

Grit and Perseverance

Attorneys say neutral Debra Bogaards doesn't quit early and never gives up

By Shane Nelson

Special to the Daily Journal

ADR Services, Inc. neutral Debra F. Bogaards tackled 37 jury trials during more than four decades as a litigator.

"I found it personally really rewarding, exhilarating and exhausting," Bogaards said with a chuckle. "But when I started seeing from my clients - both plaintiff and defense - that it's so emotionally taxing on them to undergo years of litigation and the risks and the emotional roller coaster of trial, I started seeing how mediation ... was maybe in the better interest of the clients."

A 1981 UC Hastings Law School graduate, Bogaards spent the first half of her career focusing largely on personal injury defense work. She started handling some plaintiffs' work about 20 years ago and decided to transition into private neutral work in 2019.

"I went to Harvard for an advanced mediation course, and what I got out of that truly was grit and perseverance," Bogaards recalled. "Those are two qualities that really helped me in difficult mediations. Whether it's challenging because it's multi-party and apportionment is an issue or there's a complex liability set of facts - you need that grit and perseverance to see it through."

Bogaards joined the ADR Services, Inc. panel of private neutrals in January. She handles cases as an arbitrator and mediator, working regularly to resolve personal injury and employment disputes along with sexual abuse, elder abuse, medical malpractice, toxic tort, real estate and landlord-tenant matters.



Gary Wagner / Special to the Daily Journal

Bogaards noted that many of her arbitrations involve underinsured motorist (UIM) claims.

"As an arbitrator, I like to be thoughtful and fair-minded," she said. "And in the UIM arbitrations, for example, it really comes down to understanding the facts of the accident and the liability situation."

Before her mediations, Bogaards said she likes to receive briefs from all the parties, carefully review all the pertinent documents and speak over the phone with counsel.

San Francisco plaintiffs' attorney Waukeen Q. McCoy used Bogaards recently to resolve a multi-party employment dispute involving discrimination, sexual harassment and hostile work environment claims.

He said he valued the extensive work the neutral put in before the mediation.

"She's going to have read everything, she'll know the issues, and she's going to do a pre-conference meeting beforehand, so she knows where you're at," McCoy said. "And I just think that's very, very helpful because it cuts out time at the mediation. ... And a lot of mediators just don't do that."

Bogaards said that her time representing both defendants and plaintiffs as a litigator helps her to build rapport in both rooms early on in her mediations.

"I start off with active listening, which involves asking and following up with good questions ... and

Debra F. Bogaards

ADR Services, Inc.
San Francisco

Areas Of Specialty:

Personal Injury
Landlord/Tenant
Product Liability
Employment
Sexual Abuse
Insurance

try to bond with the parties, earn their trust,” she explained. “As a mediator, you have to understand the plaintiff’s story.

And you have to have an ability to understand complicated issues - perhaps of liability, indemnity, coverage issues or allocation between multiple defendants. So, listening goes on in the defense room as well.”

McCoy said Bogaards’ personable and friendly approach went a long way with his clients.

“She really got to know them during that short amount of time, and I just felt they liked her,” he recalled. “She really put them at ease in order to get to a position where I could settle the case.”

Bogaards said connecting with the parties in both rooms and doing her best to put them at ease early on is crucial later in the day.

“I make them feel comfortable first, and then I’m able to go in and point out risks and weaknesses without undermining their counsel’s authority,” Bogaards explained. “I’ll start off with being warm and friendly and likable and needing to

understand their case. And then I’ll flow into discussing those strengths and weaknesses.

Then near the end, I might get a little bit more firm and assertive, so that I can get the case done.”

San Francisco defense attorney Allan J. Gomes has used Bogaards to settle five different employment disputes, and he described her as a smart and tenacious mediator.

“Debra has been on both sides of the fence,” Gomes said, “and she really uses that knowledge of having been a plaintiffs’ attorney and a defense attorney to help get things done.”

Gomes also said Bogaards’ perseverance sets her apart.

“My least favorite thing is the mediator who suddenly - when it’s getting close to 5 o’clock - changes the pace, the tone because they want to be done. That’s not what Debra does,” Gomes said. “Whether she gets her case done in four hours or 10 hours, she is going to keep going until it’s done. ... The gear doesn’t shift. She doesn’t give up.”

San Francisco plaintiffs’ attorney

Miles B. Cooper has used Bogaards to settle half a dozen personal injury cases, and he agreed that the ADR Services, Inc. neutral doesn’t give up on unresolved disputes.

“She just keeps calling, keeps texting, keeps following up,” Cooper said. “And that’s why all of our cases that she’s handled have resolved. ... And one of them took a couple months. We had to do some follow-up stuff in order for each side to figure out some issues, but she did not let it go and ultimately resolved the case.”

Like McCoy, Cooper was also quick to praise the work Bogaards does before a mediation.

“The level of detail that she puts into making sure everyone is there, everyone has the stuff done they need to in terms of making the right decisions - she’s already dug into this, so you’re not showing up wasting a day with everyone getting there and finding out, ‘Wait we need a coverage opinion,’” Cooper explained. “Just right off the bat that puts her shoulders above 80% of the mediators out there.”

Bogaards said her decision to move away from litigating on behalf of clients and to refocus on assisting people with resolution has been gratifying.

“The mediation process for me is rewarding because I get to help people with closure,” she said. “The tragedies that occurred or the dramatic accident and their profound injuries - those will remain, but they can at least let go of the emotional roller coaster of litigation and be done with lawyers for a while. ... I do feel that mediation is a very humane process, which allows them to get that closure validation for all that they have gone through and then to be able to move on.”

Here are some attorneys who have used Bogaards’ services: Allan J. Gomes, Anderies & Gomes LLP; Waukeen Q. McCoy, McCoy Law Firm; Miles B. Cooper, Coopers LLP; Ian A. Schaeffer, McNamara Law Firm; Anna Dubrovsky, Anna Dubrovsky Law Group Inc.

news@dailyjournal.com