



Q&A WITH Hon. Hugh L. Fraser (Ret.), FCI Arb

Please provide a snapshot of your legal career prior to joining JAMS.

Before becoming a judge, I was a lawyer for 14 years, four of which I spent doing in-house corporate work. I also spent a couple of years with the Canadian Department of Justice in its aerospace and armament procurement section, working on negotiating contracts with manufacturers like Lockheed Martin and Boeing. During my tenure in-house, I did some high-tech work with the Digital Equipment Corporation, which has since been acquired by Hewlett-Packard. As my career progressed, I was determined to open doors that were traditionally closed for people of color. Inspired by my father's tenacity, I started my own practice. Within my law practice, I handled administrative and general law. I also served as a sessional lecturer at a University in Ottawa for about seven years.

As a practitioner, I became a member of the Canadian Human Rights Tribunal. I served on it for seven years, and I immensely enjoyed this opportunity. While on the tribunal, I was involved in several high-profile human rights cases, which sparked my judicial career in the Ontario Court of Justice. I was appointed to the Ontario Court in 1993, where I handled criminal and family law matters. After three years on the bench, I was approached to see if I had any interest in arbitrating for the Court of Arbitration for Sport (CAS), which I wasn't quite familiar with at the time. An individual came across my CV and thought I would be an excellent candidate. After clearing the opportunity with my chief justice, I was introduced to the world of sports arbitration.

How has your experience as an Olympic athlete in track and field helped you to be a better arbitrator and mediator in sports matters?

My experience as an Olympian has allowed me to better understand the athlete mentality, which works in several different ways. Sometimes, the explanations given for a particular course of conduct are easier for me to personally assess in terms of credibility. I understand and appreciate how intensely focused athletes are, so I can pinpoint issues that may be overlooked. For counsel, there is no question that my background is an asset in terms of my understanding of the issues presented. Every industry has its subtleties and nuances. The language of sports is

unique. Through my specific background and experience, I have gained rare subject matter expertise.

How would you describe your mediation and arbitration styles?

My style is not overbearing or heavy-handed. I let the parties know upfront that I've read their material and will listen carefully to their presentations. When serving as an arbitrator, I encourage the parties to focus on their most significant points and not to go down too many rabbit holes. As a mediator, I'm always looking for clues that will enable me to demonstrate to the parties that progress is being made. I look for ways to make a connection at the outset in order to try to relax the parties.

What do you enjoy most about mediating?

I really enjoy breaking down barriers. What I enjoy most is seeing people's body language change and soften as they find common ground on the issues. When you bring people together, you need to understand that there are people with baggage and there will be tension. Mediation allows you to measure progress, and there is a certain satisfaction in looking back and realizing how much progress the parties have made toward resolution.

Please describe your virtual hearing experience and style.

I've been conducting virtual hearings for a number of years, and I'm familiar with different platforms, so I'm quite comfortable

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with the process. I don't believe that there is any difference in my style when conducting in-person hearings or virtual hearings. I've served as moderator for relatively straightforward hearings with a smaller number of attendees, so I tend not to be intimidated by technology.

Are there any practice areas that you are particularly interested in developing at JAMS?

In addition to the areas already identified, I have a particular interest in employment and workplace issues. I am also interested in family law and the mediation of matrimonial disputes.

Why is diversity and inclusion in the ADR field so important?

If ADR is meant to be an inclusive process that is available to all, it should be more reflective of the people that it is designed to serve. In theory, increased diversity and inclusion should be good for the business of all institutions, but historically the ADR field has been a difficult one for minority neutrals to break into, even when they have the requisite talent and experience.

What do you think is needed to improve diversity and inclusion in the ADR field?

There is a much greater recognition today of the benefits of diversity and inclusion, but the action doesn't match the talk. Expanding the pool of neutrals to reflect more diversity and inclusion—and the backgrounds of those they will serve—is crucial. Perhaps over time, we will recognize the benefits and different perspectives that diverse neutrals bring to the table.

Success in any industry is oftentimes fostered by a mentor or strong leader. Did you have a mentor?

There are a number of people that come to mind. One person who contributed to my success and I consider a mentor was a man named Jan Paulsson. He is currently one of the world's leading international arbitrators. He was president of the London Court of

International Arbitration, the International Council for Commercial Arbitration and the International Monetary Fund Administrative Tribunal. He has achieved a lot in this field, and he was also a CAS arbitrator, which is how we met. He chaired the panel on the ad hoc court at the 1996 Summer Olympics in Atlanta, and I was the wing. I was so fortunate to be there. Jan is a fascinating man whom I've always admired.

If you could play any sport, what would it be?

Football is the sport nearest and dearest to me. I've been a New York Giants fan since I was seven years old. My dream was to play for them. My son once surprised me by taking me to a Giants game. We had field passes, so I was able to watch Eli Manning and the team warm up just a few feet away. That was an exhilarating experience.

What is the best piece of advice you have received?

I've received much great advice over the course of my life, but one thing that stands out is to treat everyone you encounter with respect, regardless of their station in life.

If you could meet and chat with any person throughout history, living or not, who would that be and why?

There are so many people. When I was a student of German history, I was fascinated by the life of Martin Luther, the German theologian, scholar and reformer. He exemplified courage, integrity and a willingness to stick to his principles, even in the face of overwhelming opposition. I think Martin Luther was one of the most influential figures in Western civilization during the last millennium.

Judge Fraser is available to conduct virtual or remote mediations and other ADR proceedings on a variety of online platforms, including Zoom. To schedule a case, visit jamsadr.com/fraser or call 212.751.2700.

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