

Hon. Florence-Marie Cooper
United States District Court
Central District of California
Judicial Profile

Judge Florence-Marie Cooper has had an interesting and inspiring legal career. As a twenty-seven year old, recently divorced, and mother of two small children, she decided to enroll in college for the first time. She attended the night program at the City College of San Francisco, and although she earned straight A's, she was unable to complete the program due to her demanding personal responsibilities.

Judge Cooper then worked as a legal secretary, sparking her interest in the law and her decision to attend law school. At that time, Beverly Law School, now known as Whittier Law School, had a special program where students who had not graduated college could earn a law degree. Judge Cooper enrolled at Beverly Law School and subsequently graduated first in her law school class.

Since her second year of law school, Judge Cooper knew she wanted to be a judge; however, given her background, she never thought she could actually become one. After law school, she worked as a clerk for Judge Arthur Alarcon, then on the Los Angeles Superior Court. He encouraged her to turn her dream of becoming a judge into a reality and mentored her throughout her legal career. He suggested that she become involved with the Los Angeles County Bar Association and work at the City Attorney's office to gain valuable trial experience. Judge Cooper acknowledges that she would never have become a judge without the encouragement and guidance of Judge Alarcon.

Following her clerkship, Judge Cooper worked at the City Attorney's office, where she conducted twenty jury trials in her first six months. She also became involved with the Judicial Evaluation Committee of the Los Angeles County Bar Association, where she helped evaluate candidates running for judicial positions. Her participation in this committee helped her discern the qualities the committee valued. Her involvement in the committee also introduced her to people who would be instrumental in her own path to the bench. Additionally, Judge Cooper became involved with the women's lawyers and appellate sections of the Los Angeles County Bar Association.

After one year at the City Attorney's office, Judge Cooper again clerked for Judge Alarcon, this time while he was on the California Court of Appeal. Thereafter, she received her first position on the bench as a family court judge, where she stayed for two years. This job proved challenging because of the emotional nature of the disputes. On her first day, she presided over a case involving a never married, but separated, couple, their child, and the child's grandmother, all of whom wanted custody of the child for Christmas. Moving from one heavy environment to another, Judge Cooper then served as a judge on the Criminal Superior Court from 1985 until 1994, where she handled death penalty cases. She then served as a judge in the Central Civil Court before being nominated for her current federal district position.

More than two decades on the bench in four different courts has provided Judge Cooper with immense insight into the practice of law. Her diverse experiences allow her to provide invaluable advice to all attorneys, and especially those appearing in her courtroom.

Overall, Judge Cooper emphasizes that the most important characteristic that defines a good attorney is his or her integrity. The rest, according to Judge Cooper, is just skills and learning.

Dealing With Opposing Counsel

When Judge Cooper first came to civil court, she was stunned at the hostility between opposing attorneys. She witnessed attorneys who were defensive, short-tempered, and rude to each other, particularly in correspondence and other arenas in which the attorneys may have believed the judge or an outside party would not notice. This hostile attitude, Judge Cooper believes, is improving as more and more attorneys receive the message that civil litigators need to be more civil. Judge Cooper firmly advises that behaving discourteously will not win the lawsuit, and in fact she notes from her time as a prosecutor and criminal court judge that in criminal court, attorneys tend to be more cordial and civil to one another, largely because of the smaller size of the community and the inevitability of the attorneys repeatedly working together.

Dealing With The Media

Judge Cooper has presided over many cases – in both state and federal court– that have garnered significant media attention. In state court, Judge Cooper fielded media calls and often had reporters with cameras packed in her courtroom. During coverage of one particular case, in which Judge Cooper made a factual finding that two men accused of murdering a police officer were in fact innocent and subsequently granted their habeas petitions, one magazine published a picture of Judge Cooper and erroneously attributed a quote to her. Judge Cooper wrote a letter to the magazine, but the magazine neither responded nor retracted the quote. Since then, Judge Cooper has not ever again tried to correct the media for any inaccurate portrayals of her cases, no matter how frustrating they may be.

