



Hon. John B. Scherling

(Ret.)

Mediator

Case Manager

Jenny Truex

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Hon. John B. Scherling (Ret.) joins JAMS after 40 years of experience litigating and adjudicating cases in both the state and federal courts. His legal career began with a federal judicial clerkship and culminated in his service as a judge on the San Diego County Superior Court.

As a litigator, Judge Scherling handled a wide range of complex civil cases—including patent infringement, product liability, professional malpractice, government liability and personal injury—guiding matters from inception through discovery, motion practice, mediation, trial and appeal. He also provided clients with strategic counsel throughout every stage of the litigation process. The vast majority of these cases were resolved through negotiated settlements, whether between counsel, facilitated by judicial officers or with the support of private mediators.

Prior to his appointment to the bench, Judge Scherling completed mediation training through the Harvard Negotiation Institute and the World Intellectual Property Organization (WIPO), which selected him as a member of the WIPO Panel of Mediators shortly before his appointment to the court in 2015. His dedication to alternative dispute resolution has been a defining feature throughout his career.

While on the bench, Judge Scherling presided over probate and family law matters, developing a well-rounded approach to cases involving families, estates and emotionally charged disputes. As a settlement conference judge, he successfully facilitated resolution of cases involving intentional interference with expected inheritance, breach of fiduciary duty, financial elder abuse, emotional distress claims, child custody and visitation, spousal support, complex property division and legal malpractice.

Judge Scherling is known for bringing a calm, inquisitive and pragmatic approach to every dispute, coupled with creativity and assertiveness when guiding parties toward early and effective resolution. Whether mediating the full merits of the case or simply a discovery dispute, Judge Scherling places a high value on resolving legal conflicts as efficiently and amicably as possible.

Outside of his legal work, Judge Scherling enjoys swimming, surfing, biking, photography and spending

quality time with his family and friends.

Representative Matters

- **Expert Witness Experience**

In representing his clients in private practice and as an assistant United States attorney, Judge Scherling consulted, retained, deposed or represented at deposition and—when the cases did not settle—utilized at trial experts in multiple fields, including:

- Chemistry and food science
- Medical (e.g., neurosurgery, neurology, obstetrics, radiology, neonatology)
- Ballistics
- Engineering (e.g., biomedical, mechanical, electrical)
- Handwriting
- Law enforcement
- Forensic pathology
- Accident reconstruction and road design
- Vocational rehabilitation
- Damages/Economics

- **Family Law**

Judge Scherling served for four years in the Family Division of the San Diego Superior Court before joining the Probate Division.

While in his family law assignment, Judge Scherling adjudicated hundreds of matters at request for order hearings or trials covering the breadth of family law issues, including:

- Date of separation
- Premarital agreements
- Nullification
- Community and separate property
- Temporary and permanent spousal support
- Temporary and permanent child support
- Child custody and visitation
- Domestic violence
- Attorneys' fees

Judge Scherling's family law rulings were uniformly affirmed by the Court of Appeal, and included issues relating to child support as well as child custody and visitation.

- **Federal Law**

During his 15-year tenure as an assistant United States attorney, Judge Scherling developed deep expertise in a broad range of government-related matters. His civil caseload included:

- Constitutional torts, including *Bivens* actions and Federal Tort Claims Act cases
- Employment disputes involving federal agencies
- Affirmative civil enforcement actions
- Indian gaming regulation and litigation
- Public contracts
- Class action defense

- **Intellectual Property and Commercial Litigation**

Before his appointment to the Superior Court, Judge Scherling's private practice experience included representing domestic and international clients in a wide variety of business litigation, including:

- Intellectual property
- Product liability
- Fraud and conspiracy
- Media
- Bad faith insurance

- Securities
- Bankruptcy
- Class Action defense

These cases spanned a wide range of technologies and products, with millions of dollars at risk, including:

- Automobiles
- Pharmaceuticals
- Swimming pool pumps, controllers and heaters
- Commercial bottling equipment
- Hearing aids
- Agricultural machinery
- High cocoa polyphenol chocolates
- Industrial vacuum grippers
- Pet care products
- Semiconductor bonding substances

In his 10 years focused on patent litigation throughout the United States, Judge Scherling specialized in working with the parties and experts on business issues and damages, as well as addressing claim construction, validity and infringement.

