

LYNN GAFFIGAN

Inviting Creativity Back Into the Law Through Mediation

by Emily Donovan



LAKE FOREST—Lynn A. Gaffigan shoveled manure in high school. It was work, she says, but it was fantastic.

Born in north suburban Glenview in 1955, Gaffigan grew up appreciating animals. Her family kept two horses in their backyard, and she and her two younger sisters would ride them through the Forest Preserves of Cook County, appreciating the insects and looking for wild creatures and chipmunks.

People would pass them on bicycles, but they would return to pretending they were in the country somewhere.

Now, as she watches her 21-year-old daughter compete on her college's equestrian team, Gaffigan sees horse riding as full of lessons for mediation. She emphasizes how the rider and the animal have to pay careful attention to one another and maintain their relationship over time.

"The communication between her and the horse is what's fascinating, to me as a mediator in particular," she says. "Their movements are like a ballet in communication."

Now a mediator at Gaffigan Mediation and a trainer for developing mediators, Gaffigan says those communication skills are sometimes lacking when issues are framed only as traditional legal conflicts. There's something missing if parties only focus on solving the problem rather than also resolving the question.

"By framing everything in black and white or win and lose, you've left out the creativity," she says. "You've left out the gray areas, you've left out the opportunities for solutions. And my goodness, there's something that could happen there."

AN 'AHA!' MOMENT

When Gaffigan considered colleges, the natural setting rather than just the course options caught her attention. Plus, she was interested in living in different parts of the country to really experience them more deeply than she would during travel.

She enrolled at Colorado State University then transferred to the University of Colorado

at Boulder, which was set in a beautiful locale that naturally emphasized the outdoors. It was also close to extended family. The school also had a good psychology department, though she wasn't sure that would be her major until after she arrived on campus.

When Gaffigan graduated from Boulder in 1977, she thought she would work while she figured out how she could return to school for an advanced degree in psychology. She took a job in the Chicago area as a personal banker, then managed the branch, and then leveraged her banking experience into work with two consulting firms that worked with financial institutions. Gaffigan led workshops for bankers to help them sell their banking products, manage their staff, and relearn how to communicate with customers.

"Just like people feel like lawyers are speaking another language sometimes because of all their lingo, well, all professionals do that," she says.

When she enrolled in Emory University School of Law in Atlanta in 1987, she

wasn't sure what she was going to do with a law degree. She supposed her business and communications experience might make her a match for employment-related law.

Then, as she was choosing which classes to take in her third year, she read a course description for an alternative dispute resolution class. ADR was not as widely taught in law schools then as it is today. It involves using legal knowledge in an effort to make peace and reach a resolution rather than to win or lose and just reach a settlement.

"I read that little blurb and I thought, 'Aha! That's what I want to do,'" she says.

Gaffigan became an attorney with King & Spalding LLP in Atlanta in 1990. The firm encouraged associates to volunteer when they weren't working—"which wasn't very much," Gaffigan jokes—and she started exploring volunteering in mediation with the Justice Center of Atlanta.

After two years, Gaffigan moved to San Diego, where she worked for the firm Music, Peeler & Garrett LLP, and volunteered with the San Diego Mediation Center.

When she moved to Chicago in 1994, Gaffigan volunteered at the Center for Conflict Resolution and served on their peer review committee for aspiring new mediators. She told herself she would work as an attorney long enough to pay for law school and, considering most mediators were retired judges, long enough to build enough legal experience to bring into mediation. She took a job with a divorce attorney in Chicago and was determined to work part of the time in mediation within the practice and to promote the practice's mediation offerings.

"At that time—this was more than 20 years ago—most people weren't hanging up shingles as mediators," she says.

Gaffigan returned to work shortly after her daughter was born at the end of 1996. After a few weeks, she realized being an attorney didn't feel right for her.

"I think women need to have permission to make decisions on their particular circumstances," she says.

There weren't enough hours in the day to practice law, mediate, spend enough time with her kid, and commute 1½ hours each way between the office in the city and her home in Lake Bluff. She was spending more time on the train than with her baby.

