

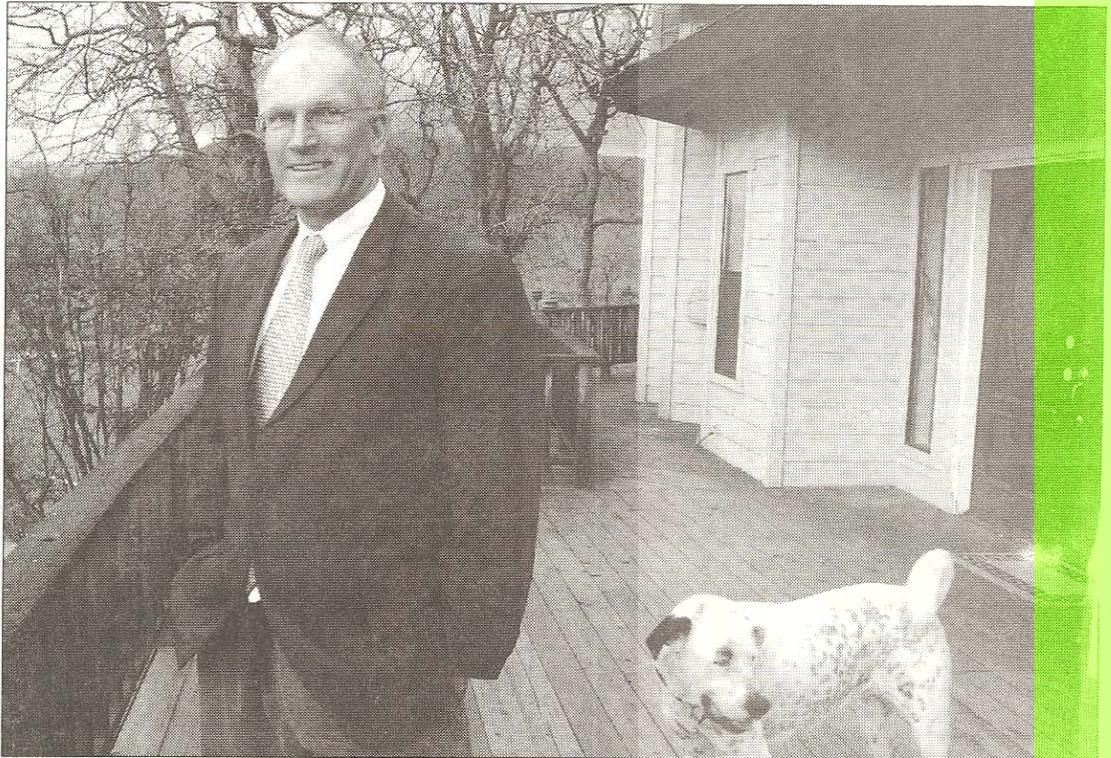
Hardcore Litigator Evolves Into a Peaceful Warrior

By William-Arthur Haynes
Daily Journal Staff Writer

SAN FRANCISCO — Clovis-based mediator Douglas E. Noll is quite literally a peacemaker — educated by Mennonites in the art of resolving conflicts — and proud as hell of it.

“I’m a blessed man. It’s a good life,” Noll said. “I’ve helped more people in a month than I helped in 22 years as a trial lawyer. I love my work!”

During a 20-year career as a lawyer with a successful business practice he was tied to the billable hour. As a peacemaker and mediator, “I have the total freedom to do



ADR Profile

whatever I want to do.”

Noll said he devotes about 50 percent of his time to community service. When he isn’t donating his time, he practices, he said, with a mix of 10 percent arbitration and 90 percent mediation and a settlement rate of somewhere above 90 percent.

But his professional life wasn’t always serene. See, Noll would kick your ass — and not just in the courtroom.

Beginning in 1978, Noll was a “hardcore” trial lawyer at Fresno-based Lang, Richert & Patch, a practice that made the leap to mediation a challenging, evolutionary process.

He emphasized hardcore: “Very ethical, but very aggressive,” he explained. “Took no prisoners, believed in litigation as a metaphor for war and was the ultimate litigation warrior.”

