

HONORABLE MEL RED RECANA
JUDICIAL PROFILE

BACKGROUND

The Honorable Mel Red Recana hails from the Philippines. He finished his pre-law studies at Aquinas University in Legaspi City and earned his Bachelor of Laws degree from the University of the East in Manila. He practiced law in Manila for a few years before moving to California.

In 1974, Judge Recana was admitted to the California Bar. Prior to commencing his judicial career, he was in private practice with the exception of the period from 1977 to 1980 when he served as Los Angeles County Deputy District Attorney. He was the first Filipino-American to serve as a deputy district attorney.

In 1981, Governor Jerry Brown appointed Judge Recana to serve as a judge on the Los Angeles Municipal Court, making him the first Filipino-American judge in the country. He served on the Municipal Court for more than 18 years. From 1994 to 1995, he served as the Los Angeles Municipal Court Assistant Presiding Judge and Supervising Judge of all civil operations. From 1996 to 1997, he served as the Presiding Judge. In 1999, Judge Recana served as Chair of the Los Angeles County Municipal Court Judges' Association and President of the California Asian Judges Association.

Judge Recana took temporary leave from the Municipal Court to further his education. In 1993, he earned a Master in Public Administration from the Kennedy School of Government at Harvard University. To be able to attend Harvard, he drafted and successfully sought the passage of the Judges' Sabbatical Leave Act (Govt. Code section 68554) which is the first statute of its kind in the country. In addition, in 1996, he graduated Valedictorian from the Institute for Court Management at the National Center for State Courts in Virginia.

In January 2000, as a result of the unification of Municipal and Superior Courts, Judge Recana was elevated to the Superior Court. He currently serves as the judicial officer in Department 45 at the Stanley Mosk Courthouse. He is an "IC" (Independent Calendar) judge assigned to handle civil cases on an individual or all purpose calendar implementing the Los Angeles Superior Court Delay Reduction Program.

Among Judge Recana's notable cases is a 2007 jury verdict in the amount of 55 million dollars against Chrysler Corporation. He also has handled cases involving notables like James Brown, Candid Camera, the Eagles, "Slash" of Guns & Roses, Darryl Hannah and Steven Seagal.

Judge Recana is a widower with two adult sons, one of whom (Julian) is a 12-year veteran in the District Attorney's Office. His hobbies include watching movies, reading and dancing.

BUDGET CUTS AND THEIR IMPACT ON THE COURTS

As a result of budget cuts, Judge Recana's case load has increased significantly and is well over 500 cases. He is also required to perform task that he did not have before. For example, he is handling complex cases that previously would have been assigned to the court's complex department. Due to the budget cuts, the court also no longer provides court reporters for non-criminal matters. As an alternative for parties who cannot afford to pay for reporters, Judge Recana is willing to work with the parties to create agreed or settled statements for purposes of appeal. Every morning during trial, the parties may submit to the Judge for his review and approval their proposed settlement statements summarizing the proceedings of the previous day. The budget cuts have delayed the scheduling of status conferences and hearings and ultimately will impact the scheduling of trials. Judge Recana believes that the cuts have impacted the court's ability to deliver justice to litigants in a timely manner.

HEARINGS/ CONFERENCES

Every case is set for a Case Management Conference (CMC) at which Judge Recana sets dates for trial, the Final Status Conference, the Mandatory Settlement Conference and completion of mediation. The CMC is the first opportunity for Judge Recana to talk to counsel. He takes this opportunity to impress upon the attorneys that their cooperation and civility with one another and courtroom staff will make resolution of the dispute less stressful and expedite the entire litigation process. Prior to the CMC, the parties are required to file case management statements on Judicial Council form CM-110. Jury fees must be posted at the time of the CMC or whenever the case is initially set for trial. Counsel is allowed to appear by telephone pursuant to rule 3.670 of the California Rules of Court.

In connection with the Final Status Conference, Judge Recana issues a Final Status Conference Order addressing motions in limine, witnesses, exhibits, jury instructions and proposed form of special verdicts findings, jury fees, trial briefs, settlement conference statement, and trial and pre-trial conference checklist. Trial

briefs are mandatory in all cases. At the Final Status Conference, Judge Recana resolves any anticipated issues in advance of trial.

ALTERNATE DISPUTE RESOLUTION

Mandatory Settlement Conferences

Judge Recana conducts mandatory settlement conferences when discovery is complete and at least one month before trial. He generally gets involved in settlement discussions but is reluctant to get very involved in cases that will be tried to the court rather than a jury. Before Judge Recana can participate in a settlement conference, parties and their counsel must sign a stipulation provided by the court in which they agree to the Judge's participation and waive any argument to disqualify the Judge due to this participation.

Judge Recana also sends cases to a mandatory settlement conference before a settlement judge. Parties who want to engage in a settlement conference before another judge are required to complete the court's "Settlement Conference Program Intake Form." They also must acknowledge receipt of and agreement with the Court's "Statement of Policies and Procedures for Mandatory Settlement Conferences."

