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Experienced judges are in the midst of a ‘great retirement’

By Malcolm Maclachlan

Daily Journal Staff Writer

Call this one “The Great Retirement.”

Some of the most experienced judges in California’s largest courts have retired or announced plans to retire in recent months. Thirteen judges have announced they’re leaving the Los Angeles County Superior Court since Jan. 1. Sacramento County and San Diego County have each lost about half a dozen judicial officers this year.

“Right now we have in fact 13 judicial vacancies, which is the highest in memory for those of us at the court,” said Sacramento Court Executive Officer Lee Seale. “It is a strikingly high number of vacancies for us here at the superior court.”

He added, “I don’t know what the reason is.”

People managing alternate dispute resolution companies, where a lot of retired judges would like to affiliate, have some ideas.

“There’s two factors,” said Lucie Barron, founder and president of ADR Services Inc. “One is an increase in the number of files that each judge has to manage. I started ADR 29 years ago. It used to be like 300 cases, which was a lot.”

Barron said former judges have told her that in many cases that number has more than doubled. Meanwhile, any stigma associated with private dispute resolution has faded, while many people are working longer into their older years. “I think the biggest reason, however, is people have realized it’s not only very prestigious to work in the



Hon. David I. Brown (Ret.) retired from the Sacramento County Superior Court last year to join JAMS. | Malcolm Maclachlan / Daily Journal

private sector, but in point of fact there is a career,” she said. “There was a time when being a judge was the epitome of success. The only way you could be more successful was to land on the Supreme Court.”

“We have seen an increase in judicial officers who want to leave the bench and go into the private sector,” said Dario Higuchi, founding partner and CEO of Signature Resolution. “We’ve seen it across the state, not only in Los Angeles.”

Higuchi said that an in-demand neutral can charge \$10,000 to \$15,000 a day. This means that over a full year they can take home “multiples” of their salary as a judge.

The departures appear to confirm the prediction that former chief justice Tani G. Cantil-Sakauye made

in late 2021, that the courts would see a coming “wave of retirements.” Cantil-Sakauye retired Jan. 1 and now leads the Public Policy Institute of California, where her salary is higher than the one she made on the bench but likely a fraction of what she could have made in private industry.

“It goes in waves,” said JAMS President Kimberly Taylor. “It’s not surprising. ADR continues to grow, so there’s quite a bit of demand.”

Of course, not all judges are going into the private dispute resolution profession. There is also the regular wave of retirements that often peaks around the end of the year. The seven judicial officers who left the Sacramento County court in February had an average

of about 19 years on the bench. Meanwhile, there’s also been a ripple effect of higher judicial vacancies. The Sacramento County court has lost three judges to the 3rd District Court of Appeal since 2021. It lost another last month when the U.S. Senate confirmed Judge Daniel J. Calabretta to the U.S. Eastern District of California.

“While there are always judicial vacancies on our Court, the Los Angeles Superior Court is experiencing a recent spate of vacancies due to retirements and appointments to appellate courts,” Presiding Judge Samantha P. Jessner said in an email. “Judicial vacancies cause significant impacts on the workload of our judicial officers. We stand ready to assist the Gov-

ernor's Office in any way to help with the evaluation process of judicial applicants."

Taylor, Higuchi and Barron all pointed to the passage last year of AB 2443, which changed the rules for the Judges Retirement System II. It will open a period, from 2024 to 2029, when judges can retire before 65 without a financial penalty. While the law isn't in effect yet, it could paradoxically be driving retirements among judges already eligible for retirement who want to beat a potential rush into the dispute resolution industry.

Hon. David I. Brown (Ret.) left the Sacramento County court to go to JAMS in 2021. He said it was a purely financial decision, but not in the way one might think. Rather,

he said, the way the JRS II system works, his wife would have received lesser health and financial benefits if he hadn't retired.

"It was a calculation based on what I was told would happen if I tragically died before I left office," Brown said.

He added that he transferred his law and motion calendar pretty easily to remote proceedings in 2020.

"It has nothing to do with dissatisfaction," Brown said of his decision to leave. "Plenty of judges were dissatisfied during COVID, but I was not."

California appears to be part of a nationwide trend, even in states that have not fiddled with judicial retirement laws, Taylor said. JAMS has recently hired retired judges

in Chicago, Dallas, Detroit, Miami, Seattle and elsewhere, she said.

"It's really across the board," Taylor said. "I wouldn't say it's just California."

The departures have left Gov. Gavin Newsom and Judicial Appointments Secretary Luis Céspedes running on a metaphorical treadmill. The Judicial Council's monthly judicial vacancy data listed 135 vacant superior court seats and 14 open positions on appellate courts as of Nov. 1. That report was immediately followed by a general election that saw over three dozen new superior court judges elected.

In the months since, Newsom appointed 42 superior court judges and eight new appellate justices, though all but one of these came

from the superior courts. But the addition of around 80 new judges appears to have been offset by about 50 departures. The March 1 judicial vacancy report listed 105 open positions on superior courts and 15 on the appellate bench.

At least five appellate justices have stepped down in recent months. In January, Judicate West announced it had added 4th District Justice Cynthia G. Aaron to its panel. That month, ADR Services announced it had added 6th District Justice Franklin D. Elia, followed by 2nd District Justice Thomas L. Willhite Jr. last month.

malcolm_maclachlan@dailyjournal.com