



Hon. John K. Stewart (Ret.)

Mediator, Arbitrator, Referee/Special Master, Neutral
Evaluator

Hon. John K. Stewart (Ret.) joins JAMS as a full-time neutral, bringing decades of experience as a trial lawyer and trial court judge with the San Francisco Superior Court. Judge Stewart was appointed to the San Francisco Superior Court in 2000 and served 20 years with assignments in the civil and criminal divisions, juvenile hall and probate court, which included conservatorships, guardianships and the mental health court. He served as presiding judge of the Appellate Department and supervising judge of the Criminal Division, and he was elected presiding judge of the Superior Court in 2015.

Before his appointment to the bench, Judge Stewart amassed experience in a wide variety of practice areas, including personal injury, trade secret/fraud, construction defect, product liability, professional liability, business/commercial, insurance coverage and employment, during his 35 years as a trial lawyer. He tried over 35 jury trials to verdict.

Judge Stewart has a well-deserved reputation for being thoroughly prepared, hardworking, fair and reasonable, and he is known for being able to get to the heart of a matter. He approaches each case with the recognition of the importance it has to each party, and he treats each party with courtesy and respect while at the same time being objective. He has found over the years that injecting an appropriate amount of humor at the right time is helpful in reducing tension and that sharing his perspective as both a seasoned judge and trial lawyer during mediations and settlement conferences often helps to bring about resolution.

ADR Experience

- Presided over and resolved by pretrial ruling, trial or settlement conference a wide variety of complex civil cases, including business/commercial, employment, personal injury, professional liability, police excessive force, contract, and commercial and residential landlord/tenant and trusts and estates matters
- As presiding judge, reinstated the court's Judicial Mediation Program and personally mediated cases involving employment, professional liability, personal injury and construction disputes, among others
- Served as a panelist on the Bar Association of San Francisco's Early Settlement Program, as an early neutral evaluator for the U.S. District Court for the Northern District of California and as a settlement panelist for the San Francisco and Marin County superior courts to help reduce backlogs
- Arbitrated fee disputes for the Bar Association of San Francisco; served as arbitrator in uninsured motorist cases

Representative Matters

- **Business & Commercial**
 - Settled disputes among business partners over ownership interests, shares of profits and liabilities, unauthorized expenditures and requests for accountings; some cases resulted in buyouts of the competing interests
 - Dispute between general partner and limited partner over claimed breaches of the partnership agreement relating to assignment of partnership interest in hundreds of units of public housing, which resulted in buyout of general partner by limited partner
 - Dispute involving buyers who claimed they were defrauded by sellers of high-priced antiques
 - Dispute between public school and charter school over classroom allocation and reimbursement
 - Determination of successors in interest to family business following the death of the original partners
 - dispute regarding who was authorized to act on behalf of church with respect to obtaining loans on church property and selling church assets
 - dispute involving use of confidential information to solicit customers for new job
- **Construction**
 - Multiple disputes between owners, homeowners' associations (HOAs), contractors, design professionals and subcontractors over building and design issues with resulting damage claims, including remodeling a \$10-million private residence
 - Dispute between homeowner and HOA regarding alleged unauthorized improvements
 - Dispute involving failure to pay for change orders and alleged faulty installation of waterproofing, which led to the removal and rebuilding of foundation and retaining walls
 - Numerous cases arising from construction accidents with associated claims for written and implied indemnity
- **Employment Law**
 - Numerous trials and mediations involving claims of gender discrimination, racial discrimination, retaliation, wrongful termination, whistleblowing and constructive

discharge arising out of employment settings in financial institutions, hospitals, public utilities and private business

- Disputes involving alleged failure to accommodate disabilities, such as central auditory processing disorder and dyslexia
- Dispute involving racial discrimination allegedly resulting from closure of business unit in financial institution
- Dispute involving high-profile employee in public agency for wrongful termination
- Multiple cases regarding wage and hour, alleged failures to provide rest and meal breaks, overtime and alleged failure to furnish proper wage statements
- Disputes involving employee/independent contractor determinations