No later than five court days before the initial date set for the mandatory settlement conference, each party must submit to the court and serve on each party a mandatory settlement conference statement according to rule 3.1380(c) of the California Rules of Court.

Mediation

Judge Recana will refer cases to mediation at the CMC pursuant to rule 3.891 of the California Rules of Court.

Arbitration

Judge Recana does not refer cases for arbitration unless there is an agreement to arbitrate or after he grants a motion to compel arbitration.

Court Referral to Judicial Referees

Judge Recana will appoint a judicial referee pursuant to Code of Civil Procedure sections 638 and 639.

MOTION PRACTICE

Law and Motion Time

Judge Recana holds law and motion hearings every day. He typically hears two to four motions per day. His research attorney (whom he shares with another judge) assists him in summarizing and analyzing the issues presented. The parties are required to arrange and pay for private court reporters if they want to have a record of the hearing.

Ex Parte Applications

Judge Recana hears ex parte applications every day of the week. He will grant a request on an ex parte basis only if there is affirmative factual showing of irreparable harm, immediate danger or any other statutory basis for granting relief ex parte. The biggest mistake lawyers make when bringing ex parte applications is failing to comply with the strict requirements of rules 3.1200 to 3.1207 of the California Rules of Court.

Tentative Opinions

Judge Recana typically prepares written tentative decisions the day before the hearing. He distributes tentatives to counsel at court immediately before the hearing and gives counsel time to review them before argument. Judge Recana distributes tentatives to enable counsel to be more focused in their arguments.

Oral Argument

Judge Recana finds oral argument useful and on occasion has changed his position on an issue as a result of oral argument. He also has taken an issue under submission after oral argument to allow for further consideration. He permits the use of demonstrative evidence during oral argument if necessary.

Judge Recana believes that oral argument presents an opportunity for counsel to fill in gaps in the pleadings, to understand the rationale behind the tentative, to answer any questions the Judge may have and to argue why they believe the tentative is wrong. Judge Recana expects counsel to be familiar with the facts of cases cited in the briefs and to be able to discuss the application of those facts to the issues in their case.

Judge Recana finds that the most common mistakes lawyers make during oral argument are their lack of focus, failure to listen to the Judge's questions and failure to address the issues in the Judge's tentative opinion.

Briefing

Judge Recana requires the parties to comply with the page limits set for briefs unless they can show good cause for additional pages. A request for an increased page limit must be made in a written motion detailing the reasons for the request. Any permission to file an over-sized brief will be applied to all parties.

Judge Recana permits counsel to file letter briefs if issues come up during oral argument or if there is a newly decided case that needs to be discussed. Any permission to file a letter brief will be applied to all parties.

Sur-Replies

Judge Recana does not allow the parties to file sur-replies.

Evidentiary Hearings

Judge Recana allows live testimony at contested evidentiary hearings on a case by case basis.

Questioning the Witness

Judge Recana seldom questions the witness during jury trials. He does so only when necessary to clarify the witness's testimony and after all counsel have completed their questioning of the witness. He will question the witness during court trials.

Motions in Limine

Judge Recana hears motions in limine at the final status conference. Counsel should refer to the Final Status Conference Order which sets forth in detail his requirements and practice regarding motions in limine. Judge Recana requires motions in limine to be filed and served at least ten court days prior to the final status conference or, if a final status conference has been found not to be required, ten court days before the trial. Oppositions are due five court days prior to the final status conference or trial date. Judge Recana permits counsel to file a reply brief as long as it is filed two days before the hearing date, the final status conference date or any specially set date.

Motions in limine must be separately and consecutively numbered. Plaintiffs are to use numbers “1” through “50” and defendants are to use letters “A” through “Z.” If two or more motions in limine are filed by a party, the party must also file an index of the motions, listing each by number and a sufficiently detailed description. No oral motions in limine will be heard. Counsel are required to meet and confer prior to filing a motion in limine and should set forth their meet and confer efforts in a declaration accompanying the motion.

Summary Judgment/ Adjudication Motions

Judge Recana believes that an effective summary judgment/adjudication motion is one that is brief, clear, focused, well-organized, interesting, precise, and truly dispositive of all triable issues of fact. He has observed that counsel making such motions frequently submit a separate statement that is not in compliance with rule 3.1350 of the California Rules of Court. They also fail to make written objections according to rule 3.1354 of the California Rules of Court. Counsel must familiarize themselves and strictly comply with Code of Civil Procedure section 437c and rules 3.1350 to 3.1354 of the California Rules of Court. Failure to comply with these procedures is ground for denial of the motion.

DISCOVERY MATTERS

Judge Recana will extend discovery deadlines only when there is good cause. He will consider staying discovery pending resolution of a dispositive motion to save the parties money and time. He does not allow attorneys to call him during depositions to resolve discovery disputes.

Judge Recana’s advice to counsel is to try to work out as much of their discovery disputes as possible without resorting to the courts and to enter into stipulations regarding these disputes. He also discourages counsel from playing hard ball or trying to hide the ball. He believes that the evidence will eventually be discovered but only after time and expense has been wasted and possibly sanctions imposed.

