

James C. Emerson

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Although James C. Emerson still carries himself with the authority of a judge, he doesn't come across as overbearing.

By Craig Anderson

LOS GATOS - James C. Emerson, who retired from the Santa Clara County Superior Court bench early last year, likes settling cases - and attorneys say he is doing a good job of it as a mediator with a combination of charm and real-world experience.

The 63-year-old Emerson said he is enjoying the work with ADR Services Inc., even though he does find it "exhausting."



"You have to work very hard to get people to agree," he said in a recent interview. "You have got to get people's confidence. If they don't respect you, they won't listen to you and you probably will not settle the case."

Emerson works two or three days a week at his new job, spending the vast majority of his time on mediations, while handling some arbitrations and special master work as well.

After two decades as a judge, Emerson said he did not want to remain on the bench hearing misdemeanors, the assignment retired judges are allowed to have under Santa Clara County Superior Court rules.

"This is a lot more interesting and stimulating," he said. "You are using your experience as a trial judge, trading on your knowledge of the law, the facts, and the attorneys."

Lawyers who have worked with Emerson said he has done a very good job on their cases, and praise his ability to work well with clients.

"What sets him apart is his personality," said Samuel A. Chuck, a partner with Rossi, Hamerslough, Reischl & Chuck in San Jose. "He is likeable, and is able to get people to relax and be more level-headed in getting to a result."

Chuck said Emerson has mediated several real estate cases, in which he has represented the plaintiffs.

"He has a great way of building rapport with the clients," Chuck said. "His experience on the bench helps a great deal to communicate to people, in a real-world sense, about what happens in litigation."

Stuart D. Kirchick, a San Jose plaintiffs' attorney, agreed that Emerson does a good job explaining to his clients the realistic outlook for their cases if they go to trial in Santa Clara County.

"You almost forget he's still not a judge," Kirchick said. "It could be his big, booming voice. He's an imposing gentleman. He still carries an air about him as if he is still wearing the black robe."

"He's not afraid to give his opinion," Kirchick said. "But he's not overbearing, and is very respectful."

Michelle Leu Zaccone, an attorney with Burlingame-based Carr, McClellan, Ingersoll, Thompson & Horn, had not dealt with Emerson during his judicial career and was initially skeptical when opposing counsel recommended him to mediate a "difficult" lease dispute last year.

"I didn't think the case would settle," she said.

"I was really impressed with how hard he worked," Zaccone went on, noting that Emerson emailed her before the first mediation and had already read the attorneys' briefs. "He was ready to go."

Since then, Zaccone has recommended Emerson in a case in which she represented the defendant in a business dispute, as well as in a cross-complaint in a construction lawsuit.

"He did not talk down to my client," Zaccone said. "He is a genuinely fair, nice person. That's just his makeup."

A San Mateo native, Emerson grew up in Sunnyvale and was inspired to become a lawyer by his high school speech and debate teacher. He graduated from Santa Clara University School of Law in 1973.

Emerson started his own law firm, handling everything from wills to criminal law. It was good preparation for his future career.

"On the bench, I understood a variety of different disciplines," he said.

He joined the Santa Clara County Counsel's office in 1985, representing school districts and the registrar of voters. Emerson remained there until Gov. George Deukmejian appointed him as a municipal court judge. He took office in January 1990, and was elevated to the Superior Court by Gov. Pete Wilson three years later.

He handled a number of different assignments, from family court to criminal, and spent his final years on the bench dealing with a civil assignment.

Since joining ADR Services, Emerson said he works on personal injury, construction, real estate, and employment law disputes.

"It pretty much runs the gamut," he said.

Mediations are driven less by the law than by the facts of each case, but even then, Emerson said he does not push for a particular outcome.

"I have not found it to be an effective technique," he said. "If required, I will talk about the value of the case, but you have to be careful."

He serves as an adjunct professor at Lincoln Law School in San Jose, teaching negotiation and mediation.

"I'm having a great time doing what I want to do," Emerson said.

Emerson, who lives in Santa Cruz and has an adult daughter, also spends time volunteering, providing legal advice to homeless men.

"I'm very fond of these guys," he said. "They persevere under difficult circumstances, and it makes you grateful for your life and respectful of theirs."

Here is a list of attorneys who have recently used Judge Emerson's services:

Stuart D. Kirchick, San Jose; Timothy A. Lundell, Lundell & Spadafore; Samuel A. Chuck, Rossi, Hamerslough, Reischl & Chuck, San Jose; Bernard Robert Allard,

Corsiglia McMahon & Allard LLP; Michelle Leu Zacccone, Carr, McClellan, Ingersoll, Thompson & Horn, Burlingame; Brian J. O'Grady, Gazzera, O'Grady & Stevens, Mountain View; Tyler G. Draa, Trepel Greenfield Sullivan & Draa LLP, San Jose.