

Michael D. Young

Unlike many litigators, Michael D. Young always leaned toward mediation, and planned his career accordingly.

By Susan McRae

LOS ANGELES - Michael D. Young decided 15 years ago to become a full-time mediator.

He finally did it last month.

"I was just waiting for the timing to be right," Young said, "and the timing was right this year."

His two sons are now in college and graduate school, he said, and at 51, he's still young and energetic enough to enjoy a second career.

But although Young joined Judicate West in March as a full-time neutral, he's no novice in the profession. He's been affiliated with the provider for five years, and since 1989 had divided his time at his former law firm between litigation and mediation.

"I saw that my development as a litigator went hand in hand with my development as a mediator," he said. "Since I knew at some point I would be a full-time mediator, I used all that litigation time to build and gather tools that I can use now."

As a litigator, Young said he often employed the services of a mediator and would take the opportunity to observe the process from a neutral's perspective. It helped him get a sense of what worked and what to avoid when he conducted his own mediations. He also was learning what motivates lawyers, their clients and the judges.

At the same time, Young was honing his trial skills and his specialties of intellectual property, employment law and complex business litigation.

"So understanding what's going to happen if the case doesn't settle, being able to talk to the parties about exploring taking this offer on the table versus choosing not to, and then walking ourselves through the litigation process to trial, I can speak to that with some actual experience," Young said.

Throughout the years, that experience and attention to detail has paid off.

Mark B. Frazier, a business litigator at Rutan & Tucker LLP, recently retained Young as a mediator after combing the lists of neutral providers for someone with experience in employment law and trade secrets.

"I usually retain retired judges, but because he had the skill sets in both areas, I went in a different direction," Frazier said. "He helped the parties focus on the economics of litigation versus settlement and to see a different path."



Susan McRae / Daily Journal
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The case resolved after a full day of mediation. "What I think stands out about Mike is he never gives up," said William S. Waldo, a trial lawyer with the Bononi Law Group LLP who's had four employment-related mediations before Young in the past several years.

Waldo said he initially chose Young from the federal court's pro bono panel of mediators, without any expectations that the parties were serious about settling.

"I picked him out just to go through the motions to get a trial date," Waldo said. "He shows up, gets the parties to mediate and settles the case."

"Now he's on the list of mediators that I use and suggest to opposing counsel."

Young was born in Barre, Italy, where his father, an anatomy professor at UCLA School of Medicine, was on sabbatical. He grew up in West Los Angeles and Santa Barbara. The second of four children, he said he went to law school because it looked like fun, but that he never planned on being a lawyer.

Then in 1985, during his third year at USC Gould School of Law, Young said he was challenged by something his professor said about litigation not always being the best way to settle problems. But as the professor was retiring, Young said he told the class he would leave it to the next generation to figure out a solution.

Three years later, in Young's second job out of law school, he conducted his first mediation and realized it could be a solution to the problems his professor posed.

From then on, Young, who was working at what was then Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP (later merged into Alston & Bird LLP), developed a dual specialty in litigation and mediation. The mediations involved cases outside the firm and were vetted by the partners for conflict.

Young spent the next 23 years at the firm as a trial attorney and founder and longtime chairman of its Neutral Services Department. He also spent a decade teaching negotiation and mediation at USC Gould School of Law.

At Judicate West, where Young conducts both mediations and arbitrations, he said he particularly enjoys discovering what's really driving a dispute - something one is unable to do in court. Often the underlying cause isn't listed in the complaint, but if the case lands before Young in mediation, where he is able to probe the parties, it frequently surfaces.

Sometimes the impasse may involve a spouse, or it might hinge on a religious matter. Young tries to ferret out the root cause and, if possible, bring those people or issues into the discussion.

"One of the beauties of mediation is you can settle a case any way you want," Young said. "It's as open as your imagination."

In employment cases, he said, a person who is suing over being fired may agree to resolve the dispute by having the employer rehire him or her as an unpaid consultant, making it easier for them to find another job.

"I settled one case where Party A gave a truck to Party B - and the case had nothing to do with trucks," Young said. "This guy had a truck. The other guy wanted a truck. So I said, 'Let's give you a truck.'"

"You could never do that in trial."

Still, Young believes trials are a necessary part of the system because they're needed for setting precedent in public policy matters. They also force people to bring their conflicts to resolution, he said, but they're not always a true reflection of what happened.

In litigation, he said, you put forward the best story you can with the witnesses and evidence you have. So the jury listens to two sides of a play and chooses a winner.

Mediation, he said, provides another way.

"Most parties and lawyers come in thinking money," Young said. "You never get money out of it - even with the truck, there also was money involved."

"But one thing I can do for them is to get them thinking about other things, and thinking differently."

Here some lawyers who have used Young's services: Mark B. Frazier, Rutan & Tucker LLP, Orange County; William S. Waldo, Bononi Law Group LLP, Los Angeles; Mitchell N. Reinis, Silver & Freedman, Los Angeles; Steven A. Groode, Littler & Mendelson PC, Los Angeles; David R. Pettit, National Resources Defense Council, Santa Monica; Christopher C. McNatt Jr., Scopelitis, Garvin, Light, Hanson & Feary PC, Pasadena