used that panel for any of my own cases," he said. "The rejection intrigued me."

So in 2002, Derin started taking classes at Pepperdine University School of Law's Straus Institute for Dispute Resolution.

"Within the first hour, it was like, 'Where has this been all my life?'" he said. "The approach to settling cases was actually the way I had litigated for close to 25 years but using a different vocabulary. It seemed like a natural process that I'd be involved."

Derin also has trained with Kenneth Cloke, director of the Santa Monica-based Center for Dispute Resolution, a multidisciplinary association of dispute resolution professionals. He has taken Harvard Law School's 30-hour mediation workshop through the school's Program on Negotiation, and he has been asked to assist in teaching the workshop for the fifth year this year.

Derin took to mediation so quickly and passionately that he handled 100 cases in his first year as a mediator.

He is also a member of the invitation-only organizations CPR Panels of Distinguished Neutrals, the California Academy of Distinguished Neutrals, and the mediation panel of the World Intellectual Property Organization. He is the immediate past chairman of the State Bar of California's standing committee on alternative dispute resolution.

Derin is also heavily involved in volunteer activities, with a focus on young adult development. He has served as a Big Brother, has coached his children's Little League and soccer teams and serves in various leadership positions with synagogue-led youth programs.

Derin said that he has never had any problems interacting with children's parents because he explains his goals for them at the outset, namely character, integrity and learning development. But that doesn't mean disputes don't occur.

"I've been called on many times for my pro bono services," he said.

*Here is a list of some of the attorneys who have used Derin's services:* David Aronoff, Spillane Shaeffer Aronoff Bandlow, Century City; Joseph R. Taylor, Liner, Yakelevitz, Sunshine & Regenstreif, Westwood; Michael J. Plonsker, Dreier Stein Kahan Browne Woods George, Santa Monica; Aaron J. Moss, Greenberg Glusker Fields Claman & Machtinger, Century City; Bruce Isaacs, Wyman & Isaacs, Beverly Hills; Colleen M. Regan, Seyfarth Shaw, Century City; Richard D. Sievert, Sievert, Young & Donahoe, Encino; Christopher G. Caldwell, Caldwell, Leslie & Proctor, Los Angeles; Rod S. Berman, Jeffer, Mangels, Butler & Marmaro, Century City; and G. Bryan Brannan, The Brannan Law Offices, Encino.

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