



HON. KEVIN J. MURPHY
Santa Clara County Superior Court, Ret.



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Hon. Kevin J. Murphy (Ret.) has been a full time neutral since 2011, and brings 28 years of experience as a judge to his ADR practice as a mediator, arbitrator and discovery referee. For 3 of the 4 years prior to his retirement, Judge Murphy served as a civil case manager conducting law and motion hearings, arbitration and mediation conferences as well as settlement negotiations. Career highlights include serving as the Supervising Civil Judge in 2008 and being awarded a Lifetime Achievement Award by the Santa Clara County Trial Lawyers Association in May 2012.

As a mediator, Judge Murphy is known for his pleasant demeanor and exceptional ability to listen, analyze and effectively communicate with all participants to reach settlement. Counsel describe Judge Murphy as a fair and smart arbitrator, who is able to grasp legal and factual issues quickly. Many courts throughout Northern California have appointed Judge Murphy as a discovery referee due to his strong ability to efficiently manage discovery in complex cases. In October 2012, the Daily Journal recognized Judge Murphy as a Rising Star Neutral.

ADR EXPERIENCE AND BACKGROUND

- As a full time neutral, has conducted numerous mediations and arbitrations across a variety of practice areas, with emphasis in the following areas:
 - Business
 - Employment
 - Banking
 - Trade Secrets
 - Real Estate
 - Personal Injury
- Appointed by Courts to serve as private discovery referee in 8 California Counties
- Arbitrated major legal disputes including significant employment discrimination and securities matters. Currently serving as arbitrator on numerous medical malpractice disputes.
- Conducted settlement conferences, resolved pretrial matters including discovery, pleading and summary judgment motions, and presided over numerous jury trials in all categories of civil litigation over 28 years as a judge
- Presided over all CEQA cases in Santa Clara County in 2009 and 2011
- Served as discovery judge for Santa Clara County in 2009 and handled approximately 90% of all discovery disputes during that time
- As Case Manager and Supervising Civil Judge, handled hundreds of matters involving the banking industry, including injunctions, demurrers, other motions, and trials

LEGAL AND JUDICIAL EXPERIENCE

- 1989 - 2011 Judge, Santa Clara County Superior Court
 - 1993 & 2001 Appellate Division for 2 separate assignments
 - 2008 Supervising Civil Judge, Santa Clara County Superior Court
 - 2007, 2008, 2010 Civil Team Leader, Santa Clara County Superior Court
 - 1995 and 2003 Supervising Criminal Judge for 2 separate terms
- 1983 - 1989 Judge, Santa Clara County Municipal Court
- 1973 - 1983 Deputy District Attorney, Santa Clara County

AWARDS & PROFESSIONAL ACTIVITIES

Awards

- 2012 *Daily Journal*, “Top Neutrals, Rising Stars”
Considered to have become one of the most effective and highly skilled neutrals in California with fewer than 2 years of full time ADR practice.
- 2012 Santa Clara Trial Lawyers Association Lifetime Achievement Award

Teaching

- 1977 - 2011 De Anza College, Law Professor Taught various civil law courses including Trial Procedure, Ethics and Evidence
- 1983 - present Frequent Lecturer on a wide range of legal subjects to Top 50 Law Firms, Santa Clara County Bar Association, Santa Clara County Trial Lawyers Association, numerous other MCLE providers. (Over 20 appearances since 2011)
- 1999 - 2007 Santa Clara Law School, Law Professor, Civil Remedies & Ethics

Memberships

- American Arbitration Association panel of arbitrators
- California Judges Association
- Association of Business Trial Lawyers (ABTL)

EDUCATION & ADR TRAINING

- 2013 American Arbitration Association Training for Arbitrators
- 2011 “Mediating the Litigated Case” Training at the Straus Institute for Dispute Resolution, Pepperdine Law School
- 1973 J.D. University of California, Los Angeles Law School
- 1970 B.A. University of Redlands, Summa Cum Laude

REPRESENTATIVE MATTERS

Business and Breach of Contract

- Mediated numerous contract interpretation and enforcement disputes, some of which involved promissory notes, sales contracts, service agreements, warranties, and attorney fee contracts
- Mediated numerous fraud claims
- Multiple arbitrations of attorney fee disputes
- Resolved a class action lawsuit against a large national corporation over the sale of a digital security certificate. Case settled for over \$37 million
- Resolved a breach of contract lawsuit involving a loan agreement by a business owner
- Resolved a breach of contract action involving United States and Chinese corporations valued at about \$20 million
- Resolved a breach of contract dispute involving a variable annuity investment agreement with questions of contract application and adhesion allegations
- Handled discovery disputes in a lawsuit involving a cross licensing agreement affecting the litigants and third parties, which involved tax privilege, attorney-client privilege and privacy questions issues
- Handled discovery of attorney client protection in a lawsuit over the exercise of stock options by the General Counsel and Chief Executive Officer of the corporation
- Resolved a corporate dissolution and liquidation dispute involving majority shareholders that purchased minority shareholders
- Resolved numerous corporate dissolutions involving issues such as breach of fiduciary duty and fraud, liquidation, appointment of a trustee, and partnership control

