

# VERDICTS & SETTLEMENTS

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## Accounting For Success

The former presiding judge of San Bernardino County was on track to become an accountant before law school, but instead uses his business savvy to ease disputes between companies.

**By Catherine Ho**  
Daily Journal Staff Writer

Back when McDonald's was a fledgling San Bernardino hamburger joint, Judge John Kennedy helped the would-be global franchise with its accounting books. It was the 1950s, and he was just a teenager, but he knew at that moment he was in it for life.

"As a result, I've always had a fascination with business and the design of business," Kennedy said. "I enjoy the opportunity to help facilitate the resolution of disputes in such a way that people will develop collaborative ability for mutual benefit."

At least half of the cases that the JAMS mediator and arbitrator handles are related to commercial and business disputes between companies.

In fact, the former presiding judge of San Bernardino Superior Court was on track to become a CPA until, as he jokes, his then-wife and his father - an accountant himself who had dreams for Kennedy to continue the tradition - "coerced" him to take his high LSAT score to law school.

Because many of the arbitrations and mediations he hears involve people and businesses that had working relationships prior to the dispute, Kennedy sees his role as someone who helps parties rearrange relationships, whether it be a new partnership or different financing model.

"I try to listen and understand who I'm dealing with and how they see the dispute, and frame the discussion in a way that's responsive to their concerns," he said.

His style, he said, is pragmatic and adaptable. He handles a vast variety of cases, including, in the last month alone: an elder abuse case; a dispute over how to handle construction costs at a Hawaiian hotel resort; distribution of an energy drink; and a clash between two foreign



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manufacturers of vinyl.

Attorney Gary Weisberg of Palmieri, Tyler, Wiener, Wilhelm & Waldron in Irvine has used Kennedy in a dozen cases over the past five years, often involving eminent domain issues between public agencies and private property owners.

"Not a lot of judicial officers have a wealth of experience in that field," Weisberg said. "There are a handful of mediators that have done enough eminent domain cases that understand and grasp all of the issues and can quickly get the parties to see where their legal differences are that are causing their positions to be different. Judge Kennedy is one of those who has demonstrated a firm knowledge and grasp of eminent domain law. He's not the only one, but he's one of the few, that's why I mostly use him for property evaluation issues."

D.W. Duke of Spile, Siegal, Leff & Goor in Encino has known Kennedy for more than 20 years, both on the bench and at JAMS. The settlement rate in the roughly 20 cases he's mediated with Kennedy over the past decade is close to 90 percent, Duke said.

"His approach is different from many mediators in that he looks at the whole picture. He tries to bring down the level of tension between the parties, and he often will develop a discovery plan to help the parties orient the case, then return for a second mediation," Duke said. "He's very low-key, has a soft-spoken personality and he's able to get people to listen to him. He builds trust with the clients and it makes it much easier to negotiate both ways. Many mediators throw numbers back and forth. He'll address the issues and talk about the strengths and weaknesses."

Kennedy, the eldest of four boys from

Washington, D.C., has extensive experience in criminal law. After graduating from Stanford School of Law in 1963, he spent a year in private practice before joining the San Bernardino District Attorney's office as a deputy prosecutor. In 1971, he opened up his own criminal defense practice, which he helped run until 1978, when he returned to the DA's office.

Kennedy was elected to Municipal Court in 1980 and elevated to San Bernardino Superior Court four years later, serving as the court's presiding judge from 1997 to 1999. His last 10 years on the bench were spent hearing complex civil matters. He retired in 2000 and has since mediated and arbitrated some 1,500 cases with JAMS.

Kennedy is married to Ann Kough, has two sons, Steve Kennedy, 47, and Jeff Kennedy, 45, and two grandchildren, Lauren Kennedy, 15, and Shelby Boggs, 18.

*Here are some attorneys who have used Kennedy's mediation and arbitration services:*

Gary Weisberg, Palmieri, Tyler, Wiener Wilhelm & Waldron, Irvine; David William Duke, Spile, Siegal, Leff & Goor, Encino; Theodore Stream, Gresham Savage Nolan & Tilden, Riverside; Richard Egger, Best Best & Krieger, Ontario; Robert Wolfe, Engstrom Lipscomb & Lack, Los Angeles; Michael Bidart, Shernoff Bidart Darras Echeverria, Claremont; Brian McCormack, Callahan & Blaine, Santa Ana; Thomas Girardi, Girardi & Keese, Los Angeles; Dennis Popka, Bell Orrock & Watase, Riverside; Todd Theodora, Theodora Oringer Miller & Richmann, Costa Mesa; John A. Marshall, Goshgarian & Marshall, Calabasas; John W. Marshall, Thompson & Colegate, Riverside.