



Hon. Ellen Sickles James (Ret.)

Case Manager

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Biography

Available to conduct virtual/remote mediations, arbitrations and other ADR proceedings on a variety of online platforms, including Zoom.

Hon. Ellen Sickles James (Ret.), is known for her exceptional settlement skills and ability to connect to counsel and clients in both a personal and professional manner. A respected and experienced mediator, Judge James communicates effectively and patiently to bring closure to the diverse range of complex issues she handles. Through the thousands of cases she has settled nationwide, Judge James has earned the reputation of having a dedicated, compassionate and creative command.

ADR Experience and Qualifications

Since 1997, Judge James has served throughout the United States as a JAMS mediator, arbitrator, Judge Pro-Tem, and special master in multi-party, complex litigation in a multitude of areas of civil law. She has mediated hundreds of complex personal injury, wrongful death, and employment cases. She has expertise in business, commercial, real estate, and attorney fee disputes as well as a myriad of professional liability cases. Her work has resulted in the settlement of complicated insurance coverage cases, wills and trusts, and construction litigation matters.

Representative Matters

- Aviation: personal injuries, wrongful deaths and property damage including major airline, helicopter, small aircraft, and hot air balloon accidents
- Business: law firm dissolutions and contract disputes
- Class action: class action lawsuit brought against major national theater group where settlement resulted

in a court-enforceable commitment to a timetable for installing captioning technology for the hearing impaired in every theater in California that is converted to digital projection

- Construction: large developments with multiple construction and land acquisition issues, including mold
- **Employment:** sexual harassment, racial, sexual, age discrimination and wage and hour class actions, theft of trade secret cases against former employees, ERISA claims
- Environmental: toxic release from refineries resulting in thousands of claims for personal injury and property damage
- Fraud: credit card fraud class actions
- **Insurance:** coverage issues related to auto accident bodily injury, property damage to residential and commercial structures, bad faith disputes, entitlement to disability benefits, and inter-carrier disputes
- Landlord tenant: class actions involving failure to return security deposits, failure to itemize statement of security deposit deductions, and development project issues
- **Personal Injury:** major pipeline explosion injury cases; amusement park catastrophic injury cases, medical malpractice injury claims, wrongful death claims, highly sensitive and emotionally charged cases involving abuse and injuries to children
- Probate: wills and trust disputes
- **Product liability:** vehicular airbags, tractors, farm equipment, construction equipment and commercial machinery
- Professional Liability: legal, dental, medical, accounting, and chiropractic malpractice
- Public entity: disputes between counties, cities and public transportation systems
- Real Estate: lease, boundary, sales and commission disputes
- Trade Secrets: settled a case involving allegations of trade secret theft by former employees

Honors, Memberships, and Professional Activities

- Recognized as a "Top Neutral," Daily Journal Top California Neutrals List, 2013
- Member, Gender Task Force, JAMS, 2008-present
- Distinguished Mediator of the Year Award, San Francisco Trial Lawyers' Association, 2008
- Member, Committee on Mediator Ethical Guidance, American Bar Association Dispute Resolution Section, 2006-present
- Adjunct Professor at Boalt Hall School of Law, University of California 2002 and 2003
- Lecturer for The American Bar Association, CEB, The Rutter Group, and numerous local Bar Associations and community groups
- Above and Beyond Award, Alameda County Trial Lawyers Association, 1998
- Served on the Judicial Council Complex Litigation Task Force, 1997-1999 and the Judicial Council Task Force on the Quality of Justice, 1997-1999
- Chairperson, Contra Costa Superior Court Trials Committee and Civil Bench Bar Committee, 1991-1997
- Organized Contra Costa Judicial Council Trials Management Program, 1991
- Trial Judge of the Year, Alameda-Contra Costa Trial Lawyers Association, 1987
- Member, Judicial Council Blue Ribbon Panel of Experts on Arbitrator Ethics

ADR Profiles

- "Flexible Thinker," Daily Journal, ADR Profile, February 23, 2018
- "Olive Branch Bearer," Daily Journal, ADR Profile, April 29, 2011

