

Tailored Approach

JAMS mediator Elizabeth Laporte applies a bespoke method to each dispute resolution.

By Shane Nelson

Special to the Daily Journal

Adaptability is a critical component of the work that retired U.S. magistrate judge Elizabeth D. Laporte is doing these days as a private neutral.

“There’s no one size fits all, and I try to tailor my approach to each case,” Laporte said. “I think the important thing for myself as a mediator is to be flexible and pay very close attention to what’s needed at any particular time.”

After more than two decades on the Northern District of California bench, Laporte retired in the fall of 2019, and started handling cases as a JAMS mediator, arbitrator and special master in the winter of 2020.

Working regularly now to resolve disputes in intellectual property, employment, civil rights, environmental, securities and breach of contract matters – Laporte said she thoroughly enjoys the variety of practice areas she’s handling, and that diverse caseload is much like her time on the federal bench.

“It helps keep things interesting,” she explained. “And it keeps my mind active and learning some new things while applying lessons and experience that I’ve had in the past.”

A 1982 Yale Law School graduate, Laporte tackled both plaintiffs and defense work in the private sector before joining the California Department of Insurance as an administrative law judge in 1991 and then taking over as chief of special litigation for the San Francisco city attorney’s office in 1996. Laporte was appointed to the bench in 1998. She later served for two years as chief magistrate judge.

Laporte noted that her approach as an arbitrator is very similar to what she employed in federal court.



Jana Ašenbrennerová / Special to the Daily Journal

“I want to try to combine fairness and efficiency – and to the extent possible, not run up expenses – and that requires the cooperation of the parties,” she explained. “I want to get to the heart of the matter. I don’t want to hear a lot of overheated rhetoric. I want to know what the facts and the law are, and of course, I will educate myself. I want to be very well prepared and have my time as much as possible used efficiently.”

Los Angeles trial attorney John C. Hueston used Laporte recently as an arbitrator in a case featuring fraud and embezzlement allegations against a Napa Valley vintner, and he said she did a fantastic job.

“She was very accommodating and didn’t think of herself as back in court,” Hueston said. “She made herself available for informal conferences, for quick answers on discovery and other issues, so we could truly move proceedings along in an expedited and cost-conscious manner. And that’s very important. That’s one of the advantages practitioners hope to get in a well-run arbitration process.”

Hueston, who represented the plaintiff in the arbitration and ultimately prevailed, also said Laporte’s ruling was especially well crafted.

“One hopes that the ultimate award is not just well reasoned but thoughtfully and comprehensively

Hon. Elizabeth D. Laporte (Ret.)

JAMS
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articulated,” Hueston explained. “And that is I think very, very important for both sides – to feel like their every point was considered and given thought and analysis. And she clearly did that here.”

Before a mediation, meanwhile, Laporte said she likes to receive briefs from all the parties and to speak over the phone beforehand with attorneys. On the day of a mediation, Laporte emphasized that flexibility is key, noting again that no two cases are ever the same, and she said taking time to really listen to the parties is crucial.

“I do think that parties, who choose a retired judge such as myself to mediate, are often interested at some point for evaluative thoughts based on 21 years of being on the bench,” Laporte added. “But I think it’s important to be sensitive to when and how to deliver messages and sometimes somewhat unwelcome feedback regarding risks and prospects.”

San Francisco intellectual property attorney Eugene Y. Mar used Laporte recently as a mediator to resolve a trade secrets case, describing her as very personable and astute.

“She’s just so likable, and I think she does a really nice job right away earning trust with the clients and their representatives and building a rapport,” Mar said, adding that she also wasn’t afraid to share her opinions.

“She has this demeanor about her where it was a very pleasant experience,” Mar explained. “But then you also think, ‘Well, I remember exactly where Judge Laporte said my case was going to fall apart.’”

Menlo Park intellectual property litigator Ashok Ramani has used Laporte twice as a mediator, and he noted that she handled the two disputes very differently.

“She clearly put a fair bit of thought into how to approach each mediation,” Ramani explained. “I’ve

been before some mediators, who have a standard template, and you see the same thing if you do repetitive mediations with them. But she approached each of these mediations differently, which showed that she was thinking about what would really work best in each instance.”

Like Mar, Ramani also noted that Laporte did an excellent job of tactfully evaluating the strengths and weaknesses in the cases.

“You can tell she was a federal judge for a long time because she doesn’t have much tolerance for BS,” Ramani said with a chuckle. “She’s not going to be a mediator who indulges people’s fantasies, which sometimes happens in mediation. My sense is she will do it politely, but she will tell people that she thinks they’re off base, which I think is a very good characteristic to have in a mediator.”

Laporte mentioned she is thoroughly enjoying her work, and the

opportunity to help litigants put the stress and worry of a dispute behind them is particularly satisfying.

“There’s a tension and diversion of time, money and attention that in litigation takes such a substantial toll,” Laporte explained. “There’s also the uncertainty and often the very prolonged time it can take to get to a resolution in what can be very clogged courts. ... Then, potentially, there are appeals, and all those things can make it very, very draining on litigants. So, if they can reach a resolution to put it in the rearview mirror, that is frequently such a huge relief for both sides.”

Here are some attorneys who have used Laporte’s services: Jocelyn Burton, Burton Employment Law; Eugene Y. Mar, Farella Braun + Martel LLP; John C. Hueston, Hueston Hennigan LLP; Ashok Ramani, Davis Polk & Wardwell LLP; Stephen Smith, Cooley LLP.