

VERDICTS & SETTLEMENTS

FRIDAY, SEPTEMBER 20, 2024

Savors the Battle

Arbitrator Michael Solner likes watching good attorneys ply their craft.

By Don DeBenedictis

Special to the Daily Journal

After five years as an assistant U.S. attorney, 10 years as a big-firm attorney, 10 more in a solo practice and about 17 years as a municipal and superior court judge, Michael Solner says he “still likes the battle in the courtroom.”

That means now when he sits as an arbitrator, he likes to assess the skills of the lawyers presenting a case to him. “To yourself, you say, ‘Well, why won’t you pursue this line of inquiry?’ Or ‘Why did you ask that stupid question?’”

“But it’s up to them,” Solner stressed. “My whole philosophy here ... is these cases don’t belong to me. They belong to the parties. I don’t have a stake in the outcome. I don’t care who wins or loses. Just give me your best shot and I’ll do what I can with the evidence.”

He has been a neutral with ADR Services, Inc. since he retired from the Los Angeles County Superior Court in 2014. Most of the matters he takes on these days are arbitrations. In fact, only about 20% to 25% are mediations, he said.

It’s not that he doesn’t want mediation. “That’s just the way it’s worked out,” Solner said. “I think the reason for that is that a lot of our neutrals don’t like arbitrations. And since I’ve spent my life litigating, I’ll do them.”

“I still enjoy the evidence aspect of lawsuits and watching good attorneys ply their trade,” he said at another point. “I still find arbitrations interesting and challenging.”

Attorneys who have argued before Solner in arbitrations speak highly of him. Cozen O’Connor’s Frank Gooch III said he was “very impressed” with the retired judge



Ricardo Pineda / Daily Journal photo

during an arbitration with him. “It was a very, very difficult case with very difficult adversarial parties ... [and] a lot of procedural issues he had to deal with,” Gooch said. “I thought he was very fair and focused and made the rulings he felt he had to.”

He added that Solner was “always in control” during the contentious, multiday proceeding.

Los Angeles sole practitioner Theresa Macellaro called Solner “one of the best neutrals in California.” She said in arbitrations he is “tough and fair and not afraid to make a ruling.” While hearing a case during the pandemic, “he kept everything right on track and kept us moving” but still was always respectful.

“He truly doesn’t seem to favor the plaintiff or defendant. He looks at the law and the facts,” she said.

Eugene Alkana described Solner as “a mild-mannered Clark Kent.” The Pasadena attorney had a difficult, four-party arbitration with him that spread over 10 sessions. “He was always in control of the hearing but extremely courteous to everyone,” Alkana said. “He took a lot of time to get facts from witnesses. ... He gave everybody as much time as they needed to put on their case.”

Solner said he handles arbitrations much as he did court trials, including allowing opening statements if desired. He also simply follows the Code of Civil Proce-

Michael C. Solner (Ret.)

ADR Services, Inc.
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dure rather than other rule sets devised by ADR companies.

"I think attorneys appreciate it because that's their experience," he said. "That's what they're used to."

He does like it when attorneys provide court reporters because a transcript of the hearing is useful when he prepares his award. "I take voluminous notes, but then afterwards I look and go, 'What did I mean by that?'"

Asked about his life story, Solner began with his great-grandfather who came across the country in 1848 for the Gold Rush and later opened the first piano store in San Francisco. "I'm a product of a pioneer family," he said.

He described his upbringing as unusual. Born in San Mateo, he grew up mostly in the Los Angeles area. When he was 9, his artist stepfather moved the family to Paris to study with a prominent painter, and Solner learned French.

A year later, they came back to Los Angeles. Three years after that, they went back to Europe, this time to Mallorca, and Solner learned Spanish. After about 18 months, his parents continued traveling but sent him to a Swiss boarding school. There he got into a fight in a rowboat on Lake Geneva with the only other American at the school. That boy broke Solner's nose.

After a couple of months, the family boarded a passenger freighter back to California by way of the Panama Canal. "I ended up at Hollywood High School."

From there, he went to USC, where he joined the Air Force

ROTC program. Solner said his grandfather, who "played a strong role" in his upbringing, was a "true patriot" who encouraged military service.

He graduated from USC in 1964 and was soon commissioned as a second lieutenant. He became an electronic warfare officer, one of four men tucked into the back of a light bomber flying over North Vietnam jamming its radar systems to help protect American fighter bomber pilots. "That was sort of a heady kind of experience because you really felt like you were doing something important," Solner said.

Though he thought seriously about making the Air Force his career, when his four-year commitment ended, he enrolled in Loyola Law School instead.

Graduating in 1971, he became an assistant U.S. attorney in Los Angeles. Within weeks, he was in his first trial in a passing-counterfeit case. He was so green, he said, that he wasn't sure where jurors came from or how they were selected.

As for being a federal prosecutor, "I felt the work was very important. I enjoyed doing it," Solner said.

After about five years, he joined Thelen, Marrin, Johnson & Bridges in Los Angeles. "They needed somebody with trial experience right away." He primarily handled professional negligence matters but also stepped in when any doctor or other employee of Kaiser or Bechtel got into any kind of criminal trouble.

In 1988, he quit to take over the solo practice of a lawyer who was

retiring. For about the next 10 years, "I tried cases in federal court, in state court and in tax court of all places," he said.

Gov. Pete Wilson named Solner to the Los Angeles Municipal Court in 1997, and he became a superior court judge in 2000 with court consolidation. He rose up to become an assistant supervising civil judge.

Then, in about 2012, he asked to be assigned as a settlement judge. "It was purely settlements. That's all we did," he said. That is what he was doing when he retired and joined ADR Services, Inc. in 2014.

Lawyers who have mediated cases with Solner like him. "He's terrific," said Macellaro. "He is well prepared, extremely knowledgeable about the law, commands respect and quickly develops a rapport with the litigants. ... He's an expert at defusing [and] overcoming obstacles."

Alkana added that the retired judge is "very good at coming up with mediator's proposals," and Solner agreed. He said by the time parties ask for a proposal or he feels compelled to offer one, "I've listened to both sides, and I know where they're coming from. ... I just get a real sense of where the people are."

James Turken of Norton Rose Fulbright said Solner is one of the small group of mediators he always wants to use. "People respect him ... believe him, and he's able to get people to get together."

Woodland Hills plaintiffs' trial lawyer David Hoffman said Solner is skilled at winnowing the facts to

narrow the focus of a case. He is "an advocate for settlement. ... He tries to get the parties to engage and resolve their differences."

Solner said he does that by telling litigants about the case he had as a trial judge that made him want to switch to hearing settlements. It involved a business that had failed, and the trial lasted four weeks. But the judge found he was compelled to grant a new trial, which ruling was of course appealed.

"It sat there [at the Court of Appeal] for three years because the attorneys kept asking for extensions of time," he said.

Eventually, the appellate court affirmed and remanded the case for a second trial. So, six years after the lawsuit was filed, the attorneys and parties returned to Solner's courtroom. They looked haggard. "I almost didn't recognize them."

"They said, 'Judge, can't we please settle this case?' And we did," he said. "And I thought, that's kind of a better way to be doing this."

Here are some attorneys who have used Solner's services: Martin I. Aarons, Aarons Ward; Eugene S. Alkana, Alkana Law; David M. deRubertis, The deRubertis Law Firm; Nassar Nick Ebrahimian, Lavi & Ebrahimian; Frank Gooch III, Cozen O'Connor; David Hoffman, David Hoffman APC; Theresa A. Kristovich, Kabat Chapman & Ozmer LLP.

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