

VERDICTS & SETTLEMENTS

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What's the Story?

Neutral Melinda Johnson's knack for getting the truth helps her build rapport.

By Paula Lehman-Ewing
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LOS ANGELES — At least on paper it looks like Melinda A. Johnson fell pretty far from the family tree when it came to career choices.

Johnson, a former Ventura County Superior Court judge who has spent the last 17 years as a mediator and arbitrator at JAMS, comes from a family of writers. Her father was a journalist, her mother worked in public relations and both sisters wrote screenplays.

While her siblings worked on television and movie scripts, Johnson was becoming the first female presiding judge of Ventura County. But being surrounded by writers did have an impact: She reads everything, she's diligent about punctuation and clarity and she has a genuine curiosity about what drives people.

As a mediator, Johnson said the first thing she does after reading briefs is to hold a private caucus and let people vent.

"I like to learn about people, which is that reporter and the scriptwriting gene coming out I guess," Johnson said. "I am usually able to relate and empathize with whatever their situation is, and so I'm able to develop a decent rapport with almost every client that I have. From that, once they kind of have some trust, you can talk to them about the ups and downs in their case."

She mentioned one example,

a case where a woman changed her will nearly every other week and the parties were litigating the future of the estate. One thing they all had in common — the parties, the attorneys and the mediator — was they were all Catholic. After some more prying, they learned they all attended 12 years of Catholic school. At this point, most people in the room were laughing. Then, Johnson inquired about the woman's elementary school. It turned out the woman's second grade teacher was Johnson's great aunt.

"You can always find something to connect with," Johnson said.

"She's able to read the room very well and read what counsel is saying and figure out how to build off of that," said Nicholas J. Van Brunt, an attorney at Sheppard, Mullin, Richter & Hampton LLP who used Johnson to arbitrate a decedent's estates litigation. "She's very much like someone you would enjoy meeting at an event. You can strike up a conversation very easily with her."

Once a connection is made, though, Johnson is all business. Ronald F. Brot, founding partner of the family law firm Brot & Gross LLP, has gone to Johnson for numerous cases not only because his cases fall in her wheelhouse — Johnson cut her teeth in family law as a bench officer and as a private practitioner — but also because of how she relates to people while making tough calls.

"Her style is respectful and informal. Although when she's



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conducting hearings as a private judge, she is properly judicial in every respect," Brot said. "She grasps argument by counsel quickly, does not hesitate to ask very hard questions and lets counsel know when they are straying from the point, so they can confine their arguments to the core issues before her."

Johnson said her practice has boiled down to three main areas: The bulk of her mediations are in probate and decedent estates, she does a lot of judge pro tem assignments, mainly in family law, and she does a lot of employment arbitration.

Johnson never handled employment law on the bench but has fallen into it out of necessity. Employment arbitration, she said, has been "exploding" in recent years.

And while it may not be her top comfort area, attorneys who have used her to arbitrate employment matters often use her multiple times. Lauren J. Katunich, a partner at Raines Feldman LLP, has used Johnson to arbitrate two pregnancy discrimination disputes and said her grasp of the rules of evidence and the law was sound. That leads to balanced

Melinda A. Johnson

JAMS
Los Angeles

Specialties: family law, probate, complex toxic tort, employment

rulings with concrete results.

"She's clear with her rulings, so she doesn't necessarily leave a lot of room for interpretation," Katunich said. "When you walk out of having a conference with her, you know where she stands, and she doesn't waffle."

Johnson has also mediated half a dozen cases from the Santa Barbara oil spill in part because of her experience with complex toxic tort litigation. As a superior court judge, Johnson oversaw the first case in Ventura designated as "complex," a toxic tort matter involving more than 140 plaintiffs who lived in a neighborhood where toxic substances were found in the soil. *Cottle v. Oxnard Shores*, No. 95460 (Ventura Super. Ct., filed Nov. 7, 1990).

“Once you have success in one of those, they kind of bring you back and back because you have a lot of the background under your belt,” Johnson said.

After graduating from USC Gould School of Law in 1972 with membership in the Order of the Coif, Johnson joined the prosecutor’s office in Ventura as a deputy district attorney. She became an expert in criminal law, evidence and juvenile law and procedure, so much so that she taught courses in those subjects at Ventura Community College and the Ventura County Police and Sheriff’s Academy.

She hung her own shingle in 1977 and handled personal injury, wrongful death, domestic and probate as a sole practitioner until she was appointed to the bench by Gov. Jerry Brown in

1982. She was the first woman appointed to the Ventura County Superior Court and the first woman presiding judge, a position she held from 1994 to 1995.

According to Brot, it is Johnson’s experience on the bench and in her post-bench career as a mediator that contributes to her success bringing parties to settlement.

“I never hesitate to take her whether I have the husband or the wife, whether the issues are custody or financial,” Brot said. “I know I will get a fair listen and a just result.”

Johnson said the keys to good mediation are similar to those of a good screenplay, and that’s coming from someone who’s sister wrote “E.T.: The Extra-Terrestrial” in collaboration with Steven Spielberg. Johnson wants to be fully briefed, but more

importantly, she wants attorneys to fill her in on what’s really driving the characters before her.

“Underneath the facts of the case there is some truth that’s motivating the parties,” Johnson said. “If the attorneys can clue me into that, it’s very helpful.”

Johnson said the truth is often far from a legal conflict and more a personal conflict. In those cases, Johnson said people often just want to be heard.

“Then you can say, ‘I just need you to know that the court’s not going to hear this kind of thing, so now that you understand that, do you think we can work around that? In other words, we can’t repair all that history today, but let’s focus on what we can do today.’”

Van Brunt said Johnson’s approach often has the desired effect.

“She’s got a very matter of fact approach to mediation but does it in a way that’s rarely off-putting to clients,” Van Brunt said. “She’s not a bulldog, but she’s able to get through to parties when they’re in need of someone to show them some reality. She’s good at doing that in a way that’s not particularly overbearing.”

Here are some attorneys who have used Johnson’s services: Adam F. Streisand and Nicholas J. Van Brunt, Sheppard, Mullin, Richter & Hampton LLP; Paul J. Barulich, Barulich Dugoni & Suttman Law Group Inc.; Samantha Klein, Wasser, Cooperman & Mandles PC; Lauren J. Katunich, Raines Feldman LLP.

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