

VERDICTS & SETTLEMENTS

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It's Personal

Judicate West neutral Troy Roe believes meaningful connection is critical to dispute resolution.

By Shane Nelson

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Troy D. Roe's first job after law school was at an insurance defense firm, where he handled personal injury cases.

"I found out quickly that wasn't my cup of tea," Roe said. "It wasn't personal enough for me."

The 1976 graduate of Pepperdine University School of Law spent 23 years as a personal injury litigator, and while he started out on the defense side, Roe went on to represent plaintiffs for the bulk of his career as a lawyer.

"When you're doing defense work, you're reporting to the monolithic insurance carrier, and oftentimes a revolving door of adjusters. You might not have the same person on the file from start to finish," Roe recalled. "They ran a business, and they didn't have any personal connection to me. Whereas once I started representing plaintiffs, that is 100% personal. You have to be there for calls. You have to be there if they want to come in and see what we're doing. ... It's very personal, and it's exactly what I wanted."

Roe started working as a full-time private neutral in 1999, striking out on his own before eventually joining Judicate West, and while he handled some arbitrations early on, Roe has focused primarily on mediation over the past two decades. Roe noted that the intensely personal nature of mediation is a big part of what makes the work so fulfilling.

"When I introduce myself to the client, I try to make sure the client understands I'm there for him or her, and we'll do everything pos-



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sible to resolve the case," Roe explained. "I also want them to understand I'm neutral. I'm not picking sides. I'm just trying to get a fair outcome for everyone. And I really want that connection. I want them to come out of the process saying that I not only settled the case, but I heard them. I heard what both sides had to say, and I heard what their issues were."

Most of the disputes Roe works to resolve these days involve personal injury in some way, but he also tackles employment cases as well as medical and legal malprac-

tice matters. He likes to receive briefs beforehand and will make phone calls to attorneys if he has a question, but he noted that's somewhat rare.

Early on as a mediator, Roe said he made use of joint sessions frequently, but he rarely employs that approach now — and typically only in situations where he brings the attorneys for both sides together to discuss a legal issue. Roe added that about 85% of the mediations he's now conducting take place over Zoom, but he is handling an increasing number of disputes in person.

Troy D. Roe

Judicate West
Orange County

Areas of Specialty:

Personal Injury
Employment
Medical
Malpractice

“There is an ever so slight lack of closeness that happens when you’re on a camera in a screen that I miss,” Roe said. “I always liked being able to be a people person, and some of that Zoom stuff just takes a little of that away — although not significantly. But I do always tell lawyers, ‘If you have a tough client, or a tough claims person, come in live because we can do a lot more one on one with them rather than in a box on a screen.’ I’m happy to see them live again, and those problem cases are starting to come in more live now than on Zoom.”

Roe said he always tries to begin mediations with a facilitative approach, often guiding parties through a process that he said resembles a zipper.

“Make a demand; make an offer. ... There is the movement of each side toward the other, but that never settles the case,” he explained. “You can’t just continue with offer, demand, offer, demand. Sooner or later, the gap is going to be real.”

And when the timing is right, Roe said he’s not afraid to step into a more evaluative role.

“I think most people use me because I am willing to make that shift,” he explained. “Some media-

tors will not evaluate. They won’t let their own thoughts and opinions weigh into a case. I don’t have a problem with that.”

Roe was quick to note, however, that he does not use mediator’s proposals.

“Once you’re identified as someone who will do a mediator’s proposal, you become that person,” he explained. “And [the parties] won’t settle. They’ll hold back on their positions because they know I’m the guy who gives mediator’s proposals. ... I don’t settle any fewer cases than my colleagues, and I don’t use mediator’s proposals. I just don’t like them.”

Costa Mesa defense attorney Esther P. Holm said she’s been using Roe for 20 years to settle high exposure, personal injury disputes, and she described him as the first mediator she thinks of for difficult cases with many moving parts.

“Troy really listens. He doesn’t come in with his own preconceived agenda of what should happen,” Holm said. “He’s excellent at reading the personalities in the room, and his demeanor is such that he’ll make you feel comfortable, he’ll make your clients feel comfortable, and you feel like you

can trust him. ... And he’ll tell you what he thinks and give you advice on what he thinks are appropriate moves.”

Riverside plaintiffs’ attorney Greg G. Rizio said he’s also had terrific success using Roe to resolve some difficult personal injury cases.

“Troy tends to see the hurdles to settlement that many others would not,” Rizio said. “And he’s very good at coalition building in every room that he’s in. ... He very much can see how to cut through the red tape of the settlement to make everyone understand why what he’s puzzling together is in everybody’s best interest. Troy has a real gift for that.”

Long Beach defense attorney Jeffrey S. Behar said he’s used Roe to settle several catastrophic personal injury cases, and described the neutral as “the master of mediation.”

“In our business, you have to have knowledge of both coverage issues and liability issues and the value of injuries and damages,” Behar explained. “And he is well versed and well schooled in all of those aspects, and that’s what makes him such an effective mediator.”

Behar also said Roe’s background as a plaintiffs’ attorney is a major

positive, providing the mediator with invaluable first hand experience with case evaluation.

“Troy’s not afraid to tell you the weaknesses of your case,” Behar said. “I go in, and I present the defense in a compelling fashion, and oftentimes, he comes back and says, ‘I have trouble with two or three of your points, and this is where you’re vulnerable, and this is why the case should be worth more money than you’ve evaluated.’ He takes adverse positions to both sides in his attempt to resolve the dispute, and he does it with finesse. He’s diplomatic, but he makes firm statements, and he doesn’t play favorites. He calls them as he sees them right down the middle.”

Here are some attorneys who have used Roe’s services: Esther P. Holm, Lewis Brisbois Bisgaard & Smith LLP; Jeffrey S. Behar, Ford, Walker, Haggerty & Behar, LLP; Gregory G. Rizio, Rizio Lipinsky; Robert A. Morgenstern, Morgenstern Law Group; Spencer Lucas, Panish, Shea, Boyle, Ravipudi LLP.

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