

VERDICTS & SETTLEMENTS

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Adaptive to the Case

John Zebrowski modifies his approach to suit the particulars of the dispute he's mediating.

By Shane Nelson

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Longtime private neutral John Zebrowski said he became a lawyer because he figured the work wouldn't be dull.

"I come from a working-family background—a lot of people working in mills and mines," Zebrowski explained. "I saw a lot of people spending their lives doing jobs that were not really very interesting and were pretty boring, but you just had to show up for work and do the work. And I decided I didn't want to have a job that was boring."

Zebrowski grew up in Western Pennsylvania, graduated from the University of Pennsylvania in 1970 and completed his legal degree at Georgetown University Law School in 1975. He worked early on for the U.S. Department of the Interior before going into private practice and later moving in house for USA Petroleum in the early 1980s.

Zebrowski then spent 13 years on the Los Angeles County Superior Court handling civil cases before he was appointed to the 2nd District Court of Appeal in 1995, where he served for four years.

He's been at ADR Services, Inc., tackling disputes as a mediator and arbitrator, serving as a special master, and providing appellate consultations since 1999.

"It's worked out very well," Zebrowski said. "Being a judge or an arbitrator or a mediator — it's like being perpetually in graduate school. Every case is a new case. You're always learning something new. There's new evidence being presented; how you do things in a certain area is being illustrated.



Emilio Aldea / Daily Journal

You're trying to decide who you can believe in and who you can't believe in. It's all very interesting."

Zebrowski noted most of the cases he handles as an ADR Services, Inc. neutral involve business in some way, but those matters often take shape as employment, real estate, insurance and financial disputes.

As an arbitrator, Zebrowski said in most cases he doesn't see a need to dictate how things proceed.

"This is a proceeding the parties and the attorneys have chosen, and typically they had a reason for choosing it, and they should get the benefit of that reasoning," he explained. "If they want to use

a certain procedure or certain approach to their arbitration, I'm usually fairly amenable to that. There are some limits, I guess, but most of the time, it's a contractual proceeding, and you want to give the parties what they contracted for. You talk with the attorneys and have status conferences and decide how we're going to do the case, and we can adapt the process to the needs of the case."

Beverly Hills commercial litigator Robert M. Waxman has used Zebrowski a number of times as an arbitrator, and he described the neutral as a good listener with an excellent judicial demeanor who asks probing questions.

Hon. John Zebrowski (Ret.)

ADR Services, Inc.
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“And unlike many arbitrators, he is willing to make tough decisions,” Waxman said. “He’ll grant summary judgment motions in arbitration. He’ll grant motions in limine in arbitrations, where they involve complex issues. Many arbitrators are afraid to do that or won’t do it, but Justice Zebrowski will if you meet the requirements of the law, and he will follow the law to the letter.”

Before mediations, Zebrowski would prefer to have briefs from both sides a week in advance if possible, and he tries to connect beforehand with attorneys either over the phone or email, so he can hit the ground running in the session.

Because every case is different, he modifies his approach to best suit the dispute he’s mediating, Zebrowski added.

“That can be a facilitative approach or it could be an evaluative approach, or it could be some combination of the two,” he explained. “What we’re really looking for is something that will work, and that’s going to depend on what type of case it is, what the issues in the case are, the personalities of the people, what their circumstances

are. ... But when you actually get out in the trenches, you’re not really looking for whether it’s facilitative or evaluative. You’re looking for what might move this case ahead towards settlement.”

Not a big fan of joint sessions, Zebrowski said he rarely brings everybody together because of the often counterproductive results. He has, on the other hand, had a great deal of success with mediator’s proposals but noted he tries to use them sparingly.

“If you use a mediator’s proposal in the wrong situation, you can force a case to go to trial,” he explained. “You have to pick your spot. And the cases I get tend to be complicated business cases. It’s not a matter of just getting a piece of paper and writing down ‘\$500,000’ on the piece of paper and saying, ‘This is our settlement.’ ... I once did a mediator’s proposal that was 16 pages long. It settled the case, but it wasn’t like pulling a rabbit out of a hat in five minutes.”

Calabasas litigator John A. Marshall has used Zebrowski to settle several business and employment disputes, and said the mediator’s trial and

appellate court experience sets him apart.

“He’s done it all, and I think he commands a great deal of respect with the clients, so when he provides an evaluation, people listen,” Marshall said. “There are some mediators who give me an evaluation, and it’s just one more opinion from another lawyer. But when Justice Zebrowski gives me an evaluation, I need to give it some weight.”

Pasadena real estate attorney and appellate specialist Ryan C. Squire has used Zebrowski as a mediator and an appellate consultant, and described him as “among the smartest judges I’ve ever worked with.”

“When I have potentially difficult appeals, and the clients are willing, I always recommend we try to engage him not only on the issues and the briefs and the arguments but also the oral argument,” Squire said, noting that Zebrowski’s appellate experience also helps in mediations. “Particularly where you’ve got parties that think, ‘Oh well, if I lose at the trial level, I’ll just go up on appeal,’ he can really shed light on those issues. ... I just think it helps inject a dose of reality — one

way or the other — for the litigants to understand the dynamics that occur at the trial court level and at the appellate court level.”

An ADR Services, Inc. neutral now for more than two decades, Zebrowski said he doesn’t see himself stepping away from his work for at least another couple of years, in part because he still finds it compelling.

“Lawyers are basically, as a group, a pretty smart bunch of people, and they’ll come up with a lot of smart strategies and ideas and arguments, and it’s really interesting just to see them come up with those and how they present them,” Zebrowski said. “Maybe it’s a little bit of a law nerd thing, but it’s almost like going to see a stage play unfold in front of you as the case develops, and it’s certainly something I still enjoy.”

Here are some attorneys who have used Zebrowski’s services: Robert M. Waxman, Ervin, Cohen & Jessup LLP; Robert C. Hsu, Lexint Law PC; John A. Marshall, Marshall & Associates; Ryan C. Squire, Garrett & Tully; Robert C. Christensen, CNA Coverage Litigation Group.