

## James E. Simon

### Mediator/Arbitrator

Jim Simon has practiced law in the Lake Tahoe region since 1976 when he and Jim Porter formed the current firm with its central office in Truckee. Jim focuses on mediating cases concerning all aspects of civil matters with an emphasis on business cases. He has tried cases for plaintiffs and defendants in state and federal courts in the areas of real estate, insurance, business, personal injury and wrongful death claims. He regularly represents real estate, architectural, design and construction professionals, and has developed somewhat of a niche practice in complex accounting fraud cases, involving the financial examination and dissolution of Partnerships, LLC's, and Corporations in a variety of business enterprises, including farming and ranching, real estate joint ventures, land fill operations, and real estate brokerage franchises.

Before moving to the Lake Tahoe area, Jim received his early legal training at the San Francisco Bay Area firm of Crosby, Heafy, Roach & May (now merged with Reed Smith, LLP), where he practiced in the business litigation department. By way of public service, Jim has served as Judge Pro Tem and Referee in the Superior Courts of Placer, Nevada, and Sierra counties, and regularly serves as private mediator and arbitrator for litigants in a variety of matters. He has served on continuing education panels for members of the bar and is AV rated from the nationally recognized legal rating firm, Martindale-Hubbell. This rating, the highest, is reserved for attorneys whose legal skills are judged to be very high to pre-eminent, and whose ethical standards are "very high." He has been named a "Super Lawyer" by Northern California Super Lawyers.

Mr. Simon is a member and past president of the Tahoe-Truckee Bar Association and the Truckee Rotary Club, and participates in several other charitable and community associations. He has served on the Tahoe Forest Hospital District Leadership Council and various other community organizations. He regularly emcees charitable and other community events and is an accomplished auctioneer having raised significant funds for various non-profits in the greater Lake Tahoe Region. Outside the office, Jim enjoys sailing, cycling, and skiing. Jim and his wife, Martha, have two grown children: daughter, Brooke, and son, Andrew.

### Education

Jim received his J.D. degree in 1974 from the University of California, Hastings College of the Law and is admitted to practice in California and various federal courts. He attended USC and later graduated with distinction from California State University at San Jose in 1971, with a B.A. in Philosophy.



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#### Contact:

40200 Truckee Airport Road, Suite 1  
Truckee, CA 96161  
Office: 530.587.2002  
Fax: 530.579.5999  
Cell: 530.412.1589  
[simon@portersimon.com](mailto:simon@portersimon.com)  
[www.portersimon.com](http://www.portersimon.com)

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### Memberships & Admissions

State Bar of California  
US District Court for Eastern District of California  
Truckee Tahoe Bar Association (Past President)

### Awards

2008 Volunteer of the Year, Truckee Donner Chamber of Commerce  
Various Rotary Club Recognitions

### Mediation Experience and Methods

Jim has participated in and/or mediated cases for over thirty-five years, including matters involving:

- Complex business disputes involving accounting claims and allegations of breach of fiduciary duty in business entities; Trusts; LLCs, and real estate ventures
- Insurance Disputes; Coverage matters; UM/UIM Claims
- Attorney Fee Disputes
- Real estate sales and transaction disputes
- Commercial and residential construction disputes and claims; Construction Defect Claims
- Family business disputes involving real estate holdings; farming and ranching operations, employment matters; Trusts and Estates; and claims of mismanagement
- Personal injury claims (plaintiff and defense)
- Public entity contract disputes

Jim's approach to mediation involves an in-depth understanding of the issues involved by personal private interaction with the principals involved. He is particularly adept at identifying common ground early in the mediation process to assist the parties in assessing the cost/benefits of reaching a resolution on all, or most, of the elements which remain in dispute. Where appropriate, Jim will utilize a mediation/recommendation/arbitration process which can often give the parties a level of certainty that their matter will be resolved as they enter the dispute resolution environment.

Mediations with unrepresented parties can be particularly challenging and Jim demonstrates a keen ability to provide such parties with the confidence that their matter can be settled, even in complicated disputes, so long as the appropriate disclaimers regarding legal representation are made.

Jim is comfortable conducting various models of mediation including Binding Mediation and References and is careful to adhere to the necessary legal requirements in order to assure the parties and counsel that any settlement reached is properly documented and enforceable.

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Jim does not follow a fixed formula or subscribe to a particular method for facilitating settlements in the mediation context – he views each case, and the parties involved, as particularly unique and utilizes his natural skills in listening and discussing the fundamental issues and concerns which individuals bring to the dispute resolution process. Once these are identified, he works hard – with the assistance of counsel – to begin the outline of what a negotiated resolution of the matter might look like based on the parties’ own evaluation of their individual case concerns. Many times, when the framework of an agreement can actually be visualized by the parties, the details are more easily worked out and the matter resolved.

Jim strives for finality in the mediation process and perseveres until the parties and their attorneys are satisfied, an acceptable form of agreement is reached, and the appropriate documents are fully executed.

### **Arbitration**

Jim regularly serves as an Arbitrator upon selection by private parties and by various courts. He has completed comprehensive arbitration training sponsored by the Bar Association of San Francisco and is acknowledged for his analytical skills and adherence to the many technical rules which various arbitration rules and procedures require.

Jim is mindful of the overall advantages of arbitration from a cost standpoint and is also particularly interested in the advantages of Med/Arb; where the parties engage him to conduct a mediation and if settlement is not achieved there, to conduct an immediate arbitration of the disputed matter. Of course, there are important confidentiality issues which need to be addressed to conduct such a proceeding, with which Jim is well acquainted.

### **Personal References**

References provided upon request.

### **Rates and Fees**

Mr. Simon’s general hourly rate for Mediation and Arbitration services is \$425/hour. Flat per diem rates will be considered for complex matters. Arbitrations can be arranged on a per diem basis. Variations on standard billing approaches are welcomed, including fees based on a not-to-exceed amount; scope of services fee schedules, etc. No deposits are required, as counsel are encouraged to schedule the matter realistically so that changes or cancellations are minimized. Pre-mediation review of materials is usually included in the first hour’s rate, depending on the complexity of the matter. Alternative fee proposals are welcome, depending on the circumstances, number of parties involved, and their alignment in the dispute. Mr. Simon typically conducts a brief telephonic pre-mediation conference with counsel to address the necessity of mediation briefs and other details of the agreed upon process.

In Arbitration matters, Jim is guided by the parties’ agreed upon rules for the procedure.

Jim Simon welcomes a telephone interview any time so that counsel and/or the parties can assess his aptitude for the particular matter.