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## Personal Touch

**Managers at Santa Ana-based Judicate West speak with each client and recommend who among their 125 mediators and arbitrators they believe is best suited for the case.**

**By Melissa Onstad**

He closed down his civil litigation practice. He set up shop in Santa Barbara as an independent provider of alternative dispute resolution services. And the business rolled in - as it is apt to do for attorneys and judges who make the leap to practicing ADR - for two solid years. Attorney mediator Kevin McIvers was on his own.

"I had my own secretary and my own staff and I paid my own rent and did everything on my own and it was fine," McIvers says.

That is, until he met Heather Reed in 1998.

Reed, case manager with Santa Ana-based ADR provider Judicate West Inc., changed McIvers' entire approach to his practice. She was working to establish a Santa Barbara office for the company, which had offices in Pasadena and Glendale but wanted to expand its reach farther north. She sought out McIvers based on his reputation in the central coast region.

By early 1999, Reed was able to persuade McIvers, who had been content with his self-managed practice, to close his office and let Judicate West bring in his clients and handle administrative matters.

McIvers is quick to praise the company which, by his account, improved on perfection. "I was just so impressed with Judicate West, and with Heather in particular, that I decided to hand over my practice and get exclusive with them," McIvers says.

The McIvers success story takes place against the backdrop of a small company. Judicate West has only four offices, located in Santa Ana, Century City, Pasadena and Santa Barbara. Its panel of 125 neutrals is coordinated by a modest staff of 12.

McIvers' story, which largely revolves around his satisfaction with an individual case manager, exemplifies a personable approach that seems to work for the company. The company, which handles between 250 and 300 cases a month, opened a Century City office in March after repeated requests from clients and neutrals.

McIvers and staff members at Judicate West attribute the company's success to its California focus, the strong role of its case managers, and its way of doing business on "a handshake and a smile," as McIvers puts it.

"They're not stuffy and pretentious," he says, comparing the company to larger ADR providers. "They're down to earth folks."

McIvers says he especially likes the fact that Judicate West doesn't form exclusive contracts with its neutrals. Although it is not the only provider to use a no-contract referral system, Judicate West is quick to distinguish itself from those who do, claiming numerous advantages.

Unlike a few larger providers like JAMS, the company doesn't require the neutral to work only with clients it brings in, nor does it promise to bring the panelist a certain number of cases a month. Instead, a grand total of four case managers who are acquainted with each panelist's particular strengths act as matchmakers between panelist and client, making suggestions rather than proclamations.

Case manager Rosemarie Chuisano, who doubles as director of marketing when she can find a moment to spare in the bustle of "making sure everyone ends up in the right room with the right person" is one such matchmaker. Neither an attorney nor a panelist, she is the woman who brings panelists, attorneys and clients together - but she is quick to explain that the case manager acts in a consulting, rather than just a scheduling, role.

Chuisano's story provides another insight into the character of Judicate West, which she has been with for over nine years. When Chuisano began her employment, the New York-based company operated on a national level as Judicate Inc. It was struggling to set up an office in California.

The office was floundering for a number of reasons, according to Chuisano.

"You really can't run a California office from 3,000 miles away," she says. "It just didn't work. You have

insiders in California who are running the company a certain way, and then you have investors who are sitting on the board in New York and they have their own ideas about how to run a California company. It was tearing us apart in California."

So the California office broke off in 1993, was bought by two of the original owners from New York, and renamed itself Judicate West.

Cutting loose from the large corporation was exactly what Judicate West needed, Chuisano says.

"I had come out thinking I was only going to be out here a few months, and then all this stuff happened and a year later I decided to stay," Chuisano says.

Now, splitting her time between the new Century City office and the Santa Ana headquarters, Chuisano is responsible for knowing the ins and outs of all 200 panelists' practice areas and strengths, conducting and compiling reference information based on rigorous customer service surveys and informal phone chats, dispelling parties' fears that they will end up with a biased mediator or arbitrator and doing some of the paper-shuffling that comes with the work.

"Right now I am wearing a lot of hats," she laughs. "The work I do now is definitely more hands-on. As case managers we know the panelists very well, and we have our hands on the daily dynamics of the business."