TRIAL PRACTICE

Trial Schedule

Judge Recana is in trial five days a week. His trial hours are typically 10:00 a.m. to noon and 1:30 p.m. to 4:30 p.m. If he does not have other matters, he may begin

proceedings at 9:00 a.m. He grants trial preference according to Code of Civil Procedure section 36. The most common reasons for bifurcating a trial are to save money and time for the court and the parties.

Trial Continuances

Judge Recana treats trial dates as firm dates pursuant to the Rules of Court and will not allow continuances of trial dates unless there is an affirmative showing of good cause requiring the continuance. Counsel's busy schedule does not constitute good cause for continuance. Counsel should comply with rules 3.1332 and 3.1335 of the California Rules of Court.

Trial Briefs

Trial briefs are mandatory in every case. Judge Recana imposes no page limitation and requires the brief to include the following items, as set forth in the Final Status Conference Order: (1) a reasonable estimate of the trial length, (2) a brief summary of the claims and defenses to be presented along with the governing legal authority, (3) a detailed summary of the evidence to be presented, (4) a statement of ultimate facts, issues, and evidence which are not contested; (5) a detailed statement of the relief requested, a breakdown of the claimed damages, and the governing legal authority, (6) a statement of any evidentiary problems of which the court should be aware along with authorities supporting each party's position, and (7) any other information which will assist the court.

Voir Dire and Jury Selection

Judge Recana usually works with a panel of 18 potential jurors. He gives each potential juror a written list of 20 questions and then questions each of them about any questions to which their answer is "yes." If necessary, the potential jurors are allowed to discuss their answers out of the presence of the other jurors at the bench. After the Judge has completed his questioning, counsel are allowed to conduct voir dire. Judge Recana does not set a time limit on counsel's voir dire but will limit it if it becomes excessive.

In order to introduce the case to the potential jurors, Judge Recana will read an agreed statement of the case or will give each side 5 minutes to present a mini-opening statement.

Juror Questionnaires

Judge Recana typically does not use juror questionnaires but is willing to consider their use on a case by case basis.

Note Taking By Jurors and Jury Questions

Judge Recana allows jurors to take notes during trial (CACI No. 102). He will also allow jurors to ask questions (CACI No. 112).

Jury Debrief

After the jury returns a verdict, Judge Recana asks the jurors to complete an anonymous survey in which they comment on the conduct of the Judge and court staff. He reviews these surveys as a way to improve the judicial process.

Side Bars and Objections

To request a sidebar during trial, it is sufficient for counsel to make a verbal request. When making an objection, counsel may be seated or standing and should limit themselves to stating the objection and the ground for the objection. Counsel should refrain from making speaking objections. Only counsel directly examining or cross-examining a witness are permitted to object. Counsel may be permitted to discuss an objection at sidebar when necessary.

Declarations in Lieu of Live Testimony

Absent a stipulation from all parties in a case, Judge Recana does not allow parties to submit declarations in lieu of direct testimony.

Examination of Witnesses or Argument by More Than One Attorney

Judge Retana does not permit co-counsel to split up the examination of a witness or the presentation of an argument.

Examination of Witnesses Beyond Direct and Cross

Judge Retana does allow re-direct and re-cross examination of witnesses.

Argument to Jury

Counsel may approach the jury box while arguing as long as they do not touch the jury box and do not turn their back to the Judge.

Jury Deliberations

When the jury submits written questions, Judge Recana will discuss them with counsel and then decide how to proceed. Counsel are not required to stay in court during deliberations but should be on call and should be able to get to the court within 30 minutes once notified.

Bench Trials

Judge Recana is more flexible in the manner in which he conducts bench as opposed to jury trials. He permits opening and closing statements in bench trials. Based on the preference of counsel, closing statements may occur directly at the close of evidence or sometime after the close of evidence to allow the court and counsel to assess and analyze the evidence. He allows parties to submit declarations in lieu of direct examination only when the parties stipulate to this practice. To streamline the presentation of evidence, he also is open to the parties stipulating to certain facts. Counsel is allowed to use Power Point presentations in opening and closing arguments as long as there is no objection from the other side. Counsel are required to exchange beforehand with opposing counsel any evidence that will be used during opening statements.

Bench decisions will be issued according to rules 3.1590 and 3.1591 of the California Rules of Court.

Court Reporters

The court no longer provides court reporters for trial. The parties are required to arrange and pay for private court reporters if they want to have a record of the trial.

LASTING IMPRESSIONS

Particularly in light of his educational experience and service as Presiding Judge of the Municipal Court, Judge Recana is very interested in how civil litigation is managed. He views each of the participants in the litigation process—the parties, attorneys, jurors, and the Court—as members of a team, and expects the team members to practice the four “Cs” of a winning team: commitment, communication,

cooperation and contribution. Judge Recana believes that an effective civil litigator is honest, civil, prepared, sensitive to others, creative and fair. He does not look well upon counsel exhibiting bad temper, making disparaging comments or misstating the facts or the law.