



This is the property of the Daily Journal Corporation and fully protected by copyright. It is made available only to Daily Journal subscribers for personal or collaborative purposes and may not be distributed, reproduced, modified, stored or transferred without written permission. Please click "Reprint" to order presentation-ready copies to distribute to clients or use in commercial marketing materials or for permission to post on a website.

William J. Caplan



William J. Caplan

IVAMS Inc.
Costa Mesa

Areas of specialty: Real estate, employment, business contracts and torts, partnerships and fiduciaries, construction defects, contracts and administration

By America Hernandez

COSTA MESA - Bill Caplan's mediator toolbox runs deep.

It starts in the hallway, when attorneys said he'll graciously invite you into his home away from home of 40 years - his office at Rutan & Tucker LLP in Costa Mesa - offers you coffee and tells you about his grandchildren's latest Little League game.

Once the parties settle in, according to attorneys who have used his services several times, Caplan doesn't ask anyone to tell him about the case.

"It was more like, 'Let me tell you about your case, this is what you

seem to be saying and this is what you seem to be saying,'" recalled Donald J. Hamman, founding partner at Stuart Kane LLP in Newport Beach. "He demonstrated a great grasp of the facts right off the bat, and because of his background Bill understands the other motivations at play in disputes, like preserving a relationship with a customer or keeping peace between partners."

After graduating from the UCLA School of Law in 1978 and gaining admittance to the State Bar, Caplan immediately became partner at Caplan & Caplan in Pomona with his older brother Frank.

Six months later, when he realized his brother's idea of partnering was not splitting annual profits down the middle but rather "giving me an office and letting me use one quarter of his secretary and saying good luck," Caplan left to become a business and commercial litigator at Rutan & Tucker. He hasn't left since.

In 2001 Caplan began mediating cases full-time. "It's better suited to my personality," he said of the shift to mediation. He remains of counsel at Rutan & Tucker, but said of his mediation practice, "I'd much rather help someone out of a lawsuit than struggle with them in it."

To that end, Caplan said he has mediated more than 1,000 cases in the last 15 years while obtaining mediation certificates from Harvard Law School and Pepperdine University Straus Institute. He also teaches the skill at Chapman University School of Law in Irvine.

Part of it is being a nice guy and being well-versed in the facts, he said. But he comes to every session armed with case law, jury verdicts of similar cases, and back-of-the-mind calculations of the probabilities of the possible outcomes of a case. It's all to help inject parties with a healthy dose of reality about their likelihood of victory in court.

"He takes copious notes of your argument during the early rounds and has you answer questions that probe the weak points the other side maybe hasn't explored," said civil litigator Mark N. Mazda, who has used Caplan to successfully settle five cases.

Friday, November 20, 2015

SPECIAL REPORT

Entertainment Law

Entertainment Law



U.S. Court of Appeals for the 9th Circuit 9th Circuit rejects gay man's immigration petition

A divided 9th U.S. Circuit Court of Appeals panel ruled Thursday that a gay man who immigrated from Mexico must return there, setting up a likely en banc appeal.

Litigation

Elder abuse suit settles for \$2M

A wrongful death suit settled on the first day of trial for \$2 million. Plaintiff's attorney Ben Yeroushalmi credits his inclusion of the healthcare facility's corporate investors as defendants with getting around the \$250,000 MICRA damages cap.

Class action against LA, Orange, San Bernardino and Riverside Counties impugns inmate telephone charges

Plaintiff's attorneys for the class action against four SoCal counties cited "grossly unfair and excessive" telephone charges for jail inmates as "nothing but money-making schemes."

Autodesk gets rare apology to resolve lawsuit

Lawyers with Morrison & Foerster LLP have scored a settlement for their client, software company Autodesk Inc., in a Northern District trade secrets battle with a Chinese competitor.

Solo and Small Firms

Speaking Their Language

Attorneys with the Law Offices of Scott Warmuth in City of Industry specialize in immigrant clients.

Law Practice

Legal industry gets mixed reviews on diversity and inclusion

The legal industry got mixed reviews on its efforts to increase diversity and inclusion Wednesday.

Litigation

Bill seen as first step to juvenile filing reform

Last month, the state Legislature passed a bill that clarified the criteria under which juveniles could be tried in adult court. The bill has already made its presence felt in juvenile fitness hearings, but proponents hope it will be just the first blow in a larger fight.

Discipline

Disciplinary Actions

"In doing so he exposes you in a very polite way, saying, 'Hey this argument you may think is the sine qua non of the case, and here's three reasons it might not work.'"

Caplan said his rule is to deliver the bad news equally to both sides, but in private to each side.

"He made both sides feel at risk, and he highlighted for each the weaknesses in their respective cases," said Hamman. "There was one mediation where he actually went out and pulled case authority to highlight the weaknesses in my client's argument, and I assume he was doing the same to the other side."

Mazda said he was so confident about Caplan's respect of mediation confidentiality that he has used Caplan's services when Rutan & Tucker was on the other side of the dispute.

Steven R. Young, a trial litigator in Costa Mesa, first met Caplan when an Orange County Superior Court judge ordered Young to attend a mandatory settlement conference on an employment and limited liability company dissolution case. Caplan was the court's mediator pro tem.

