

VERDICTS & SETTLEMENTS

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Retired Judge Gary Nadler works to 'extract' parties from 'emotional involvement' in their disputes

By Shane Nelson

Special to the Daily Journal

Retired judge Gary Nadler decided early on that he wanted a career in the law.

"I'd wanted to be a lawyer ever since I was in high school," Nadler said. "It was the only thing I thought of doing. It's the only thing that appealed to me in my lifetime – even at that age."

Nadler enjoyed research and writing, and he figured those interests might serve him well in the profession, but the chance to help people was a key attraction.

"We're attorneys and counselors," Nadler explained. "And to me, the counselor part was just as important as being an attorney."

A 1979 University of San Francisco Law School graduate, Nadler started his career tackling antitrust cases in San Francisco but later moved up to Sonoma County, where he litigated personal injury, employment, business and environmental matters.

Nadler was appointed as a Sonoma County Superior Court judge in 2002, and spent the next two decades running criminal, civil and family law calendars. Nadler also served as presiding judge for two terms and sat pro tem on the 1st District Court of Appeal, Division 4.

"I loved being a judge," Nadler said. "And I did almost every assignment in my 20 years on the bench."

Nadler started working as a private neutral soon after retiring from the court in 2022, and he joined JAMS late in 2023. He's been tackling a variety of disputes as a mediator and arbitrator since, including employment, business, trust and estates, personal injury, professional



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malpractice and real estate matters.

Nadler noted that before his mediations he likes to receive briefs from all parties and to talk with counsel over the phone.

"I like to speak with [attorneys] privately about what they feel the issues are," Nadler explained. "Sometimes the issues are legal. Sometimes it's a client. ... The phone calls really are quite important for me to get a sense of what the attorney believes the issues in the case are and what the focus of the mediation should be."

Nadler said addressing the emotions of each dispute is an important early objective on the day of mediation.

"Obviously, I have to consider the legal aspect of it and the facts presented to me, but I'm always aware that people are involved in litigation, which is a process nobody likes to be in," Nadler explained. "And the issues are often motivated by anger - or sometimes people just don't understand things - so I like to focus on the emotions of the parties to begin."

Nadler added that allowing parties a chance to be heard is critical.

"I don't think you're going to get anywhere until [you] give people an opportunity to tell you how they feel," he said, "why they think they're there ... and what their concerns are."

Hon. Gary Nadler (Ret.)

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Napa plaintiffs' attorney Michelle P. Block used Nadler to resolve a challenging probate dispute last year, and she described the JAMS mediator as "a judge who really cares."

"He was very eloquent, very professional," Block said. "He commands the room, and I needed that for this particular case because the family members were a little bit wild. ... He just knows how to talk about anything, so he can really connect with each of the parties."

Napa business and real estate litigator Michael R. Wanser appeared several times before Nadler when he was on the bench and used the retired judge recently to successfully mediate a real property case.

"His temperament and his disposition were great," Wanser said. "He just had a calm, relaxed disposition, and it really seemed like he was there to help."

Nadler noted, however, that reaching a resolution usually requires addressing the emotion of a case

while carefully examining the facts and the relevant law.

"Lawyers will tell me what they believe the case is about ... from a legal and factual perspective," Nadler said. "But sometimes they need a neutral party to tell them that, 'Perhaps the direction you're going may not be as strong or may not be the appropriate direction.'"

Nadler indicated he applies a careful approach with his analysis of a case's strengths and weaknesses.

"I'm not a judge, and I don't make decisions," he explained. "But I can ask questions such that they will think about what the real legal issues are and what the real factual issues are ... and try to work with them to reach the point of understanding what their best approach should be."

Wanser said the evaluative approach Nadler applied in their mediation was particularly effective.

"He did a great job understanding how the facts and the law and

the personalities on every side could be used to negotiate a reasonable resolution," Wanser explained. "He really understood the weaknesses in my case and did a good job educating both me and my client about what a neutral's perspective would be on those issues."

Santa Rosa litigator Stephanie J. Rothberg also appeared before Nadler when he was on the bench and used him earlier this year to successfully mediate a real estate dispute.

"My clients were challenging, and he was very respectful of the concerns they had and the issues they were bringing up," Rothberg said. "And I thought Judge Nadler did a really nice job explaining to them the pros and cons of their own case and getting them to see how it would be difficult to move forward with litigation and the risks they were taking. And he did it in a very respectful, kind way, and I really liked that approach."

Nadler added that he's found the opportunity to help litigants reach resolution as a private neutral particularly satisfying.

"What I tell people is, 'If we get this case resolved today, you wake up tomorrow, and it's all over,'" he said. "That helps to extract them from the emotional involvement of the contest and to focus on the reality of the case itself. ... And there's nothing like reaching that point of an agreement, where everybody puts their name on the paper, and they go home. I can guarantee their lives feel better that night."

Here are some attorneys who have used Nadler's services: Michael R. Wanser, GVM Law LLP; Stephanie J. Rothberg, Spaulding McCullough & Tansil LLP; Michelle P. Block, Coombs & Dunlap LLP; Audrey J. Gerard; Conner, Lawrence, Rodney, Olhiser & Barrett LLP; Peter L. Simon, Beyers Costin Simon.

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