Background and Education

- Presiding Judge, Civil Division, Contra Costa County Superior Court, 1991-1997
- Superior Court Judge Liaison to First District Court of Appeal, 1990-1997
- Presiding Judge, Superior Court Appellate Division, 1986
- Associate Justice, (pro tem), First District Court of Appeal, 1985
- Judge, Mt. Diablo Judicial District Municipal Court, 1976-1982; (elected Presiding Judge, 1978)
- J.D., University of California, Berkeley School of Law (formerly Boalt Hall School of Law), 1969
- B.A., Sarah Lawrence College, 1965

Available nationwide >

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Speaking From Experience: The Compatibility of Videoconferencing and ADR

May 1, 2020Change can be daunting, especially when the stakes are high, time is limited and in-person processes are unavailable. However, recent virtual mediations and arbitrations have demonstrated that online platforms are not only highly effective, but they are also flexible and accommodating. The coronavirus pandemic has ushered in a time of discovery and learning, as well as increased personal and professional challenges. Amidst the uncertainty, virtual alternative dispute resolution (ADR) can provide sustainable solutions and a process that can be tailored to your needs.



Reduced Travel

I am currently working on a case that includes a London-based plaintiff, two East Coast defendants and counsel who live in different states. While these types of cases are not uncommon, conducting proceedings remotely can spare the parties the additional expense of travel. Increased flexibility and efficiency are part of this process, as

treks across the country (or an ocean!) are no longer required. There is great value in convening face-to-face, and many cases benefit from in-person contact. However, there are also numerous situations in which appearing in person is simply not necessary to reach a resolution.

By using Zoom or similar platforms, the cost burden for both the client and the earth is eased significantly!

Familiarity of Surroundings

In addition, I handle many cases involving trauma, catastrophic injuries and high emotions. Typically, JAMS ensures that all parties are as comfortable as possible during an in-person mediation. However, due to the nature of the cases I typically see, the anticipation of being in the same building as the person who may have caused a traumatic event can still inspire fear, despite a mediator's best efforts. A virtual mediation may completely eliminate this fear. Parties can participate from the safety of their homes, which may result in those with a history of trauma feeling more at ease with the process. Once the pandemic has subsided, virtual ADR may remain a popular option for a wide variety of cases including but not limited to personal injury, employment, business, professional liability, etc.

Built-in Flexibility

As many of us have experienced, this pandemic has also required people to wear several new hats, including homeschool teacher (among others). Young children are now at home all day, and they have needs that may require attention during business hours. As such, videoconferencing can be especially accommodating to families. In one of my recent cases, we notified participants via cell phone when they needed to return to private caucus. This allowed them the freedom and flexibility to "unplug" if they had to attend to other matters during the mediation. This process can be structured to suit the needs of the parties. And heartwarming encounters with kids or pets are not infrequent on a videoconference!

As with anything, there is a period of adjustment. However, once parties get used to the interface, they find that it meets their needs remarkably well. The hallmarks of the mediation process remain intact, and the mechanics are the same. The neutral is still able to ensure privacy and confidentiality through the use of breakout rooms, and presession calls are still available. In many ways, people are already acclimated to connecting online, so communication is not hindered. Online platforms offer features that make file-sharing and the exchanging exhibits simple and efficient. Access to the mediator is not reduced in any way, and these platforms are also compatible with joint sessions.

If this is your first time using an online platform, remember that we are here to help. Technical assistance is available, and the neutrals at JAMS will guide you through the process. I am confident that you'll find videoconferencing to be as user-friendly as I do.

Since 1997, Judge Ellen James has served throughout the United States as a JAMS mediator, arbitrator, judge protem and special master in multi-party, complex litigations in a multitude of areas of civil law. Prior to that, Judge James served as a judge (and Presiding Judge of the Civil Division) for the Contra Costa Superior Court and has also served on the First District Court of Appeal, the Superior Court Appellate Division and the Mount Diablo Judicial District Municipal Court.

