

## **ABTL Judicial Profile**

### **Judge Carl J. West**

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#### **Background**

Judge West graduated from Occidental College in Los Angeles with a degree in political science. He obtained his J.D. degree from Loyola University School of Law in 1977. After several years in private practice, Judge West was appointed to the bench in 1994 by Governor Pete Wilson. He served on the Los Angeles Municipal Court, and he was elevated to the Superior Court in 1996.

#### **Complex Litigation Panel**

Since 2001, Judge West has been assigned to a Complex Civil Litigation Court at the Central Civil West courthouse. This panel began in April 2000 as a pilot project to manage class and complex actions. It has been a rousing success and the program is very popular with all counsel. Judge Victoria Chaney currently makes the complex determination for all class actions. Other cases in which a party has designated as complex (or which are presumptively complex) go to Judge Carolyn B. Kuhl, the Supervising Judge of the Complex Program, to determine whether the case will remain in this program. In addition, Superior Court Judges may send complex cases to the Complex Program.

Judge West explained that the key to these cases is hands-on judicial management—specifically, frequent appearances by counsel for the parties at regular status conferences. These conferences allow the Court to keep abreast with case developments and issues. Judge West holds these status conferences in his matters as frequently as the parties require them, or approximately every 60 days.

The judges in this program are able to accommodate such regular conferences because they have a smaller number of actual cases. Judge West currently handles approximately 80 “groups” of cases (500 or more individual filings). But this number can be deceiving—these are often very large cases, and some of them include hundreds or even thousands of parties.

#### **Question and Answers**

##### **Ex Parte Applications**

- Do you require a reservation with the Court the day before an ex parte application?

Yes. Judge West requires counsel to call in and reserve an ex parte hearing. Ex parte hearings before Judge West are rare. With regular status conferences a staple of the Complex Program, the judges are able to address issues immediately as they arise.

- Do you hear ex parte applications every day of the week?

Yes. Every day of the week.

- What general advice do you have for attorneys regarding ex parte applications? What problems do you most often encounter with ex parte applications?

Ex parte hearings are discouraged, as Judge West finds that these matters are usually resolved or presented more effectively if there is an exchange of written statements between the parties before the hearing.

## **Pretrial**

- Do you have any law and motion pet peeves?

Judge West controls all briefing schedules and contemplated motions in advance. He requires parties to present a joint statement that identifies the contemplated motion. This structured approach allows an organized presentation of the issues. He encourages parties to focus on the matter at hand and not to elevate form over substance.

- What are your thoughts on the use of C.C.P. § 170.6 to disqualify a judge for prejudice?

C.C.P. § 170.6 peremptory challenges do not bother Judge West. These are the absolute rights of the parties, and he does not take them personally or think about it very much.

- Do you generally issue tentative rulings? (If not, are there situations in which you do? What are those situations?)

Tentative rulings are the “rule” and the absence of such a ruling is the rare exception in Judge West’s courthouse. He prepares his own tentative rulings, and occasionally posts them the day before on a dedicated website (used in about 90% of his cases). Judge West also mentioned that he reviews copies of the briefs on-line, not on paper, and highlights key passages and makes electronic notes in the margins.

- What is your willingness to engage in alternate procedures for motion practice?

Judge West will consider alternate motion procedures if the parties agree to use them, and he encourages parties to be creative to brief key legal issues in a case. For example, he often requires defendants to answer and provide their affirmative defenses and then identify the key legal issues raised by the pleading. Plaintiffs then review this and prepare an amended complaint. This procedure usually takes 45-60 days, and it avoids a long and protracted period in which demurrers are sustained, and the plaintiffs obtain leave to amend.

Judge West also entertains motions for legal determinations on key legal issues (and, occasionally but more rarely, dispositive factual issues) if the parties stipulate to use this procedure.

- For example, in complex cases, where the parties agreed, would you be open to the following type of procedure: review the papers, enter a tentative ruling, have the parties meet and confer as to the scope of the tentative and then provide focused oral argument.

If the parties agreed to this procedure, Judge West would consider this procedure.

- If parties have a proposal for such an alternate procedure for law and motion, how do you like the proposal presented to you? (In the form of an ex parte application, or at the time the papers are presented?)

The parties may raise this at one of the regular status conferences or by way of joint report or stipulation.

- In what situations are you likely/unlikely to grant a trial continuance?

Judge West mentioned that he has handled one full jury trial in five years. Although he began picking a jury in two other cases, those matters were resolved before trial began. He mentioned that trial continuances are more of an issue in direct calendar and “fast track” courts. However, he usually does not set a trial date early in the case because he believes that this is inconsistent with effective case management (such as discovery stays and stipulations prior to the filing of motions, etc.).