He tried his first jury case three months into private practice. Almost as soon as that case wrapped up, he went to San Diego and sat second chair in a \$30 million securities

Douglas E. Noll had been a take-no-prisoners litigator for 20 years when he asked himself: How many people had he truly helped? The low number prompted him to change pace and become a mediator. “I’ve helped more people in a month than I helped in 22 years as a trial lawyer. I love my work!”

fraud case.

Noll litigated everything: construction, securities, corporate matters, land use, partnership disputes. He did jury trials, bench trials and arbitrations. In fact he litigated by exclusion — no divorces, no criminal cases, no personal injury.

He is, according to Fresno litigator Timothy L. Thompson, “the proverbial Renaissance man.”

Noll is an expert-level snow skier, a pilot, an avid whitewater rafter and a fisherman.

“I think he even told me he plays guitar in an Irish gig band” Thompson said.

“Actually it’s the Irish fiddle,” Noll said. “I was in a band that went all

over, playing Irish songs. But I just play it for fun now.”

Noll teaches a peacemaking-for-lawyers course at the San Joaquin College of Law, has lectured around the nation and authored two books — one of which was his master’s thesis — and is working on a third.

In his late 30s, Noll, now 56, took up an aggressive style of northern Chinese Kung Fu. By 42 he’d acquired a second-degree black belt.

“I was really pretty full of myself,” he admitted. “I was at the peak of my trial career, I was a second-degree black belt. I mean, nobody could touch me. And that’s when it all changed.”

His instructor told him that at that

level he was done there.

“And don’t come back until you’ve mastered Tai Chi,” he said. So I went out and started learning Tai Chi.”

There are two paradoxes in Tai Chi, Noll explained: “One is, the softer you are, the stronger you are. And the other one is, the more vulnerable you are, the more powerful you are.”

Dichotomies, indeed — ones that completely flew in the face of his adversarial ideology. As a trial lawyer and kick-ass kung fu master north of 6-feet, 200 pounds, the contradictions were nearly impossible for Noll to resolve.

Tai Chi, a 19th century style of

Mediator Lets Parties Duke It Out a Bit on Way to Settlement

Continued from page 1

soft martial art, is supposed to be practiced with as much relaxation as possible.

When 90-year-old men "who looked like they were about to die" began throwing him around the room purposely, Noll said, "Wow, this is pretty amazing."

"Here I was this big burly 6-foot

220-pound guy who didn't take

any punches, and I was getting

tossed around by all these masters,

Noll said.

As he studied the art form and

began assimilating those con-

tradictory fundamentals into his life-

style, he noticed a change in himself

beginning to take form.

In the courtroom one day, while

aggressively cross-examining some-

one in the witness box, "I said, 'What

the hell am I doing in here?'"

"It just didn't feel right anymore,"

he remembered.

It was on a rafting trip on central

Idaho's Salmon River that he came

upon a profound realization.

"I spent the week muscling

through these big rapids on this

big river thinking about how many

people I had really served as a trial

attorney over the last 20-plus years,"

Noll said. "And I got to the end of

the trip, and I could only count five

people that I think really, truly came

out better. Yeah I won a lot of cases

— didn't lose very many — but did

all those clients really benefit from

the system?"

In 1998, Noll enrolled in the

master's program of peacemaking

and conflict studies at Fresno Pa-

cific University, a private Mennonite

school founded in 1944. He was the

first lawyer in the program.

Not long after, Noll went to the

manager of his law firm and said he

wanted new business cards.

"I scratched out 'attorney at law'

and put underneath it peacemaker,"

he said. "So it said, 'Douglas E. Noll,

Esq. Peacemaker."