- **Personal Injury**

In addition to his government practice, Judge Scherling also handled a variety of personal injury cases on behalf of the United States, including:

- Medical malpractice claims
- Traffic accident litigation
- Recreational and campground injury cases

- **Trusts and Estates, Conservatorships and Guardianships**

Most recently serving for four years (the final two as the probate lead judicial officer) in the Probate Division of the San Diego Superior Court, Judge Scherling handled trusts and estates, conservatorship and guardianship cases.

Contested matters adjudicated by Judge Scherling on motions, on pleadings by stipulation or at evidentiary hearings or trials include:

- Standing
- Statute of limitations
- Removal of trustee/administrator
- Preliminary distributions
- Construction of trust language
- Fraud and undue influence
- Capacity
- Determination of trust assets
- Termination of occupancy of trust real property
- Disputed sale of trust real property assets
- Breach of trust and elder abuse damages
- Demand for accounting
- Appointment and removal of estate administrators
- Establishment and termination of conservatorships and guardianships
- Attorneys' fees

Judge Scherling's rulings in Probate Court uniformly have been upheld in the Court of Appeals and the California Supreme Court, including as to issues relating to removal of an administrator, standing, statute of limitations, preliminary distributions and mental capacity examinations.

Honors, Memberships, and Professional Activities

Current Memberships

- American Bar Association (ABA)
- American Intellectual Property Law Association (AIPLA)
- Probate Attorneys of San Diego (PASD)
- San Diego County Bar Association (SDCBA)
- San Diego Family Law Bar Association (SDFLBA)
- San Diego Intellectual Property Law Association (SDIPLA)

Professional Achievements and Awards

- “Best New Artist” Award, Probate Attorneys of San Diego, 2022
- San Diego and Southern California Super Lawyer, IP Litigation, 2012–2015
- Selected and served on Federal Bar Association of San Diego Advisory Board, 2015-2017
- Top Attorney, San Diego Daily Transcript, IP Litigation, 2011, 2014
- Selected and served on Lawyer Representative Coordinating Committee, Ninth Circuit Judicial Conference, 2008-2010
- Selected and served on Attorney Representative Committee, U.S. District Court, Southern District of California, 2007-2010 (selected and served as Co-Chair, 2008-2010)
- Outstanding Performance in Trial, United States Attorney’s Office, 2004
- General Counsel’s Citation, Social Security Administration, 2003
- John R. Neece Award for Diligence, Excellence and Integrity; Civil AUSA; 2001
- United States Department of Justice Special Achievement Award, 1998
- Award for Excellence, United States Attorney’s Office, 1995
- Outstanding Contributions to the Operations of the San Diego Resident Office, United States Department of State, Bureau of Diplomatic Security, 1994
- Outstanding Contributions in the Field of Drug Law Enforcement United States Department of Justice, Drug Enforcement Administration, 1993, 1994

Selected Publications

- “Reincarnation of Reasonable Royalty Damages,” *Intellectual Property Magazine*, May 2015, co-authored with economist Ryan M. Sullivan (examines case law with respect to technology agreements, relative contributions of technology and the entire market value rule in concluding that century-old precedent remains appropriate in addressing complex patent damages issues)
- “Rational Reasonable Royalty Damages,” American Bar Association, Section of Intellectual Property Law, *Landslide Magazine*, Volume 4, Number 2, November/December 2011, co-authored with economist Ryan M. Sullivan (addresses patent damages law, including comparable licenses, profit splitting and the entire market value rule)
- “Jane’s Last Cross,” *Los Angeles Daily Journal*, August 2010 (about a case tried for a deceased colleague)

Speaking Engagements

- Speaker, Probate Attorneys of San Diego Annual Judicial Officers Update, 2022–2025
- Panelist, Probate Attorneys of San Diego Annual Symposium, 2021–2024
- Co-Guest Speaker, University of San Diego Estate and Tax Planning Seminar, 2021–2024
- Presenter, San Diego Superior Court New Laws Education Program – Probate, 2023, 2024
- Speaker, “When a Family’s Legal Needs Cross-Court Divisions: Learning the Intersection of Law and Procedure In Family, Dependency, and Probate Courts,” San Diego Superior Court Education Program, 2022
- Panelist, North County Bar Association Family Law/Trusts & Estates Crossover Seminar, 2022
- Panelist, San Diego Family Law Bar Association Seminar, 2017–2020

