

Effective Listener

Mediator Susan Feder engages clients directly to get them to shed animosity.

By **Winston Cho**
Daily Journal Staff Writer

SAN FRANCISCO — Susan Feder sees mediation in shades of gray.

“Nothing is black and white,” Feder said. “There’s nuance in all cases. If you come in with too much of a set opinion, you’ll miss the chance to learn from both sides.”

Learning for Feder comes by way of listening, which often means letting clients blow off steam. Lawyers rarely ask clients how they’re doing or what they think of the case, many times to the detriment of their client’s inclusion in the process and ability to recognize progress toward a settlement, she said.

Feder has this dynamic in mind when she sets up the conference room before mediations. She strategically positions herself to sit directly across from clients, making it easier for her to engage with them.

“I can’t overemphasize the fact that she spends a long time listening,” said Christopher Johnson of Maranga Morgenstern, an attorney Feder worked with on a personal injury case. “You feel like a mediator has prejudged your case a lot of the time, and your reaction is to recoil a little bit when that person makes a suggestion. She doesn’t do that.”

In a medical malpractice case between two sets of parents and the doctor who allegedly overprescribed their 28-year-old son opiates, leading to his death, the Judicate West neutral said it was important to abandon preconceived biases.

Feder understood that there were no winners or losers in this case — just victims of circumstance.

“I knew that [the doctor] probably felt terrible and that he needed to be able to defend himself and talk about what he did, too,” Feder said. “I had to acknowledge that he wasn’t the bad guy. He was being put through the ringer, too.”

After she sat down with the doctor, Feder shuttled to the conference room next door to talk to the parents. Sensing their emotional distress, she changed her plan and opened the room up for the parents to share stories and eulogize their son.

“I think I drew less upon my legal knowledge and more upon personal,” Feder said. “I’m a mom. I have three kids. I took time off from my career to



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raise them. The more life experiences you have, the more equipped you can be to put yourself in the shoes of other people.”

But the conversation had a dual purpose: Feder was inspecting the dynamic between the divorced parents and the attorneys. She wanted to see how they related to each other as well as their line of communication. She was reading the room.

The case was settled by the end of the day.

Steven MacDonald of Steven Adair MacDonald & Partners PC, who worked with Feder on a landlord-tenant dispute, said that he’s naturally a talker but understands the value of having a receptive listener as a mediator, especially one that can empathize with a range of people as well as Feder can.

He recalled a case in which a single mother of three daughters was evicted from her apartment. Feder was assigned as the mediator by the Marin County Superior Court.

MacDonald, who represented the tenant, was not optimistic the two groups would reach a settlement, as the landlord firmly believed he did nothing wrong.

Feder recognized an issue that no one at MacDonald’s firm had noticed that ended up resolving the dispute, the attorney said.

“We got a good settlement,” MacDonald said.

Immediately after graduating from UCLA, Feder moved north to attend UC Hastings College of the Law. She

had no idea what she wanted to do in the legal industry then, but she knew she could process a lot of information and emotion and dispense it in a digestible manner.

Feder joined the litigation defense team at Paul Hastings LLP straight out of law school and soon found herself working in corporate business defense at Bank of America Corporation a couple of years later.

After she had the first of her three children, she increasingly started to participate in the school board and nonprofits supporting access to education, primarily in the Youth in Arts Foundation — eventually becoming a board member of both.

It wasn’t long before she found herself dedicating all of her time to her growing family and passion for education, choosing to take time off from her legal career.

Working with Marin County schools, Feder balanced the competing interests between parents, teachers, students and the administration. She said mediating conflicts that naturally arise within schools prepared her for her career in mediation.

Solving these problems made me realize that I was good at dealing with people and that I have a conciliatory ability to get people to understand the other side, and that’s what led me to think mediation might be a good career,” said Feder, who charges \$390 per hour.

As a veteran mediator now, Feder said she’s a sponge.

“I absorb all of this emotion on both

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sides,” Feder said. “If you’re really open when you’re listening and don’t have any biases in your head and come in ready to absorb what the other side has to say, you can hear between the lines.”

Lynn Duryee, a retired Marin County Superior Court judge and currently a mediator at JAMS, said Feder is at her best when she is working cases with a substantial emotional component because she “makes people feel heard and listened to.”

Duryee cited a personal injury case she assigned Feder because one of the parties had a personality disorder and was difficult to work with.

The plaintiff claimed his injury caused a persistent ringing in his ear that substantially hindered his everyday life. The insurance company did not understand the extent to which the injury affected him.

“I remember sticking Susan in a room with him, and she just sat with him and listened to him and was able to get him to invest in the process,” Duryee said. “It was low-key and very, very real. He felt heard because he had his day in court.”

“I think, first, she’s a really good listener,” said Ann Buscho, a clinical psychologist based in San Rafael who worked with Feder on a personal injury case after she was assigned by the court. Feder said she starts with her go-to move when a client feels uneasy: She asked him how he felt about the case.

Buscho said the client relented a little after Feder gave him the floor to give his opinion of the case. The attorneys followed, and they soon made headway toward a settlement.

Feder said settling a case means shedding layers of animosity.

“Mediation can be a healing process,” Feder said. “It can be a forgiving process.”

Here are some attorneys who have used Feder’s mediation services: Paul Matiasic, Matiasic & Johnson LLP; Christopher Johnson, Maranga Morgenstern; Joseph Picchi, Galloway, Lucchese, Everson & Picchi; Bruce Ahnfeldt, Law Office of Bruce Ahnfeldt; Sally Noma, Jang & Associates LLP