

John L. Wagner

Judicate West

Judicial Profile

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Career Highlights: Location: Los Angeles, Santa Ana Age: 54 Affiliation:
Judicate West Specialty areas: Multiparty business and commercial disputes,
class actions, intellectual property, environmental, toxic tort, construction
defect Rate: \$660 per hour

By Rebecca U. Cho
Daily Journal Staff Writer

LOS ANGELES - When a particularly complex mediation with retired Judge John Leo Wagner started inching toward 2 a.m., intellectual property lawyer Jonathan M. Gordon, who represented one of the claimants, was prepared.

"[It's] a trademark of Judge Wagner," Gordon, a Los Angeles partner with Weston Benshoof Rochefort Rubalcava & MacCuish, said. "He keeps people in a session, rolls up his sleeves and says he's going to stay as long as it takes."

The matter, involving a dispute over a technology license, successfully settled.

Wagner, a former federal judge, now a neutral with Judicate West specializing in complex business disputes, knows a thing or two about persistence.

Appointed as a U.S. magistrate judge in the Northern District of Oklahoma in 1985, at the exceptionally young age of 31, Wagner handled more than 2,000 mediations as that court's primary settlement judge. The resolutions of many of those disputes required years of his attention.

During his 12 years on the bench in Tulsa, Okla., the court saw a flood of litigation from the 1980s savings and loan crisis and real estate bust, and Wagner took on many cases related to those matters.

"I liked anything hard, anything with a challenge," Wagner said. "I like the ones with really difficult people. After doing it for a while, you like the challenge."

One memorable case, involving the closing of a state-sponsored center for developmentally disabled children and young adults, prompted Wagner, 54,

to say on a recent afternoon, "Probably the most important work I'll ever do, I did as a judge."

Due to alleged poor treatment of the children at the Hissom Memorial Center in Sand Springs, Okla., the center was shut down in 1994.

As a result, the Sand Springs School District was poised to feel the full weight of educating the 200 children from the center. Wagner stepped in and worked with 10 school districts, the state's human services and education departments and the governor's office, among others, to come up with a solution that placed the children in various school districts with proper care. He spent the next five years ensuring that the settlement was carried out.

"They just blossomed," Wagner said of the children.

Born in Ithaca, N.Y., Wagner grew up in Buffalo, N.Y., then Omaha, Neb., before finding a home in Oklahoma as a sophomore attending the University of Oklahoma.

After graduating from the University of Oklahoma College of Law in 1979, Wagner worked as a trial lawyer at Kornfeld & Franklin, handling a diverse caseload, including railroad defense cases and baby brain damage plaintiffs' cases.

He later was appointed a federal magistrate judge by the district judges in Oklahoma.

"I was known to the other judges," Wagner said. "I had been trying lawsuits before these judges for years."

As a judge, Wagner became known for his work in making policy in the alternative dispute resolution area. He founded a court-annexed mediation program, through which he trained 50 attorneys to be mediators. In addition, Chief Justice William Rehnquist asked Wagner to serve on a judicial committee that looked at every ADR program in every federal court in the country, aimed at improving the system.

He left the bench in 1997 to head the ADR practice at Los Angeles-based Irell & Manella, where he handled largely business matters out of the firm's Newport Beach office. Wagner said the move to California was rocky at first.

"My wife had just built her dream home and lived in it for six months," he said. "She wasn't immediately enthusiastic about the idea."

But both he and his wife now cannot imagine leaving Southern California, Wagner said.

His eight years with Irell & Manella took him all over the United States, and Wagner developed an expertise in handling interstate matters, which he continues to do with Judicate West.

He said he left Irell due to client conflicts that prevented him from performing arbitrations for as long as he stayed with the firm.

Wagner started at Judicate West in 2005 and is based in the organization's Santa Ana and downtown Los Angeles offices.

His work consists of 90 percent mediations and 10 percent arbitrations. He has extensive experience in multiparty settlements and is in demand to handle difficult cases arising from intellectual property, securities, consumer class actions and environmental matters.

When he first began mediating as a lawyer and then a judge, Wagner said, he experimented with different methods of resolving conflicts.

"If it worked, I kept doing it. If it didn't work, I quit doing it," Wagner said. "I've had some fairly spectacular successes and fairly spectacular failures."

