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Forging a New Path: From the Federal Bench to ADR

January 17, 2023 | BY BROOKS IGO

Vanessa Gilmore was the youngest federal judge in the nation when she was sworn into office in 1994. Serving for 28 years on the U.S. District Court for the Southern District of Texas, she has extensive experience in handling matters involving patents and copyrights, labor and employment, and securities. Earlier this year, Judge Gilmore retired from the bench and joined the JAMS Houston Resolution Center as a mediator, arbitrator and special master.

She sat down with *The Texas Lawbook* to discuss her career, the developments she anticipates in alternative dispute resolution and the legacy projects she is working on to pave the way for Houston's future leaders.

The Texas Lawbook: *What was it like to be the youngest federal judge in the nation when you were sworn in?*

Hon. Vanessa Gilmore: I was nominated to the federal bench when I was 36, and it took me about 13 months to get through the confirmation process. I was sworn in on June 10, 1994. I had a lot of support through that process because I was already very active in Texas legal and civic circles.

I had been the chair of the Texas Department of Commerce, and at the time the state treasurer was Kay Bailey Hutchison, who ended up becoming U.S. senator. So, because I had a long history with Hutchison and having been of service to the state of Texas, they knew that I had a commitment to public service. These days it's more difficult to have that kind of support.

The Lawbook: *What led you to join JAMS after retiring from the bench?*

Gilmore: I wanted to do something that was still going to be stimulating, that was going to give me an opportunity to use my skill set and someplace where I felt like I would be added value. I think that JAMS is the kind of place that gives me an opportunity to use my skills and my experience to assist litigants and parties

with respect to the resolution of their claims. So, it was a good fit for me.

The Lawbook: *Now that you're a mediator and arbitrator, in what ways is this work similar to serving on a federal bench and in what ways is it different?*

Gilmore: I'm really in a position where I can address and deal with several different types of legal challenges and cases because of the broad range of matters that I've handled over the past 28 years as a judge. My docket ran the gamut from personal injury to employment litigation and securities litigation. I have extensive experience in intellectual property matters including trademarks, copyrights and patents because we have a very heavy intellectual property docket in Houston.

In my new role as a mediator, the big difference is I can only make suggestions and not orders. So, it's extremely different. I can make a suggestion, but people do not have to do what you suggest they do. So that's very different. I remember when my very first mediation didn't get resolved, and I said to my case manager, how disappointed I was. She said, "You're not a judge anymore!"

And so that's very different. But on the other hand, what's similar is that people rely on your judgment, and they are willing to trust in your experience and your background to help them work toward resolution of their matters. So, people do rely on your judgment but at the end of the day, people do not have to take your suggestion.

The Lawbook: *As a JAMS neutral, you have business development responsibilities. How is that different from being a judge?*

Gilmore: It's not extraordinarily different. I've always been actively involved in the community, so when I speak now, I have to tell people I'm retired and have a new role. And so it frames a lot of my discussion with people because when you retire during Covid, no one knows you retired. So, the

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difference is just letting people know where you are.

The Lawbook: *What are the cutting-edge issues you're seeing these days?*

Gilmore: I think that there are a lot of new legal issues to be explored in the technology area. For instance, I had a case recently involving, non-fungible tokens. And that's so completely new in terms of trying to understand the concept and what people are doing with NFTs.

I anticipate that there's probably going to be a lot of litigation involving non-fungible tokens and cryptocurrency, and that brings a lot of opportunity. I think it's exciting, looking at those cutting-edge things that require you to dig a little deep and try to understand all these emerging technological issues. I had a case dealing with cybersecurity and ransomware, and I find that new, different and interesting. And I see a lot that on the horizon, and I look forward to getting involved in more of those kinds of cases.

The Lawbook: *What practice areas do you gravitate toward?*

Gilmore: Well, I am particularly interested in mediation in the intellectual property area because I just have so much experience there. We had a very heavy IP docket, mostly in the oil and gas space, while I was on the district court. I helped my son get a patent when he was 14 years old on something that he invented. I have spent a lot of time in China teaching intellectual property and talking to students, young people, lawyers, law firms and judges in China about intellectual property issues. So, it's an area that I am particularly interested in and that I have some expertise in as well.

I also have a lot of experience with securities litigation because we just had so much of that litigation in Houston — and a heavy employment litigation docket. I hope that I'll be able to still do some work in each of those areas as a mediator or arbitrator, and I believe that my experience is something that will lend value to people as they're trying to reach a resolution in some of those kinds of matters.

The Lawbook: *You devote a great deal of time to service on Houston area community boards. What do those commitments mean to you?*

Gilmore: I'm on some boards that mean a lot to me. I serve on the board of the DePelchin Children's Center, which is a foster and adoption agency. I have an adopted son whom I adopted through DePelchin. I'm

very committed to the issues they work on, particularly children aging out of the foster care system.

I'm on the board of Texas Children's Hospital, where I work on quality service and safety issues, public policy issues and building and grounds. We're building a new hospital in Austin, Texas, that is scheduled to open in February of 2024. I'm also on the board of the Houston Equity Fund, which is an organization that funds grants for small businesses and nonprofits that are working to improve the community that we live in. We recently issued \$5 million in grants.

For the next few months, I'm on the local organizing committee for the NCAA Final Four Games, which will take place at the end of March and early April in Houston. And I have to say that it was a surprise to me to be asked to participate in something like that because I'm not really sports-oriented. But they really felt that my involvement in the community would be a benefit by creating legacy programs.

I've learned a lot from being on the Final Four Committee, but the thing that has been important to me is how committed they are to our city. They want to know what we need. "Where do you need a basketball court? Where do you need us to show up?". It's telling that they were willing to go beyond just coming to town, throwing a little money around and leaving, but to give us some legacy projects that we could have as long-term benefits after the Final Four is over. For me, the win is having the opportunity to bring some legacy projects to the city of Houston that will have some long-term impact beyond the day that they roll up their tent and leave town at the end of the Final Four games. The win for me is lasting progress.