

VERDICTS & SETTLEMENTS

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Insight Job

Retired judge Kenneth So tells parties the risks and rewards of their case strategies.

By Shane Nelson
Special to the Daily Journal

When attorneys need a mediator who combines deep legal insight with a steady hand, many turn to retired Judge Kenneth K. So. Now a neutral with Signature Resolution, So doesn't shy away from sharing his read on a case – a candidness rooted in his years of experience on the bench and his innate understanding of how evidence plays before a trier of fact.

"A lot of times, lawyers and parties want to know exactly what the mediator thinks about a case and what will happen when a finder of fact actually needs to make a determination, and I'm happy to weigh in," So said. "I've been fortunate to have seen thousands of witnesses testify, and I can't say I'm clairvoyant, but a lot of times mediators have a pretty good estimate of what's going to happen in a case."

A 1977 graduate of UC Hastings College of the Law, So spent 17 years litigating criminal and civil cases at the U.S. Attorney's Office in Michigan and the San Diego City Attorney's Office. He served four years on the San Diego Municipal Court before his 1998 appointment to the San Diego County Superior Court, where he remained until 2023, including terms as assistant presiding and presiding judge from 2007 to 2009. So said he thoroughly enjoyed his nearly three decades on the bench.

"As a lawyer, sometimes you have clients and you have bosses, and they have an influence on what you do as a lawyer," So explained. "As a judge, you have the luxury of being able to do what you think is the right thing, and that is a luxury not everyone who is in the legal profession has."



Thomas Kurtz / Special to the Daily Journal

So joined the Signature Resolution roster of private neutrals in March of 2023, and he's since been tackling a wide variety of civil rights, employment, real estate, professional liability, commercial and personal injury cases as both a mediator and arbitrator.

"The benefit of being a judge was you could look at the evidence, and you could make what you believe the right call was and be direct about it, and I am carrying that over as an arbitrator," So said. "I'm going to be direct. I'm going to call it the way the evidence is presented, and I think that's the best way I can ensure that a just result happens."

Prior to his mediations, So likes to receive briefs from all the parties and to speak over the phone with counsel, and on the day of mediation, the retired judge likes to start out by talking not only with the lawyers but also directly with the parties.

"I try and explain the risks and rewards, and I want to make sure the parties understand the complete process - how long it's going to take," So said. "And after we have that discussion, I want to also make sure the parties have fully had a chance to explain their side of the dispute. I've found that a lot of times parties really want to get things off

Kenneth K. So

Signature Resolution
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Areas of Specialty:

Civil rights
Real Estate
Employment
Personal Injury
Professional Liability

their chest, and that's often helpful in resolving the case."

Escondido litigator Robert M. Daniels has used So to settle two different real estate disputes, and he said the Signature Resolution neutral operates with a very calm and reassuring demeanor.

"He doesn't get upset; he doesn't argue with you," Daniels said. "He'll help you see a different perspective, but he's not your opponent. He's just shedding light and perspective on things."

Daniels also said he really appreciates the tone So uses throughout his mediations.

"He's very clear with people, but he does it in a way where you don't feel you're being talked down to - nobody's forcing you to do anything. He's giving you options," Daniels explained. "Sometimes he has to say really hard things to people that are really entrenched in their positions, and he'll do it with a certain elegance that I think is reassuring. So when you emerge from mediation with a settlement, you understand how you got there, and you

don't feel bullied or pressured into it. It's the product of your own thought process and your own assessment."

San Diego litigator Sondra P. Gemmill used So recently to settle what she described as a highly contentious real estate dispute, and she said the retired judge "has a mannerism about him that's just very calming."

"He is extremely knowledgeable and has a great judicial demeanor," Gemmill said. "And he was able to de-escalate a very highly conflicted matter. ... In the end, [the parties] left on friendly terms, which was huge."

San Diego litigator William V. O'Connor appeared before So a number of times when he was on the bench and worked with him to settle a difficult real estate dispute.

"Judge So is patient, practical, level-headed, firm," O'Connor said, "all the good things you like to see in a mediator."

O'Connor added that the retired judge spoke directly with his client in a very thoughtful and understanding way.

"He has an excellent capacity to absorb complicated issues in a case quickly and to move the parties towards settlement in a very practical way," O'Connor said. "He doesn't push too hard, but he's also not easy on the parties in terms of explaining what he sees as a preferred resolution path, which is really informed by decades of experience as one of our top judicial talents in San Diego."

Daniels noted, meanwhile, that So is also very good with lawyers in his mediations.

"When you're interacting with your client, he supports the lawyer. He doesn't fight the lawyer," Daniels said. "I'm advocating for my client, and Judge So is receptive to that advocacy. ... He's not arguing with counsel; we're cooperating and communicating."

Like O'Connor, Daniels did note, however, that So won't hesitate to firmly share his thoughts on the case's merits.

"A lot of us lawyers need to be reminded that what we think are great cases don't always end up as great cases once they're put in

front of a judge or a jury," Daniels said with a chuckle. "He can remind you of all the times that the jury's come back and absolutely shocked everybody - including him. And that's something that sometimes we lawyers lose sight of."

So was quick to mention that he's found his new focus as a private neutral terrifically fulfilling.

"One of the things that the more I do this I've begun to appreciate is the emotional toll on litigants sometimes can be overwhelming," he said. "And that's why often it's better to resolve a case when there is common ground. ... And it is fulfilling because I see when litigants resolve their cases, sometimes the cloud is lifted because there is finality."

Here are some attorneys who have used So's services: William V. O'Connor, Cooley LLP; Robert M. Daniels, Skaja & Daniels LLP; Sondra P. Gemmill, Gemmill & Associates APC; Bryan C. Swaim, Bordin Semmer LLP; Artin Betpera, Buchalter APC

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