Employment and Wage & Hour

- Mediated a Class Action dispute where employees brought a violation action against a large multi-million dollar corporation
- Resolved a class action lawsuit by employees against corporate owner of over 250 retirement communities which settled in 7 figures
- Mediated an age discrimination action against a large automobile dealership
- Mediated a wrongful termination lawsuit filed by 7 plaintiffs claiming discrimination based on race and gender, against a large health organization
- Mediated an employer-employee dispute where the plaintiff, a former employee, claimed numerous labor code violations by the defendant, who owns several motels
- Mediated numerous wage & hour disputes involving overtime, meal & rest breaks, expenses, weekend work and related concerns
- Arbitration of a wrongful termination dispute

- Oversaw discovery of a sexual harassment lawsuit filed against county probation officers
- Resolved a sexual discrimination case against a major Silicon Valley corporation
- Resolved a strike action threat filed by a large city against a labor union with Meyer-Milias-Brown Act issues
- Resolved numerous cases involving state agencies and administrative bodies including the Worker's Compensation Board, Unemployment Appeals Board and the Labor Commissioner
- Resolved numerous wrongful termination, discrimination (race, gender, religion), and sexual harassment matters
- Settled a matter involving allegations of discrimination based on gender and physical disability for close to 1 million dollars.

Banking & Finance

- Mediated numerous disputes involving home mortgages, loan modifications, default issues and foreclosures
- Mediated numerous disputes against the top 5 banks, wherein borrowers claim misrepresentations made by lenders and improper collection techniques
- Resolved a failure to repay action by a national bank against a real estate investment fund for failure to repay \$14.8 million
- Resolved a breach of contract foreclosure action brought by a bank against a corporation. The plaintiff sought appointment of a receiver at the time the corporate business was being sold
- Resolved a breach of contract concerning commercial guarantee agreements where the plaintiff bank sought enforcement of 2 promissory notes valued in excess of \$11 million
- Resolved a receivership disagreement over loan defaults by 2 large apartment complexes

Trade Secrets

- Mediated numerous trade secret theft claims, including a case where the employer claims that the former employee took trade secrets and business opportunities when moved on to a new employer
- Mediated a business trade secret case involving 2 individuals fighting for control over 2 companies with allegations of trade secret theft and claims to real estate in 2 different countries
- Oversaw discovery of a multimillion dollar trade secret case filed against a large corporation that involved a 3 year discovery dispute centered on privilege and privacy issues
- Handled a 5 year discovery dispute between 2 television corporations involving protective orders and trade secret protection, attorney client privilege and work product issues
- Handled a trade secret case in which one of the largest US banks was accused of theft
- Resolved a trade secret misappropriation case with 4 large Silicon Valley corporation defendants.
- Resolved a multimillion dollar trade secret case filed against a large corporation that involved a 3-year discovery dispute centered on privilege and privacy issues

- Presided over a 9-week trial of a misappropriation of trade secrets involving advanced laser technology

Real Estate

- Mediated a breach of contract and fraud action filed by the purchaser of out of state real property against the owner and broker
- Mediated a home sale dispute involving interpretation of the sales agreement
- Mediated several cases involving real estate contract controversies over both home and commercial property
- Resolved an easement dispute between a homeowners' association and neighboring property owner, involving drainage repair to prevent major flooding
- Resolved a landlord-tenant conflict over the context of the proposed sale of real property
- Resolved a commercial lease disagreement involving a large security deposit
- Resolved a trust distribution dispute including multiple parcels of real property

Personal Injury and Tort Actions

- Handled numerous cases alleging child molestation including actions against members of the clergy
- Mediated a case filed against a city and private property owner resulting from an accident involving a bike rider plaintiff who was injured when the bike was driven over a raised surface
- Mediated an invasion of privacy case involving a large class action against a finance corporation
- Resolved a multimillion dollar lawsuit filed against a major hospital and doctors resulting from the birth of a baby with many physical and mental defects
- Handled a complex discovery dispute involving sexual molestation allegations against a children's group home
- Resolved numerous personal injury cases involving wrongful death, vehicular accidents, public transit districts, dog bites, excess force, sexual assault, construction accidents, and product defects

Environmental

- Assigned all CEQA cases in Santa Clara County in 2009 and 2011
- Resolved a CEQA action filed by a corporation against a city and a professional football team involving the proposed building of a stadium
- Resolved an action filed against a county water district over water purity, erosion and other environmental issues
- Presided over a lawsuit involving the State Water Board, 3 cities, landowners, the Sierra Club and a private water company concerning water use and environmental impact