

LAW DAY 2021 – A CELEBRATION OF THE LAW AND LAWYERS

As the Presiding Justice of the Fourth District Court of Appeal, Division 2, in Riverside, I come into contact with the men and women of our legal community – judges, prosecutors, public defenders, civil law and government lawyers and lawyers who work for public agencies – who work daily to enforce the laws and constitutions of our state and federal governments.

These dedicated and hard-working men and women work tirelessly to improve and promote our administration of justice system. I congratulate the men and women of our profession for their continued commitment and vigilance in protecting and promoting our system of laws throughout the United States.

We take for granted the principle that we should be governed by law rather than by rulers. Even the highest elected officials in our country are themselves limited by state and federal constitutions, which express our most precious and deeply held beliefs about representational democracy limited so as not to infringe on individual rights and liberty.

Implementation of government by law requires not only an informed and responsible citizenry, but also people who have the skills needed to create, administer and enforce the law. These individuals include many professions, ranging from law enforcement officers to legislators, but more prominently, lawyers. From elected and appointed executives to judges and governmental attorneys and private practitioners, it is the lawyers who carry the greatest responsibility for making the rule of law work. The blessings of liberty and order this nation enjoy are the result, in large part, to the administration of the rule of law by the great majority of this country's lawyers, who honestly, diligently, intelligently and compassionately practice their profession.

Here at the Court of Appeal, we have a number of very special lawyers who volunteer one hundred percent of their time and services as mediators in our Court's settlement conference program. More importantly, not only do they donate their time and services to our Court, but ultimately, to the taxpayers of this state as well.

When I was appointed by Gov. George Deukmejian in December 1990, as the Presiding Justice of this Court, I noted a record number of notices of appeal being filed

in 1988, 1989 and 1990. In addition to this, there was a significant and increasing backlog of civil, criminal and juvenile cases, some as old as five years, which were sitting on shelves waiting for an opinion to be written.

In February, 1991, I approached Ken Glube and Kurt Seidler, who, at the time, were the presidents of the San Bernardino and Riverside County Bar Associations, respectively, and requested their input and assistance regarding the formulation and implementation of a volunteer attorney settlement conference program as a response to this Court's growing backlog problem. Thereafter, approximately 61 experienced and respected civil attorneys from San Bernardino and Riverside counties were selected to act as volunteer mediators.

The project commenced in June 1991, and settlement conferences were conducted in September, October and November. During that time, each volunteer attorney mediator assigned to a case was matched according to his or her expertise with appeals that had settlement potential. Prior to the settlement conference, the volunteer mediators reviewed confidential Settlement Conference Information Forms and Settlement Conference Statements filed by the parties. In addition to preparation time, these individuals spent an average of four to eight hours attempting to reach a resolution in the matter.

Since its beginning, our all-volunteer attorney mediation program has grown considerably. Through the years, 155 attorneys have served our Court, along with a number of retired superior court judges and appellate court justices. Between 1991 and 2020, this Court has resolved and settled in excess of 1400 cases by way of volunteer attorney mediation, resulting in an astonishing settlement rate of close to 45 percent. When added to the hard work of the opinion writing Justices and Court attorneys, we join our state-wide colleagues as a most productive and efficient Court of Appeal in California.

When assessing the value and/or success of our Court's settlement conference program, one major element must be considered; that is, the savings it creates in both time and money. First, is the savings to the taxpayers of this state. When a case settles in our Court's settlement conference program, there is no need for an opinion to be written or the case to be heard at oral argument, thus saving the state money in the

use of both court personnel and resources. Secondly, the program saves the litigants in settled cases the incalculable delay and additional costs of pursuing an appeal, which include the submission of briefs, orally arguing the appeal; and in some cases, preparation of post-appeal petitions which can result in further state/or federal review, and in further trial court proceedings when appeals result in reversals. Third, and equally important, is the savings when it comes to settlement amounts. As everyone is aware, reaching a settlement always results in the parties having to compromise; no one walks away with 100 percent of the desired amount. Amounts on both sides are often reduced in order to accomplish a complete and final resolution of the matter; again, thus resulting in a substantial monetary savings.

While it is difficult, if not impossible, to calculate a specific amount of savings that our settlement conference program has created over these many years, when the three elements stated above are combined, it would be reasonable to say that the savings is in the hundreds of millions of dollars. And to whom go the accolades for such an accomplishment – to our most dedicated and committed volunteer attorney mediators.

In continued recognition of our program, I want to acknowledge the encouragement and support of retired Associate Justice Thomas E. Hollenhorst and retired Managing Attorney Donald Davio for not only their assistance in implementing this program many years ago, but also for their continued help and involvement in sustaining it. Their impact on our settlement conference program continues to be realized even in their retirement. While their absence is keenly felt, our present Settlement Conference Administrator, Jacqueline Hoar, has continued to lead and administer the program with efficiency and professionalism, and I applaud her for her dedication and commitment to the program.

