

VERDICTS & SETTLEMENTS

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Advises Patience

Neutral Otis McGee Jr. says putting in time to understand cases doesn't portend failure

By Craig Anderson
Daily Journal Staff Writer

Otis McGee Jr., whose career as an attorney included years in private practice and a tenure as head of litigation with the Oakland city attorney's office, advises parties in mediations to be patient.

"We may spend a lot of time on the day of mediation and not get it resolved," said McGee, who joined JAMS last November. "They should consider that an investment and not an indication of failure."

McGee said he keeps pushing to get a settlement even when it takes a long time. In one case, he made three mediator's proposals before the parties finally agreed — weeks after the first session.

"My position is that I take ownership ... to keep working with the parties to get matters resolved," he said.

McGee, worked as a co-mediator with Michael J. Ney after departing the city attorney's office, and said he splits his time between mediations and arbitrations.

While some neutrals steer clear of arbitration work, in part because one side will likely be displeased with the result, McGee said he focuses on making well-reasoned decisions instead of splitting the difference.

"I find that to be a guiding principle," he said. "I want them to remember they were treated fairly."

He said court shutdowns because of the COVID-19 virus has led to an increase in cases.

"I don't doubt one of the reasons my practice and those of others have picked up is because of the difficulty of getting a courtroom due to the pandemic," McGee said.

He misses seeing people's faces in person, saying that detecting facial expressions "is challenging both in virtual proceedings or in live proceedings when they're wearing a mask."

Attorneys who have used Mc-Gee for mediations say they are impressed by his legal knowledge and determination to resolve their clients' cases.

Hayley S. Grunvald, special counsel at Sheppard, Mullin, Richter & Hampton LLP, said she was impressed with his handling of a mediation involving a plaintiff who sued her client — a dental office — claiming he was denied treatment due to his HIV status.

"Otis brings to the table a lot of real world experience," Grunvald said. "It would have been a difficult case [to defend] in federal court in Oakland. ... Maybe we were right on the law but it doesn't really matter."



Jana Ašenbrennerová / Special to the Daily Journal

Grunvald said McGee's due diligence to prepare for the mediation was extraordinary.

"He had the stamina to keep going," she added. "He said, 'I'll go until midnight.' He expects a certain kind of professionalism."

Jahmal T. Davis, a defense attorney with Hanson Bridgett LLP, said it took more than one session to settle a lawsuit by a bank employee who said he was passed over for a promotion.

McGee, dealing with an aggressive plaintiff's lawyer, "locked into the main issues immediately."

"His demeanor is very placid and reassuring," Davis said. "He had a good grasp of what the pressure points and issues were before the mediation even started."

The case settled after several follow-up phone calls, he added.

A native of Chicago, McGee was raised in San Francisco.

He served stateside as a commissioned officer in the U.S. Army during the Vietnam

Otis McGee Jr.

JAMS
San Francisco

Areas of specialty:
employment, personal injury, torts, construction defects, civil rights, business, CEQA

War, then worked as a Pacifica police officer — where he occasionally was sent to UC Berkeley when the department was called in for mutual aid during anti-war protests.

"I knew I didn't want police work as a career," he said. McGee returned to UC Berkeley as a student, first as an undergraduate — in the university's final criminology class — and then UC Berkeley School of Law.

He originally planned a career in criminal law, seeing that as a logical progression, but he instead became a civil litigator.

After starting out at San Francisco law firm Pettit & Martin, McGee started his own firm, Alexander Millner & McGee, defending auto manufacturers, pharmaceutical firms, and consumer appliance companies.

In 1997, McGee joined Sheppard, Mullin, Richter & Hampton LLP as a partner and remained there for more than 16 years until Oakland City Attorney Barbara Parker called him to see if he had any recommendations for a replacement for the departing head of litigation.

"I do know somebody who might be interested," McGee recalls telling Parker. "You're talking to him."

McGee thought he would only stay a couple of years. But that extended to five, as he found the job fascinating and dealt with everything from

police excessive force lawsuits to the Ghost Ship warehouse lawsuit shortly before he left in 2018.

"I was just enjoying it," he said.

He started in mediation, shadowing Ney's mediations in Walnut Creek.

"I was doing co-mediations," McGee said, adding he had known Ney for many years. "He didn't mind me learning the tricks of the trade from him."

Oakland attorney Vernon C. Goins II said he has had employment matters before McGee representing plaintiffs and defendants.

"Otis is the complete package — never forceful but certainly gives you things to think about that causes discussion between you and your client once he leaves," Goins said.

In a case in which Goins'

client, a nonprofit, was defending against claims from former board members and employees, McGee was able to identify the strengths and weaknesses of the plaintiffs' case.

McGee's "ability to take a complex issue and break it down so the complexity is understood ... was the driver for the settlement," Goins said.

Andre R. Hill, an attorney with Bassi, Edlin, Huie & Blum LLP, said he was impressed with McGee's determination while mediating a complex auto collision case in which she represented one of the defendants.

There was a dispute with another defense counsel, which McGee resolved. "I was very appreciative," Hill said. "He's very patient, methodical and got it done. That's an invaluable trait."

McGee's wife, Valerie D.

Lewis, is an in-house attorney with Safeway Inc. The couple has two adult children.

He has been a model train fanatic since he started practicing law, and videos of him and the trains are on YouTube.

"I decided I needed a hobby to take me away from the rigors of the practice of law," McGee said.

Here are some attorneys who have used McGee's services: Andre R. Hill, Bassi, Edlin, Huie & Blum LLP, San Francisco; Micheal A. Thompson, Vallejo; Jahmal T. Davis, Hanson Bridgett LLP, San Francisco; Vernon C. Goins II, Oakland; Hayley S. Grunvald, Sheppard, Mullin, Richter & Hampton LLP; Michael A. Felsted, Muro & Lampe Inc., Folsom.

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