Neutral by Nature

Former Judge James L. Warren puts his reputation as an independent deep thinker to work in the settlement world.

By Susan McRae
Daily Journal Staff Writer

James L. Warren was barely a year into his appointment on the San Francisco County Superior Court when he landed his first big case.

The assignment involved the consolidation of a flurry of lawsuits against gun sellers and manufacturers in the wake of a 1993 shooting spree at a local law firm. Nine people died in the rampage, including the gunman.

“I can still remember the presiding judge calling me in one day and saying, ‘Hey, Jim, you are just the guy to do this.’”

“I thought, ‘Wow, a new judge getting such an important case.”

It wasn’t long, Warren said, before he realized the case was a political hot potato that everyone else had passed on, and he got it by default.

Initially, Warren overruled defense demurrers which allowed the suits against the gun maker to proceed. Later, the same defendants moved for summary judgment and Warren granted the motion, finding the plaintiffs failed to prove the Florida weapons manufacturer had violated California law.

The ruling, upheld by the state Supreme Court, became the first of many significant decisions during his 12 years on the bench — from finding the ban on gay marriage unconstitutional to dismissing murder charges against a local lawyer whose dogs mauled a neighbor to death.

His decisions marked him as a fierce, independent thinker unbound by any doctrinaire approach or popular opinion on either side.

Lawyers said those are traits that serve him well in his current role at JAMS, where he’s been a neutral since 2006.

“He’s very thoughtful, thinks deeply about things and truly is unencumbered by any dogmatic baggage,” said longtime friend Nanci L. Clarence of Clarisse County Superior Court when he retired and his court reopened.

“Warren’s services: Arbitration, mediation, neutral; helpful when he left his position to work in the settlement world, and it will work in the settlement world, and it, in the mediation, resolving cases deemed impossible to settle. He credits his achievement to three tenets: persistence; no never means no; and his belief that lawyers are paid to lie to mediators about the amount of money they’re seeking or will pay.

One memorable mediation involved 35 people from a number of banks and businesses around the world. The 4-year-old dispute had gone through three failed settlement attempts, and there was no reason to believe this time would be different.

But Warren was game to try and pulled out a technique he’d found helpful in other disputes.

He had all of the principals go into a room by themselves with no lawyers present and discuss the ideas they’d been batting around for the past years. It worked.

“There was no trial date looming, nothing in particular to bring them together,” Warren said. “They just felt it was time to do it again — and shazam.”

Another time, Warren flew to Louisville, KY to conduct a mediation between massive distilleries. The session went from 9 a.m. the first day to 4 a.m. the following day before resolving. A week later, he received a package in the mail containing a special reserve bottle of distilled whiskey. A handwritten note in gold ink on the label read, “How did you do this?” The bottle sits unopened in his office, a tribute to work well done.

Warren, who is divorced and has two adult children, teaches mediation one day a week at the University of San Francisco School of Law. He’s also a self-described “opera nut” and said whenever he’s in a new city, the first thing he does is check out the opera schedule.

He extended his musical interests to the San Francisco Choral Society, for which he served as director for a time and sang bass baritone.

Said Kay Lucas of The Lucas Law Firm in San Francisco, “He came up with the idea of having [holiday] concerts that have become a tradition.”

Hon. James L. Warren (Ret.)
Affiliation: JAMS
Location: San Francisco
Areas of specialty: Intellectual property, antitrust, complex commercial litigation

Here are some lawyers who’ve used Warren’s services: Susan Harriman, Keker & Van Nest LLP, San Francisco; Allen Steyer, Steyer Lowenthal Boedrookas Alvarez & Smith LLP, San Francisco; James L. Hunt, Bingham McCutchen LLP, San Francisco; William I. Edlund, Bockius LLP, Palo Alto; Andrew J. Gray IV, Morgan, Lewis & Bockius LLP, Palo Alto.