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Judicial Profile



HON. DAVID M. ROTHMAN

Private Judge

J A M S

PROFILE David Rothman, a former Los Angeles Superior Court judge who serves as a full-time neutral, has a relatively novel theory to explain why alternative dispute resolution is such a popular career choice with ex-jurists.

It's not just the increase in salary that appeals to judges nearing retirement, he said. Rather, it's the fact that they are being appointed to the bench at an earlier age, affording them the opportunity to pursue second careers more easily than their predecessors.

"When I was practicing law, the judges were in the 50s and 60s," he said. "They were senior-type people appointed late in their career. Now, judges are appointed much, much earlier, commonly in their 40s. ... Times are changing."

Rothman, former supervising judge of the West District of Los Angeles Superior Court in Santa Monica, is a member of the Gold Card, a loosely affiliated group of retired judges in Los Angeles who jointly advertise their services as full-time neutrals.

Since he retired from the bench in 1996, Rothman has become known as one of the more energetic and personable ex-jurists in ADR.

"He's one of the few retired judges that still is fascinated enough by the cases where he gets personally involved," said Alex Robertson, a name partner in the Woodland Hills office of Knopfler & Robertson. "He doesn't take himself or counsel too seriously."

Perhaps it is one reason that, during an interview, he insisted that a reporter call him "David," instead of "Judge Rothman."

Attorneys say he combines a down-to-earth nature with a certain amount of authority.

"He has a unique ability to gain the trust of participants in a mediation and enough credibility to motivate them to see the correctness of his position," said Mark Stapke, a name partner and business litigator at Los Angeles' Stapke & Harris.

Stapke represented a property owner in a mediation before Rothman involving the death of an engaged couple following the collapse of their home during the 1994 Northridge earthquake.

"Judge Rothman took five days and showed remarkable patience in drawing whatever points of consensus he could find and using those points to settle the case on terms I think everybody was satisfied with," Stapke said.

The plaintiffs' attorney in the case, who represented the family of a decedent, had similar high praise.

"He was able to bridge the gap on a very personal level and understand my clients' issues and help them see a way to a closure to the case," said Robertson, who also said that, in the highly specialized construction-defect arena, Rothman "has a grasp of not only the technical issues, but the insurance coverage issues [and] he can manage large cases with 20 to 30 parties involved."

If parties are not being reasonable, however, attorneys say that Rothman isn't afraid to let them know, no matter how delicately.

"He did tell people in that mediation that they were horses' behinds in the nicest possible fashion," Stapke said. "They didn't take it personally."

Rothman estimates that half his cases are arbitrations, with the remainder divided among mediations, discovery references and family law trials in which parties agree under statute to submit a matter to him that is subject to appellate review.

When he's not handling cases, Rothman is tackling ethics issues as a member of the

Judicial Task Force on the Quality of Justice, Subcommittee on Alternative Dispute Resolution and the Judicial System, which was established last year by California Supreme Court Chief Justice Ronald George to examine the ever-popular ADR industry.

In his capacity on the task force, Rothman co-chairs a subcommittee on ethics, one of the task force's three working groups.

Rothman was born in Milwaukee in 1937, where his father was in the automobile business. His family moved to Los Angeles when he was 10. After graduating from Hollywood High School, Rothman enrolled at UCLA, earning his bachelor's degree in 1959. He earned his J.D. at the University of Chicago's law school in 1962.

Following graduation, he spent two years as a deputy in the state attorney general's criminal appeals division in Los Angeles, poring over trial transcripts. Two years later, he transferred to a special unit that investigated investment fraud and other business crimes for state agencies.

In 1967, he left the government to launch a private practice in Beverly Hills, where he handled a wide array of civil matters along with some criminal cases.

Early in his legal career, Rothman was also involved in politics, and served as a volunteer attorney for the American Civil Liberties Union. In 1967, he defended people arrested during a demonstration against President Lyndon Johnson in Century City.

Several years later, he established a program to obtain pardons for draft resisters from President Gerald Ford.

In 1976, he was appointed to the Los Angeles Municipal Court by then-Gov. Edmund G. "Jerry" Brown Jr. Four years later, he was elevated by Brown to the Los Angeles Superior Court.

Rothman began his long career on the Superior Court handling criminal matters, but in 1982, he switched over to the civil side, where his assignments included law and motion, trials and writs and receivers. Toward the end of his judicial career he focused on family law.

From 1989 to 1994, Rothman was supervising judge of the court's West District in Santa Monica.

When he was nearing his 20-year mark on the bench, Rothman began exploring his options. The possibility of being elevated to a higher court was not one of them.

"There were not a lot of opportunities to go to other courts, being what I am," said Rothman, a Democrat who spent most of his judicial career under Republican governors.

Since Rothman's retirement in 1996, attorneys say that what consistently sets him apart from some of his ADR colleagues is his preparedness coupled with his personality.

"I think he knows how to handle people and he learns about the case in-depth prior to the negotiation between the parties," said Caroline Dasovich, a construction defect specialist from the San Clemente office of Gibbs, Eppsteiner & Stagg who has used Rothman in a handful of mediations.

- TOM OREWYLER

This ADR profile originally appeared in Verdicts & Settlements on February 19, 1999.