

VERDICTS & SETTLEMENTS

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Humble Roots

*Neutral Gary Davis learned the art of understatement early in his career.***By Malcolm MacLachlan**
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Malcolm MacLachlan / Daily Journal

Gary S. Davis
JAMS
Sacramento**Areas of specialty:**
personal injury, medical
malpractice, legal malpractice

SACRAMENTO — Gary S. Davis tried more than 150 cases as an attorney. But the most important one happened very early in his career.

In 1970, his younger brother Darrell was run over by a car in Redwood City. The accident left him a paraplegic. The driver — an insurance company executive on the job — claimed Darrell “dashed out between cars.”

“This was back in the days when contributory negligence of 1 percent was a complete bar to recovery,” Davis said.

But Davis did two things right. One, he hired legendary trial attorney Bruce Walkup. Davis, 31 and a few years out of law school, “carried Mr. Walkup’s briefcase” as second chair.

Two, he found an insurance agent named Jack Keeney, who worked for the same company as the driver. Keeney’s office window looked out directly onto the spot where Darrell was hit, and he testified that Darrell was in the crosswalk. Davis backed it up with a photo taken from Keeney’s desk, taken just a month before the building burned down.

Darrell Davis is still alive today at 75, thanks in large part to the \$1.5 million verdict that has paid for his care.

“Mr. Keeney never wavered, and I’m sure he was instrumental in us winning our case,” Davis said. “He was an honest man.”

Meanwhile, Davis got to watch the man, some trial attorneys called “The Master,” at work. In particular, Davis said, he has tried to emulate Walkup’s artful use of understatement. This helps keep the jury’s trust, he said, and gets them to take the attorney seriously when he makes allegations.

Rick C. Watters, a plaintiff’s attorney with Miles, Sears & Eanni in Fresno, said Davis uses some of these tools in his mediation practice with JAMS.

“The first couple of hours, they [mediators] ingratiate themselves,” Watters said. “Then they pull out the hammer. He’s good at it.”

Watters said he’s known Davis for many years as an attorney and has used him at least five times as a mediator. Davis is able to “point out deficiencies in your case” without getting clients or lawyers upset at him, Watters said.

Davis said his style at times draws less on his legal career than on “all the menial jobs I did as a kid.” This

included working in a delivery crew for his father’s furniture store in San Francisco. Work helped him learn to relate to a wide variety of people, he said.

Other jobs included pizza chef, bill collector, part-time mailman and apartment building bellman.

“That served me as a lawyer,” Davis said. “You had to determine who would give you tips. Those skills came into play when picking a jury.”

Another job was semi-pro baseball player. A “very good hitter” as an outfielder in high school and for Menlo College, he played for a time with the Menlo Park Reds. His teammates included aging ex-major leaguers “Handsome Ray” Hamrick and former Chicago Cubs pitcher Jim Davis.

“They’d be sitting in the dugout smoking cigarettes and drinking beer, but they could still hit,” Davis said. “They wouldn’t run out the hits too far, though.”

But the realization he wasn’t going to make it to the major leagues, as well as the lingering effects of knee surgery from his time as the starting tailback on his high school football team, made him decide to “stop fooling around.”

Davis’ interest had been piqued by a business law class in college. So he headed off to UC Hastings College of the Law, then a job at Cardozo, Trimbur & Nickerson in Modesto. His new bosses wanted to start him out doing back office work on contracts, but Davis had other ideas.

“I said I wanted to do trial work,” Davis said. “They started giving me impossible cases, which I kind of liked,

and I started getting good results.”

He spent most of the first five years doing plaintiffs’ personal injury work — a period highlighted by his brother’s successful case. Then Davis started branching out, doing company defense as well.

This led to major cases on behalf of General Motors Co. and Ford Motor Co. The 1980s and 1990s were a period in which he handled many auto liability cases.

But the car companies weren’t always at fault, he said. Davis won one of the infamous exploding gas tank trials of the time, when he was able to show that two brothers who died in a crash were driving far too fast. Another auto case settled out of court after Davis’ team got a massive verdict thrown out due to jury misconduct.

“My whole career has been divided between plaintiff and defense, which hopefully helps me in my neutrality,” Davis said.

“He is appropriately sympathetic to injured parties, but he is also mindful of the law governing the case,” said Ross E. Lampe, a partner with the Folsom-based plaintiffs’ firm Muro & Lampe Inc. “He is not afraid to communicate arguments and highlight weaknesses in the positions presented.”

By the late 1990s, he was taking occasional work as a neutral. JAMS called in 2006 and asked if he’d like to come work with them. He’s been there ever since, handling mediations and arbitrations.

“I don’t mind making a decision,” he said. “I do a lot of arbitrations now.”

Davis turns 78 next month, but

he’s still going strong. The father of four adult children and grandfather of one, he enjoys traveling with Marsha, his wife of 41 years. But he remains focused on work, as well.

His long career as a lawyer and a neutral have given Davis time to work in many different areas of civil law. Many of his cases, as a litigator and as a neutral, have had to do with medical or legal malpractice. “The legal cases involve a case within a case,” he said. “You have to figure out what would have happened if the case had been handled properly.”

He’s done several cases involving Title IX, the 1972 law that guarantees gender equality in education funding. “I have such respect for school district attorneys, because the vast array of subjects they have to cover is amazing,” Davis said. “They have to be civil rights attorneys. There’s cases involving freedom of speech. They have to be employment law attorneys.”

Davis will change his approach to the case if new evidence shows up, said Rick C. Bennett with Bennett Johnson LLP in Oakland. In fact, he added, it’s happened at least twice in cases he’s brought to the mediator.

In one, Bennett represented a motorcyclist who suffered severe brain damage in an accident allegedly caused by a loose dog. The dog’s owner denied it and Bennett couldn’t prove otherwise — until members of a local bicycling group offered to testify and provide video footage of an aggressive animal they called a local menace.

At Davis’ urging, Bennett said, the owner agreed to a big payout. The dog paid with its life. But don’t think Davis is always going to side with plaintiffs, Bennett added. “He’s not afraid to tell you, ‘Hey, I think this case stinks,’” he said.

Here are some attorneys who have used Davis’ services: Michael F. Ball, Larry E. Wayte, McCormick Barstow LLP; Dan R. Baradat, Baradat & Paboojian Inc.; Rick C. Bennett, Bennett Johnson LLP; Michelle C. Jenni, Daniel E. Wilcoxon, Wilcoxon Callahan LLP; Ross E. Lampe, Mark A. Muro, Muro & Lampe LLP; Bill A. Lapcevic, Lapcevic Law Group APC; Rick C. Watters, Miles, Sears & Eanni.