A typical call might come from a client who needs a mediator for an employment law dispute that has 500 plaintiffs and could be a class action. On a recent Friday, Chuisano says, an attorney called her with a sensitive request: He was defending a company in a case against a high-profile litigant.

"He said to me, 'I need a mediator who has business contracting experience dealing with high-profile litigants where confidentiality is huge. So who do you have?' I had three panelists in mind right away," she says.

So Chuisano sent profiles of the mediators to the attorney, who suggested them to the plaintiff's attorneys. Reluctant to accept a mediator chosen by the defense, the plaintiff asked for more information. Chuisano was able to provide a reference list of attorneys who had used that mediator in the past. After a few phone calls, the plaintiff was satisfied and the case went forward the following Monday.

"It's almost like we case managers are mediators. I do consider us to be mediators because we create a buffer between parties seeking a mediator or arbitrator. We take away some of their skepticism about the neutrality of the process," Chuisano explains.

But according to some sources, the absence of exclusive contracts between panelist and provider is the most convincing evidence of neutrality from a client's perspective.

John C. Adams, a plaintiffs' attorney with Hunt & Adams in Santa Ana, explains that ADR providers who promise their panelists a certain amount of business have been known to form compromising relationships with insurance companies and other big businesses, which bring in a steady flow of cases. Adams, who represents plaintiffs in personal injury, wrongful death and product liability litigation, among others, is particularly sensitive to this tendency.

"Big ADR providers cater to business interests and you start to think, 'Well, I wonder who they're going to be leaning towards?'" Adams, says, describing what he calls "a plaintiffs' lawyer's worst nightmare."

"That's not justice, it's just avoiding justice," he adds. "It's a real pet peeve of mine."

He declined to name specific providers, however. And JAMS' vice president of marketing and communications, Deana Kardel, argues that maintaining formal arrangements with its arbitrators is beneficial, not harmful, to everyone involved.

"Exclusivity offers JAMS the opportunity to ensure that the quality of our services is consistent across the county," Kardel says, citing the increased advantages of selectivity and carefully supervised training and mentoring. JAMS implements a mentoring program each time it brings on a new panelist.

Some attorneys seeking mediators for their cases also fear that an ADR provider will be more interested in routing cases toward contracted neutrals than in making a good match. Chuisano claims - and Adams concurs - that the Judicate West way of doing things eliminates that tendency.

"If I know I have to fulfill a contract with Judge A to get him 25 cases a month and I haven't hit that quota, I'm going to feel compelled to push that panelist," she says. "But the company is structured so case managers don't have to push for anybody, we only suggest and promote the people who are right for certain cases."

Of course, Kardel points out that even at JAMS, disputants choose a neutral themselves, after receiving biographies and other information from a JAMS representative. Clients are not forced to deal with certain neutrals.

In any case, the no-contract approach adopted by providers like Judicate West appears to satisfy even the most cautious plaintiffs' attorney.

"They will talk with you relatively candidly about which of their panelists is qualified for the type of case you're looking for," Adams says.

"Some providers are just trying to push whoever's open. I definitely get more objectivity with Judicate

West, and when I call them up it's not like they just assign me someone - we have a dialogue," he explains.

McIvers says he feels that his clients get "the straight skinny" when they are referred to him through Judicate West.

"I know from my clients that they're very straight shooters," he says. "If someone calls up and asks if I'm a good candidate for the case they'll tell the truth - even when the truth might be that I don't have very much experience in that particular area."

And McIvers isn't alone, according to Chuisano. "We are very fortunate and very lucky to have several panelists who are loyal to us, but the reason for that is their own. We take care of their administration and give them a constant flow of business so there's no reason to go elsewhere," Chuisano says.

Adams, however, points out that what really impresses him is an ADR provider whose neutrals have a reputation for making decisions "on both sides of the fence."

"I'm not trying to stack the deck, but I don't want it stacked against me. The crucial thing is an arbitrator who is truly independent. I've seen Judicate West arbitrators make pretty gutsy awards, and I've seen it go both ways," he says.

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