Neutral Gary Taylor handles arbitrations and mediations across Southern California

By Steven Crighton
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RANGE — No matter what teams are playing what sport, there’s always someone on the field that retired federal judge Gary Taylor is guaranteed to root for.

“O you can check, most judges feel this way; when you’re watching a game, you identify with the ref,” Taylor said. “I could be watching a baseball game, and the ref will be getting yelled at for a bad call, and I’ll just think, ‘Oh, no, no. I feel so bad for him.”

Tasked with making the best unbiased decision they can with the evidence presented to them, referees are a lot like judges.

But in spite of the difficulties that often accompany the gavel, Taylor has taken to being a judge in some form or another with gusto for nearly 30 years, first for four years in Orange County Superior Court and then for 15 as a federal judge for the Central District of California. He’s worked with JAMS Inc. as a mediator and arbitrator since retiring from the bench in 2005.

He credits his longevity to his fascination with the practice of law, be it in the form of a contract dispute mediation involving a famous singer or a difficult arbitration involving a multi-million-dollar class action.

“It is a blast, it really is… I know when you’re sitting on the bench, you’re supposed to behave like you’re the all-seeing judge, but I’m giggling inside,” Taylor said.

Taylor is returning to JAMS after a year-and-a-half hiatus, which he took to care for his ailing wife, Joanne. With his wife’s passing, Taylor plans to hear more cases in JAMS’ San Diego office, in order to be closer to his three children and five grandchildren, though he’ll still be available in Orange County and will continue to handle arbitrations in Los Angeles County.

Taylor handles a mix of arbitrations and mediations, but believes his federal background might make him a more appealing choice for arbitrations.

“You’re going to make a ruling, and you want people to feel very much like they’re in court, before a federal judge on a federal matter. They want the treatment they’d get from a judge, pretty much, they’re not looking for an informal, loosey-goosey sort of arbitration,” Taylor said.

In one particularly trying arbitration that made national headlines, Taylor was tasked with overseeing a dispute between Toyota Motor Corp. and Dimitrios Biller, a former attorney for the company turned whistleblower.

Biller, who Taylor said had a falling out with Toyota, alleged publicly that company officials had knowingly concealed information related to a series of product liability lawsuits the company was facing due to mechanical defects.

Representing himself, Biller argued that he was protected from prosecution against Toyota as a whistleblower. Taylor found otherwise, granting a $2.6 million ruling in favor of Toyota.

In spite of Biller’s spirited argument, he said, the issue at hand was fairly black and white.

“He wasn’t really a whistleblower, he was an attorney breaching a duty of confidentiality with a client, even if they were doing something he didn’t like,” Taylor said.

The tricks that serve him well in arbitration are the same ones he tends to employ in mediation, as he encourages both sides to fully explore their arguments in order to determine what exactly is at issue in a case. Unlike some other mediators, Taylor said he will occasionally advise the use of a mediator’s proposal to resolve a case.

“Some judges view it as too much of an evaluation of the case by them, they don’t like to be case evaluators. They feel they should be facilitators only and carry offers back and forth and encourage people to settle,” Taylor said.

“Other judges, like me and particularly federal judges, want to be able to tell a party that something is worth so and so and this is what you ought to do.”

A lawyer who presented a case before him in court a decade ago shouldn’t expect to see much change from Taylor, he said, save for grayer hair and less of it.

“I’ve tried to keep that same demeanor. Some judges say in arbitration, there’s a lot of give and take that an arbitrator or judge can do based on equity. I try to stick more closely with the rules of law, because that’s what I think they expect,” Taylor said.

Thomas R. Malcolm, a retired Jones Day litigator and a neutral with Judicial Dispute Resolution Inc., said given the depth of Taylor’s knowledge, the need for preparation can’t be understated.

“They’d better be prepared. Chances are good that he will know their case better than they do,” said Malcolm, who has known Taylor since before he first took the bench in 1986.

Hon. Andrew J. Guilford, who assumed Taylor’s seat on the federal bench, said that his long term goal is to be viewed as a worthy successor to Taylor.

“He’s always approaching a task with enthusiasm. I’ve been told that when he used to walk down the hallway to the chambers where I now sit, you could always tell when he was coming, because he was always whistling a tune,” Guilford said. “I’m often humbled by the fact that it’s his shoes I’m allegedly trying to fill.”

When he was appointed to the bench, Taylor and his wife were among the first to reach out, inviting him to a lunch at their home.

Once there, Taylor handed him a binder titled “Gary’s Advice,” containing a wealth of forms, notes, and tips on how to be an effective district judge, Guilford said. He keeps it in his drawer to this day.

“Judges are big on scripts. When we sentence people there’s a series of scripts that we like to follow… Most of my scripts are Gary Taylor scripts,” Guilford said.

Robert R. Begland, a partner with Manatt, Phelps & Phillips LLP who has tried cases before Taylor privately and federally, said that Taylor’s willingness to discuss a case at length with any party involved is one of his greatest attributes.

“He doesn’t get in the way, he allows you to outline your case as strenuously as you want to and will give your views a full airing,” Begland said.

Here are some attorneys who have used Taylor’s alternative dispute resolution services: James Rogers, Law Offices of James R. Rogers; Ryan Blair, Cooley LLP; Gary Waldron, Weintraub Tobin Crediak Coleman Grodin Law Corporation; Karla Kraft, Stradling Yocca Carlson & Rauth PC; Kevin Nowicki, Gordee Nowicki & Blakeney LLP; Kevin Rosen, Gibson Dunn & Crutcher LLP; Robert Begland, Manatt Phelps & Phillips LLP; Stephen Harris, Paul Hastings LLP; Mark Vega, Incite Law Group.