His creativity continues today. In fact, he hand-crafts his approach with each case he handles.

"He has more tools in his tool box than any mediator I've run across," said Stuart Price, a commercial litigation partner with Bryan Cave in Irvine.

Price used Wagner in 2002 in a mediation involving his client, a leasing company that provided financing to a retailer that purchased one-hour photo labs. The retailer sued Wagner's client when the leasing company refused to finance a purchase of the photo labs.

By 10 p.m. on the day of mediation, the two parties had reached an impasse. Price's client wanted \$750,000 and the plaintiff's side was offering \$850,000. Playing Wagner's "greedy game," Price said, the mediator had the parties separately present him with a settlement figure.

The party closest to \$800,000 would win the bid and the case would settle for that amount.

"It causes people to forget that they don't want to move," Price said. "Some strategy is involved, and it's just fun."

Price's client won the game.

Wagner has developed an expertise in multiparty disputes. Three years ago, he helped settle a dispute involving the allocation of compensation to shippers of the Trans Alaska Pipeline Quality Bank. The case involved seven law firms, the state of Alaska and a Native American corporation. By the time Wagner stepped in, disputes involving the Quality Bank had been ongoing since 1979, and an administrative decision was on appeal.

With \$2 billion at stake, Wagner engaged in an extensive mediation process that took him from San Francisco to Seattle.

Eventually, Sen. Ted Stevens, R.-Alaska, ensured, through a provision in a 2005 act, that Alaska's interests would prevail and the administrative win would be taken away from Exxon Mobil.

Wagner also is well-versed in out-of-state mediations. In one case involving Los Angeles plaintiffs who had become victims of mortgage fraud through business in Atlanta, Wagner carefully studied the insurance law surrounding the case.

"I had to bear down on Georgia law," he said.

Wagner said that many times a case does not settle during mediation because the key decision-makers are not present at the meeting. As a result, when he writes a mediator's proposal, Wagner said, he includes an analysis of the proposal.

"What I've learned to do is to take the messenger and empower the messenger," Wagner said. "What happens is because it's in writing, it tends to worm its way up through several bureaucratic layers. It gets to a higher decision-making level."

While his natural inclination is to be laid-back in his mediations, Wagner said, he adjusts his style to the needs of the situation.

"I found myself at 4 o'clock in the morning on the phone a couple months ago yelling at the lawyer and telling him he was a horse's ass," he said.

Wagner said he likes to speak with the lawyers in advance of the mediation and design a mediation process together before the session.

Kenneth J. Catanzarite, a complex business litigator in Anaheim, said Wagner is extremely well prepared for his sessions. He has taken complex securities class actions to Wagner, including an insurance coverage dispute.

"He'll read all the briefs, read many of the cases, look at the policies of insurance and evaluate the claims himself," Catanzarite said. "He's read everything and given it a lot of reflective thought."

When he first came out to California and took the State Bar exam, Wagner described the experience as "miserable" and having practically nothing to do with practicing law and being a judge. But, he said, the move has been well worth his efforts.

"It's a blessing to be living in paradise and doing what you love to do," he said.

Here is a list of attorneys who have used Wagner's services:

Robert G. Warshaw, Musick, Peeler & Garrett, Los Angeles; Stuart Price, Bryan Cave, Irvine; George E. Fleming, Baker & McKenzie, San Diego; Jonathan M. Gordon, Weston Benshoof Rochefort Rubalcava & MacCuish, Los Angeles; John Tehranian, Turner, Green, Afrasiabi & Arledge, Costa Mesa; James Miller, Musick, Peeler & Garrett, Los Angeles; Laurie D. Rau, Chavos & Rau, Santa Ana; Peter L. Lublin, Adorno & Yoss, Atlanta, Ga.; Kenneth J. Catanzarite, Cantanzarite Law Corporation, Anaheim; Thomas Rozsa, Rozsa Law Offices, Tarzana; Curtis Holdsworth, Holdsworth & Hagopian, Costa Mesa; Louis A. Karasik, Weston Benshoof Rochefort Rubalcava & MacCuish, Los Angeles; Marc D. Alexander, Adorno, Yoss, Alvarado & Smith, Santa Ana; Lawrence Glassmann, The Glassmann Law Firm, Cincinnati, Ohio; and Steve E. Comer, Morrison & Foerster, Irvine.

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