

VERDICTS & SETTLEMENTS

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Street Credibility

Neutral Steven Austin's judicial experience engenders respect from attorneys and disputing parties.

By Shane Nelson

Special to the Daily Journal

Retired judge Steven K. Austin has zeroed in on a noteworthy difference in the work he's doing these days as a private neutral for ADR Services, Inc.

"I don't have a bailiff anymore," the former Contra Costa County Superior Court judge said with a laugh. "There has definitely been a difference in my level of authority, and I think that's a good thing. I've enjoyed that."

Austin stepped down a year ago after 23 years on the bench, and joined ADR Services, Inc. almost immediately.

"One of the things I liked best about being a judge was doing settlement conferences. I always did my own, and I've done hundreds and hundreds of them over the years," Austin explained. "So it was just a natural thing for me to move into doing this. It's just what I thought it would be, and it's been wonderful."

A 1981 graduate of UC Hastings College of the Law, Austin spent 17 years as a litigator, specializing in personal injury, civil rights, insurance coverage and construction defect disputes before his 1998 judicial appointment by Gov. Pete Wilson. Much of his time on the bench was dedicated to the court's civil department, but he also handled family law and criminal trials and served for two years as presiding judge.

Austin noted that he's using many of the skills he employed regularly as a presiding judge in the work he's doing now as a private neutral.

"When you're presiding judge, you go from running your court-



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room to then all of a sudden managing the whole court, and you're managing other judges, and you don't have that authority you have in the courtroom when you're managing other judges," he explained. "You have to learn and rely on those skills, and I'm using a lot of those skills in mediating cases now. You need to listen. You need to persuade. You need to use anything that you can to try to resolve matters."

Austin said he's been mediating cases and has started work on several arbitrations while also tackling some discovery referee work. Many of his cases over the last year have involved personal injury, real estate, medical malpractice and probate disputes.

Although he hasn't yet issued any arbitration rulings, Austin noted that - much like when he was on the bench - he prefers to have attorneys employ a direct approach when working with him as an arbitrator.

"Sometimes people go on and on about things that maybe aren't the most important parts of the case," Austin explained. "When you're in an arbitration, it's not a deposition. It's you really trying to present your case in a coherent way without having to keep all the details you would normally have in a deposition. ... For example, in a personal injury case that I'm arbitrating, be direct about what the nature of the injuries are. What exactly is it for future medicals?"

Steven K. Austin

ADR Services, Inc.
Oakland

Areas of Specialty:

Personal Injury
Real Estate
Medical Malpractice
Business
Probate
Elder Abuse

Before a mediation, Austin said he likes to receive briefs and frequently speaks over the phone with attorneys. He isn't a big fan, however, of joint sessions on the day of a mediation, and while he will make use of mediator's proposals, he'd prefer to help parties resolve their disputes without employing that strategy.

"It's important for me to make people feel while they're in mediation that they're getting a fair shake, and that I'm really listening to them," Austin said, "and whether we settle the case or not, that they feel like they've been heard. And when I know that's happened, at the end of the day that makes me feel good, too."

Emeryville plaintiffs' attorney Jamie G. Goldstein has used Austin to resolve a few personal injury disputes, and said, "He's very personable, so that was quite helpful.

Goldstein explained, "He took

the time to talk with our clients and to really listen to them. ... Most of the time, this is our clients' first experience with any of this, and he took the time to thoroughly explain what was needed, and he didn't push them or rush them into decisions."

Pleasant Hill defense attorney Wilma J. Gray appeared several times before Austin while he was on the bench, and she has since used him as a mediator to resolve a construction injury dispute. Gray agreed that Austin's personable nature is a strong suit.

"What sets Steve Austin apart is his personality," Gray said. "He very quickly gets to know and understand the people, and he relates very well to people. And he uses just a little bit of humor to make people feel comfortable immediately. And whether that's on the Zoom platform or whether that's in person, that certainly plays well

with clients and corporate representatives as well as attorneys."

Gray noted, however, that Austin isn't a pushover.

"He's not afraid to take on people and challenge their arguments, and their positions," she said. "And obviously, with his many years of experience as an attorney and as a judge, he's in a comfortable position to do so."

Hayward plaintiffs' attorney Leonard S. Becker also appeared many times before Austin while he was on the bench, and he has used the private neutral several times to resolve personal injury disputes. Becker said that Austin commanded respect from the plaintiffs' and defense bars while on the bench, and he's carried that forward into his mediation work.

"Plaintiffs are going to listen to him with respect to potential problems in their case," Becker explained. "And the defense will listen

to him as well for the weaknesses in their case and the potential upside to the plaintiff."

Like Gray, Becker said Austin's extensive experience resonates genuinely with parties on both sides of a dispute.

"He brings terrific perspective, and he's tremendously thoughtful," Becker explained. "And because he's tried so many cases from the bench, he's just got a lot of what I refer to as street credibility."

Here are some attorneys who have used Austin's services: Wilma J. Gray, McNamara Ambacher Wheeler Hirsig & Gray LLP; Jamie G. Goldstein, Arias, Sanguinetti, Wang & Torrijos LLP; Leonard S. Becker, Law Offices of Leonard S. Becker APC; James O'Donnell, O'Donnell & Smith; Richard D. Wheeler, McNamara Ambacher Wheeler Hirsig & Gray LLP.

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