



Hon. Jack Komar (Ret.)

Case Manager

Josephine Care

T: 408-346-0737

F: 408-295-5267

160 W. Santa Clara St., Suite 1600, San Jose, CA 95113

jcare@jamsadr.com



Biography

Judge Jack Komar (Ret.) has extensive experience settling and managing complex cases and acquired during more than 24 years of service on the Santa Clara County Superior Court bench as well as during his career as a neutral at JAMS. In 2000, as the first Presiding Judge of the unified Superior Court, Judge Komar initiated a voluntary mediation program which is still employed today. The focus of this early settlement program, which is available for all unlimited civil cases upon stipulation of the parties, is to settle cases before large sums are expended on discovery and law and motion.

Judge Komar has a vast practice as a neutral serving as an arbitrator, mediator, and special master in a wide variety of cases. As the sole Complex Litigation Judge from 2001-2009, Judge Komar heard and decided complex issues of fact and law in numerous challenging cases. He is highly regarded by counsel for his objectivity, fairness, and efficiency in managing multi-party complex litigation.

ADR Experience and Qualifications

- 24 years on the Santa Clara Superior Court bench
- Initiated the volunteer mediation program in Santa Clara County which is still employed today
- Conducted hundreds of arbitration, mediations and settlement conferences
- Wide range of experience including business cases, class actions, employment, personal injury and construction disputes

Representative Matters

- **Business/Commercial**
 - Case involving breach of contract, breach of the covenant of good faith, unfair completion and concealment as well as a claim of wrongful termination of distributorship contract and disputes

- involving the scope of territory and products
- Matter involving a collection agency's breach of contract for preventing the earning of the claimant's commission
- Corporate dissolution case which involved the alleged violation of exclusivity provisions, a defamation claim, and claims of improper surgery and billing
- Case involving the purchase of a cell phone and the inability of service providers, other than the one from which it was purchased, to activate the phone for the consumer
- Claims of economic damages after ethnic discrimination and threats of physical harm
- Actions against banks, title companies, and escrow holders seeking recovery for damages resulting from fraudulent activities of a mortgage broker who perpetrated a Ponzi scheme on unwitting individual lenders
- Express and implied warranties in sale of assets of business, breach of fiduciary by general partner of limited partnership, right of inspection of books and records of limited partnership, partnership agreement interpretation
- Suits concerning officer/director responsibility for merger/acquisition decisions; officer/director corporations; stock option back dating, corporate waste, mergers/acquisitions, non-competition agreements
- Suit against guarantee of debtor in bankruptcy with fraud and misrepresentation allegations, trustee intervention
- Joint venture investments, agreements breached
- **Class Actions**
 - Class actions re security deposit, individual commercial and residential disputes re lease terms, interpretation of leases and terms, options to buy, damages for breach
 - Class action seeking damages against a corporation based upon improper transfer to state under escheatment stat
 - Class action cases involving a myriad of causes of action, including actions alleging that employer reimbursement of advanced commissions were unlawful
- **Construction**
 - Fraud, misrepresentation, construction defect causing reduced value of rental/leased premises
 - Residential home design and construction defects
 - Multiple cases involving large single family home, apartment, and condominium developments involving law suits by HOA's, or individual plaintiffs joining together in a single complaint, against developers with cross-complaints against general contractors and further cross-complaints against sub-contractors who also cross-complained. Major issues included discovery, indemnification, contribution, and duty to defend
 - Various insurance policy interpretation cases, often arising out of construction defect law suits
- **Employment**
 - Case involving solicitation of employees, inducement of breach of contract and the alleged misuse of trade secret information
 - Matters involving the interpretation of contract stock options
 - Actions involving tip sharing mandates by employers and proper allocations of tips
 - Actions alleging that certain Labor Code provisions created private causes of action
 - Actions claiming that employees are entitled to compensation for time spent changing into uniforms; actions challenging exempt status of some managers and assistant managers in connection with lunch, rest break, and overtime requirements
 - Actions challenging certain engineers were exempt from wage-and-hour protections based on either the professional or the administrative exemption
 - ERISA preemption cases
- **Environmental**
 - Groundwater allocation disputes; crop duties; return flows; coordinated any class action appellate affirmance of findings of overdraft and prescription claims, adverse possession, multi-party cases involving water producers, farmers, other land owners, and municipalities, state agencies, and federal government
 - California Environmental Quality Act (CEQA): Environmental impact report, litigation with writs of mandate/prohibition
 - Clean Water Rights Act contract dispute between metro water district of southern California and Indian tribes regarding water rights and rate charges; interpretation of water agreement contract between city of Los Angeles and Inyo County for water rights
 - Toxic Waste matters: public and private nuisance cases resulting from tank leakage which caused ground contamination of adjacent property, toxic contamination of soil allegedly causing prenatal

