Neutral James L. Smith — a master of one-liners — brings forth a sense of lightness as he presides over settlement talks.

By Henry Meier
Daily Journal Staff Writer

ORANGE — The legal profession is often looked upon as a sober business. A sense of decorum and formality set against a backdrop of dark suits, crisp button down shirts and silk ties leaves little room for levity in proceedings.

James L. Smith, however, eschews some of that gravitas as a neutral with JAMS and adds a healthy dose of humor to put parties at ease and foster a more genial environment during contentious disputes. It's a style that plays to his strengths, Smith said.

"Some people overwhelm you with brain power," he said. "I've never had that problem. But I've found that appropriate humor will grease the wheels and get things moving faster and more efficiently."

Attorneys said that half of that claim is true — he is a master of one-liners — but that he is also fiercely intelligent despite his best efforts to convince you otherwise.

"Because he doesn't blow his own horn, sometimes you don't realize how intelligent he is," said Jennifer L. Keller, a principal at Keller Rackaukas Umberg Zipser LLP who has appeared before Smith both when he was on the bench and since he became a private mediator, estate/probate, personal injury, construction defect, probate, personal injury, construction defect.

"He starts out a mediation session and says, 'Okay, let me tell you what I know about the case,'" Kurkhill said. "So you don't have to spin your wheels getting him up to speed."

"Sometimes you win, sometimes you don't, but at least you know you got a fair shake," he added.

In addition to the topical variety of cases Smith works on, he also has a blended practice of mediation, arbitration and discovery work. He said the lion's share of his tasks fall within the mediation and arbitration realm, but he has also acted as a special master and discovery referee on some very high profile cases, including the Bratz litigation between MGA Entertainment Inc. and Mattel Inc.

Keller, who was MGA's trial counsel in the case, said he handled his discovery duties in the highly contentious case with aplomb.

"He was even handed, fair and balanced and more energetic than some people 30 years younger," she said. "He is the Energizer Bunny: he just keeps going."

A former collegiate basketball player at the University of Redlands, Smith likened the role of a mediator to being on the court.

"It's a lot like playing basketball," he said. "Teams have plays and patterns they practice but you have to take opportunities where you find them as well. You gotta be loose, you gotta be able to move."

Smith, who was born in Los Angeles and grew up in Burbank, didn't have dreams of becoming a lawyer as a child or even during college. Instead, Smith said he was a basketball junkie who spent much of his free time on the court or with friends.

Shortly after graduating with a bachelor's degree, he heard a few of his buddies were planning on taking the LSAT. With no one to hang out or hoop with, he tagged along and ended up doing well enough to be admitted to UC Hastings College of the Law in San Francisco.

Smith earned his law degree in 1962 and secured his first job as a prosecutor in the Orange County district attorney's office out of law school. After two years in the office, he briefly joined and became a named partner at an Orange County firm before striking out on his own as a sole practitioner until 1971, when Reagan tapped him for the municipal court judgeship.

His appointment to the bench also ushered in a new routine for Smith, who no longer could make afternoons basketball games work with his schedule. Instead, at the urging of a colleague, he took up lunchtime running.

The open road soon became a place for Smith and his wife — who he calls the class of the operation — have dreams of becoming a lawyer as a child or even during college.

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"Being able to run it means I'm still hanging in there," Smith said.

Smith and his wife — who he calls the class of the operation — have three children and six grandkids, who readily admits are part of his motivation to continue working.

James L. Smith
Affiliation: JAMS
Location: Orange
Areas of specialty: complex litigation, estate/probate, personal injury, construction defect

Like most of his endeavors, Smith didn't just dabble and soon was running marathons. He has run more than 100 of the 26.2 mile races over the past 40-some years. At age 76, he still runs one every year — the Los Angeles Marathon. He is part of a group of about 150 people, the Legacy Runners, who have participated in every marathon since the race's inception in 1986.

"It's my touchstone," Smith said. "Being able to run it means I'm still hanging in there."

Here are some attorneys who have used Smith's alternative dispute resolution services:

Larry Zeman, Barnes Crosby Fitzgerald & Zeman LLP, Irvine; William S. O'Hare, Snell & Wilmer LLP, Costa Mesa; Robert Green, Green & Hall, Santa Ana; Clifford Roberts Jr., Roberts & Associates, Irvine; Michael Yoder, O'Melveny & Myers LLP, Newport Beach; Federico Sayre, Sayre & Levitt LLP, Santa Ana; Edward Susolik, Callahan & Blaine, Santa Ana; James V. Kurkhill, Yorba Linda; Jennifer L. Keller, Keller Rackaukas Umberg Zipser LLP, Irvine.