- Can you give any examples of the types of circumstances within the past six months?

Judge West would not be inclined to continue a trial date that has been scheduled long in advance absent a medical or other emergency. He is also willing to continue motions deadlines if they do not conflict with his calendar of other motions/hearings.

- What are your views on the use of demurrers?

As noted above, Judge West requires the parties in most cases to identify the core legal issues, and preferably have the plaintiff amend the complaint if necessary, before briefing the legal issues that would otherwise be raised by demurrer.

- What are your thoughts on the use of written discovery and discovery disputes in general? How often do you find yourself awarding sanctions in connection with motions to compel? What advice would you give to attorneys who are involved in discovery disputes or plan to make discovery related motions?

Judge West encourages parties to exchange discovery informally before formal service of requests. The parties then meet and confer, and if there is an objection, they are to resolve these disputes and reframe the requests, or present the issues in a joint statement for Judge West to resolve, prior to receiving his authorization to proceed with the service of the requests. He enters a formal discovery stay in all of his cases to effectively manage the large cases and groups of cases before him.

This procedure of hands-on discovery management has decreased the number of discovery motions—Judge West has not had such a motion in “years.”

- Are you willing to rule on oral evidentiary objections or do you always require written objections?
  
- What are your thoughts on motions for summary judgment? How often do you find yourself awarding summary judgment? What advice do you have for attorneys who plan to seek summary judgment in your court?

Again, Judge West requires the parties to submit a joint statement identifying the proposed motion and he sets the briefing schedules. On large motions like summary judgment and class certification, Judge West may require the moving party to file its motion, at which point he then schedules a conference (in person or by phone) for the parties to discuss what is necessary for the opposing party to prepare its response.

- What general advice do you have for attorneys regarding written briefs? What problems do you most often encounter with written briefs?

Judge West encourages parties to keep their written briefs simple and to get right to the point. The parties should not spend a lot of time on the legal standards for granting the motion or demurrer. He also encourages parties to use headings effectively to highlight key points and structure their arguments, and he discourages the use of long string citations. Because he reads the briefs electronically, Judge West suggested that parties cite the most important cases so that he can navigate to them on his computer and review the key authorities.

- What general advice do you have for attorneys regarding oral argument? Are there any particular mistakes that attorneys make during oral argument?

Judge West advises counsel to stay focused and respond to the questions presented in the tentative or from the bench. Parties should not simply repeat the arguments from their legal briefs.

## **Trial**

- What are your views on the use of motions in limine? Do you place limits on the number of motions in limine that a party can bring?

Judge West follows the same procedure for motions in limine. The parties must meet and confer well in advance and prepare a joint statement on each motion, with a brief statement of the grounds for the motion and the key legal authorities supporting the moving party's argument. He finds that this procedure greatly reduces the number of "throwaway" motions in limine.

- How much leeway do you give attorneys in conducting voir dire? Do all questions have to relate directly to the case?

Judge West allows attorneys to conduct voir dire after he asks a few initial questions.

- What are your views on the use of trial briefs? Do you require them? If not, are there circumstances in which you appreciate them?

In most cases before Judge West, the key issues have been thoroughly briefed before trial. He does not require trial briefs.

- What are your views on the use of juror questionnaires?

Judge West has used juror questionnaires to help narrow the scope of voir dire.

- Do you limit the number of hours for trial? How do you determine how much time should be allocated for a trial?

Judge West never imposes time limits. He usually asks the parties to provide their best estimates and the parties rarely exceed these limits.

- Which days are reserved for trial during the week?

Monday through Thursday, from 8:30 a.m. to 2:30 p.m., with three short breaks and no lunch break. Fridays are reserved for law and motion matters.

- Do you allow speaking objections during trial?

The parties should state their objection and the legal basis for the objection.

- Do you allow sidebar approaches for objections?

Yes, unless this procedure is abused.

- What are your views on the use of technology in the courtroom?

Judge West believes that if counsel are not taking full advantage of the available trial technology, they are not representing their clients effectively.

- Does your courtroom have an audio-visual coordinator counsel may contact?

No. Attorneys must use their own technology vendors and coordinate with the courthouse staff.

- Do you permit the playing of video portions of deposition for impeachment purposes?

Yes.

- What equipment is available in your courtroom?

Elmo projector, monitors, and audio/visual equipment. Parties should prepare a CD or DVD with electronic copies of all of the trial exhibits.

- Do you have any general advice for attorneys regarding opening statements or closing statements? Are there common problems you see with opening and closing statements?

- Do you allow the use of demonstratives in opening statements?

Yes.

- Do you have any general advice for attorneys regarding examination of witnesses? Are there common problems you see with witness examinations?

Judge West encourages lawyers to ask short questions designed to elicit short responses.