

VERDICTS & SETTLEMENTS

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Eagerly Engaged

A. Howard Matz is just as busy post-bench as he was as a district judge

By Kevin Lee
Daily Journal Staff Writer

Federal judges who retire from the bench often slow down and adopt a simpler workload in their post-bench years.

Two years after he stepped down from the Central District of California court in 2013, A. Howard Matz has pursued what he calls an intellectually challenging blend of assignments.

"I have really shortchanged my promise to myself and my family about finding more time for personal things," Matz said with a chuckle. "I find what I'm doing so varied and so interesting that I'm really terrifically engaged."

He has served as a private mediator and on three-member arbitrator panels. Large law firms hire him as a moot court adviser to tap into his nearly 15 years of experience as a federal judge. He is currently serving as a special master in an ongoing case in the Central District.

Matz also returned to the law firm he helped establish, the Los Angeles-based litigation boutique now known as Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow PC.

Listed as senior counsel at the firm, Matz is overseeing both paid and pro bono work.

The former federal judge said returning to private practice gives him a better grasp on how to conduct mediation and arbitration proceedings.

"I have an ever-recurring opportunity to not only understand, but participate in the life of a lawyer, to deal with the pressures and challenges that adversaries and clients pose," Matz said.

Last year, Jeffrey A. LeVee of Jones Day asked Matz to serve as part of a three-member panel in an independent review process on generic top-level domain names.

LeVee represented the Internet Corporation for Assigned Names and Numbers, the administrator of domain names and strings, in a dispute with Booking.com BV based in the Netherlands. He had represented ICANN in district court litigation before Matz

several years ago and kept the former judge in mind for mediation and arbitration proceedings upon hearing of his retirement.

"These independent review procedures are creations of ICANN bylaws. We're constantly looking for panelists, for intelligent and thoughtful people to serve," LeVee said. "He got up to speed quickly."

In a final declaration issued last month, the three-member panel denied Booking.com's review and named ICANN the prevailing party.

At LeVee's request, Matz has been hired as a panelist in another ICANN independent review process.

"He is diligent, thoughtful, creative, timely," LeVee said.

Mark Pifko of Baron & Budd PC represents plaintiffs in a consumer class action that went to mediation before Matz.

While the case did not settle, Pifko said Matz's judicial experience and his proactive approach came through during the mediation session.

"In a lot of other matters, you write your mediation statement and that's the primary sense of the case your mediator has," Pifko said. "Here, we provided mediation statements and orders and filings as if he were the sitting judge in the case. He was able to come to a more thorough understanding of the case over if he had just read the mediation statements."

On arbitration and mediation services, Matz partners primarily with Federal Arbitration Inc., known as FedArb, an ADR company founded by former U.S. District Judge Abraham D. Sofaer of the Southern District of New York.

Headquartered in Palo Alto, FedArb touts a roster of more than 50 former federal judges and relies primarily on procedural rules implemented in federal courts, subject to modifications by the parties. Matz said FedArb allows him the flexibility to take on different types of legal work.

A graduate of Harvard Law School, Matz served as an assistant U.S. attorney in the Central District from 1974 to 1979. He moved to private practice as a partner at Hughes Hubbard & Reed LLP until 1983, when he helped found Bird Marella. He remained at the



Alexander Drecun / Special to the Daily Journal

A. Howard Matz

Bird Marella P.C.
Los Angeles

Areas of specialty: Securities, contracts, intellectual property

firm for 15 years before moving to the bench in 1998.

Matz issued a number of groundbreaking decisions while on the bench.

He was the first judge in the U.S. to rule on challenges to the detention of alleged terrorists at Guantanamo Bay in the aftermath of 9/11. He dismissed a lawsuit filed by several human rights activists after determining they lacked legal standing to assert claims on behalf of the detainees. *Coalition of Clergy et al v. Bush*, 189 F.Supp.2d 1036 (2002).

While Matz has had to adjust to working without judicial authority, he thrives on being able to communicate with counsel and clients beyond the courthouse.

"You have many more opportunities to work with a wide variety of individuals in a somewhat less structured context," Matz said. "Being a judge, it's a wonderful position that I greatly enjoyed and appreciated having the opportunity to do, but it's isolating."

Rick L. Shackelford, a shareholder at Greenberg Traurig LLP, said Matz has a "terrific" sense of humor that shone through in serious circumstances.

Shackelford was lead counsel for defendant Welch Foods Inc. in a Lanham Act case in Matz's courtroom. During the trial, a witness on the stand testified that she could not read the small type on a bottle presented to her.

"Judge Matz pulled out this magnifying glass the size of her head and offered it," Shackelford said. "It was a great moment of levity."

Shackelford asked Matz to serve on a three-member arbitration panel to oversee a dispute over an international distribution agreement. The case ended up settling.

The Greenberg Traurig lawyer advised practitioners to take a direct approach with the former judge.

"Listen to his questions and answer them honestly," Shackelford said. "Don't try to figure out where he's going because you'll usually be wrong. If for some reason you can't answer his question, tell him that and tell him why."

Here are some attorneys who have recently used Matz's services:

Jeffrey A. LeVee, Jones Day, Los Angeles; Gregory S. Cordrey, Jeffer Mangels Butler & Mitchell LLP, Irvine; Mark P. Pifko, Baron & Budd PC, Encino; Johnathan E. Altman, Munger, Tolles & Olson LLP, Los Angeles; Dean J. Kitchens, Gibson, Dunn & Crutcher LLP, Los Angeles; Charles N. Freiberg, Kasowitz, Benson, Torres & Freidman LLP, San Francisco; Rick L. Shackelford, Greenberg Traurig LLP, Los Angeles; Melissa D. Ingalls, Kirkland & Ellis LLP, Los Angeles