

Retired Orange County Probate Judge Joins JAMS Roster

By James Mills

Law360 (February 21, 2024, 10:06 AM EST) -- Alternative dispute resolution service JAMS is expanding its mediation team, announcing Wednesday that it is adding a former Orange County Superior Court judge with 24 years of experience on the bench as one of its mediators.

Retired Judge Gerald G. Johnston has joined JAMS as a mediator, arbitrator and special master/referee. He joins after serving on the bench for 24 years, nine of them as supervising judge of the probate and mental health division of the Orange County Superior Court. Before becoming a judge, he served as a deputy district attorney in Orange County and later general counsel for the California Environmental Protection Agency.



Gerald G. Johnston

Johnston will be based in the JAMS Resolution Center in Irvine, California, but will also be available for online sessions. He will primarily be handling estate probate administration and trust disputes as well as guardianship, conservatorship, elder abuse and mental health matters, all issues he dealt with routinely during his last decade on the bench.

In a Tuesday afternoon interview, Johnston told Law360 that JAMS approached him about joining soon after he announced his retirement plans. Although he officially left the bench in June 2023, he wanted to relax for a while before deciding on his next move.

"I wasn't sure what I was going to do, but JAMS is such an impressive organization and their support for their members is really outstanding," Johnston said. "I didn't make the decision [to join JAMS] until a couple of months after I retired. I needed to get a little travel and time with my family out of the way, and now I'm making myself available."

During his time on the bench, he found he was especially good with probate work and plans to carry that expertise over to his mediation work.

"In probate, there are often long-term family dynamics and various relationship issues that come into play," Johnston said. "It's important for anybody trying to work with parties on this, to get the best understanding possible not only of the legal issues, but the issues that may be emotionally difficult for the parties."

He notes that sometimes family members haven't spoken in years and are holding on to anger.

"It's always nice if you can get an agreement from the parties, but where I really feel a sense of victory and accomplishment is if you can get a settlement and you see the family members leave the courthouse talking together and getting along," he said.

Johnston pointed out there are differences in how he carried out his duties as a judge in civil litigation cases versus probate cases, differences he intends to uphold as a mediator.

"One of the unique things about probate law is the judge often has a role of being a super fiduciary," he said. "In civil litigation, you don't have an interest in the outcome. If the parties come to you and say they worked it out, you say OK and don't look at whether it's equitable or not. In probate, equity and fairness are very important and the judge actually has a duty to protect those who may not be able to protect themselves. I sometimes have to reject settlements if all the parties aren't being treated equally or fairly."

JAMS, which was founded in 1979 as [Judicial Arbitration and Mediation Services](#) and now has a roster of more than 400 mediators and 29 locations, is excited to have Johnston join.

"Judge Johnston's decades on the bench, combined with his experience as an educator and valued member of the Orange County legal community, make him a tremendous asset and addition to our panel," JAMS CEO Chris Poole said in a statement. "He is recognized for his skill handling cases related to trusts, probate, guardianship, elder abuse and mental health, and we look forward to working alongside him."

Johnston, who grew up in Ventura County, earned his law degree in 1984 from [University of Southern California's](#) Gould School of Law.

He worked as an assistant DA in Orange County for 11 years, the last several serving as environmental enforcement specialist for the office.

In 1995, then Gov. Pete Wilson tapped him to be the deputy secretary for law enforcement and general counsel for the California Environmental Protection Agency.

Then, in late 1998, Wilson appointed him to the Orange County Superior Court. A few years into that job, he started working in probate cases and really enjoyed them.

In his time as a probate judge, he has found various keys to getting a successful resolution, keys he plays to continue utilizing now that he is a mediator.

"You have to put yourself to the degree that you can in the position of each party and understand how they are feeling," he said. "That can take some time, but that is usually an important part of a path toward getting a resolution."

--Editing by Alyssa Miller.