

Zealous Advocacy

Ikuta Hemesath founders say vigorous debates are part of their plaintiff medical malpractice work.



From left: Benjamin Ikuta and Michelle Hemesath. Thomas Kurtz / Special to the Daily Journal

Medical malpractice attorney Michelle B. Hemesath doesn't mind admitting that she and her partner Benjamin T. Ikuta engage frequently in spirited disagreements.

"We talk to each other probably 10 times a day about cases," Hemesath said. "And yeah, we certainly fight. We fight all the time, but it's never the kind of fighting we can't get over. We're just both very zealous advocates, and so it naturally, I think, leads to heated discussions."

The duo started working together seven years ago at Long Beach medical malpractice defense firm Carroll, Kelly, Trotter & Franzen, but both attorneys later moved to plaintiffs' work, and they decided to strike out together to form Ikuta Hemesath LLP nearly a year ago.

The plaintiffs' medical malpractice boutique is now home to four attorneys and is in Santa Ana, where the firm does maintain office space to meet with clients and to conduct depositions. But according to Ikuta, the firm otherwise operates on a completely remote basis.

“We work from home full time, and that has saved us an enormous amount of money when it comes to running the firm,” he said.

Ikuta grew up in Orange County, graduated from UCLA, and from UC Hastings College of the Law in 2008. Hemesath, meanwhile, grew up in Torrance, studied political science as an undergraduate at San Diego State University and then graduated from the University of San Diego School of Law in 2012.

Neither attorney planned on a career in medical malpractice right out of law school, but both fell in love with the focus soon after being exposed to it through defense work. The Ikuta Hemesath LLP founders were both quick to say, however, that representing clients who claim they’ve been victims of medical malpractice can be a tough way to make a living.

“Juries just like doctors a lot, and they will give doctors every benefit of the doubt. They just don’t feel qualified to judge doctors like they would a bad driver, for example, or an employer,” Ikuta explained. “That means that not a lot of people are doing this on the plaintiffs’ side. ... We have plenty of cases where the client went to three or four different lawyers, and they said no to them because med-mal is just too difficult, so we ended up taking their case. It’s an honor, and it’s wonderful to be able to represent people who otherwise wouldn’t have a lawyer. I feel like we’re making a difference. I feel like we give a voice to those victims when no one else will.”

Hemesath said she was still working on the defense side of medical malpractice when her brother-in-law was injured in a serious construction accident, and seeing him in the hospital shifted her perspective.

“I realized that he would be a file on someone else’s desk, and they would be thinking, ‘What is his pain and suffering really worth?’ And they would try to assign a value to it just as I had been trying to assign a value to the pain and suffering of the plaintiffs in my cases,” Hemesath recalled. “I realized I had become so jaded as to what these people were actually going through and how hard it really is. And I didn’t want to be the person assigning some arbitrary number that I thought this case value was worth. I wanted to be representing people, fighting for them for every single penny that I could because they had been injured.”

Ikuta praised his partner's passion.

“Michelle lives and breathes her job. She is ecstatic when we get great results, and she's devastated when we lose cases,” he said. “She will often pick our juries when we try cases together because she's just better at it, and she can provide a perspective that I just can't see. ... I think we've brought in over \$14 million for our clients in the last eight months, and so we've had very unexpectedly good results, and frankly, most of that money's come from cases run by Michelle.”

Ikuta Hemesath LLP represents 32 clients in a medical malpractice lawsuit against Dr. Arian Mowlavi, a Laguna Beach plastic surgeon mentioned in recent media reports featuring allegations of malfeasance. *A.M.G., an individual, et al. v. Arian Mowlavi, M.D. et al.*, 30-2021-01238424 (Orange County Super. Ct., filed Mar. 14, 2022).

The firm took the case after a disciplinary accusation against the doctor by the Medical Board of California, Hemesath said. In the Matter of the First Amended Accusation Against Arian S. Mowlavi, 800-2018-048259 (filed Feb. 03, 2022).

“That medical board accusation basically alleges he had unlicensed surgical techs performing surgery on a patient who died,” Hemesath continued. “She had multiple perforations to both of her kidneys, following a liposuction procedure. ... And our goal really with our case and with some of the cases that we take, is that this doctor shouldn't be practicing medicine.”

Medical malpractice defense attorney Michael J. Trotter, who worked with Ikuta and Hemesath when the two were at Carroll, Kelly, Trotter & Franzen, has since opposed Ikuta on a number of cases. Trotter described the plaintiffs' lawyer as tremendously professional.

“Ben's hardworking. He's smart. He's passionate. He's got all of that,” Trotter said. “But what I enjoy is he's very reasonable, he's very practical and he's kind of mature beyond his years in terms of knowing when to hold 'em and when to fold 'em. And I don't mean that like dropping cases, but for the things that you just don't need to fight about. He's just very practical, and very, very easy to deal with.”

Ikuta and Hemesath also noted that Medical Injury Compensation Reform Act changes taking effect at the start of this year – specifically the increase in the noneconomic pain and suffering damages cap from \$250,000 to \$500,000 – will be a game changer.

“It didn’t make sense financially to take some of these cases where children had died, or cases where elderly people had died, because these people aren’t wage earners, so they’re not going to have some type of loss of earning for the household,” Hemesath explained. “Now in the new year, I think that with the wrongful death cap being at \$500,000 – as well as the law changing that you can bring a survivorship action on behalf of a person who’s deceased, which would be another \$350,000 – it makes these cases much more viable, and hopefully there will be many more people that have access to justice.”