

VERDICTS & SETTLEMENTS

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All About Teamwork

Jamie Jacobs-May, a former judge, views mediation as a collaborative — if sometimes drawn out — process.

By Craig Anderson
Daily Journal Staff Writer

SAN JOSE — Former Santa Clara County Superior Court Judge Jamie Jacobs-May, who joined JAMS last year after retiring from the bench, views mediation as a “team sport.”

“Building up confidence and support is critical,” Jacobs-May said in an interview.

Jacobs-May always enjoyed settling cases as a judge and likes resolving disputes in a collaborative style. When it starts going well, “the ties loosen, the jackets come off, and people are working on a document together.”

But getting to that stage is not always easy and can take a long time. “It means you don’t make plans on a day you have a mediation,” Jacobs-May said.

Attorneys who have used her services say Jacobs-May is off to a strong start. Charles O. Thompson, a San Francisco-based partner with Lewis Brisbois Bisgaard & Smith LLP who handles employment defense work, said a plaintiffs’ attorney recommended Jacobs-May last year and that he was reluctant to hire her at first. But Thompson has since been impressed.

“She is tenacious, and she is fair,” he said. “She puts her whole heart into it but is not one of those mediators who is just looking for a resolution. She is looking for the right resolution.”

He has hired her for about five employment cases, and Jacobs-May, who heads a mediation class at UC Berkeley School of Law this year, invited him to teach a class on negotiation.

Los Gatos attorney Nancy M. Battel said Jacobs-May is particularly effective in dealing with cases that involve fraught emotions, whether it is a couple with communication problems or a business dispute between former high school classmates.

“Where Jamie Jacobs-May helps so much is not so much the legal issues

but what the parties are going through emotionally,” Battel said. “She really listens to what they’re saying.”

She said a dispute between an unmarried couple who were splitting up, technically a breach of contract case, was tough to settle. But both sides wanted to meet with her after the legal settlement was reached to work on communication issues.

“This is a couple that never agreed on anything,” Battel said.

Jacobs-May, known as a good settlement judge from her days on the bench, is a “true believer” when it comes to mediation, Thompson said. “She reads every document we give her, and it’s apparent in the mediation process.”

“I care a lot about the process of how [mediation] works,” Jacobs-May said. “That is what motivates me.”

As a judge, Jacobs-May said she was always in a hurry because she needed to get back to court. Full-time mediation is different, she said. “This is much more intense, much more intimate.”

She does not do any arbitration work, saying it would create tensions she would prefer to avoid to rule on cases for attorneys she might later handle mediations for, at least if she did such work in California. She focuses on a variety of matters, including employment, trade secrets, probate and personal injury cases.

A native of New York City, Jacobs-May recalls spending her vacation days with her brother in the city and among other things going to court. “My interest in the law was always there,” she said, stoked by an affinity for popular television shows about attorneys, such as “Perry Mason” and “The Defenders.”

She moved to Southern California as a teenager and later attended UC Berkeley as an undergraduate and for law school. Traces of her accent are



S. Todd Rogers / Daily Journal

Jamie Jacobs-May

JAMS

San Jose

Specialties: Employment, trade secret, probate, personal injury

still in her speech.

“You can take the girl out of New York, but you can’t take New York out of the girl,” Jacobs-May jokes.

She worked at the state attorney general’s office, then took a job at Berliner Cohen in San Jose, followed by a position at the Santa Clara county counsel’s office.

In 1989, Gov. George Deukmejian appointed Jacobs-May to the municipal court bench. She then moved up to Superior Court when the courts unified. She spent the next 22 years as a judge, serving as presiding judge during the tail end of her tenure on the bench.

Bradley A. Bening, a partner at Willoughby, Stuart & Bening in San Jose, said the retired judge helped settle an emotionally-charged case he had. He said Jacobs-May is ideal in handling sensitive matters.

“I would call her a velvet hammer,” Bening said. “Once the [parties] understand you’ve heard their pain, she does a good job explaining the repugnant alternatives of going forward.”

“Because she was a trial judge for so long, Jamie is able to explain that you must be prepared for the worst alternative,” he said. “She does a good job of deflating the emotions.”

Patrick E. Premo, a Mountain View-based partner at Fenwick & West LLP, said Jacobs-May’s experience as a

settlement judge shows in her ability to keep the parties “on track.” He has used her twice, first in a commercial dispute that settled early, in part due to the former judge’s preparation, and then in a hotly-contested trade secrets misappropriation dispute.

Premo’s clients were accused of breaking a non solicitation agreement when they switched jobs. “I didn’t think we would ever settle the case,” he said.

Jacobs-May did not permit opening statements from attorneys but allowed the parties to speak freely, Premo said. “People can come in and get things off their chest, then can be productive in moving things forward,” he said.

She tries to resolve disputes in such a way that people can — if they choose — work together again. Mediation makes that a possibility.

“Litigation is very destructive,” Jacobs-May said. “I want to do whatever is possible to preserve an ongoing relationship.”

Here is a list of attorneys who have used Judge Jacobs-May’s services:

Patrick E. Premo, Fenwick & West LLP, Mountain View; Gregory Tenhoff, Cooley LLP, Palo Alto; Charles O. Thompson, Lewis Brisbois Bisgaard & Smith LLP, San Francisco; Anthony Marsh, Morgan Franich Fredkin & Marsh, San Jose; Dean Rossi, Rossi, Hamerslough, Reischl & Chuck, San Jose; Michael T. Lucey, Gordon & Rees LLP, San Francisco; Roberta S. Hayashi, Berliner Cohen, San Jose; Nancy M. Battel, Los Gatos; Bradley A. Bening, Willoughby, Stuart & Bening, San Jose.