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VERDICTS & SETTLEMENTS

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No Predispositions

Retired Court of Appeal Justice Fred Morrison is skilled at analyzing facts of cases without favoring either side, lawyers say.

By Kelly Puente

Special to the Daily Journal

At 80, retired appellate justice Fred K. Morrison thought he'd be winding down his lengthy career, but these days, he's busier than ever.

As a mediator and arbitrator for JAMS, Morrison said he's working seven days a week, seeing clients on weekdays and spending weekends catching up on cases.

Fortunately, he loves the work and said he's happy moving full steam ahead for now, as the demand for ADR continues to grow.

"It's a very busy area of law, and it seems like now mediation is almost a mandatory step on any litigation," he said. "It's a full-time job for me."

And as a former justice for California's 3rd District Court of Appeal, Morrison brings a unique skillset to the table. He authored over 160 published opinions in his more than 14 years as an appellate justice, and served in both the criminal and civil divisions on the trial bench for nine years. Since joining JAMS in 2009, he's built a reputation as a fair, knowledgeable and down to earth neutral.

"Because he is a retired Court of Appeal justice, he carries an attitude and a gravitas with clients that your run-of-the-mill attorney mediators just don't have," said attorney Allan R. Frumkin, who has used Morrison's services for three cases. "He's very pleasant, he's very frank, and he has no predispositions. He doesn't favor plaintiffs and he doesn't favor defendants. He reviews the facts of the case."



Malcolm MacIachlan / Daily Journal

"He's very approachable and very easy to talk with," added Attorney Moseley C. Collins III. "He has a quick grasp of the situation and will do his best to get a fair and just result."

Morrison said his experience on the appellate court gave him insight into the role of precedents and statutes, and interpreting contracts, which is a big part of his work today.

"And on the trial court you learn how to evaluate witnesses and develop your own skills as to who you believe and who you don't believe," he said. "It's very useful (as a mediator/arbitrator) and makes the whole experience very interesting."

Morrison said one of the things he loved most about serving on the appellate court was the plethora of interesting cases.

His most memorable decision was *Paterno v. State of California*, in which property owners sued the state after a levee collapsed in Yuba County in 1986, killing two people and destroying thousands of homes.

After a long-fought case, the 3rd District, in a 2003 opinion written by Morrison, determined the state was liable for the faulty design of the levees.

"It was such an important case in the area of eminent domain and inverse condemnation," he said. "And it was a big win for the

Fred K. Morrison

JAMS
Sacramento

people who lost their homes."

Morrison said he continues to see interesting cases as a mediator/ arbitrator, with a focus on health care, government, police liability and employment disputes.

A particular case that sticks out for Morrison in which he served as a mediator was the case of a woman who was accidentally killed by police gunfire after she was

taken hostage in a bank robbery in Stockton in 2014.

The family of Misty Holt-Singh ultimately reached a \$5.75 million settlement with Stockton, but only after the city agreed to name a street in her honor — an idea proposed by the city attorney, Morrison said.

“We were down to the wire and we were close but couldn’t reach an agreement,” he said. “If you can find something to offer other than money, that can make a difference. For the family, this was a perpetual honor for their mother.”

In the end, mediation and arbitration is all about listening, Morrison said.

“The single most important thing for a mediator is to listen to the parties and let them be heard,” he said. “Sometimes that’s all they want.”

Attorneys said Morrison is a patient and skilled listener.

“Justice Morrison checks those boxes of patience, communication skills and respect,” said attorney

Bruce A. Kilday. “My clients have paid a lot of money, or very little money, in cases mediated by Justice Morrison, but they have left feeling that the results were fair. Clients pay attention to him, as do attorneys who want a good result for their clients.”

“Justice Morrison has all the virtues of an ideal Scout, and still has the energy and enthusiasm of a person decades younger (although he no longer annually ascends the challenging Mt. Shasta),” attorney Stephen F. Boutin said. “He combines those attributes with a breadth of experience, a multi-layered background and a fertile mind. And like a Scout, Fred is always prepared.”

Morrison said he sees himself as a facilitator and generally doesn’t like to tell people how they should settle their case, preferring for them to reach their own favorable outcomes.

Attorney Monica Hartsock said she saw a favorable outcome after using Morrison’s services.

“My case settled before arbitra-

tion for two reasons: One, Justice Morrison wanted to know the issues and; Two, Justice Morrison made the time and space to hear the issues,” she said. “I prepared an educational brief on a less common area of the law which not only helped Justice Morrison, but also the respondent in evaluating the claim.”

Morrison said he enjoys finding interesting aspects in almost any case, such as contract disputes where there’s a twist or interpretation in the contract. He said he has a great appreciation for contract lawyers who are “unsung heroes” in the legal world.

“If people would just show their contracts to lawyers we wouldn’t have anything to do,” he said. “My advice to people is to spend a few thousand dollars to have your contract reviewed. You’ll save yourself a lot of money in the long run.”

Morrison said one of his main reasons for taking on work as a mediator after his time as an appellate justice was to help make

a substantial contribution for his grandkids’ college funds. With that goal now achieved, he said he plans to continue with the work as long as it’s enjoyable.

“The real motivation for me is that I like the work,” he said. “It’s interesting as an independent contractor, and you get to use the experience and skills you’ve built up over your lifetime. If it comes to the point where I want to take it easy, I don’t have to retire, I can just cut back.”

Here are some attorneys who have used Morrison’s services: Amanda Bonn, Susman Godfrey LLP; Steve F. Boutin, Boutin Jones; Moseley C. Collins III, Moseley Collins; John P. Cotter, Diepenbrock & Cotter LLP; Allan R. Frumkin, Law Offices of Allan R. Frumkin; Monica L. Hartsock, Law Office of Monica Hartsock; Philip C. Korologos, Boise Schiller Flexner LLP; Bruce A. Kilday, Angelo Kilday & Kilduff Attorneys at Law; Thomas S. Knox, KLA.