

ABTL Judicial Profile

Judge Robert J. Timlin

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Background

Judge Robert J. Timlin was appointed to the U.S. District Court of California by President William J. Clinton in 1994, and assumed senior status in 2005. He received his B.A. from Georgetown University in Washington D.C. in 1954 and a J.D. from the same in 1959. In the years between completing law school and assuming his first judicial post in 1971, Judge Timlin worked as an attorney for the Pennsylvania Railroad Company, a Trial Attorney for the criminal division of the U.S. Department of Justice, an Assistant U.S. Attorney for the Central District of California, a City Attorney for the City of Corona, and as a private practitioner. In 1964, he also completed an LL.M. through Georgetown University Law Center.

From 1971 to 1975, Judge Timlin took his first judicial post, serving as a part-time magistrate judge for the U.S. District Court the Central District of California. In 1976, he was appointed by Governor Jerry Brown to the Corona Judicial District as a Municipal Court Judge, a position to which he was later elected in 1978. In 1980 he was elevated to Superior Court Judge in the Superior Court of Riverside County, and he remained in this position until 1990. At that time he was appointed by Governor George Deukmejian to the role of Associate Justice in the California Fourth District Court of Appeals in Division 2, where he stayed until his appointment to the U.S. District Court in 1994. Currently, Judge Timlin primarily focuses on trials and has also recently sat on various panels for the Ninth Circuit.

Ex Parte Applications

What general advice do you have for attorneys regarding ex parte applications?

Judge Timlin suggests that counsel focus on the facts rather than the law. Counsel should emphasize the specific facts which will justify the extraordinary remedy, even if the remedy is only temporary. Counsel does not need to give the court the law regarding ex parte applications.

What problems do you most often encounter with ex parte applications?

Judge Timlin finds that lack of notice to opposing counsel is the largest issue he encounters during ex parte applications, at least, when it is already known who opposing counsel is or likely will be. Further, while in many cases the defendant has not even

retained counsel, if an attorney knows that the opponent is a large entity which has previously retained counsel and will likely retain the same counsel in the instant matter, it is appropriate to provide notice to that attorney of the upcoming application.

Pretrial

Do you have any law and motion pet peeves?

Judge Timlin prefers that counsel present succinct briefs which briefly state the law and emphasize the facts. Moreover, he prefers that counsel present the salient points within the first five pages.

Do you issue tentative rulings?

Not generally. Judge Timlin would grant a tentative ruling where appropriate; namely, where the justification was clear on the face of the motion. However, he is not likely to give a tentative ruling.

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

Judge Timlin is likely to grant a trial continuance where a sufficient showing is made. In fact, since litigants expect fairness and justice rather than having their case rushed along, he would be inclined to grant a continuance. He would rarely deny a continuance based on a stipulation. If there is opposition to the continuance, or if there is a pattern of similar motions by one side, then he will analyze the motion more closely for frivolousness.

What advice do you have for attorneys regarding trial briefs?

Judge Timlin would advise attorneys to file a well written memorandum of facts and law, as this is the document the court will reference as a summary of the current law that the litigant is relying upon. For this memo, he finds it helpful to state the elements of any claim, affirmative defense, or counter claim.

Also, counsel should present all of the stipulated facts so the court may read them into the record at the beginning of trial.

What general advice do you have for attorneys regarding oral argument?

Due to the limited period of time for oral arguments, Judge Timlin advises attorneys to argue the issues which are most important and upon which they have the best chance of prevailing. Additionally, it is sometimes wise for an attorney to submit on his or her moving papers and reserve the right to respond.

Importantly, counsel should stick to the issues. Since emotions will not dictate the result, the attorney should stress the facts and applicable law, avoiding an argument based on emotion or sympathy.

Trial

Judge Timlin has a checklist for counsel to review with him during the pre-trial conference. Further, he does not have any special rules for his court; rather he follows the Federal Rules of Civil Procedure, the Federal Rules of the Court, and the Local Rules

without additional restrictions. He does, however, have certain procedures for the progression of a trial, discussed below.