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Posted in: Mediation, Arbitration, Higher Education

AUTHOR(s)



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- Virtual Arbitration: A Viable Solution for Patent Disputes in Europe
- The Time to Settle is Now
- Family Mediation During the Coronavirus Pandemic: Unprecedented Times Call for Extraordinary Measures
- JAMS Addresses Security in Virtual ADR
- PODCAST: Virtual Mediation & Arbitration: The Benefits, Challenges and Attorney Reactions

Categories



JAMS NEWSLETTERS

- Global Construction Solutions
- Employment Matters
- Health Care Matters

ABOUT OUR BLOG

The JAMS ADR blog serves to engage our clients, the legal community and the public in a discussion about alternative dispute resolution. As leaders in mediation, arbitration and more, we strive to remain at the forefront of legal developments, trends and news in areas of law that pertain to ADR.

Welcome to the JAMS ADR blog. We hope you find it informative, interesting and we hope you visit again soon.

What to Expect in JAMS Resolution Centers

Safety Protocols and Procedures

The following protocols have been adopted to support the safety and well-being of our associates, neutrals and clients:

- Thoroughly cleaning our Resolution Centers before reopening, enhanced cleaning throughout the day and sanitizing rooms each evening using EPAregistered cleaning products
- Monitoring building management protocols regarding frequent sanitization and social-distancing measures in all building common areas, as well proper ventilation and air circulation
- Training our associates on proper health and safety measures
- Social distancing by limiting the number of matters that will be heard in a Resolution Center on a given day, staggering start times for cases to avoid large groups of people at our reception desks and lobbies, and encouraging remote participation
- Spacing out our associates in our centers through physical barriers, changing layouts of workspaces, encouraging associate telework, limiting access to communal spaces, staggering shifts and breaks, and limiting all large gatherings
- Providing personal protective equipment, such as masks and gloves, to any
 visitors who need it (In cities where face coverings are required in public
 places, JAMS will require all in-person visitors to wear masks; your case
 manager will communicate any requirements before your hearing)
- · Providing hand sanitizer throughout our facilities

Health Policy and Requirements

We ask that you assist in efforts to maintain the safety and well-being of visitors to our centers by observing the following guidelines supported by the Centers for Disease Control and Prevention (CDC):

- Do not come to a Resolution Center if you have been in close proximity to any person who has been sick in the past seven days.
- Do not come to a Resolution Center if you are experiencing any symptoms of illness or have had a fever (above 100 degrees F or 37.8 degrees C) or signs of a fever without the use of fever-reducing medications within the prior 72 hours.
- Wash your hands frequently with warm, soapy water for at least 20 seconds.
- When you return from any activity at a location where other people have been, use a hand sanitizer that is greater than 60% alcohol.
- Avoid handshaking.
- · Avoid touching common surfaces with bare hands.
- Follow the CDC's or local guidelines or requirements regarding face coverings.



How your JAMS experience may be different:

- CONTACTLESS CHECK-IN: Visitors
 will be greeted by a friendly JAMS
 associate, who will be behind a
 plexiglass partition and wearing a
 mask. You will check in verbally.
 Should you need to sign forms or
 exchange documents, we will offer a
 contact-free and sterile process.
- FOOD AND BEVERAGES: JAMS is replacing buffets with individually wrapped lunches and snacks.
 Beverages will still be available, although we may limit the availability of ice and other drink options out of necessity.
- CUSTOMER SERVICE: We may have fewer staff in the office at any given time, so we ask that you make any requests for assistance in a sociallydistanced, contact-free manner. Do not hesitate to let us know how we can make your experience better in our Resolution Centers.

DISPUTE RESOLUTION OPTIONS:

Hybrid In-Person/Remote
Hearings: In some cases, it may
be best for the neutral and some
attorneys or parties to be present
in the Resolution Center while
others participate remotely. You
can discuss options and/or make
requests with your case manager.

Virtual ADR: JAMS will continue to offer remote ADR services as a complement to in-person hearings. Watch a short video on resolving your dispute via videoconferencing or read the JAMS Videoconferencing Guide at jamsadr.com/online.