- Panelist, National Business Institute, Family Judicial Forum, 2017, 2019
- Speaker, “Gaining Certainty in the Evolving Landscape of Contested Patent Proceedings in the U.S., Berlin, Germany,” Pan-European IP Summit, 2015
- Panelist, “Enforcing Your Patents in a Rapidly Changing Landscape,” Corporate Directors Forum Roundtable, San Diego, California, 2014
- Panelist, “Enforcing and Defending Your Company’s IP Assets,” *San Diego Union-Tribune* Editorial IP Roundtable, San Diego, California, 2014
- Panelist, CONNECT Patent Reform Roundtable Part 1: “Patent Troll Legislation: How This Could Affect the Value of Your IP Portfolio,” San Diego, California, 2014
- Speaker, PanEuropean IP Summit, “USPTO Patent Trials/Inter Partes Reviews,” Paris, France, 2013
- Presenter, “Managing Risk: Patent Litigation and Strategic Use of New USPTO Post-Grant Proceedings Under the AIA,” Association of Corporate Counsel Technology Roundtable, San Diego, California, 2013
- Speaker and Moderator, “How to Prove Reasonable Royalty in Patent Damages” (webinar), The Knowledge Congress, 2013
- Moderator, Federal Bar Association Annual Meeting: Patent Litigation Under the AIA: Strategic Use of New USPTO Post-Grant Proceedings, San Diego, California, 2012
- Panelist, “Rational Reasonable Royalty Damages: A Return to the Roots” (ABA webinar), 2012
- Panelist, IP Counsel Café, Palo Alto, California, 2010
- Panel Moderator, Southern District of California District Conference, Newport Beach, California, 2009
- Instructor, U.S. IP Litigation Seminar and Patent Trial Demonstration, Hainan, China, 2006
- Instructor, U.S. IP Litigation Seminar and Patent Trial Demonstration, Seoul, South Korea, 2006

Background and Education

Legal Experience

- Judge, San Diego Superior Court, San Diego, California
 - Probate Division, 2021–2025
 - Lead Probate Judge, 2023–2025
 - Family Division, 2017–2021
 - Criminal Division, 2016–2017
- Partner; Sughrue Mion, PLLC; Washington, D.C./San Diego, California; 2005–2015
- Of Counsel; Hahn & Adema; San Diego, California; 2005–2007
- Assistant United States Attorney; U.S. Attorney’s Office; San Diego, California; 1990–2005
- Litigation Associate; Gibson, Dunn & Crutcher; San Diego, California; 1986–1990
- Law Clerk; The Honorable Judith N. Keep; San Diego, California; 1985–1986

Education

- J.D.; Vanderbilt University School of Law; Nashville, Tennessee; 1985
 - Order of the Coif
 - Associate Articles Editor, *Vanderbilt Law Review*
 - American Jurisprudence Award, Torts
- B.S.; Iowa State University of Science and Technology; Ames, Iowa; 1982
 - Honors and Distinction in Chemistry, Psychology and Political Science
- Pomona College; Claremont, California; 1978–1980

Counsel Comments

“Judge Scherling comes to JAMS with significant patent litigation experience. We believe that high-stakes intellectual property cases often may benefit from co-mediation with a former federal judge like myself and an experienced former patent litigator like Judge Scherling. I look forward to the opportunity to work with Judge Scherling on such cases.”

Hon. Bernard G. Skomal (Ret.)

“I’m very pleased that Judge Scherling has joined JAMS. His probate experience in the San Diego Superior Court – including as Lead Probate Judge for the last two years – is a great addition to the JAMS probate team.”

Hon. Glen M. Reiser (Ret.)

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<https://www.jamsadr.com/news/2025/hon-john-b-scherling-ret-joins-jams-in-san-diego>

June 9, 2025

EVENTS

Past Events

October 30- November 1, 2025

American intellectual Property Law Association (AIPLA) 2025 Annual Meeting

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