What are your views on the use of motions in limine?

Judge Timlin prefers that attorneys not over utilize in limine motions. If counsel knows that the court could rule on the motion during trial, then counsel should not bring a motion in limine. However, he does not place limits on the number of in limine motions which counsel may bring. Regarding motions in limine to determine the qualifications of expert witnesses, Judge Timlin notes that if both sides present enough evidence, he may make a ruling without a hearing before trial. However, if that is not possible in a particular case, he has no preference between hearing the objections before or after jury selection.

Please describe the voir dire process in your court, and your involvement in that process.

Judge Timlin conducts voir dire, and then he gives each side 15 minutes to question the first group of prospective jurors that the court has called forward. If a second group of jurors is called, he shortens the questioning to ten minutes per side. To expedite the process with the second group, he advises them that he is making certain assumptions regarding their ability to serve as a juror—i.e., the juror understands the nature of the case, the juror understands the law on which the court has pre-instructed them, the juror does not know the attorneys, etc.—and requests them to raise their hand if the assumption does not apply to them.

Do you allow jurors to ask questions during trial?

Judge Timlin allows the jurors to ask witnesses questions during the trial according to a particular format.

Do you limit the number of hours for trial?

Judge Timlin has never limited the number of hours for trial. Rather, he believes that all sides are entitled to as much time as they need to present their case based on the assumption that counsel is not attempting to waste the court's time.

Do you allow speaking objections during trial?

Judge Timlin does not allow argument on evidentiary objections or rulings in the presence of the jury. However, Judge Timlin does allow a party who receives an adverse ruling to argue that ruling at side bar. If counsel wants to make an offer of proof to create a record for appellate review, Judge Timlin will allow it during a break when the jury is not in the room; at that point counsel may make whatever representation they want.

What are your views on the presentation of exhibits and the use of technology in the courtroom?

Judge Timlin recommends that counsel have all exhibits compiled, in order, and turned in to the clerk before the start of the trial. While he encourages the use of the ELMO projection system in the court, Judge Timlin reminds counsel to ensure that the court has admitted the exhibit before counsel places the exhibit on the ELMO.

Judge Timlin also believes that PowerPoint is a very helpful tool. However, he encourages counsel to consult with opposing counsel over the contents of the presentation in opening statements, especially for those matters which may be objectionable. Judge Timlin reminds attorneys that they are ethically bound to notify opposing counsel of any matters in their opening statements which they believe opposing counsel may find objectionable, such as statements of facts which the opposing counsel does not believe that an attorney has the evidence to support.

To inquire about the use of technology in a particular trial, contact the courtroom clerk.

Do you have any general advice for attorneys regarding examination of witnesses?

In examining witnesses, Judge Timlin allows counsel to stand or sit wherever they prefer; counsel need not stay at the podium; he allows attorneys to use the well for examination of witnesses. Further, Judge Timlin suggests that attorneys at times approach a witness whom they are examining. He believes this simplifies the process, saves time, and helps the witness give a better presentation.

Do you have any general advice for attorneys regarding opening statements or closing statements?

Judge Timlin reminds counsel to make sure that their opening statements recite evidence supporting every element of their claim, affirmative defense, or counter-claim; if not, they may face a motion for judgment as a matter of law. He recommends that, if possible, counsel should outline the case in a chronological fashion. A case should have a theme; in the opening statement, counsel should tell the jury a “story,” stressing the items to be supported by the evidence.

Regarding closing arguments, Judge Timlin reminds counsel that jurors often take notes. Accordingly, counsel should not attempt to convince the jury of facts which are not supported by the evidence. This will cause the jury to distrust the attorney who does so. Further, Judge Timlin thinks that it is a good idea for counsel to place on the ELMO projection system the jury instructions which are favorable to counsel’s position and particularly the instructions regarding the elements of their claims, and to tell the jury what evidence supports those elements.