

VERDICTS & SETTLEMENTS

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A Helpful Head Start

Mediator doesn't sugarcoat what parties need to know to make progress toward settlement.

By Shane Nelson

Special to the Daily Journal

After more than 30 years as a trial attorney, Michelle A. Reinglass knew it was time for a change.

"Litigation can be pretty toxic," she said. "And I no longer wanted to be that fighter person. I wanted to be more of a helper."

Reinglass joined Judicate West's roster of full time private neutrals in 2010, and today, she exclusively handles mediations, focusing frequently on employment disputes.

"The majority of those are fair employment and housing cases, so it'll be discrimination, sexual harassment. I do a lot of sexual abuse cases," she explained. "But I do all the other kinds of employment — PAGA, wage and hour. It could be defamation cases. It can be whatever happens in the workplace."

A 1979 graduate of Western State College of Law, Reinglass spent the bulk of her career litigating employment matters, a practice area she's always found captivating.

"I absolutely love employment law," she explained. "It's just all about people's humanity. It's all the stuff we are, all the stuff we aren't, all the stuff we do, our behavior. And all of that stuff all bunched up shows up in our cases. What could be more fascinating than that?"

Before her mediations, Reinglass likes to receive briefs from all the parties and speak over the phone with attorneys. She also asks defense lawyers to send a draft settlement agreement beforehand to her and the opposition's attorneys. Reinglass said she started insisting on that step after a lengthy mediation that got ugly late one evening years ago.



Thomas Kurtz / Special to the Daily Journal

"It took one night of F-bombs when everybody was angry and throwing daggers at each other at probably 9:30 or 10:00 at night," she recalled. "They were fighting over the settlement agreement that nobody bothered to draft until everybody was tired and cranky, and I just said, 'That's it. I'm done,' and I started insisting."

Reinglass noted that just about all of the attorneys she works with will typically participate in her pre-mediation approach to completing a draft settlement agreement.

"I have about a 98.5%, 99% compliance rate of people actually sending the settlement agreements out, doing what I asked them to do," she

said. "Then the plaintiff responds and sends back their changes. Most of the time, we start the mediation already with a settlement agreement. It just doesn't have an amount." Creating an environment early on the day of mediation in which clients feel comfortable and confident about telling their side of the story is also an important initial objective for Reinglass.

"You are kind of in charge of people's emotions," she said of her role as a mediator. "We can actually contribute to the good emotions, and we can contribute to the bad emotions on that day."

Anaheim plaintiffs' attorney Karina Godoy has used Reinglass to resolve

Michelle A. Reinglass

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more than 10 employment disputes, and said the mediator is terrific with clients.

“One of the things that really sets Michelle apart from other neutrals is she understands the human components we may not be able to put down on paper,” Godoy said. “And I think her ability to cut through those things and connect on a human level really helps her resolve cases.” Irvine plaintiffs’ attorney Ali I. Bushra has used Reinglass to settle four employment cases, and he agreed that she’s great with clients.

“Michelle always makes it so they’re very comfortable sharing their story, so that they really feel like they’re having their voice heard, and they’re having an opportunity to really flesh out their case,” Bushra said. “And I think as a lawyer, that makes us feel like we’re in good hands as well because that’s the kind of experience we want mediation to be like for our clients.”

Bushra noted, however, that Reinglass isn’t afraid to share her

opinions about the details of a dispute.

“She does a good job not sugarcoating the worst aspects of your case,” Bushra explained. “She’ll even press our clients on that, and I think that’s necessary as well because you don’t just want a mediator who comes in and kind of babies your client the whole time. I think she does such a great job balancing the creation of that environment of comfort while also not sugarcoating the facts you need to hear to get across the finish line — facts that your client needs to hear and also the other side needs to hear to really feel assured they’re reaching a fair outcome for the case.”

Irvine defense attorney Ron S. Brand said he’s used Reinglass to resolve some difficult sexual harassment matters, among other employment disputes.

“I find her to be very fair, objective and no-nonsense,” Brand said. “I think she tells it like it is to both sides, and both sides need to hear

that to get a case settled.” Brand also noted that Reinglass’ background representing plaintiffs in employment matters is an important attribute.

“When she tells a plaintiffs’ attorney that the case is a bad one for the plaintiff, I think plaintiffs put a lot more credence in that because they know she was a plaintiffs’ employment attorney for many years,” Brand said. “And I think she is particularly adept for cases that are emotionally charged, such as sexual harassment matters. ... I think she has a lot of credibility with plaintiffs’ attorneys and female plaintiffs in those types of situations.”

Godoy agreed that Reinglass performs particularly well when working to resolve complicated disputes involving sexual harassment claims.

“Michelle is really great at being empathetic to the clients and their situations and understanding — even if she’s never been in their position or had their job — how close people put their jobs to their

identities,” Godoy said. “And I think that’s really helpful with plaintiffs to disarm them and put them at ease and help them to be more accepting of the process.” Reinglass noted, meanwhile, that an empathetic and understanding approach isn’t only important when working with the plaintiffs in an employment dispute. “Sometimes, it’s on the defense side,” Reinglass explained. “Human resource people who may have never done a mediation before but often contributed to the reason why we have a lawsuit — they did X or they terminated someone. They’ve got emotions, too.”

Here are some attorneys who have used Reinglass’ services: Ali I. Bushra, The Bushra Law Firm; Ron S. Brand, Kahana & Feld LLP; Karina Godoy, JML Law; James J. McDonald, Fisher & Phillips LLP; Jennifer N. Lutz, Pettit Kohn Ingrassia Lutz & Dolin.

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