"He spent two hours with us before saying, 'If you wish I'll continue this in my office, I can't bill you for it, those are the rules,'" Young recalled. "We ended up going until 11 p.m."

As it would turn out, the case didn't settle, but Young said he came away so impressed with Caplan's ability to patiently handle acrimonious parties and do so much work free of charge in the interest of the case that he immediately hired Caplan to mediate a multimillion dollar family trust and partnership dissolution. That case was resolved in a single sitting.

"I'm never the one to suggest we break and go home," Caplan said. "If they ask me I'll say, 'I'd hate to break the momentum we have going,' or encourage them to not be the ones to leave first and make the mediation fail. My goal is a settlement."

Attorneys agreed Caplan made their short list because of his understanding of the psychological dynamics between parties, and his ability to keep both sides talking to break through impasses and close the gap to reach settlement.

"If there's a deal to be had, he'll get you there," Mazda said.

Mark J. Butler, who has used Caplan a handful of times over the past decade, said he appreciated Caplan's introductory speech about how settlement ensures the parties retain control over the dispute and stop the bleeding in legal fees, as opposed to submitting to the expense and uncertainty of trial.

"He has excellent bedside manner, pushes when people need to be pushed, pulls when they need to be pulled, and uses his own experience in business litigation to try and make the pie bigger so people can get a resolution done," Butler said. "Sometimes when cases settle no one is usually happy with the result, but I'd be shocked if anybody came away with anything bad to say about Bill Caplan, no matter what side."

Hamman agreed, sharing the story of dispute between a property owner and a homeowner's association over the repair of a fence that each side wanted to fix using a different construction material. Caplan found a third type of coating that both sides found mutually acceptable.

In another mediation, Hamman represented a retail shopping center whose tenant defaulted but previously received guarantees from the parent organization. Caplan worked out a non-monetary aspect of the deal that put the parties at ease.

"He's willing to pursue creative negotiations between parties that will do business together again down the line that are different from just money changing hands," Hamman said.

Attorneys praised Caplan's hardworking nature, from making room to meet on a Saturday before a summary judgment motion hearing to working with parties after a compromise is reached to draft an enforceable version on paper.

"He does such a phenomenal job, and because of his business litigation background he knows the civil arena and is able to deal with issues we attorneys have better than mediators who go from the DA's office to the bench," Young said.

Caplan said he relished having a job where he could help people take control of their situation and eliminate risk, uncertainty and worry.

Attorneys recently disciplined by the State Bar

Litigation

Major e-cigarette makers sued under Prop. 65 for allegedly failing to warn the public over toxic chemicals

Oakland-based nonprofit Center for Environmental Health claim products made by R.J. Reynolds Vapor Co. and others contain formaldehyde and acetaldehyde, both carcinogens

Alternative Dispute Resolution

William J. Caplan

IVAMS Inc. Costa Mesa

Intellectual Property

When is a car more than a car, Batman?

If Bruce Wayne tried to buy a replica Batmobile, he might just hear the *SLAP!* of a lawsuit for copyright infringement. By **Stephen M. Doniger**

Ethics/Professional Responsibility

The biggest mistakes in law firm mergers

There is no end in sight to the law firm mergers that continue to dominate the news of the legal industry. By **J. Randolph Evans and Shari Klevens**

Alternative Dispute Resolution

On your marks, get set, mediate!

To be successful, a mediation should start long before the formal gathering of the parties. By **Louis M. Marlin**

Law Practice

A litigator in the jury box

Although the prospect of jury service was daunting, it was the most rewarding and educational month I've spent as an attorney. By **David G. Arthur**

Judicial Profile

Ronald S.W. Lew

U.S. District Judge Central District of California (Los Angeles)

Education

UC Hastings dean steps down from leadership

Frank H. Wu, an innovator in legal education and law school administration, announced Thursday he will step down as dean and chancellor at UC Hastings College of the Law after more than five years of leading the law school.

"Settlement is a good all by itself, having nothing to do with money or merits, and I get to be successful 85 percent of the time," Caplan said. "Everything in mediation is voluntary, and when they leave they don't think about me anymore; they think about the case being done and that the settlement was within a reasonable range and that they're glad they made it."

Here are some lawyers and clients who have used Caplan's services:

George B. Piggott, Law Offices of George B. Piggott, Irvine; Randi E. Pinckes, Outwater & Pinckes LLP, Irvine; Philip W. Green, Samuels, Green & Steel LLP, Irvine; Richard R. Rice, Law Offices of Richard R. Rice, Encinitas; Thomas E. Gibbs, Allen Matkins Leck Gamble Mallory & Natsis LLP, Irvine; Steven T. Graham, Snell & Wilmer, Costa Mesa; Frank J. Lanak, Lanak & Hanna P.C., Orange; Morris J. Baller, Goldstein, Borgen, Dardarian & Ho, Oakland; David A. Van Riper, Van Riper Law, Tustin; Steven Zelig, Brentwood Legal Services LLP, Santa Monica.

america_hernandez@dailyjournal.com

Biography Not Available.

[Top ↑](#)

[HOME](#) : [MOBILE SITE](#) : [CLASSIFIEDS](#) : [EXPERTS/SERVICES](#) : [MCLE](#) : [DIRECTORIES](#) : [SEARCH](#) : [PRIVACY](#) : [LOGOUT](#)