

VERDICTS & SETTLEMENTS

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At the Zenith Again

Former US magistrate Jan Adler says he found a second career peak as a neutral; lawyers who have used his services agree.

By Jessica Mach
Daily Journal Staff Writer

Jan M. Adler has a few idioms up his sleeve, furnished by loved ones, to explain what he's like as a neutral: Cool as a cucumber (according to his father). A dog with a bone (says his wife). By Adler's own estimation, he is also an optimist and an extrovert, and according to attorneys who have worked with the Judicate West neutral and former U.S. magistrate judge, all of the above rings true.

But of all the things that could be said about Adler, one seems to come up time and time again: that Adler is a nice guy. At first glance, the description may seem generic — a way to depict someone who is pleasant enough, but who doesn't have very many distinctive features otherwise. In Adler's case, however, the opposite seems to hold true: there are so many positive aspects of working with him, it seems, that the best way for some attorneys to summarize the experience was to fixate on Adler's overall effect.

"He always is very congenial. He's just a good person," said Janice P. Brown, a principal at Meyers Nave who has used Adler's mediation services several times since he joined Judicate West in 2019.

"I think he's transparent, but I also think he's really kind," Brown added. "And I think

having kindness in the legal world is really an undervalued characteristic."

Adler always makes sure he understands who the parties in each case are, "what their role is, and what their concerns are," said Robin A. Wofford, a partner at Wilson Turner Kosmo LLP, who noted Adler this year served as a special master for a discovery dispute as well as a mediator on her cases. "He'll try to encourage them not to give up, and that he's working towards something, and so to be patient. He's really nice."

Brown had several settlement conferences before Adler back when he was a U.S. magistrate judge, she said, but even before Brown met him, she was aware of Adler's reputation as a person who was "beyond reproach."

Kindness, it turns out, was something Adler learned early on. Growing up in Livingston Manor, N.Y., a town home to a population of 1,200, Adler worked alongside his brother, mother, father, and grandfather at the family grocery store.

"That store was amazing because I spent a lot of time with my father and mother working on it, and I saw how they interacted with people — I saw how kind they were to people, and how generous they were to people, and their attitude of wanting to help people," Adler said. "All of those things had such a tremendous impact on



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my life."

After studying at Duke University School of Law, Adler worked as an associate at Jennings Strouss & Salmon PLC in Phoenix for four years. From there, he moved further West to join the San Diego office of Milberg Weiss Bershad & Schulman LLP, where he focused on securities and antitrust class actions as well as consumer cases. Adler was appointed a U.S. magistrate judge in 2003 and stayed on the bench until 2018 — shortly before he joined Judicate West. At the firm, he specializes in business, commercial, employment, intellectual property, real estate, and tort cases, and works with clients across the nation.

This wealth of experience makes his mediations particularly effective, said Wofford, whose clients are primarily employers.

Jan M. Adler

Judicate West,
San Diego

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"Part of the thing about him is he's a former plaintiff's lawyer at a big firm, ... and he obviously was on the bench for a long time," Wofford said. "He was very persuasive in explaining to our clients why he thought certain things the plaintiff was doing ... was out of the ordinary, and strategically why they were doing it."

Marian H. Birge, an employment attorney at Garcia & Birge, APC who represents both plaintiffs and defendants,

said Adler works well with her plaintiff clients as well.

“In particular with issues involving employment and discrimination, many clients are really emotionally devastated and defendants can be extremely angry — somebody’s lost a job and is in distress, someone else feels personally attacked,” Birge said. “There can be a lot of interpersonal issues entangled in the legal claims, so emotions are high.”

When Adler “comes to the mediation, he’s fully prepared to recognize and navigate these real life personal issues that people have, and part of that is being able to make people feel, pretty quickly, a level of ease and feel respected,” Birge said. “He has the ability to talk with them and make them feel heard and make them feel like they have an opportunity to speak out about things that disturb them.”

The attorney also commended Adler’s pacing.

“There’s a period of time in every mediation when there’s this kind of getting to know you process, ... and at some point in the mediation, there has to be a point at which the negotiation — the numbers — actually start,” Birge added.

She said Adler always gets the negotiation process start-

ed at the right time and said following his cue is “a little bit like watching an orchestra conductor.”

That ability to pinpoint the right moment for action applies after the mediation, too. At the start of the pandemic, Adler said, it was not immediately clear how everyone’s legal work would proceed. As the legal world hit a momentary pause, Adler began to reach out to clients whose cases didn’t initially settle.

“Even if they weren’t calling me, in cases where I thought there was utility to exploring it, I started calling them,” Adler recalled. “I had some cases where I literally worked months during the pandemic — probably people were getting tired of me calling them, but it has led to, in some cases, subsequent mediations that were scheduled on Zoom. In some cases I was able to help them just over the phone ... without a formal session.”

Adler clarified he also followed up with clients in a similar way before the pandemic but said his follow-up work over the last few months “has reiterated to me how you can get these cases done if you keep working at them.”

“My wife ... calls me a dog with a bone, and what she

means by that is that I’m not rabid, I’m not a Rottweiler, I’m not an uncontrolled pitbull or anything like that,” Adler said. “But I am persistent in my own way. ... I never, ever feel that a case cannot be settled.”

James P. Frantz of Frantz Law Group, APLC, noted this persistence when, as a magistrate judge, Adler presided over a settlement conference in a wrongful death case, which took place nearly a decade ago and involved federal officers.

The settlement conference “took two days and it went through Valentines Day and evening. ... He even kept the court opening until 10 o’clock at night to hear the parties, to try to get it resolved,” Frantz recalled. “He went way beyond the call of duty in handling it that way.”

In both the wrongful death case and a case that Adler recently mediated, which involved allegations of child molestation, Frantz said Adler navigated the issues in a sensitive manner.

“The molestation case — it’s very emotional for the parents, and he interacted with them in a very professional, empathetic, personable way, and I think they felt very comfortable working with him on this case,” Frantz

said. “He is truly fantastic in the way he mediates cases.”

When he isn’t working, Adler serves on the board of Jewish Family Services of San Diego, an organization that provides various services to communities in need. He’s also a big sports fan, with a special penchant for college basketball, and back when travel was less risky, an avid traveler. When Adler retired from the bench, he surprised his wife with a trip to Paris. But his work at Judicate West is a big — and rewarding — part of his life.

“To have been a federal judge — I never imagined I would have that opportunity,” Adler said. “I wondered, what will it be like once I leave the bench? Is this the zenith, and will I ever get close to the zenith again? I feel very, very fortunate and happy to say it’s worked out really well.”

Here are some attorneys who have used Adler’s services: Janice P. Brown, Meyers Nave; Robin A. Wofford, Wilson Turner Kosmo LLP; Marian H. Birge, Garcia & Birge, APC; James P. Frantz, Frantz Law Group, APLC; John Roberti, Allen & Overy.

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