

VERDICTS & SETTLEMENTS

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Dogged Determination

Neutral Ross Feinberg has a knack for settling tough construction disputes.

By Meghann M. Cuniff
Daily Journal Staff Writer

ORANGE — Before Ross W. Feinberg earned a reputation for skillfully settling complex construction disputes with dozens of attorneys and insurance carriers, he learned their language through the contentious arena of homeowners' associations.

As a plaintiffs' attorney, Feinberg represented homeowners associations throughout Southern California in a broad range of cases that educated him on not only legal issues, but the people behind them.

"It's so personality-dependent," Feinberg said. "You've got to listen and listen some more and make sure they know you're listening."

Now in his 11th year with JAMS, Feinberg is known among attorneys as a dedicated mediator whose knack for complex legal issues and tricky personalities helps them resolve seemingly impossible disputes. His foundation is in construction defect cases with a focus on high-end homes, but his practice now includes a variety of other cases, such as disaster-related claims, real estate disputes and insurance-related litigation.

"I'm privileged to have the niche that I have, but it's been expanding over the last three or four years especially, and I'm getting all kinds of unique cases now," Feinberg said.

Attorneys who have mediated with him don't doubt his capabilities.

"He's got a real affable, approachable personality, but he also knows when to get the parties together, and he can be tough but in a good way," said Jeffrey P. Carvalho of Ryan Carvalho LLP in San Diego.

Matthew J. Eschenburg of Mokri Vanis & Jones LLP in Newport Beach said Feinberg "knows what buttons to push."

"As a mediator, you need to know that. You need to know how you're going to be able to bring people together, and you need to know what's going to pull them apart," Eschenburg said. "He's just very professional and very hardworking."

Feinberg earned his law degree from the University of San Diego School of Law after studying business as an undergraduate at USC. He started his career representing homeowners associations in a general capacity, which led to a focus on construction defect cases as his reputation grew. He founded Feinberg, Grant, Kaneda & Litt LLP in Newport Beach and represented plaintiffs in complex disputes that sometimes involved 40 or 50 parties.

Feinberg said the late Orange County Superior Court Judge Jerrold S. Oliver "took me under his wing" in the late 1980s, when "everything was contentious and complex and it didn't really need to be."

Oliver pioneered the case management order, which gave attorneys a set schedule, and "from there, it was quickly learning to work with all the other lawyers," Feinberg said.



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"We often had more than 100 people in one setting, and I learned early how to organize those types of cases," Feinberg said. "And I learned early that in order to effectively mediate, you need to get them the information that they need."

For Feinberg, trust and relationships have been key to his success as one of the few plaintiffs' lawyers to build a thriving mediation practice. He'd long planned to retire as a mediator, but as his firm grew with his win record, he made the leap to JAMS in October 2007.

He was already a familiar face there after hosting seminars for 20 years, and he brought with him a reputation that transcended traditional plaintiff versus defendant disputes.

"He wasn't just out to make a buck, and he would treat you

Ross W. Feinberg

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Areas of Specialty:

Accounting/Finance,
Business/Commercial,
Class Action & Mass Tort,
Construction, Construction
Defect, Insurance, Personal
Injury/Torts, Professional
Liability, Real Property

fair," Eschenburg said. "I think he's taken that mindset with him as a mediator."

Feinberg typically requests pre-session briefs, and he sometimes visits a construction site or home to see the issues at dispute first-hand. He expects attorneys to not only be prepared, "but also be prepared to stay late." Some mediations are scheduled

in multiple sessions over several months, “but more and more, they are highly personalized, one-day settings, and sometimes we’ll go to 3 p.m., and sometimes we’ll go until 3 a.m.,” he said.

He works to connect with clients on a personal level as the mediation begins then shifts to the attorneys as he gauges personalities and establishes trust.

He also spends time walking parties through pros and cons of resolution options as well as potential problems with their cases.

“Oftentimes, I end up helping the attorneys out because I’ll say things that the attorneys might not want to say, and it’s better coming from a neutral,” Feinberg said.

Attorneys who’ve worked with him say his persistence produces great results.

“He just has a way of reaching people and making people see the pluses and minuses of a case,” Carvalho said, calling Feinberg “doggedly determined.”

Eschenburg recalled a recent mediation involving construction-related claims involving a celebrity’s luxury home. The case was particularly contentious, and Feinberg “was absolutely fantastic.”

“He went over and beyond what many a mediator would have tolerated and would have worked through,” Eschenburg said. Feinberg has mediated several other cases with Eschenburg, who said his work ethic is consistent.

“He’s really busted his backside to do what’s best for the parties and resolve the case — even when you think the case wasn’t going to settle,” Eschenburg said.

Laura Watkins Utterback, a partner at Newmeyer & Dillion LLP in Newport Beach, said Feinberg recently handled an “exceedingly contentious” case involving a complicated, custom-built home, “and he knocked it out of the park.”

“He was able to not only and of course understand the complexity of the construction issues but the insurance coverage aspect of the case as well, which was actually critical to getting the case settled,” Utterback said.

Utterback represented the plaintiff in that case, but she’s typically on the defense side. She estimated she’s used Feinberg “at least 20 times. ... Every chance I can possibly get.”

“Him having been a premier plaintiffs’ lawyer in the construction world, I think, is a tremendous advantage for him,” Utterback continued. “But even more so, there’s a calmness to him, a conscientiousness and compassionate aspect to him that gets all parties down the road to where they need to get.”

When he’s not settling cases, Feinberg lectures at law seminars and to real estate groups and homeowners associations. He also attends seminars himself — his favorite is Dan Millman’s The

Peaceful Warrior’s Way — and he co-authored the 2006 book, “Construction Defect Litigation.”

He enjoys riding his Harley Davidson motorcycle, and his interest in fashion is reflected in his wardrobe and known among attorneys. He’s also an accomplished photographer, and he enjoys giving people framed photographs once their cases resolve.

“It’s just my little way of giving back,” Feinberg said.

Here are some attorneys who have used Feinberg’s services:

Scott R. Albrecht, Samuels Green & Steel LLP; George D. Bojic, Bojic & Livesay LLP; Jeffrey P. Carvalho, Ryan Carvalho LLP; Adrienne D. Cohen, Law Offices of Adrienne D. Cohen; Daniel A. Crespo, Bremer Whyte Brown & O’Meara LLP; Matthew J. Eschenburg, Mokri Vanis & Jones LLP; Robert J. Gilliland Jr., Guralnick & Gilliland LLP; Kenneth S. Kasdan, Kasdan LippSmith Weber Turner LLP