The firm's manager said, "No. I

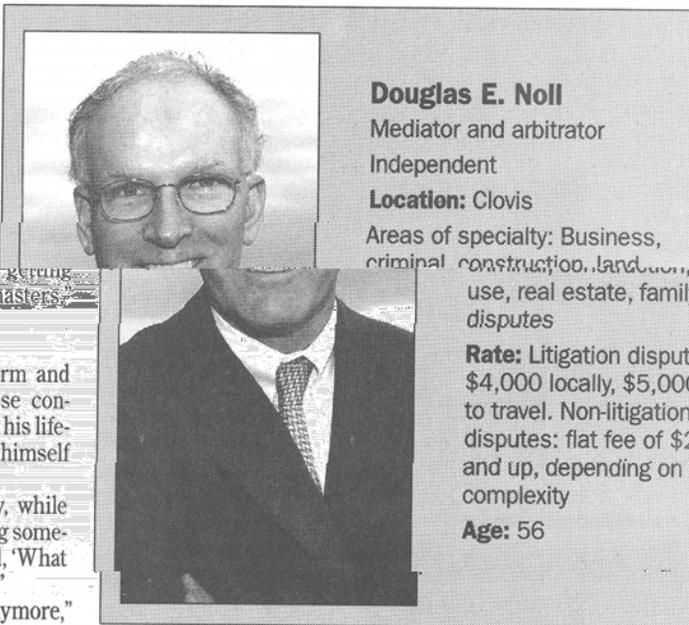
can't do that." The firm partnership

freaked out, wondering about his in-

tentions. Ultimately, he told the firm

he would continue his trial practice

until the completion of that master's



Douglas E. Noll

Mediator and arbitrator

Independent

Location: Clovis

Areas of specialty: Business,

criminal, construction, land use,

real estate, family

disputes

Rate: Litigation disputes:

\$4,000 locally, \$5,000

to travel. Non-litigation

disputes: flat fee of \$25,000

and up, depending on the

complexity

Age: 56

circumstances."

Noll is the first mediator Thompson recommends in emotionally charged cases.

"Doug is particularly good at taking control of the process and helping people deal with those emotions in such a way that they influence

their decision-making process," said

Thompson, who's been before Noll

at least 10 times.

Frequently, that entails le

parties duke it out for a litt

Noll acknowledged. Prepar

peace sometimes requires

conflict to escalate before a se

can be negotiated, he said.

Thompson experienced

method firsthand.

"I've seen situations whe

the parties sort of duke it ou

litigation process, they can

and settle," he said. "They

of their system a little bit."

Might sound manipulat

Noll explained, the peac

"isn't the one out there stir

the shit to make this happen

The peacemaker recogni

sometimes you have to let

fight, he said.

"Conflict is essential to our

human beings," he said. "Th

how we manage it. Do we dea

constructively, or do we dea

destructively?"

Here are some attorney

have used Noll's services: S

K. Bennett, Liebert Cassid

more, Fresno; Robert E.

Robert W. Branch, Robert H

ner, Christopher E. Seymore

Upton, Kimble MacMichael

ton, Fresno; C. Russell Geo

Georgeson & Belardinelli,

Timothy L. Thompson, McC

Barstow, Fresno; Russell K

Douglas V. Thornton, Motsc

Michaelides & Wishon, Fres

to know I could handle anything," he said.

His philosophy is simple: The method has to fit the dispute.

The evaluative process is appropriate in disputes where there's not a lot of emotion, "where money is pretty much only at stake and the parties are represented by surrogates," he said.

"In those kinds of situations, the normal distributive, evaluative-type mediations are appropriate and efficient. In just about every other kind of case it is the worst thing you can do."

Lawyers don't like dealing with emotion. About 80 percent of the cases he gets aren't even about the money at stake.

"It's about the relationship," he said. "So my philosophy is to adapt to the conflict and give the parties what they need to make the best choices they can make under the

and put underneath it peacemaker," he said. "So it said, 'Douglas E. Noll, Esq. Peacemaker.'"

The firm's manager said, "No. I can't do that." The firm partnership freaked out, wondering about his intentions. Ultimately, he told the firm he would continue his trial practice until the completion of that master's program.

He left the firm Oct. 31, 2000, on amicable terms, and started his full-time mediation practice Nov. 1, "and I've never looked back."

He's guided over 100 criminal mediations, including some of the clergy sexual abuse cases involving the Roman Catholic Church. But his passion is non-litigated family disputes and business conflicts.

The largest case so far was a \$500 million partnership disagreement that took 65 days of mediation to sort out.

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