Resolve Your Dispute at JAMS via Videoconference or Conference Call We offer a range of effective virtual options

Videoconferences and conference calls are tools that JAMS has long used to successfully resolve thousands of disputes of all kinds. JAMS mediators and arbitrators (neutrals) are adept at managing the resolution process whether they are conducting an in-person or virtual hearing. Additionally, JAMS neutrals and case managers receive ongoing training in the latest videoconferencing technology and best practices.

In addition to traditional conference calls, JAMS offers a range of videoconference options for mediations and arbitrations based on case size and complexity, client comfort level and cost considerations.

Zoom is a popular online platform that can be used for mediations and arbitrations of almost any size. JAMS provides the Zoom accounts, and there is no cost to the parties. It offers private breakout rooms for mediations. Zoom is self-administered and requires some preparation by participants, as detailed on the following page. JAMS neutrals and staff are available to assist you with this convenient and user-friendly tool.

Endispute, a proprietary JAMS mediation platform provided by CourtCall, includes a high level of moderated service for a modest fee. A CourtCall representative will be available for the entire session to handle any technical aspects so that the parties can focus on settling their dispute. Endispute also allows private breakout rooms for each party and document sharing capability. This option is ideal for smaller, straightforward cases that can be resolved in a few hours. To determine if your case is appropriate for Endispute, contact a JAMS Case Manager or visit jamsadr.com/endispute.

How do I prepare for an online mediation or arbitration with JAMS?

- Determine which platform is best for your case (see the following page for more information).
- A JAMS Case Manager will provide you with the appropriate paperwork prior to your session. Parties will need to
 agree in advance on issues such as whether the session will be recorded and whether all participants must appear on
 camera.
- Just as you would with an in-person mediation or arbitration, confirm that all parties and representatives have blocked off time and are fully prepared to participate in the videoconference at any moment.
- Determine how you and your clients will communicate if you are participating from separate locations.
- Determine what documents you intend to share and ensure that they are forwarded to the neutral before the session.

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JAMS Online Mediation or Arbitration with Zoom

What are the technical requirements?

- Download Zoom to your computer or tablet in advance of your session at https://zoom.us/. Though less optimal, you may also participate via your smartphone.
- · Confirm that:
 - your computer audio is enabled
 - you have a videocam on or attached to your computer
 - your internet connection is working
 - you have a suitable backdrop and good lighting
- Consider doing a test run, if possible, in advance of your scheduled conference in order to address any technical concerns.

How does the process work?

- You will receive an invitation to a Zoom videoconference. This will include both the link and the password.
- The JAMS neutral will be the host of the meeting.
- Depending on whether your videoconference involves a mediation or arbitration, the neutral may have you join parties in the main Zoom meeting room or go directly into a breakout session.
- The neutral may use the mute button at various stages during the process to eliminate background noise.
- If you are in the same location as your client, then you
 may also use the mute button (as appropriate) to have
 a sidebar conversation with your client.
- During mediation sessions, you may also have a conversation with your client – and with the mediator – in one of the breakout rooms. Conversations in that room will be limited to invitees only.

JAMS Endispute[™] Online Mediation

What are the technical requirements?

The Endispute online dispute resolution (ODR)
 platform is easily accessible, requiring only a
 phone and a computer or tablet with a webcam to
 participate in a mediation from anywhere.

How does the process work?

- Once you have determined that your case is appropriate for this platform, you can submit a case inquiry at jamsadr.com/endispute.
- An Endispute ODR case manager will then help parties select a neutral from the Endispute ODR panel and assist in the case convening process.
- Once the mediation session has been scheduled, confirmed participants will receive information about how to access the Endispute ODR mediation session, including dial-in instructions for audio as well as a link to access the video portion of the session.
- The parties will receive a fee agreement and confidentiality agreement which must be completed and returned in order to confirm the mediation session.

Disclaimer/Notice:

JAMS is providing parties with top-quality Alternative Dispute Resolution Services when in-person proceedings are not possible. Neutrals are available to conduct mediations, arbitrations and other matters via Zoom, Endispute, conference calls and any other platform agreed to by the parties.

