David Huebner, a former U.S. ambassador to New Zealand and Samoa, joined JAMS after 25 years of fulltime arbitration and intellectual property practice.

"Efficiency" is the key word for Huebner in his approach as a mediator and arbitrator. "As a litigator and arbitration advocate before becoming an arbitrator, I saw and often suffered great inefficiency in certain dispute processes caused by casual or inattentive management by tribunals," Huebner said. "Now that I am a neutral, I focus on preventing things from bogging down or going off track."

Huebner said one of his first cases as an arbitrator was a health care reimbursement dispute involving some three dozen parties.

"It showed me just how many ways inefficiencies, redundancies and confusion can creep into even a carefully conceived process when party interests and counsel positions sort into multiple, shifting clusters," Huebner said. "My current approach to procedural orders, meet-and-confer instructions, and preliminary conference preparation were all influenced by that case experience."

Huebner said he is also a firm believer in making full use of preparatory calls in mediation.

"I always spend a good bit of time on the phone with counsel for each side separately in advance of the mediation day, so I get the best sense of what the dispute is about and the strengths and weaknesses on both sides," Huebner said.

Before the individual calls, he invites attorneys for each party to submit briefs with their positions, arguments and where they think the opening might be for settlement.

"The challenge is identifying the interplay of issues and focusing parties on the interests beneath the potentially emotion-driven personalities to issue a unanimous award."

"He seemed to have the best grasp of the voluminous documents and testimony presented in the matter," Sorrell said. "He enjoyed what he was doing, understood the law, and was masterful at bringing together very different arbitrator styles and personalities to issue an unanimous award." Jones Day partner Steven L. Smith was before Huebner in an international commercial arbitration involving the termination of a distributorship covering Africa and the Middle East.

"Ambassador Huebner is one of the most capable international arbitrators available today on both the commercial and investor-state sides of the practice," Smith said. "If he's on your tribunal, you can count on a principled, rigorously analyzed and commercially sound outcome."

Huebner said mediation becomes difficult when parties are heavily invested personally.

"The challenge is identifying the interests beneath the potentially emotion-driven positions and focusing parties on the intersection of those interests," he said.

Another pitfall for attorneys is not ensuring that the right decision-maker is at the mediation and remains involved, he said.

"Making sure that your decision-maker is not only physically, but mentally present certainly advances the process — even if the principal at that moment on that particular day would rather be elsewhere," Huebner said.

He also advised against the conversation going immediately to numbers.

"If people are anxious to jump to numbers when they walk in, they are arguing positions, not interests," Huebner said. "It is always more productive to explore interests before slicing and dicing offers."

Huebner said he invites each side into private session to explain the case to him and then asks rounds of questions to collect as much information as possible.

"The information I collect is not just what people are saying, but how to interpret and evaluate those words and what might be behind them," Huebner explained.

Trial dates, meanwhile, are not always a powerful tool for resolution, according to Huebner.

"In my experience, most successful resolutions occur earlier in the process, when the two sides are wrestling with their positions and what the strengths and weaknesses might be," he said.

Quinn Emanuel Urquhart & Sullivan LLP partner Robert M. Schwartz appeared before Huebner in an appellate arbitration last year.

"Each side got a fair and deeply-considered evaluation of the points they raised," Schwartz said. "From start to finish, it was an impressive performance that even a three-judge panel of the California Court of Appeal would be hard-pressed to replicate."

Here are some attorneys who have used Huebner's services: Linda Burrow, Netflix Inc.; Michael J. Lyons, Morgan, Lewis & Bockius LLP; Grant A. Davis-Denny, Munger, Tolles & Olson LLP; Robert M. Schwartz, Quinn Emanuel Urquhart & Sullivan LLP; Steven L. Smith, Jones Day; Todd M. Sorrell, Anglin Flewelling Rasmussen Campbell & Trytten LLP.