

# VERDICTS & SETTLEMENTS

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## Do the Right Thing

*Start every case listening, not talking, Judge Barry Baskin believes*

By Shane Nelson

Special to the Daily Journal

Private neutral Barry Baskin likes to get things right and found being a judge a perfect position in which to do that.

“Instead of being a partisan advocate ... I could do what the right thing was, which might not be exactly what the plaintiff wanted and may not be exactly what the defense wanted. But it would be what the right thing under the law would be,” said the JAMS mediator and arbitrator.

Baskin spent two decades on the Contra Costa County Superior Court, serving as presiding judge from 2019 to 2020. He spent the previous 23 years as a litigator, handling business, antitrust, intellectual property and consumer rights cases.

“It would be fair to say the first half of my career was spent on the defense side and the second half on the plaintiff’s side,” said Baskin, a third-generation attorney who grew up in South Africa.

Baskin immigrated to the U.S. in 1987 and joined what was then Pillsbury, Madison & Sutro in San Francisco as an associate.

“I didn’t want to raise my three children with the benefits of apartheid that I was raised with, and I didn’t believe in the future of the country when I left,” Baskin said. “When I left, Nelson Mandela was still imprisoned on Robben Island.”

Baskin retired from the bench in September 2022 and has since been tackling personal injury, real estate, construction and complex commercial contract disputes as in mediations and arbitrations.



Gary Wagner / Special to the Daily Journal

“I do appreciate lawyers who are well prepared,” Baskin said of his approach.

Meanwhile, before his mediations, Baskin likes to receive briefs from all the parties and to speak over the phone with counsel. On the day of mediation, he said, “Invariably, I will begin with the plaintiff’s side,” but he noted that careful listening is critical in both rooms early on.

“In the early stages of the mediation, the more listening you do and the less talking you do, the better off everyone will be,” Baskin said. “But in the later stages, particularly when and if there is an impasse, I think the parties expect you to

become a little more talkative and a little bit more active and perhaps even a little more evaluative.”

Concord defense attorney Ali A. Delforouh used Baskin recently to settle a complex personal injury case involving an elderly woman who was dragged across a strip mall parking lot by a forklift.

“As you can imagine, damages were pretty extensive in this case,” Delforouh said. “But Judge Baskin really did a great job trying to break down the extensive damages, and he has a great read on the pulse of how juries are going to render judgment on a case like this – especially given the extensive nature

**Hon. Barry Baskin (Retired)**

JAMS  
San Francisco

of the damages and also how gruesome the damages were and also how sympathetic the plaintiff was.”

Delforouh said that Baskin’s evaluative approach proved crucial to the settlement.

“I would certainly recommend him,” Delforouh said. “Have him

read the tea leaves, have him explain to you what he's seeing, and understand that the recommendation he is making is going to help resolve the case."

Baskin noted that by helping parties to resolve their disputes as a mediator, he still gets a chance to do the right thing.

"I believe the common ground in most mediation disputes is what the right thing is," Baskin explained. "That's why parties eventually will agree to a result because both of them know that's the right result. So, I really believe deeply that mediation results in – where it's successful – in a result that is the right thing."

Walnut Creek civil litigator Richard T. Bowles used Baskin to resolve a couple of contractual and employ-

ment disputes and described him as one of his preferred, go-to mediators.

"He really listens to clients, and he tries to understand where they're coming from," Bowles said. "Sometimes there are mediators that are bluntly disrespectful of either the clients or the attorneys, and that's very unproductive in my opinion. Judge Baskin is very much the opposite. He's very respectful and really tries to understand where people are coming from and what their issues are."

Woodland Hills business litigator A. Scott Brown used Baskin recently to resolve a contractual dispute involving fraud allegations, and he described the neutral as very empathetic.

"He settled a case that I thought had no chance of settling," Brown

said. "And he saved my client a lot of money."

Brown noted that his client felt wronged by the other party and wanted his day in court.

"I had been trying in vain to get my client to let go of the emotion and make a business decision," Brown explained. "Monies were being offered, but it just wasn't enough because money really wasn't the issue."

Brown said Baskin's approach with his client had a dramatic impact.

"Right off the bat, it was clear that he understood exactly where the issues were," Brown said. "And he was very empathetic to my client, letting him tell his story, and he definitely gave my client a sense that he understood where his emotions were."

Brown said Baskin resolved the dispute with a mediator's proposal.

"I thought it was very fair, and my client – much to my surprise – he commented that Judge Baskin really helped him see the value of putting this aside," Brown recalled. "And oftentimes at the end of the day, clients have a mediation remorse, but he did not. He really felt like he got his closure."

*Here are some attorneys who have used Baskin's services:* Ali A. Delforouh, Wood Smith Henning & Berman LLP; Richard T. Bowles, Bowles & Verna LLP; A. Scott Brown, Law Offices of Aaron Scott Brown; Peter J. Farnese, Epstein Drangel LLP; Tanner D. Brink, McKenna Brink Signorotti LLP.

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