

VERDICTS & SETTLEMENTS

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No Pressure

Retired judge Glenda Sanders regularly employs a facilitative approach to dispute resolution.

By Shane Nelson

Special to the Daily Journal

JAMS neutral Glenda Sanders does her best to emphasize the voluntary nature of mediation early in the process.

"I think that's important because the court process is not voluntary," Sanders said. "You're dragged in through being sued - or feeling you have to sue - and then it unfolds in a way over which you have virtually no control. So, I try to emphasize that it is voluntary, and no one's going to force them to settle."

Sanders made it clear that she does her best not to put undue pressure on parties to settle.

"I'm not there just to settle," she explained. "I'm here to try and achieve an appropriate consensus that will work for both sides."

Raised in South Africa, Sanders started her legal career there in the early 1980s, representing black trade unions not long after they became legal in the country.

"Prior to that, black people ... were not allowed to associate together to negotiate for employment advantages because there was a fear that that association would lead to political associations as well," Sanders explained.

But as apartheid worsened in South Africa, Sanders said she and her husband decided to leave.

"We really didn't want to raise children in a country that seemed to be headed for civil war," she recalled.

Sanders went on to spend 14 years at Latham & Watkins in Southern California, where she handled business litigation defense work, specializing in copyright, trade secrets and securities matters. She was then elected as an Orange County Superior Court Judge in 2002 and spent two decades on the bench, including



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six years on the Complex Civil Litigation Panel and a term as presiding judge from 2014 to 2015.

"It was the most fulfilling work I've ever done," Sanders said. "It's a wonderful mission to have - to be called upon to be fair between two people who are in a dispute - whether it be criminal or civil."

Sanders joined the JAMS roster of private neutrals shortly after retiring from the bench in February 2023, and she's since tackled a wide variety of disputes as a mediator and arbitrator, including professional liability, trade secret, healthcare, real estate and entertainment cases.

"While my demeanor as an arbi-

trator is somewhat similar to my demeanor as a judge - which I hope was considered to be civil, open-minded and prepared - I do allow for greater flexibility in arbitrations," Sanders said. "This is partly because the rules themselves allow for it and partly because if the parties agree to, for example, the scope of discovery, it makes sense to approve their agreement."

Sanders noted, meanwhile, that when it comes to mediations "there is simply no substitute for meticulous, detailed preparation," so she likes to have briefs beforehand from the parties and speak over the phone prior with counsel.

Hon. Glenda Sanders (Ret.)

JAMS
Irvine

Areas of Specialty:

Employment
Business
Professional Liability
Healthcare
Real Estate
Entertainment

El Segundo plaintiffs' attorney Sean M. Blakely, who appeared before Sanders when she was on the bench, used the JAMS neutral recently to settle a complex wage-and-hour class action. Blakely said Sanders was terrifically well prepared on their pre-mediation phone call.

"I really like that in a mediator, where they're really doing the work to understand the case and claims and theories at issue," Blakely said. "And while we were on the phone, she clearly wanted to start tackling some of the issues that were going to come up during the mediation."

Sanders noted that she tries to begin her mediations with a facilitative approach, and she likes to hear about the case directly from the litigants.

"The way the client tells the story is very different from the way the lawyer has told it to me in the brief," Sanders explained. "And it also enables me to read the client, enables me to get a better understanding of just how emotional they are, or are not, about the matter. Listening to a free flow of conversation through them without asking leading questions very often

gives me subtle information that helps me to settle a case I otherwise would not have gotten."

Sanders will often move into a more evaluative approach later in the day, but she noted that she carefully and diplomatically enters those discussions about a case's strengths and weaknesses.

"I try to distance myself a bit from the argument and put it into the mouths of the person whose argument it is - the other side, for example - and then explain how I think the judge will perceive it rather than how I perceive it," she said. "I do think it's important not to look as if you are entering the fray of the argument because then you're going to invite debate, and that will break down the mood of moving toward consensus and get you into an arena of combat again."

Houston-based franchise attorney William W. Sentell used Sanders recently to resolve a case for California clients, and he said the JAMS neutral did an excellent job of addressing the strengths and weaknesses on both sides of the dispute.

"It's a subtle a skill because you certainly don't want to anger either side," Sentell said. "I think

she really had the ability to read the room and get to a resolution. And I really think it helps that she has judicial experience because a lot of that experience also involves helping parties to understand what would happen if you don't reach a resolution."

Sentell noted that Sanders ultimately settled his franchise dispute with a mediator's proposal, a tool the neutral said she makes use of regularly.

"Typically, I find they become necessary when the parties are far, far apart - really on different planets in terms of their numbers," Sanders explained. "But neither one wants to move, and both are afraid of the tyranny of the midpoint, and both are measuring the percentages by which they've moved, which doesn't really get you anywhere."

Santa Barbara litigator R. Chris Kroes tried a case in front of Sanders when she was on the bench and has since used her as a mediator in a complex trade secrets case.

"She really has good command of the facts and the law," Kroes said. "She doesn't get tricked or fooled, doesn't put up with non-

sense and knows how to get things done."

Kroes added that his client in the matter thought Sanders was terrific.

"She listens. She understands," Kroes explained. "She takes control without being pushy."

Kroes also encouraged attorneys with especially complicated cases to consider Sanders as a mediator.

"There are all sorts of people who do it, and many who are very good, but because she was in the complex division of the Orange County Superior Court, she has a better understanding of cases when they're complex," Kroes said. "If you have a case that's complex and has a lot going on - both legally and factually - I think she's the person to call."

Here are some attorneys who have used Sanders' services: William W. Sentell, Akerman LLP; Sean M. Blakely, Haines Law Group APC; R. Chris Kroes, McCarthy & Kroes; Behdad C. Sadeghi, Zimmerman Reed; Paul K. Haines, Haines Law Group APC-

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