

VERDICTS & SETTLEMENTS

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Learning on the Job

Michael J. Loeb, a neutral at JAMS, has changed his style from open-ended to more decisive as the years go by.

By Susan McRae

Daily Journal Staff Writer

In six years at JAMS, Michael J. Loeb said he's learned that many parties, particularly in his specialty of labor and employment, prefer a neutral who will evaluate their case and come up with a plan rather than have them decide it themselves.

It helps, he concedes, if the neutral has more than 30 years of experience in the practice area and backs it up, as he said he does, by keeping up with every new development in the fast-changing field of law.

"I used to be very patient and did everything I could to make the parties make their own moves," Loeb said. "But after a while, I got the feeling that they want you, in a nice way, to take the helm and figure out how to drive the deal. It's a much more directive, top-down process than I thought it would be when I started.

"Today, most employment lawyers want someone who can be evaluative, and you can only be evaluative if you're up on the law."

Lawyers said Loeb's take-charge style, coupled with an encyclopedic knowledge of labor and employment law, are skills that make him an effective neutral for mediations and arbitrations.

"He's not afraid to express his view of how [a case] will play out in the courtroom," said Michelle R. Barrett, a defense-side employment lawyer at Littler Mendelson PC. "To me, a good neutral is someone who will tell me or my client, 'Here are the problems or strengths of your case.'

"They need to hear from a neutral whether they have a good or bad case."

A former management-side labor and employment lawyer at Bingham McCutchen LLP and the now-defunct Crosby Heafey Roach & May PC, Loeb said he approaches his current work in the same way he approached being a lawyer — by preparing thoroughly.

"I want everybody who mediates a case with me to be with the most prepared mediator," he said, "someone who really gets it from the moment he comes into the room."

He's also persistent, another skill that lawyers say is paramount in resolving disputes.

One mediation he conducted in 2008 of a wage-and-hour class action involving grocery workers took two months and 15 follow-up telephone conferences to reach an agreement. The settlement was finally completed by telephone conference with Loeb and both sides while he was on vacation in Cabo San Lucas. *Gomez v. Mi Pueblo San Jose Inc.*, RG0735419 (Alameda Super. Ct. July 22, 2009).

"You've got to be a nag," he said.

Although Loeb emphasizes his evaluative style, lawyers said he also has a facilitative side that they say is particularly useful when opposing parties have a cooperative relationship.

For example, plaintiffs-side employment lawyer Craig J. Ackermann said he represented a class of 600 truckers in a wage-and-hour dispute with their employer in a mediation before Loeb. He said



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Michael J. Loeb

JAMS

California and nationwide

Specialties: Labor and Employment**Age:** 65

the case was complicated by the fact that the company was going through financial turmoil. As a result, he said the mediation wasn't a straight negotiation but involved issues regarding the defendant's ability to pay.

"It didn't settle after an all-day mediation," said Ackermann of Ackermann & Tilajef PC. "But Michael stayed involved for months, and finally it did resolve. He's on my short list of mediators."

Added plaintiffs' lawyer R. Hunter Pyle of Oakland's Sundeen, Salinas & Pyle, "He has an uncanny ability to figure out the pressure points on both sides of a case and then has a relentless drive to get the case settled."

Born in Chicago, Loeb left to attend undergraduate school at Cornell University, where he met his future wife, Barbara. The couple has three children, including Alexis Loeb, a white-collar and antitrust lawyer at the Oakland office of Boies, Schiller & Flexner LLP.

Loeb moved to California to attend UC Hastings College of the Law. He said an employment law professor inspired him to become a labor lawyer by illustrating how fascinating the area could be.

He started as a staff attorney for the state Agricultural Labor Relations Board. The following year, he went into private practice representing employers.

While Loeb has a reputation for settling the toughest wage-and-hour class actions, he said sometimes it's harder to settle the small case of an individual who feels his or her life has been ruined.

"The size doesn't matter," he said. "You can't take anything for granted. People surprise you, lawyers surprise you. If you're on autopilot, you don't do your best job. You miss things.

"It's just amazing how intense you have to be to be good as a mediator. You have to think fast, talk fast and sit back and listen — something they don't teach you in law school."

Here are some lawyers who've appeared before Loeb in mediations or arbitrations: Donn I. Taketa, Sullivan Taketa LLP, Westlake Village; Enrique Martinez, Oakland; Aaron Kaufmann, Leonard Carder LLP, Oakland; Daniel J. Coyle, Downey Brand LLP, Sacramento; R. Hunter Pyle, Sundeen, Salinas & Pyle, Oakland; Linda M. Lawson, Meserve Mumper & Hughes LLP, Los Angeles; Michelle R. Barrett, Littler Mendelson PC, Los Angeles; Paula M. Weber, Pillsbury Winthrop Shaw Pittman LLP, San Francisco.