Zoom has become a particularly popular platform for JAMS clients. While JAMS is not able to control Zoom security policies and procedures, JAMS neutrals and associates have been trained to make best use of the security protocols provided by the Zoom platform. Parties to matters at JAMS have reported good results using the Zoom platform because of its ease of use and the fact that it is cost-free to them.

For questions or concerns related to the security or privacy of any platform, please visit the website for that particular platform.



VIRTUAL ADR AND HIPAA COMPLIANCE

JAMS uses the Zoom HIPAA-compliant platform for all scheduled virtual proceedings, including mediations and arbitrations. This Zoom platform incorporates the necessary security features to satisfy the requirements of the Health Insurance Portability and Accountability Act (HIPAA).

Here are some ways that this Zoom platform ensures HIPAA compliance:

- Requires that all devices accessing the Zoom platform connect via strong encryption.
- Prevents recording of sessions from being saved to the Zoom cloud. Session recordings
 may only be saved to a local device. As such, personal information will not be saved to
 the cloud.
- Personal health information (PHI) or personal identifiable information (PII) will not be
 collected or reported. This includes personal identification numbers (e.g., driver's license
 numbers, social security numbers, passport numbers, etc.); medical records; and IP
 addresses, to name a few.
- The chat feature is secured with the strongest available encryption. This means that no message will be read by anyone outside of the meeting. Messages saved outside of the meeting will only be made available with explicit permission by all parties.

We all play a critical role in ensuring that virtual sessions are secure and satisfy HIPAA requirements. In order to maintain HIPAA compliance, parties must refrain from capturing any images or screen shots of the sessions, and sharing of information.

For specific information regarding Zoom's HIPAA compliant platform and its related security features, please go to https://zoom.us/docs/doc/Zoom-hipaa.pdf.



Virtual ADR & Security – Frequently Asked Questions (FAQ)

Quick Links

What steps is JAMS taking to protect security and privacy while using Zoom?

What alternative remote options are available for my case other than Zoom?

Can I resolve my case through virtual ADR proceedings if there are HIPAA compliance issues?

What is JAMS reaction to the lawsuit(s) filed against Zoom related to security?

What steps is JAMS taking to protect security and privacy while using Zoom?

At every step of the proceeding JAMS employs processes to help protect security & privacy:

Step One – Invitations and Joining the Proceeding:

- JAMS provides a unique meeting ID for each mediation session and arbitration hearing.
- JAMS begins every proceeding by using the "waiting room feature." This feature ensures that only participants invited to the proceeding are granted access to the actual meeting.
- A JAMS moderator is assigned to every Zoom proceeding.
 - The moderator troubleshoots technical issues.
 - The moderator controls entry of the participants to the proceeding.
 - The moderator facilitates the use of break out rooms where needed or appropriate.

Step Two – The Proceeding:

- Once all participants have joined the session, the neutral and moderator have the ability to lock the meeting to prevent anyone else from joining.
- The neutral and moderator have the ability, and will, disable the recording function.
- The neutral and moderator will control the screen sharing function.

Step Three – Continuous Review and Training:

- JAMS provides ongoing training to neutrals and associates on best practices for virtual proceedings using Zoom.
- JAMS IT department monitors security developments regarding the use of virtual platforms such as Zoom and will update our processes as needed.

What alternative remote options are available for my case other than Zoom?

While JAMS is not able to control Zoom security policies and procedures and understands some clients have concerns with this platform, JAMS neutrals and associates have been trained to make the best use of the security protocols provided by the Zoom platform (see above). Parties to matters at JAMS have reported good results using the Zoom platform because of its ease of use and the fact that it is cost-free to them. However, should clients prefer another virtual option, JAMS has its own platform - Endispute[™], operated by CourtCall[™].

Endispute™ via CourtCall™

JAMS offers Endispute[™], a mediation platform provided by CourtCall[™], for a modest additional fee. Endispute[™] is a browser-based video and audio application that is easily accessible through a phone, computer or tablet. A CourtCall[™] representative is available for the entire session to resolve any technical aspects.

Endispute[™] also allows private breakout rooms for each party and document sharing capability. Endispute[™] application security is the strongest encryption standard. Only authenticated callers are let into the call and each meeting ID is unique.

