

**Hon. Consuelo B. Marshall**  
United States District Court  
Central District of California  
Judicial Profile

When Judge Consuelo B. Marshall's portrait was hung in Courtroom 2 last year, she became the first female face in a group of men. And for Judge Marshall, it was another milestone in a career marked by firsts. As an alumna of Howard University Law School, Judge Marshall began her career at the Los Angeles City Attorney's Office. At her initial interview, Marshall was told that the office did not hire women and City Attorney Roger Arnebergh even warned her that she would be expected to try criminal cases, examine prostitutes and use language used by them in committing an offense or other words that may not be familiar to her. Shortly after that meeting, however, the City Attorney's Office reconsidered its hiring policy and Marshall became the first female deputy city attorney.

After five years at the City Attorney's Office, Marshall entered private practice at the late Johnny Cochran's firm, Cochran, Atkins & Evans. In 1971, Marshall left the firm to become a Juvenile Court Commissioner. Gov. Jerry Brown appointed her to the Inglewood Municipal Court in 1976 and elevated her to the Superior Court nine months later. In 1980, she was appointed to the federal bench by President Carter. And she set another milestone with her appointment as chief judge of the Central District as the first woman to hold the position.

Judge Marshall is known for her pleasant courtroom demeanor. Attorneys have described her as "patient," "laid back," and "deliberative." Marshall also describes herself as patient, but stresses that she expects attorneys to be prepared and has less patience for those who make the same mistakes over and over.

**General Advice**

Judge Marshall believes that, in addition to being prepared and doing their best job, attorneys should visit the courtrooms of judges before appearing before them. This will allow the attorneys to observe the proceedings and become confident in their ability to perform on the day of the hearing. Judge Marshall emphasizes the need to become familiar with the courthouse including where to park and the best routes to take to the courtroom. Additionally, attorneys will be able to observe the judge and learn his or her preferences.

**Pre-Trial Practice**

**Alternate Procedures for Motions and Practice**

Judge Marshall is amiable to suggestions from counsel for more effective ways to brief the issues. One such example is on cross motions for summary judgment where she may suggest that the parties submit a statement of stipulated facts and one brief, each based on the differing interpretations of the law. As long as both sides consent to the alternative, she does not see it as a violation of the rules and often, it can dramatically decrease the volume of papers that must be filed.

## Ex Parte Applications

According to Judge Marshall, the ex parte application is highly abused. In addition to seeing many cases where the matters are not urgent, Judge Marshall sees cases where the filing party does not advise the Court about the other party's stand on the issue. The Court's rules require the moving party to tell the Court whether the other side opposes the motion and whether it will file a response. While she recognizes that some matters are too urgent, Judge Marshall will usually wait for the response to be filed before deciding the issue.

## Summary Judgment

In deciding whether to grant motions for summary judgment, Judge Marshall finds a well-drafted statement of undisputed facts very helpful. Overall, Judge Marshall finds summary judgment to be a good tool for narrowing issues, decreasing the estimated time of trial, and making the case more enjoyable for everyone. She finds it is difficult, however, to grant summary judgment in cases dealing with social issues or employment discrimination because they often involve disputed versions of the events.

## Written Briefs

Judge Marshall is noticing an increase in mistakes in written papers. She attributes this rise to computers and the fact that many lawyers who are making the oral arguments do not review the papers before submitting them. She has seen exhibits without page numbers and binders so full that it is impossible to turn the pages. While paralegals are putting these together, Judge Marshall thinks it is the lawyer's responsibility to ensure that these problems are fixed before a court sees them.

## Oral Arguments

Though Judge Marshall used to hear oral argument in every case, she now will allow oral arguments only if she has questions or when she believes oral argument will be helpful. Typically, she does not send out tentative orders, but when she does, she will direct the lawyers to specific issues or cases that they should be prepared to address. Otherwise, Judge Marshall will direct the lawyers to her specific questions at the outset of argument. She also recognizes that some lawyers did not prepare the papers that they are arguing and some are just better at oral advocacy. In such circumstances, Judge Marshall may allow an attorney to argue a point if it will be beneficial, even if it does not appear in the papers.

One of the biggest mistakes Judge Marshall notices in oral arguments is a lawyer who simply repeats the arguments in the papers. She does not want a recitation of the arguments in the papers unless she has questions directed at those arguments. If she asks a question that a lawyer is not prepared to answer, Judge Marshall prefers that the attorney admit it and offer to further brief the issue.

Judge Marshall is always surprised when attorneys do not bring the relevant pleadings to the hearing. One example is a lawyer on a motion to dismiss under Federal Rules of Civil Procedure 12(b)(6) who did not have a copy of the complaint. While she recognizes that every

individual allegation may not be at the lawyer's fingertips, Judge Marshall expects them to have the pleadings so they will be able to discuss the allegations, if necessary.

## Trial Practice

### Technology

Judge Marshall suggests that lawyers use technology in the courtroom more. Jurors are becoming increasingly familiar with technology and may wonder why the lawyers are not using it when it is in the courtroom. It also saves the time spent putting together notebooks and dealing with voluminous documents. If lawyers are unfamiliar with the equipment in the courtroom, Judge Marshall's advice is for them to contact the courtroom deputy and ask to come in and see how it works.

Judge Marshall cautions lawyers from bringing their own equipment into the courtroom. Large diagrams are often ineffective because they are not visible to everyone in the courtroom and there is often little room to display them. Also, exhibits that seem expensive can alienate a jury, especially when it appears that the party is refusing to pay a victim but is preparing expensive exhibits.

### Opening and Closing Statements

Judge Marshall does not like long opening statements and will generally give a lawyer twenty minutes to present, though she will give a little more if the case is complicated. Short introductions to the case are preferable because nothing that is being said is evidence and the jury should get to the evidence quickly.

Before jury selection, Judge Marshall may allow attorneys to give a short opening statement in front of the prospective jurors. After this presentation, jurors will be in a better position to answer questions about whether they can serve on that jury. When this happens, she typically will give half of the requested time for statement before jury selection and half after jury selection.

For closing arguments, Judge Marshall urges lawyers to discuss the interplay between the facts and the law. By linking each piece of evidence with the element it proves, Judge Marshall thinks that lawyers can give the jury a good starting point for their deliberation.