

VERDICTS & SETTLEMENTS

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Sharp-Edge Refinement

Linda Klibanow says she has fine tuned her processes over many years of ADR practice.

By Jessica Mach
Daily Journal Staff Writer

Linda S. Klibanow is nothing if not thorough. Asked what has changed since she was last profiled by the Daily Journal, back in 2010, Klibanow reflects not only on her own arbitration and mediation practice, but on the whole world: changes in political regimes, epidemics, landmark cases, the United States' shifting stature on the world stage. The world has dramatically transformed over the past decade, Klibanow said. But the same can't be said of her own practice: new developments in how she works don't represent a tectonic shift so much as a sharp-edged refinement.

"I have more finely attuned processes that I go through," Klibanow said. "I almost feel like a bloodhound sniffing out the truth."

Klibanow has an independent practice but is also affiliated with the American Arbitration Association and IVAMS for employment arbitrations and mediations. For labor and management arbitrations, she is affiliated with the Federal Mediation and Conciliation Service.

Denica E. Anderson, chief legal officer and general counsel for Good Food Holdings, said she was impressed by how



Justin Stewart / Special to the Daily Journal

comprehensive Klibanow was when she arbitrated a wage and hour matter Anderson was working on. At the time, Anderson was senior counsel at Constangy Brooks, Smith & Prophete LLP.

"She was very prepared — she didn't cut corners, she did all the hard work," Anderson said.

"We had... nine separate causes of actions before her," Anderson continued, adding they were all complex in terms of figuring out how the law applied. But Klibanow "clearly read all of the post-arbitration briefing, which in our case was over 100 pages long just on the defense side. She really seemed to make an effort to get to the

proper application of the law to the facts."

George Azadian, president of Azadian Law Group PC, reported a similar experience.

"I could tell she really read everything," said Azadian, who used Klibanow's arbitration services for a retaliation and wrongful termination case in 2015. "The arbitration, I believe, had over 12 days of testimony and so it was a very complicated one, but... you could tell she had thoroughly reviewed the facts and the law that was briefed to her by both sides, even before she had walked into the hearing."

Klibanow, who has been a labor and employment neutral for 20 years, knows

Linda S. Klibanow

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Areas of specialty:

Labor and employment, including discrimination, family and medical leave, whistleblower retaliation, wrongful termination, violation of USERRA, wage and hour, union-management relations

she has a reputation for being meticulous. Rereading her 2010 profile, she joked, "I looked like a professor, and I probably

still do — except I’ve even got now the necklace that holds a second pair of glasses around your neck.”

Being an effective neutral, of course, requires more than just an academic’s penchant for detail. But Klibanow has spent years honing those other necessary skills, and to great effect, too: at least one attorney has used the word “magic” to describe Klibanow’s ability to resolve cases, according to her last profile. And by Klibanow’s own estimation, she’s only getting better.

After decades of practice, Klibanow said she’s encountered about every challenge you could think of, which has helped her create measures to safeguard against unnecessary hiccups. In arbitration cases, these include holding early conferences with counsel to clearly spell out how she will be handling different matters over the course of the arbitration, so they know what to expect; occasionally bringing out a chess clock so parties know exactly how much time they have to present their cases; and focusing a “critical eye to

discovery games, which I don’t like,” Klibanow said.

“When I do an arbitration, it’s not about gamesmanship,” she said. “It’s much more about the substance of the case.”

Michael T. Pazder, legal rights attorney for the American Federation of Government Employees, District 12, said this was his experience with Klibanow, who arbitrated at least three cases Pazder worked on. “Both parties would probably agree she will hear you out and give a reasoned rationale for why she’s making her decision,” he said. “She is good at bringing the parties back to focus on the matter at hand.”

For mediations, Klibanow draws on other skills still: “The ability to listen and have people know you’re listening; the ability to connect on a deeper level than in ordinary exchange,” she said. “You’re asking both sides essentially to move beyond their comfort zone in the resolution.”

Klibanow was “sensitive to my client, a sexual harassment victim, persistent in helping us resolve the matter, smart, kind,” Lisa Bloom, founder of the Bloom Firm, said via email.

In a way, Klibanow’s commitment to her craft has been driven by a loss of faith. “Unfortunately, my confidence in the courts has waned a bit over the past 10 years,” she explained. Klibanow cited a recent U.S. Supreme Court decision, which overturned efforts by a Wisconsin district court to extend the absentee voting deadline for the state’s April election due to COVID-19. “What is most mind-boggling about the conservative justices’ majority decision is the absence of any discussion of the factual circumstances,” Klibanow wrote in her blog.

“I think you have a better shot at getting justice through arbitration or mediation than otherwise,” she said. But there’s still more work to do: Klibanow recalled a time when it was unremarkable to see two separate columns of job listings in her local newspaper — one for men and one for women — and when law firms and other businesses only agreed to hire women and minorities when their hands were forced by class action cases. What seems normal now might no longer register as fair tomorrow. “I

think perhaps better justice — more justice — can be accomplished,” Klibanow said.

But it’s not just a sense of duty that compels her to constantly improve. “I have always loved labor and employment — it’s all about story and human drama, social history as well,” Klibanow explained. “I honestly feel now it’s exactly what I was born to do.”

“She’s just a tremendous neutral,” said Kimberly M. Talley, a partner at Constangy Brooks, Smith & Prophete LLP, who worked with Klibanow and Anderson on the same case. “I recommend her as a mediator or arbitrator for virtually every single one of my matters.”

Here are some attorneys who have used Klibanow’s services: Denica E. Anderson, Good Food Holdings; George Azadian, Azadian Law Group, PC; Michael T. Pazder, American Federation of Government Employees, District 12; Lisa Bloom, the Bloom Firm; Kimberly M. Talley, Constangy Brooks, Smith & Prophete LLP.

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