Solutions Finder

Jeffrey King, a retired appellate justice, enjoys helping resolve tough disputes.

By L.J. Williamson
Daily Journal Staff Writer

LOS ANGELES — Jeffrey King barely had a lull in his legal career between retiring from the bench and moving into work as a mediator and arbitrator, because he had no desire for one.

“Really, my life is the law,” said King when asked about his interests outside of his work for JAMS.

King said he and his wife, Pamela, a San Bernardino County Superior Court judge, will get up in the morning and begin talking about the law before they head off to work.

Family talk leads to the law as well, because their three sons — Oliver, Jonathan and Justin all have law degrees. Justin is a plaintiffs’ personal injury lawyer in California.

The law is their shared interest, he said, “so it really permeates our life and it’s what we do.”

King said he feels comfortable in a wide variety of case types, including labor and employment, personal injury, eminent domain and inverse condemnation. As a San Bernardino County Superior Court judge, he primarily worked in long cause civil, but also did a little bit of criminal.

Then King moved to the 4th District Court of Appeal, where there was a “vast array of things,” he said.

King said he grew up practicing personal injury law, following in the footsteps of his father, who was also a personal injury attorney. Even as a child, he said, he recalled listening to his father tell stories about the cases in which he was involved.

King’s background help him view the world through a legal lens. “Almost any fact pattern you have, there is always going to be a legal issue,” he said. In approaching a mediation, King bears in mind that there’s always going to be, from a legal standpoint, a vulnerability in somebody’s case.

“So I guess what I try to do in preparing for a mediation is I try to understand the law as thoroughly as I can,” he said, “and normally in that process of trying to understand the legal principles that are involved you can always find a little bit of a hole, and then that creates a vulnerability. And then that creates leverage.”

King describes his approach to dispute resolution in simple and direct terms: “I just get in and meet the people and hopefully establish a rapport with them.” That can take time, so King said he prefers eight-hour mediations to the half-day variety.

King always works in caucus rather than in joint session. Though he said he has worked with other mediators and seen them use joint sessions effectively, “there can be so many pitfalls, so many things that can happen there that it just explodes everything.”

King tries to calm the emotions both from the parties and their lawyers. “It can just explode on you so quickly,” he said.

King recalled one time he was handling a mediation, and attempted to bring the parties together for a joint session, “And everything was going along so nicely and so smoothly for about 10 minutes, and then somebody said something, and then it just fell apart. The case did not resolve.”

He tries establish a sense of trust combined with a matter-of-fact, businesslike approach. “You just kind of try to impress upon them that, yeah, maybe you don’t like that person and maybe you think that person deceived you or stabbed you in the back, but let’s just move on with life and not carry this with us for the next three years,” he said.

Sometimes, a party will dig their heels in, protesting, “I’m not paying them a dime. It’s the principle!” In such instances, King said, “You’ve just got to kind of give them a lecture: ‘We’re not here litigating principle. We’ve got to get this done with. It’s a business deal.’”

King noted that “principle” can become a more malleable concept as the day wears on. “At the end of the day, very seldom does something not resolve because it’s the ‘principle of the thing.’ It’s the principle when we’re starting off at 10 o’clock in the morning. But then by the time we get to 3, 3:30, and then you want to get home, the principle’s kind of gone, and they’re more realistic.”
When attorneys prepare mediation briefs, King said, “I want to know the facts, but I really want to know the law... Cite me cases so I can see if the case stands for the proposition you say it stands for.”

King also wants the briefs shared with the opposition. “I understand that there might be something that they don’t want to share with the other side and so they confidentially want to provide that to the mediator,” he said, “but for the most part I think a case is more likely to resolve if everybody knows where everybody’s coming from.”

Lawyers aren’t trying their case to the mediator, King advised, so it’s not case by telling him how wonderful it is. “I like a lawyer that will say, ‘Yeah, we got we got a weak spot here.’”

In cases with factual disputes, such as who it was that ran the red light, the parties need to take depositions, do discovery, which means mediation works best later in the process.

“You maybe need to know what the expert doctor’s going to say. You maybe need to know what the other side’s expert reconstruction witness is going to say, before you can properly and reasonably mediate the case... so that needs to be mediated towards the back end of the legal process.”

Mediating with King was “overwhelmingly positive,” said Daren Hengesbach of Murchison & Cumming LLP.

“He’s as passionate about resolving cases as any neutral I’ve ever had. He’s extremely knowledgeable about the subject matter and when I last worked with him, he actually brought us back for a second session at no cost and resolved our case,” Hengesbach said. “He has a passion that goes beyond getting paid.”

King is a pleasure to work with because he hasn’t forgotten what it’s like to be a lawyer, said Dennis Wagner of Wagner & Pelayes LLP. “He brings that perspective, in addition to his judicial experience, to the parties.”

Wagner described King as diligent, persistent, and challenging. The “challenging” part is important, Wagner said, because “both sides need to be a little uncomfortable to get things to move forward.” King is also tenacious, Wagner said. “It’s his nature. He doesn’t want to let something get away that he can’t somehow resolve or get to a resolution, or get a partial resolution.”

What separates a great mediator from the pack is follow-up, said Andrew Gagen of Kidman Gagen Law LLP, and that’s an area in which King excels.

“A lot of mediators, it ends at 4:30, and if it didn’t settle, you never hear from them again,” Gagen said. King, however, made multiple follow-up calls and communications, and brought everyone in for a second session when the case didn’t settle on the first try, he added.

The case was a complicated one, with a dispute not only between the parties, but a sub-dispute between the defendant and their insurance company involving coverage issues. King wasn’t “just passing numbers,” Gagen said, but deftly pivoting between the issues. “Justice King earned his money, and it was money well spent.”

Here are some attorneys who have used King’s services:
Andrew B. Gagen, Kidman Law LLP; David Cantrell, Lester & Cantrell LLP; Dennis E. Wagner, Wagner & Pelayes LLP; Daren E. Hengesbach, Murchison & Cumming LLP; Richard M. Ewaniszyk, Ewaniszyk Law Firm; Timothy Younger, Younger & Associates; Tina Schoneman, Cabral Schoneman LLP

lj_williamson@dailyjournal.com