

How Mediation Firm JAMS Became the Dominant Player in the LA Market

LAW: JAMS is the dominant player in LA's active market

By **NEAL KOCH** *Deputy Editor*

In January 2019, a man claiming he'd been fired for blowing the whistle on improprieties at his company met with his attorney and the company's lawyers in a daylong mediation session.

The man's lawyer, Jason Russell from the Los Angeles office of Skadden Arps Slate Meagher & Flom, remembers the issues were so complex that the day ended without resolution.



Poole

But the mediator, from a company called **JAMS**, was undeterred.

"He called for months afterwards," Russell said. "He kept coming back with different ... ways of looking at things. ... The guy just never stopped coming up with impressive ideas."

One year later, when the parties finally settled, the mediator was still involved.

"I really like their professionalism," Russell said of JAMS, which was previously known as Judicial Arbitration and Mediation Services Inc. "They certainly have their hearts in a good place. And some of them are terrific."

An international business, JAMS is considered the dominant company in Los Angeles and the nation when it comes to private mediation and arbitration services.

Its Century City and downtown offices — situated near L.A.'s major law firms — bring in about 20% of JAMS' roughly \$200 million in annual revenues, on par with its New York office, according to its Chief Executive and President Chris Poole, who said that the company has not previously disclosed such numbers.



Close By: JAMS' Century City office is within easy reach of major law firms.

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It makes sense that JAMS would generate big revenue in the L.A. market, which alternative dispute resolution professionals say has the highest demand in the nation.

"I've traveled this country extensively and talked to mediators in almost all the 50 states," said L.A.-based Lee Jay Berman, a leading trainer of alternative dispute resolution professionals and past chairman of the American Bar Association's Dispute Resolution Section's Training Committee. "Nobody has anything near to comparing to what we've experienced in Los Angeles. It's really a Southern California phenomenon."

Cities such as New York, Chicago, Boston, Dallas, Seattle and Washington, D.C., "will have a private company or two with eight or 10 mediators," Berman said, "but it's mainly dominated by a few individuals who are successful on their own."

Strong demand in LA

L.A.'s potential market for mediation is huge. Of all lawsuits in the United States, 55% are filed in California, and most of those are centered in L.A., according to Lucie Barron, founder and president of ADR Services Inc.

She said 98.7% of state court cases and 97.3% of federal court cases resolve before trial.

"Every single case in this entire city ... will be sent to mediation to try to resolve it before it goes to trial," she said.

Berman attributes the region's singularity in part to a pioneering mediation program by the L.A. Superior Court, the world's largest court system.

That program, Berman said, trained mediators and pushed as many as 35,000 cases a year to them starting in 1995 until it ended in 2012 due to budgetary constraints.

"The next evolution was when provider organizations (such as JAMS) had what I call a talent grab about eight or nine years ago," Berman said. "To build market share, they dropped down and began recruiting people whose books of business did not meet ADR's traditional requirement of ... at least \$100,000 to \$200,000 a year."

ADR companies were then able to offer other mediators and arbitrators — referred to in the profession as "neutrals" — logos on business cards, mediation facilities and marketing expertise and budgets, Berman said.

This arrangement was particularly appealing to neutrals, independent contractors who otherwise had to fend for themselves in these areas.

L.A. is also an international training center for mediation. The master's program in ADR at Pepperdine University's law school was frequently ranked No. 1 during the 1990s and beyond by U.S. News & World Report.

During that time, Berman, a former dispute resolution expert with the United Nations Development Programme, was director of the school's Mediating the Litigated Case program, which drew students from around the world. Both the L.A. County Bar Association and Loyola Law School also had strong programs.

"It's why we became the mecca of mediation," said Berman, who now runs his own

school, the American Institute of Mediation, for training hospital CEOs and other nonattorney professionals with specialized industry knowledge, which law schools shy away from, as well as lawyers and judges.

Simple beginnings

JAMS rose from simple beginnings in 1979 when two Orange County judges left the bench to start the company in Santa Ana. Many years later, it leaned heavily on the playbook created by the American Arbitration Association, a nonprofit founded in 1926.

JAMS hired a national marketing agency to persuade large companies to specify in its contracts with suppliers of goods and services, as well as employment agreements, that disputes would be resolved through the company's arbitration services.

"JAMS got there first," said Jeff Kichaven, a veteran L.A. independent mediator and trainer, recalling how the company brought its services to the private sector.