"I didn't have Grace until I was more than 40 years old," she says. "I thought, 'I don't want to miss the whole thing.'"

In 1997, she decided "to go for it" and opened Gaffigan Mediation in Lake Forest. "I was like, 'I am going to do this,'" she says.

BRINGING MEDIATION TO LEGAL MARKET

In addition to her private practice, Gaffigan became involved in and a leader of local mediation and alternative dispute resolution organizations. For the past 16 years, she has taught a 40-hour family and divorce mediation program, first at DePaul University in Chicago and now at Gaffigan Mediation.

Anita M. Rowe, a mediator and arbitrator, trained with Gaffigan in the 1990s and says Gaffigan has helped make mediation the well-recognized practice it is today in Chicago. Gaffigan was president of the Chicago-area Chapter of the Society of Professionals in Dispute Resolution as it prepared to merge with two other organizations to form what is today the Association for Conflict Resolution.

"Lynn was a local leader in that and has always been committed to bringing this process to as many people as possible," Rowe says.

Rowe says Illinois was "way behind" other states' adoption of mediation at the time and that the merger helped change that.

“You can train anybody to follow a particular method of mediation, but you can't train people to have really excellent interpersonal skills, a high emotional intelligence quotient, a natural empathy and compassion for people.”

"In Florida or California, you wouldn't dream of going to court without having first tried mediation, and that was not the case in Illinois," she says. "It took a great effort on the behalf of many people and organizations to really bring mediation to our legal market."

Rowe says Gaffigan's desire to bring mediation to as many people as possible helped drive her training program.

"She has touched a lot of lives by touching the lives of so many students and really brought mediation to the suburbs, not just in the city," Rowe says. "She's really been tireless as an advocate for mediation."

Gaffigan says mediators can come from any profession. She has taught therapists, clergy and financial people as well as lawyers and retired judges.

"I want all different professional backgrounds in the same room because they learn from each other," she says. "They each have different perspectives and strengths."

Gaffigan emphasizes that a mediator's goal

should not be to personally settle the case but to support the parties in making voluntary and informed decisions.

Karen Shields, who took Gaffigan's training after retiring as a Cook County associate judge in the Domestic Relations Division, says Gaffigan emphasized how mediators must allow self-determination of the parties and respect client confidentiality.

"I can't say enough about her integrity," she says. "I feel like no matter what it is, if it's confidential in a relationship, whether it's confidential in a mediation, whatever it is, her integrity is the highest."

Shields, who is now a mediator and an arbitrator with JAMS, Inc., has one last praise. "I don't think I'd be the mediator I am today if I hadn't taken that course."

Carlton Marcyan, a partner at Schiller, DuCanto & Fleck LLP and the leader of its mediation practice group, also took Gaffigan's training. Marcyan says the class was really about human nature. He describes Gaffigan as "a walking encyclopedia" of how to deal with people in controversy and "the quintessential mediator."

"You just feel really at ease with her," he says. "She is just tremendous in terms of getting the atmosphere less charged, letting people open up."

Marcyán says a lot of alternative dispute resolution is about understanding where the parties are really coming from. Gaffigan has a great talent for figuring out what the real source of controversy is beyond the legal issue at the surface, he says.

"She's a really good diagnostician, and she's got this wonderful presence for getting people to relax, to focus, to get to what the real issue is, and get them across the finish line," he says.

Teresa Frisbie, the director of the Dispute Resolution Program at Loyola University Chicago School of Law, says Gaffigan's "warmth about her" is key to her mediation.

"Mediation is so stressful," Frisbie says. "What people don't realize is that a social threat does the same thing inside of your brain as a physical threat. People's tone and body language and demeanor and ability to help other people calm down are critical to the success of the process."

Rowe also says Gaffigan is "one of the loveliest people" she has ever met.

"You can train anybody to follow a particular method of mediation, but you can't train people to have really excellent interpersonal skills, a high emotional intelligence quotient, a natural empathy and compassion for people," she says.

"You either have that or you don't, and Lynn is one of those people who has all of those things, and I think that sets her apart." ■