injury and mental defects from birth, and injury to unborn child caused by contaminants in soil at place of employment

- Matter involving the water pumping rights of Los Angeles in Owens Valley
- California Aquifer Groundwater Rights cases: adjudicated case involving thousands of acres of land and thousands of land owners, along with public and private water companies who produce water for residential and commercial use, large farmers and ranch owners, and municipalities, water districts, and counties, as well as the federal government; issues included pleading issues, jurisdictional issues, overdraft, safe yield, prescription, reasonable and beneficial use of water, and quiet title
- **Insurance**
 - Breach of contract by insurance company in termination brokerage of captive agent (jury trial), venture agreement
 - Suit by insured against carrier for bad faith; refusal to defend/pay, issue regarding intentional act under mistaken claim of right
- **Intellectual Property**
 - A claim by a high tech software company, that an Investment Bank was in breach of contract for failure to perform a contract to find a corporation to merge with or acquire the software company. Multiple issues re the formation and interpretation of the contract and disputed evidence on both sides regarding performance and breach
 - Various cases with issues involving claimed trade secret thefts and causes of action resulting from breaches of fiduciary obligations in development agreements, joint ventures, partnerships, and employment relationships. Other issues involved director responsibility for disclosure and nondisclosure of confidential information when sitting on the board of both corporations involved in a development agreement
- **Personal Injury**
 - Railroad train/auto collision at grade crossing
 - Auto product liability personal injury, including tire defects
 - Auto collision
 - Design defects re safety issues
 - Wrongful death
 - Catastrophic injuries
 - Trial judge in wrongful death in commercial cargo aircraft crash
 - Roof collapse with wrongful death and severe injuries
 - Adjudication libel/slander in use of internet by former employees against corporate managers and corporation
 - Unsafe premises adjudication roof collapse; severe injuries and wrongful death. Slip and fall and trip and fall; sidewalks and commercial and private property cases; interpretation of city ordinances
 - Adjudicated claims of medical device failures (heart vascular stents) in multiple cases in FDA approved trials
 - Personal injury, safety equipment, failure to warn, catastrophic injury in fall from power pole platform
 - Mediated claims of toxic tort contamination; private and public nuisance; prenatal injury adult claims of resulting illness
 - Railroad train/car collision; rollover crash caused by defective tire/vehicle design
 - Claims of improper needle re-use resulting in possible infection among a large number of patients, all of whom claimed emotional distress and one of whom claimed she became HIV positive
- **Product Defects**
 - Class actions involving product defects, misrepresentations of characteristics of products and false claims in mass advertisements involving automobiles, computer software and hardware
 - Actions involving medical device and equipment defects: misrepresentation of success rates, concealment and failure to disclose deficiencies, with claimed death and injuries. The cases involved multiple plaintiffs each suing individually on similar claims. The issues included FDA approvals, fraud allegations, concealment and misrepresentation, and claims of preemption by acts of Congress.
- **Professional Liability**
 - Medical malpractice cases; claims of failure to diagnose resulting in death; malpractice in surgical matters; heart surgery, claim of no-consent when wrong side hernia repair, consent issues, bad outcomes, mental injury from excessive time under anesthesia; paralysis resulting from heart bypass surgery
 - Arbitrated legal malpractice claims, client abandonment; failure to hire qualified experts, settle and