JAMS neutral **Elliot Gordon**, said that when he was deputy general counsel of Wellpoint Inc., now known as Anthem Inc., where he oversaw all litigation and employment matters, he had provisions naming either JAMS or AAA put in contracts. Health care is now the fastest growing sector for ADR companies, Berman said.



Gordon

JAMS' main private company competitors in L.A. are Barron's ADR Services, Alternative Resolution Centers and Signature Resolution. But those businesses limit themselves to California, primarily L.A. and Orange counties. By comparison, JAMS has 27 U.S. offices, with additional outposts in Toronto and London.

JAMS Chief Executive Poole said despite that extensive presence, profits at the company run "in single digits" as a percentage of revenues.

"By the time we've paid neutrals and Class A rent and payroll, there's not a ton left over," he said. "We're not motivated to grow as fast as possible or to make as much money as possible. We see ourselves as providing a service for clients."

People over profits

That ethos was made clear when New York-based private equity firm Warburg Pincus acquired JAMS and attempted to maximize profits at the business. The result was a companywide rebellion.

JAMS ENSURES 'NEUTRALS' GET THE SUPPORT, TOOLS THEY NEED

By **NEAL KOCH** *Deputy Editor*

When JAMS signs a "neutral," as mediators and arbitrators are known, to its roster, the company mounts a marketing blitz to its client base, trumpeting the new addition's areas of expertise and experience.

JAMS arranges speaking engagements, presentations to law firms, events for socializing with lawyers, and teaching gigs to heighten the neutral's profile. It also encourages and supports neutrals in publishing.

"If you write an article, JAMS will help find a publisher read by leaders who would engage your services," said **Elliot Gordon**, a former deputy general counsel at health care insurer Wellpoint Inc., now known as Anthem Inc., who became a neutral for JAMS. "They have a very strong department there."

In JAMS offices, new neutrals can also

study by shadowing other neutrals. The company also provides formal training in mediation, arbitration and substantive areas of law.

"Whether you were a highfalutin federal judge or having practiced as a mediator or arbitrator elsewhere, they still put on a full multiday training program for you when you join," Gordon said.

Melinda Johnson recalled that when she retired as an L.A. Superior Court family law judge to become a private mediator, "there was not a lot of work" in comparatively sparsely populated Ventura County.

But she joined JAMS and, "Within a few years, I was working (mostly in L.A.) every bit as many hours as I did on the court."

Johnson and Gordon said the company even helped them adjust quickly to mediating and arbitrating over Zoom when the pandemic hit.

"Our neutrals and associates (employees) wanted JAMS to retain its focus on 'social good' and not putting all of the focus on the bottom line," Poole said. "This conflict led a group of JAMS neutrals to invest their own capital to buy the company back in 1999."

Today, JAMS is owned by 125 of its neutrals, who were invited to invest based in part on their earnings. And the business is run by a board of neutrals and some employees.

Although JAMS may focus on customers first, that doesn't mean its services come cheap.

The company's neutrals charge among the industry's highest fees. As independent contractors, they can set their own rates, which range from about \$6,000 to \$15,000 a day, with an average of about \$10,000 to \$11,000 a day, according to one industry executive.

By comparison, rates for neutrals from ADR Services range from \$5,000 to \$10,500, averaging \$7,000, Barron said. Signature Resolution's neutrals charge from \$7,500 to \$20,000, averaging \$12,000, Managing Member Dario Higuchi said.

In addition, JAMS typically charges administrative fees of \$1,500, plus 12% of the neutral's fee.

Neutrals usually take home 70% to 75% of their fees, according to industry executives. But their share could go as low as 50% at JAMS for those with the lowest market profile and thus in

need of the most marketing help, sources said.

Former judges, who account for about 75% of JAMS' neutrals, are usually able to get higher percentages because of their profiles in the legal community.

Like other businesses, JAMS adjusted quickly when the Covid-19 pandemic arrived, helping its neutrals learn how to mediate over Zoom.

But Zoom could also threaten JAMS' geographic advantage in L.A. now that the selection process for mediators is no longer local.

Before the surge in the use of video chat technology in the law sector, Berman said, "It was easy to go to ADR or JAMS because it's in the high-rise just across the street, and lawyers liked that because it was convenient."

Now, though, it's easier to expand the scope of the possibilities.

"I got a request from an attorney in Santa Barbara who asked for suggestions for mediators," Berman said. "So, I gave him ones in Texas, Florida and California because I thought he had a catastrophic bus crash case, and I knew they had that kind of experience. Why not go for the most qualified?"



Johnson