

## Ex-Northern District chief judge joins Bentham

By America Hernandez  
Daily Journal Staff Writer

**L**itigation finance company Bentham IMF has added retired U.S. District Judge Vaughn R. Walker to its investment committee, the funder said Thursday.

The former Northern District chief judge will be one of five voting members choosing whether to invest up to \$2 million in U.S. cases, and one of six members voting on funding U.S. matters up to \$15 million, according to David M. Gallagher, an investment manager for Bentham in Los Angeles. All decisions to invest must be unanimous, effectively giving Walker veto power over the high-value funding applications as well, Gallagher added.

Having spent nearly 20 years trying complex disputes and handling multi-district litigation at Pillsbury Madison & Sutro LLP in San Francisco, Walker is no stranger to evaluating high-impact and high-dollar matters.

“Judge Walker is one of the most innovative federal district court judges, with a strong interest in reform and fairness of the judicial system,” said Bentham Chief Investment Officer Ralph Sutton via phone of the decision to bring the former judge on board. “For him to agree to join us is really proof of that love of innovation and appreciation for how the system could become more fair,” Sutton added.

When asked about the future of the field, particularly as litigation financiers

begin offering direct investments into law firms by funding a bundle of open cases, Walker noted that the practice was not wholly unprecedented, as firms have long financed their receivables to ensure steady cash flow.

“It’s early enough and new enough that it’s not clear where matters are going, but it’s certainly true that dispute resolution takes money, and capital investment is necessary for that process,” Walker said. “This is one new avenue and source for that capital, and it’s interesting and challenging to play a role in that.”

Attorneys in the class action sphere may recall Walker as the judge who, in an effort to contain fees, auctioned off lead counsel positions to the lowest bidders.

The 9th U.S. Circuit Court of Appeals subsequently weighed in on that practice for certain case types, ruling it unfit for Private Securities Litigation Reform Act suits. *In Re: Cavanaugh*, 306 F.3d 726 (9th Cir. 2002)

He also made waves for decisions declaring post-9/11 warrantless surveillance programs illegal and striking down California’s ban on same-sex marriage as unconstitutional. *Al-Haramain Islamic Foundation Inc. v. Obama*, 07-CV0109 (N.D. Cal, opinion Mar. 31, 2010); *Hollingsworth v. Perry*, 704 F.Supp.2d 921 (N.D. Cal. 2010).

After 21 years on the bench Walker stepped down in 2011 to teach law part-

time and handle arbitrations and mediations with Federal Arbitration Inc., which he said he will continue to do.

The retired judge called the addition of a Bentham consultancy a logical extension of his current work.

“It very much is a case evaluation process, asking, ‘What is the prospect of establishing liability? What is the prospect of damages?’” Walker said. “So I thought it fit rather nicely with what I’ve been doing for the last five years.”

Walker acknowledged he was unfamiliar with the litigation funding field and hesitant when first approached about a partnership.

The company agreed to give Walker a year-long trial run, during which he assisted in vetting the merits of about half a dozen matters, the former judge said.

“One of the reasons I was attracted to Bentham was that in the discussions we’ve had, it’s been quite clear that they consider the overall effect of the litigation and how it fits in the larger scheme of things,” Walker said. “Obviously they’re in this business to make money, but they have been responsible with considerations like, ‘Is this socially, economically worthwhile as a type of litigation?’”

Walker also said he was impressed by Bentham’s robust conflict check mechanism to ensure his activities as a neutral and arbitrator don’t collide with his new role granting or denying funding applications.