- **Estates/Probate/Trusts**

- Numerous matters involving claims of undue influence, requests for accountings and breach of fiduciary duties by trustees and attorneys
- Multi-million-dollar trust case involving claims of breach of fiduciary duty of trustee and attorney in allegedly improper allocation of assets to husband's trust following death of mother
- Multiple contested guardianship and conservatorship proceedings, as well as claims for failures to account, failures to provide necessary services and excessive billings
- Disputes involving alleged failures of co-trustees to work together and provide proper administration
- Disputes involving proper determination of heirs, both domestically and abroad, and rights of pretermitted heirs
- Quiet title actions in estate proceedings

- **Insurance**

- Numerous bad faith cases with denials of coverage and Cumis
- Jones Act issues with sailor developing mesothelioma on ship and successive policy coverage issues, which also involved bad faith with coverage counsel acting as claims adjuster and issues with attorney-client privilege
- Multiple cases involving coverage, indemnity and contribution issues, particularly in construction defect and construction accident cases, as well as issues with excess coverage

- **Personal Injury/Torts**

- Hundreds of cases involving automobile, bus, truck, motorcycle, bicycle and pedestrian accidents
- Numerous cases involving premises liability and dangerous condition of public property
- Mediated and tried dozens of product liability cases for alleged defective design and manufacture resulting in personal injuries
- Dispute involving over 100,000 allegedly defective heaters for economic damages, property damage resulting from fires and resulting insurance coverage and indemnity issues for economic damages and recalls
- Over-the-counter pharmaceutical product failure-to-warn cases involving claimed danger of severe adverse reaction to NSAID products by children, which allegedly led to blindness and death
- Assault cases, including disputes regarding negligent hiring and supervision by employer
- Excessive force cases against police officers, with Banes Act and punitive damage

- arising out of shootings and personal injuries allegedly sustained during arrests
 - Homeowner claims for damages allegedly resulting from third-party and city construction projects
 - Multiple mesothelioma and asbestosis personal injury and wrongful death cases, including case in which decedent developed mesothelioma allegedly after smoking cigarettes with asbestos filter and case in which decedent developed mesothelioma after working in nuclear reactor
- **Professional Liability**
 - Legal malpractice case that required evaluating underlying traumatic brain injury
 - Legal malpractice trial involving \$1 million for mishandling bankruptcy
 - Legal malpractice/breach of fiduciary duty trial involving preparation of multi-million-dollar estate plan with claims of conflict of interest and breach of fiduciary duty
 - Dispute involving attorneys' fees, which included claims for conversion and fraud
 - Medical malpractice cases for alleged failure to diagnose and alleged negligence during surgery, including results from plastic surgery and postoperative care
- **Real Estate & Real Property**
 - Several claims of inverse condemnation/eminent domain cases arising out of Central Subway Project in San Francisco
 - Settled dozens of unlawful detainer cases, many of which involved the San Francisco Rent Ordinance
 - Numerous cases involving breaches of both commercial and residential leases, including case between restaurant owner and landlord over fire in upstairs hotel
 - easement cases between adjoining landowners and quiet title actions, including quiet title action brought by developer of multi-unit project
 - Partition actions

Honors, Memberships, and Professional Activities

Completed Virtual ADR training conducted by the JAMS Institute, the training arm of JAMS.

- Judge of the Year, San Francisco Trial Lawyers Association, 2015
- Northern California's Most Respected Defense Attorneys, 1989
- Member, American Board of Trial Advocates, 1988–present
- Member, Trial Court Presiding Judge Advisory Committee, 2015–2016
- President, Lawyers' Club of San Francisco American Inn of Court, 2005
- Committee Member, California Judges Association, 2017-2018
- Fellow, American Bar Association

Judicial Profile

- "Taking the Lead," *San Francisco Daily Journal*, Aug. 24, 2016

Background and Education

- Judge, San Francisco Superior Court, 2001–2020

- Presiding Judge, 2015-2016
- Supervising Judge, Criminal, Division, 2013
- Presiding Judge, Appellate Department, 2006-2007
- Member, Executive Committee, 2013-2018, 2008-2010
- Partner; Carroll, Burdick & McDonough, 1970–2000
 - Managing Partner, 1986–1997
- J.D., Stanford Law School, 1964
- B.A., Denison University, 1961 Phi Beta Kappa

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