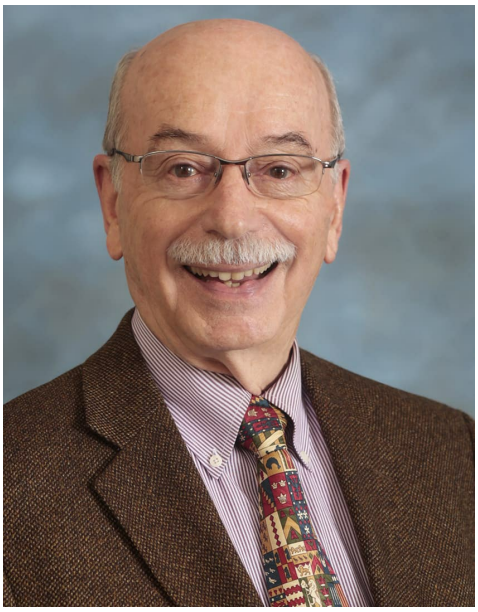

Hon. John A. Flaherty (Ret.)

Case Manager

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Biography

Hon. John A. Flaherty (Ret.), one of our most experienced neutrals, has been with JAMS since 1998. Through his years of experience, Judge Flaherty has gained a great deal of experience with mediations, arbitration and court reference work in a wide variety of practice areas. Prior to becoming a neutral, Judge Flaherty served over 20 years on the Santa Clara County Superior Court. Judge Flaherty's expertise, persistence, and patience have made him an accomplished mediator, arbitrator, and discovery referee.

Judge Flaherty has resolved matters of nearly every type, including business/commercial, construction, employment, environmental, insurance, intellectual property, personal injury, product liability, professional liability and real estate.

ADR Experience and Qualifications

- Over 16 years of experience as a full time mediator, handling hundreds of cases throughout his career
- Selected as One of the Top Ten Mediators in Silicon Valley, San Jose Magazine, 2002
- Trial Judge of the Year, Santa Clara County, 1987
- Chair, Judicial Council Committee on Arbitration in the early 1980's
- Lectured at Stanford Law School and the University of Santa Clara Law School on mediation, arbitration, and civil procedure; and for the CEB on real estate, probate, and business litigation issues

Representative Matters
Business/Commercial

- Resolved breach of contract and fiduciary duty disputes related to real estate loans arising from the financial crisis and recession

- Tripartite arbitration matter regarding real estate lending dispute between real estate developer and lender
- Arbitration involving dissolution of partnerships and distribution of assets to limited partners
- Mediated dispute between buyers and sellers of liquor store involving claim of using trade name and unfair business practices

Employment

- Mediated numerous employment disputes involving allegations of discrimination, wrongful termination, theft of trade secrets and ERISA employment benefits issues
- Arbitration dispute between CEO of three international business entities that did business internationally and owner of holding company that controlled the entities
- Mediated high tech employment dispute involving founders of high tech firm and successor corporation
- Arbitrated Workplace discrimination based on race, worker's comp injury and retaliation for violation of public policy against large multi-state based defendant
- Mediated School district employment involving a teacher and school district
- Mediated Age discrimination dispute involving tax preparing business
- Mediated Sexual harassment and constructive termination claim against restaurant owner

Environmental

- Mediated several multi-million dollar toxic tort disputes

Intellectual Property

- Mediated complex intellectual property dispute over the confidential coding and algorithms for software that provides an automated valuation model for real estate appraisals; the case involved complex issues of patent infringement and theft of trade secrets

Personal Injury

- Mediated and settled a $12 million catastrophic personal injury case involving an accident between a school bus and a pedestrian rendered quadriplegic as a result

Professional Liability

- Mediated and arbitrated a wide variety of medical malpractice cases, brought against both doctors and health care systems and health insurance providers

Real Property

- Mediated and arbitrated multi-million dollar securities, business, and real estate disputes
- Mediated and resolved a probate estate dispute involving characterization of gift versus loan

Special Master/Referee

- Served as court-appointed referee on many high-profile cases involving trade secrets and class action litigation
- Served as a referee in a dispute between developer and nationwide brokerage company over commercial real estate development project; dispute involving major entertainment venue and city over parking rights and issues related to parking structure

- Served as a referee in disputes involving medical blood testing technology; molecular analytical technology; trade secrets regarding electronic design automation; alleged theft of the source code for a business software application; intellectual property advertising rights involving major search engine

Honors, Memberships, and Professional Activities

- Silicon Valley Campaign for Legal Services, Board Member, 1999-2009
- Selected as One of the Top Ten Mediators in Silicon Valley, *San Jose Magazine*, 2002
- Trial Judge of the Year, Santa Clara County, 1987
- Member, California Judges Association
- Member, Santa Clara County Bar Association
- Member, President's Advisory Council, Law Foundation of Silicon Valley, 2001-present
- Chair, Trial Court Coordination Advisory Committee to the Judicial Council, 1993-1998
- Chair, Judicial Council Committee on Arbitration in the early 1980's
- Lectured at Stanford Law School and the University of Santa Clara Law School on mediation, arbitration, and civil procedure; and for the CEB on real estate, probate, and business litigation issues
- "The Power of Silence," ADR Profile, *Daily Journal*, February 19, 2016

Background and Education

- Judge of the Superior Court of Santa Clara County, 1977-1998
  (Presiding Judge, 1986; Supervisor of the Civil Division, 1997)
- Founding partner, Berliner, Cohen & Flaherty, now Berliner Cohen
- J.D., University of California, Berkeley School of Law (formerly Boalt Hall School of Law), 1963
- B.A., Stanford University, 1960

Practice Areas

- Arbitration
- Business/Commercial
- Class Action/Mass Tort
- Construction Defect
- Employment
- Environmental
- Intellectual Property
- Personal Injury/Torts
- Professional Liability
- Real Property
- Special Master/Discovery Referee

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