

Court Watch

JUDGES AND THE JUSTICE SYSTEM

TUESDAY, APRIL 13, 2010

McCabe followed faith, and it led him to mediation

The decision to become a neutral involves a familiar fact pattern for many lawyers: Tired of fighting for years in the litigation trenches, the attorney discovers mediation is a much better fit for his optimistic personality.

Michael McCabe's story is even a bit more personal than that. He had been an attorney for more than 30 years, and by 1995 had a broad practice at McCabe, Schwartz, Evans, Levy & Dawe in Contra Costa County. Then things changed.

"We had a family crisis involving one of our children, and it really caused us to step back and sort of evaluate what was important," McCabe said.

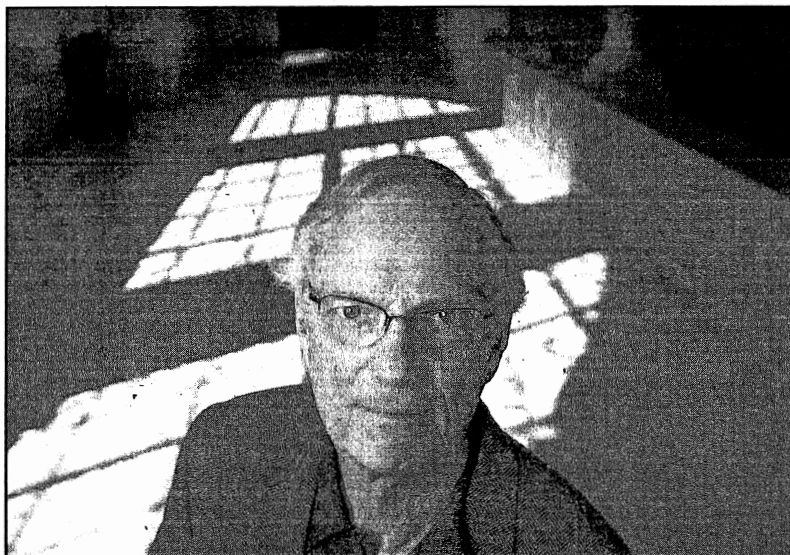
He declined to discuss what happened, other than to say everyone is fine now. But at the time, McCabe took a leave of absence in 1995 to plunge deeper into his Catholic faith. A nine-month sabbatical at the Jesuit School of Theology at Berkeley turned into a three-year master's degree. When he finished, mediation was an appealing choice.

"It seemed to be a fit between the spiritual work I was doing from theology school, and the legal background I had," he said. "It made for an interesting mix."

McCabe, who lives outside Guerneville in Sonoma County but conducts business at ADR Services in San Francisco, has focused his mediation practice on real estate, business disputes and family conflicts over trusts and estates. He describes these cases as high energy, high emotion, and satisfying to pick through as a neutral.

"The law is limiting, it can only do so much, and people's needs are much deeper than that," said McCabe, who charges what he calls a "remarkably cheap" \$350 an hour, with no full-day rate.

Santa Rosa attorney John Holdredge, of Geary, Shea, O'Donnell, Grattan & Mitchell, described a fairly contentious case where he represented a vintner who was in a prop-



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erty was a *pro per*, Holdredge said, with "emotional issues."

"He was a guy whose campaign is to end 40 years of what he describes as undeclared wars and congressional mass murder," Holdredge said.

Despite those dynamics, McCabe handled himself with great balance, Holdredge said. He made the *pro per* feel like he was being taken seriously, but didn't allow the process to bog down.

"There's a fine line between really giving a guy every break he deserves, and going too far," Holdredge said. "And the better judges and neutrals have the ability to do just that."

Richmond-based trusts and estates lawyer David A. Brown recalls a volatile case where siblings were fighting over a family owned funeral home. The situation had escalated to the point where the police and restraining orders were involved.

of discourse, Brown said.

"Mike has a kind of gentle, quiet way of doing business," Brown said. "When dealing with lawyers for a living, there's a tendency to use more stick than feather. Mike is exactly the opposite."

McCabe's contemplative style does mean that his sessions might take a little longer than they might with other neutrals, Brown said, and that can prove a little more expensive. Thus he is most useful in difficult cases with high emotion, instead of low-dollar matters that may be more straightforward, he said.

McCabe himself said he prefers the tougher situations, and has become more selective about which cases he'll take.

McCabe is also heavily involved with victim/offender reconciliation as a board member for Catholic Restorative Justice Ministries. In that work, he tries to help in-

Michael McCabe

Affiliation: ADR Services

Age: 70

Law School: University Of San Francisco School Of Law, 1963

Previous Judicial Experience: None

and expressing regret to the families they harmed.

A Eureka native, McCabe went to a Catholic high school in San Jose and then attended the University of San Francisco for both undergrad and law school. He started out at the Alameda County district attorney's office and then moved into private practice.

"The last four or five years [of practice] was great fun," he said. "I was GC for a group of waste management companies" that were seeking contracts in Contra Costa County.

As a mediator, McCabe has handled cases involving sexual harassment claims at religious organizations. He says the power dynamics involved in those matters aren't really different than they would be at a private company.

According to Holdredge, some mediators are sought out for their people skills, while others are particularly adept with complex legal issues.

"Mike is one of those guys who really does both well," he said.

Though McCabe says his caseload is starting to decline as he gets older — he's also got 11 grandchildren to enjoy — he sounds fulfilled.

"The practice was a stepping stone to something bigger, something broader, something with deeper meaning," he said.

— Dan Levine

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