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The value of hustle in dispute resolution

Although Martin Quinn hadn't been a judge, he learned that specializing his services made him competitive with his colleagues from the bench.

By John Roemer
Daily Journal Staff Writer

SAN FRANCISCO — In 1996, when Martin Quinn swapped his life as a litigator for a second career as a neutral, he started with a strike against him.

He had never been a judge, unlike most of those he's come to know at work at JAMS' San Francisco office. "If you're here and you're a lawyer — as opposed to a former judge — you've got to run a little faster," Quinn, 70, said in an interview.

"I still have to compete with my colleagues to get business," he added. "It's a perfectly friendly competition, but there are a lot of good mediators in the Bay Area."

Quinn persevered. Focusing was key, he said. "If you come into mediation work just as a smart litigator, you'll have a problem. I specialize in managed healthcare, for example. I've got a \$23 million case now in Los Angeles involving insurance companies and a hospital group. The number of health care lawyers in California is small, 50 or so, and I'm one of the few mediators who can talk the talk."

Kurt C. Peterson, a Reed Smith LLP civil litigator in Los Angeles who specializes in health care and other business disputes, said Quinn excels in the health care realm.

"He's especially good at mastering complex and tedious facts without getting mired in the weeds," he said. "You're typically looking at tens of thousands of billing code entries when big health plans and medical provider groups go to mediation. Martin Quinn knows how to look above it. He's very effective. He always takes off his jacket and rolls up his sleeves at the beginning of a session. It sends a good message."

Quinn also has built his reputation handling intellectual property, legal malpractice and insurance coverage disputes.

Richard Patch, a name partner at Coblenz Patch Duffy & Bass LLP, acknowledged that Quinn is unusual because he's not a judge, but sees no handicap.

"The whole judge thing is for the parties. It impresses them," Patch said. "But litigators who want to get something done go to Quinn. He doesn't rule, he doesn't bring that mentality. He



Martin Quinn

Affiliation: JAMS

Location: San Francisco

Specialties: health care, intellectual property, legal malpractice, insurance

has no ego. It's not about him, and that's wonderfully refreshing."

Patch said Quinn has helped with class action settlements. "He's been remarkably successful, a real asset. He's good on the ethical obligations of class counsel and he can do the really hard problem of attorney fees. And he's really smart."

Another way Quinn has gotten work is to be eager and willing to work as a special master or discovery referee, retained by courts in complex civil cases to oversee pretrial interrogatories, requests for production of documents and depositions.

"Most judges here hate discovery," he said. "They didn't like it when they were on the bench, where they palmed it off on magistrates. But I like it."

Quinn landed a big assignment early when the San Francisco Superior Court hired him to deal with discovery in a massive whistleblower suit joined by then-City Attorney Louise Renne against Bank of America over bond funds allegedly withheld from thousands of municipal agencies in California. The bank settled in 1998 for \$187 million.

He said he almost blew it. In one of the countless discovery orders he issued, he confessed, "I dropped a footnote slightly insulting to the city attorney, and she didn't like it and she let me know it. Now we're friends, but I learned a good lesson: don't write pissy orders."

Currently, Quinn acts as special master in the long-running antitrust class action over flat panel liquid crystal displays before U.S. District Judge Susan Y. Illston of San Francisco. There have been two class settlements, but a number of opt-

outs, including Dell Inc. and some state attorneys general, which remain in litigation.

"It'll probably rock along for another couple of years," he said. "I try to focus discovery on what's truly important. If I don't save them more than I charge, I'm not doing my job."

Quinn, formerly a founding partner of litigation boutique Rogers Joseph O'Donnell & Quinn PC in San Francisco, said he's learned from mistakes. "A year or so ago, I had a big environmental case involving cleaning up contamination from mining operations near Clear Lake in the 1930s," he said.

"There were 35 to 40 people in the room: first, the hapless descendants of miners who were being sued by the federal government. Then there was the Department of Justice, Fish and Game, the EPA, the Bureau of Indian Affairs and a group of Native Americans and the insurance companies for the miners and the tribes. Quite a cast of characters."

"We got it settled in a day and a half, thanks to an excellent AUSA [an assistant U.S. attorney] who controlled his troops, and the insurance lawyers, who were grown-ups. My problem was with the tribes. It was my fault. I talked to them last, and they were furious. They felt disrespected as a sovereign nation. I spent the rest of the second day apologizing and groveling."

Quinn said a big asset is being a good listener.

"That sounds easy, but for lawyers it's not easy," he said. "We know it all. But talking to people does not settle a case. You need to listen to what they say and what they don't say. Read their body language. Lawyers deal in facts, not emotions. But if I see a man filled with anger and resentment, I'll take him aside when we caucus and ask. He'll pour it all out. Then he can relax, catch his breath, put it behind him and we can get to yes."

Kurt A. Kappes, the managing shareholder at Greenberg Traurig's Sacramento office, said, "Martin is wonderfully persistent, and reads people and situations very well. He has a unique combination of hard-headedness and diplomacy that has been very effective in resolving matters that I doubted could be resolved."

Quinn, who charges \$6,000 a day, likes what he does. "It's a great life for three reasons," he said. "You can tell yourself with some accuracy that you're doing good. Also, people treat you really, really well. And you get paid well. So what's wrong with that picture?"

Here are some lawyers who have used Quinn's services recently:

Bruce Simon, Pearson, Simon, Warshaw & Penny LLP, San Francisco; Brendan Glackin, Loeff Cabrer Heimann & Bernstein LLP, San Francisco; Bruce Copeland, Nixon Peabody LLP, San Francisco; Clement Glynn, Glynn & Finley LLP, Walnut Creek; Eric Somers, Lexington Law Group LLP, San Francisco; Donald Drummond, Drummond & Associates, San Francisco; Guy Kornblum, Guy Kornblum & Associates, San Francisco; Robert Carroll, Nixon Peabody LLP, San Francisco.