

Contrapuntal Harmony

Mediator Tagore Subramaniam brings balance to employment, mass tort, sex abuse cases

By Don DeBenedictis

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Conducting mediation sessions is rather like playing jazz guitar, according to Tagore Subramaniam, who does both.

Mediation and music are “equal parts right brain and left brain,” he said. A musician must know scales and chords. But to play well, “you have to be able to feel emotion. And to play jazz in particular, you have to adapt, based on what the music is giving you.”

Being a good mediator is much the same. “You have to be good at math, you have to be good at understanding the process,” Subramaniam said. “But it’s also very emotional and gutsy, and you have to be good at reading people and you have to adapt.”

Attorneys who have taken cases to him say Subramaniam is strong in both the left brain and right brain aspects of mediation. Back when he was an attorney representing employees suing their bosses, he was “the smartest guy in the room,” said plaintiffs’ attorney Nicholas De Blouw of Blumenthal Nordrehaug Bhowmik De Blouw LLP. “He knew all the claims and all the labor codes and all the cases.”

Now when he hears a case as a mediator, “he’s going to know the state of the law, he’s going to know the strength of your claims,” De Blouw said. “He’s a pleasure to be around, but he really knows his stuff.”

Eric M. Gruzen of JML Law agreed that in three mediations in which he represented employee plaintiffs, Subramaniam “had a good understanding of the arguments of both sides.” He also was “very easygoing,



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calm and comforting to clients of mine. ... He makes the plaintiffs feel comfortable.”

In addition to employment cases, Subramaniam also mediates sexual assault mass tort cases, primarily in conjunction with Jeffrey Krivis of First Mediation Corp.

A defense attorney in one of those sets of litigation said Subramaniam and Krivis are sophisticated and creative. They “have great insight into people” and are “able to gain the trust of both sides,” said Randy T. Austin of Kirton McConkie, who represents The Church of Jesus Christ of Latter-day Saints in the sex abuse litigation against

the Boy Scouts. In particular, Austin said Subramaniam has “a great way about him. ... Tagore does his homework, is really bright and equally creative.”

With a mediation practice largely devoted to employment and sexual assault matters, Subramaniam often has to work with parties who are emotional and upset. Some are “just very scared of the litigation process and don’t have familiarity with it, and this might be the worst experience of their life,” he said.

The first thing he does in those cases is recognize and honor the emotions. “You can’t tell someone who’s upset that they’re not upset.

Tagore Subramaniam

Momentum ADR
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I think you have to ... let them know that you recognize those dynamics and then give them tools for navigating to a more productive path. Oftentimes, people just want your input or your assurance.”

In one case, the defendant was a small business whose owners believed they had a strong defense that could prevail in court. Subramaniam said he thought they needed to be heard and recognized, but they also needed to “put back on their hat of being a business owner.” With the help of defense counsel, he showed them that “this was an opportunity for them to control the situation ... do what was best for their business and best for their employees.”

Subramaniam said that reaching a settlement requires being good at reading the parties and understanding their interests to gauge how the case might resolve.

“I’m very resolution oriented,” he said. “At the same time, I want to be authentic because I think that if you seem as if you are inauthentic or you’re being manipulative ... you don’t develop the trust that’s necessary to have honest and candid conversations.

“I see myself as a resource for the parties ... to help guide them towards a resolution.” Sometimes that might mean “giving them my thoughts and impressions on a case. And sometimes it might be to manage the process in a more facilitative way to let them negotiate.”

Subramaniam’s right brain abilities developed as he grew up in Los Angeles in an arts oriented family.

His father is an assistant director of Hollywood and Bollywood films. One sister is a professional opera singer. Subramaniam played guitar in various bands in high school and now still plays jazz.

In high school, in addition to playing competitive chess, he started a music video and commercial production company that he kept operating while in college. Even with that side business, he graduated summa cum laude from UCLA with a degree in philosophy in 2007.

He graduated from Boston University School of Law in 2010 and then externed for a 9th U.S. Circuit Court of Appeals judge. In early 2012, he joined the then-small Matern Law Group in Manhattan Beach, which primarily represented plaintiffs in employment litigation.

Over the following decade, he and the firm represented individuals cases and handled wage-and-hour class actions. “I certified cases ranging from a few hundred employees to tens of thousands of employees,” he said. Some cases lasted years. In one, he took more than 200 depositions.

He also had several cases go up on appeal. He made law with one appeal in a case dealing with arbitration of PAGA cases. *Julian v. Glenair Inc.* 17 Cal. App. 5th 853 (Cal. App. 2nd Dist., July 27, 2017).

The firm also worked on some consumer cases, including a long-running class action against Exxon over groundwater contamination. “It was still going on when I left, so I don’t know where it is now,” he said.

As his practice developed, Subramaniam participated in mediations regularly, noting, “It became my favorite part of my job.” So he consulted with mediators he knew and finally decided to become one himself. He began volunteering to mediate cases with the Los Angeles County Superior Court and other panels. Then, in October last year, he took a short course at the Straus Institute at Pepperdine University.

He opened Momentum ADR last November. “It’s been going really well. I feel really lucky,” he said.

Kravis soon brought him in as part of the teams mediating high profile sex assault and mass tort cases. Together, they have resolved about 1,600 cases. His work with Kravis and First Mediation Corp. amounts to about 30% of his overall practice, he said. Subramaniam also mediates some assault cases on his own.

He finds those cases challenging and interesting in part because of their size. “You’re dealing with so many players that to get everyone rowing in the same direction can often be kind of a puzzle or a Rubik’s cube,” he said.

With an employment case, his first step often is to call the attorneys to learn about it. “I try to educate myself as much as possible ... and identify the relative inflection points,” he said. “I try to ... use them as a resource to understand not only what they’re hoping to achieve, but what they believe might be most effective in reaching that.”

Gruzen said those calls allow Subramaniam to “learn the pressure

points and things to watch out for with clients.”

After making the calls and studying the briefs, he next devises a strategy to reach a settlement. But he leaves it flexible to respond as the case develops.

One approach he uses is to try to get the parties to figure out a “zone of agreement” where they could settle. Defense attorney Al Mohajerian said Subramaniam used a bracketing approach to resolve one case. “He’s pretty savvy, with good intuition. ... The methods that he used were refreshing,” the lawyer said.

Most of Subramaniam’s cases settle with just one day of mediation. But sometimes resolving a case can take months. Gruzen said that’s not a problem. “He keeps pushing through and doesn’t give up on any case,” he said.

“My experience on mass torts has been very useful in handling cases when they don’t reach a resolution and then following up with the parties,” Subramaniam said. “I consider that when I’m retained, I’m retained for the entire process.”

Here are some attorneys who have used Subramaniam’s services: Randy T. Austin of Kirton McConkie; David D. Bibiyan of Bibiyan Law Group PC; Nicholas J. De Blouw of Blumenthal Nordrehaug Bhowmik De Blouw LLP; Lonnie D. Giamela of Fisher & Phillips LLP; Eric M. Gruzen of JML Law APLC; Bradley A. Lebow of Dunn DeSantis Walt & Kendrick LLP; Mark I. Lim of Shegerian and Associates; Al Mohajerian of Mohajerian Law Corp.