- sue cases, excessive billing claims, negligent representation in divorce cases
- Lawyer malpractice caused large personal injury settlement by primary who sought excess above policy from excess carrier
- Presided over at least half a dozen jury trials involving claimed misdiagnosis, surgical errors involving heart surgery, failure to diagnose resulting in death and serious injuries
- **Real Property**
 - Specific performance cases, breach by sellers and buyers, chair tripartite arbitration dispute between Los Angeles City and Inyo County re interpretation of contract. Chair arbitrator in tripartite arbitration re complicated Colorado water rights dispute between five Indian tribes and southern California Metro Water District including water rates, claims of gift of public funds defense, timing of water supply, damages to residential homes caused by golf course run off caused by alteration of slope; multiple homes flooded
 - Multiple loans on two properties, foreclosure
 - Cases with express and implied easements granted, prescription and implication adjudicated dispute between city and Union Pacific Railroad re right of way abandonment/cross street/ eminent domain
 - Adjudicated cases involving local government
 - Disputes re CC&R's, assessments, elections of board, management of association, application of CC&R's to previously undeveloped portions of property
 - Multiple seller buyer real estate agent disputes
 - Mediated a claim by the buyer of a \$2.1M home in Monte Sereno that seller concealed improper fill on the land that required buyer to remove, fill and compact the lot in order to build a new home on the property. Original home was apparently a torn down after the sale and when the buyer began construction of the new home he discovered the improper fill. Claim was for cost of removal, fill and compaction.
 - Rights and duties connected to CC&Rs of large real property developments, including issues related to rights of developers to impose assessments, modify CC&Rs for subsequent development in same area, and rights of indemnity when HOA is joined in the suit.
 - Actions by individual homeowners joining together in suit against cities and counties and a major golf course operator seeking major damages for a flood which damaged their property
- **Securities**
 - Multiple cases over many years involving lawsuits brought by shareholders seeking to enforce corporate causes of action against officers and directors of corporations and others, claiming mismanagement, insider trading, waste of corporate assets, excessive compensation, self-dealing, improper sale of the corporation, back dating of stock options, and false proxy and other required statements. Most of the law suits involved publicly traded corporations, with California corporate headquarters and either California or Delaware incorporations

Honors, Memberships, and Professional Activities

- Member, California Judicial Council, 2002-2005
 - Chair, Litigation Management Committee supervising all litigation in California involving courts and court judicial and other personnel, 2004 and 2005
 - Vice Chair, Executive and Planning Committee, 2003-2005
 - Member, Science and the Law Steering Committee, 2006
- Past President and immediate past Chairman of the Board of Directors, National Conference of Metropolitan Courts
- Charter member, American Inn of Court (William Ingram Chapter) (Since 1985)
- Member, American Bar Association, the National Conference of Metropolitan Courts, the California Judges Association, and the Santa Clara County Bar Association
- Taught Judicial and Continuing Education Courses as lawyer and judge

Background and Education

- Judge, Superior Court, Santa Clara County, CA, 1985-2009 (Presiding Judge, 1999-2000; Assistant Presiding Judge, 1997-1998)
- Private Practice, San Jose, CA, 1969-1985
- Professor of Law, contract law, Lincoln University Law School, 1970-1984
- Deputy District Attorney, Santa Clara County, 1966-1969
- Trial Attorney, U.S. Dept. of Justice, Washington, D.C., 1965-1966

- J.D., (Order of the Coif), University of California Hastings College of the Law, 1965; Thurston Society; *Hastings Law Journal* Staff
- B.A., San Jose State University, 1962
- United States Navy, 1954-1958 Honorable Discharge

Practice Areas

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

Available nationwide ›

Disclaimer

This page is for general information purposes. JAMS makes no representations or warranties regarding its accuracy or completeness. Interested persons should conduct their own research regarding information on this website before deciding to use JAMS, including investigation and research of JAMS neutrals. See [More](#)