The volunteer attorney mediators, retired Superior Court judges and Appellate Court Justices, past and present, are to be acknowledged, saluted and congratulated for the vital role they have played in the success of this unique and innovative program. This program is the only appellate court mediation program in the State of California and perhaps, the entire county, that is not only one hundred percent volunteer attorney mediators, but which can celebrate a long-standing history of 30 years.

I am reminded of the words spoken during a July 1850 law lecture by then-lawyer Abraham Lincoln. In his lecture to a group of lawyers regarding their duties and responsibilities, as a profession, he said: “Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser – in fees, expenses and waste of time. As a peacemaker, the lawyer has a superior opportunity of being a good man. There will still be business enough.”

In the Inland Empire, we are fortunate to have volunteer attorney mediators dedicated to the ideal of the law and who duly work to “persuade neighbors to compromise,” so there will be no losers, only winners. For the past 30 years, 1991 to the present, our volunteer attorney mediators have served as “peacemakers” on behalf of the Court of Appeal and the citizens of this state. For that, I am sincerely grateful, and I applaud them for their efforts, participation and dedication.

In closing, with great respect and admiration, I acknowledge the following volunteer attorney mediators (both past and present). Sadly, many will be recognized posthumously. Ward Albert; Marlene Allen Murray; Robert Andersen; Richard Anderson; Donna Bader; Roland Bainer; Cari Baum; Steven Becker; Michael Bell; John Belton; Hon. Marvin Ross Bigelow; Hon. Andre Birotte; Caywood Borrer; David Bowker; John Boyd, Terry Bridges, Harry Brown; Don Brown; Raymond Brown; George Bruggeman, Jr.; William Brunick; Christian Buckley; Warren Camp; Leigh Chandler; Robert Chandler; Timothy Coates; Hon. Carol Codrington; Hon. Stephen Cunnison; Mary Ellen Daniels; Darryl Darden; Robert Deller; William DeWolfe; James Dilworth; Ben Eilenberg; Hon. Douglas Elwell; Lloyd Felver; Edward Fernandez; Hon. Richard T. Fields; Thomas Flaherty; Joyce Fleming; Michael Fortino; Victor Gables; Hon. Frank Gafkowski, Jr.; Raymond Gail; Florentino Garza; Lawrence Gassner; Hon Barton Gaut; Alfred Gerisch, Jr.; Debra Gervais; Kevin Gillespie, Elizabeth Shafrack Glasser; Howard Golds; Michael Goldware; Richard Granowitz; Donald Grant; Jordan Gray; Hollis Hartley; Donald Haslam; James O. Heiting; Ralph Hekman; Denah Hoard; Walter Hogan, Hon. Dallas Scott Holmes, J.E. Holmes III; Brian Holohan; Simon Housman; Hon. Thomas Hudspeth; Charles Hunt, Jr.; Thomas Jacobson; Muriel Johnson; Albert Johnson, Jr.; James Johnston; Carl Jordon; Barry Kaye; Hon. Jeffrey King; Hon. Kira

Klatchko; Karl Knudson; Lara Krieger; Kary Kump; Rick Lantz; Cyrus Lemmon; Hon. Jean Leonard; Randolph Levin; Richard Lister; Christopher Lockwood; Elliott Luchs; Thomas Ludlow, Jr.; Hon. Cynthia Ludvigsen; Bruce MacLachlan; Donald Magdziasz; Larry Maloney; John Marshall; Ralph Martinez; Justin McCarthy; Robert McCarty, Sr.; Thomas McGrath; Dan McKinney; Thomas McPeters; Greg Middlebrook; Hon. Douglas Miller; Thomas Miller; Barbara Milliken; Christine Mirabel; Stephen Monson; David Moore; Bruce Morgan; Peter Mort; John Nolan; Vincent Nolan; Daniel Olson; Stanley Orrock; Andrew Patterson; Brian Percy; Ann Pelikan; Douglas Phillips; Donald Powell; Jude Powers; Padgett Price; Daniel Reed; D. Brian Reider; Hon. Duke Rouse; Hon. Stephan Saleson; Walter Scarborough; Charles Schoemaker, Jr.; Charles Schultz; Kurt Seidler; William Shapiro; Patricia Short; Hon. Elisabeth Sichel; Neal Singer; Ronald Skipper; Warren Small, Jr.; Ellen Stern; Robert Swortwood; Leighton Tegland; George Theios; James Tierney, III; Bruce Todd; William Ungerman; Brian Unitt; Lucien VanHulle; Scott Van Soye; C. L. Vineyard; Alexandra Ward; Hon. James Ward; Hon. Christopher Warner; Samuel Wasserson; Hon. Sharon Waters; Andrew Westover; Harvey Wimer; Lawrence Winking; Victor Wolf; and Ray Womack.