Other Platforms

Should clients prefer another virtual platform, JAMS will work with the parties to accommodate the request. There are several alternative platforms available, including the following:

- Microsoft Teams (and Skype) Users can host audio and video conferences with anyone. This platform provides features such as meeting note taking, screen sharing, meeting recording, and instant messaging.
 - A Microsoft Teams meeting can be locked by enabling the lobby setting and not allowing entrance into the meeting.
 - Appropriate for arbitrations or mediations based on available features.
- Conference Call (no video please see below)
 - Appropriate for arbitrations or mediations.
- **GoToMeeting™** –This platform includes features such as screen sharing, meeting recording, and instant messaging.
 - Provides each participant a password in order to enter the session.
 - The neutral has total control and can lock the room once the session begins to restrict others from accessing the videoconference.
 - Only appropriate for arbitration hearings based on available features.
- WebEx: This platform offers features such as screen sharing, meeting recording, and instant messaging.
 - Provides each participant a password in order to enter the session.
 - The neutral has total control and can lock the room once the session begins to restrict others from accessing the videoconference.
 - Only appropriate for arbitration hearings based on available features.

Audio Only

If the parties prefer not to use videoconference, JAMS can arrange for a mediation session telephonically through the use of LoopUp. This platform offers unique features by allowing participants to join the session with a click of a button, users can see who is speaking, and provides the host the capability to mute background noise.

JAMS has found that LoopUp is highly reliable and has had success with it thus far.

Can I resolve my case through virtual ADR proceedings if there are HIPAA compliance issues?

Yes. JAMS uses the Zoom HIPAA-compliant platform for all scheduled virtual proceedings, including mediations and arbitrations. This Zoom platform incorporates the necessary security features to satisfy the requirements of the Health Insurance Portability and Accountability Act (HIPAA).

For additional information regarding Virtual ADR and HIPAA compliance, please visit the JAMS website at https://www.jamsadr.com/files/Uploads/Documents/JAMS-VIRTUAL-ADR-AND-HIPAA-COMPLIANCE.pdf.

For specific information regarding Zoom's HIPAA compliant platform and its related security features, please go to https://zoom.us/docs/doc/Zoom-hipaa.pdf.

What is JAMS reaction to the lawsuit(s) filed against Zoom related to security?

JAMS is continually reviewing updates and news related to various online platforms and making necessary adjustments to our procedures as needed. Through the JAMS Institute, JAMS offers industry leading, ongoing training to its neutrals and associates on the use of available security measures from each platform. JAMS is instructing its neutrals and associates to take full advantage of security features in order for proceedings to be protected.

With any virtual platform or electronic medium, security is an important factor. JAMS does not have an opinion on legal action by other parties, which is consistent with our position of neutrality. As with anything, there are no guarantees. If a client or party prefers any particular platform, JAMS will do its best to accommodate the request. Attorneys are encouraged to reach out to us directly to discuss their options.

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JAMS is providing parties with top-quality Alternative Dispute Resolution Services when in-person proceedings are not possible. Neutrals are available to conduct mediations, arbitrations and other matters via Zoom, EndisputeTM, conference calls and any other platform agreed to by the parties.

Zoom has become a particularly popular platform for JAMS clients. While JAMS is not able to control Zoom security policies and procedures, JAMS neutrals and associates have been trained to make best use of the security protocols provided by the Zoom platform. Parties to matters at JAMS have reported good results using the Zoom platform because of its ease of use and the fact that it is cost-free to them.

For questions or concerns related to the security or privacy of any platform, please visit the website for that particular platform.

Submit a Case Online

Virtual ADR Resources

- JAMS Videoconferencing Guide (PDF) >
- Virtual ADR & Security FAQ >
- HIPAA Compliance (PDF) >

Additional Questions? Contact Us.

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Local Solutions. Global Reach. TM

JAMS successfully resolves business and legal disputes by providing efficient, cost-effective and impartial ways of overcoming barriers at any stage of conflict. JAMS offers customized dispute resolution services locally and globally through a combination of industry-specific experience, first-class client service, top-notch facilities and highly trained panelists.