In contrast, in Judge Cooper's eight years on the federal bench, she has not fielded a single phone call from the media regarding any case. Sometimes when she knows the press is present in her courtroom for a particularly high profile case, she might introduce the case with more in depth background information, but otherwise she does not conduct her courtroom any differently. The lesson Judge Cooper has taken away from her media experiences is the same advice she gives to attorneys: conduct yourself professionally and with integrity at all times, whether or not you think someone is watching.

Pre-Trial Practice

In pre-trial practice, Judge Cooper emphasized that attorneys should be clear and succinct in their communications with the court. Judge Cooper has the following advice:

- **Ex Parte Applications:** Judge Cooper hears ex parte applications every day of the week. She does not require that parties schedule the ex parte hearing. The biggest problem Judge Cooper sees with ex parte applications is attorneys' inability to resolve problems

informally, which the rules require. She believes attorneys should not involve the judge with every dispute and should reserve ex parte applications for truly urgent circumstances.

- Motion to Dismiss: Judge Cooper simply follows the standards set forth by the federal rules in deciding motions to dismiss.
- Motion for Summary Judgment: Judge Cooper stresses that a summary judgment motion should not be filed in every case. According to Judge Cooper, the biggest mistake attorneys make is not recognizing an obvious triable issue of fact. She sees many attorneys argue a summary judgment motion because they disagree with some of the facts, which misses the purpose of the motion. Thus, many of the motions Judge Cooper reviews are destined to fail. Judge Cooper estimates that she grants about a quarter to a third of the partial summary judgment motions before her.
- Written Briefs: Judge Cooper prefers that briefs include an introductory section – about one and one half pages in length – explaining the case, providing a summary of the law, and describing the important legal parameters, so she has adequate background when she reads the remaining materials. Judge Cooper believes the best briefs focus on the strongest argument and do not cram large numbers of weaker arguments into the brief, especially when a strong argument will likely carry the day. Lastly, she notes that briefs should be clear and succinct.
- Oral Argument: Judge Cooper releases tentative rulings the Thursday or Friday prior to the scheduled argument. Her tentative rulings are long and detailed, which is valuable for the attorneys because it allows them to read her reasoning and gives them an opportunity to prepare and address issues raised in the tentative ruling. Judge Cooper firmly believes attorneys should never waive oral argument. She changes her tentative ruling about a quarter of the time for partial summary judgment rulings and about five percent of the time for full summary judgment rulings. The biggest mistake Judge Cooper sees attorneys make in oral argument is staying wedded to their scripts and failing to follow her line of questioning. If the judge is engaging the attorney and focusing on certain issues, then she would advise the attorney to follow the judge's cue.

Trial Practice

Judge Cooper has participated in and presided over innumerable trials, and has the following advice:

- Trial Briefs: Judge Cooper likes trial briefs, especially with bench trials. She believes they are less helpful with jury trials, where they will not be required to decide the case.
- Technology: Judge Cooper thinks using technology is beneficial because it simplifies and clarifies issues for the jury. Examples include placing important documents on PowerPoint and highlighting relevant portions when speaking about them, so juries can follow along. However, Judge Cooper cautions against relying too heavily on technological tools and losing sight of the basic issues in the case. She also requires

attorneys to exchange exhibits prior to trial, and will admit the exhibits if neither side objects.

- **Examination of Witnesses:** Judge Cooper's advice for most effectively questioning a witness is to ask short and clear questions so the jury can easily follow the line of questioning. Judge Cooper believes that attorneys who use long introductory questions that recapture answers from previous questions in examining the witness end up confusing the jury and do not effectively convey a story to the jury.
- **Opening and Closing Statements:** Opening and closing statements are extremely important in Judge Cooper's view because they are the only opportunities for the attorneys to speak directly to the jury. In fact, Judge Cooper allows attorneys to present shortened opening statements in front of potential jurors, mainly to get the jurors excited about and invested in the case so they will not seek excusal based on hardship. However, she also finds the shortened opening statements provide potential jurors with a background that makes voir dire more useful, since the potential jurors know why they are being asked certain questions and can provide better answers. Finally, Judge Cooper views an effective opening statement as one in which the attorney explains to the jury what the case is about, what evidence the party intends to present, and what the attorney will ask the jury to do.

Final Thoughts

Judge Cooper believes the qualities of a good attorney are universal, and whether in civil or criminal matters, or federal or state court, an attorney's reputation will be his or her greatest asset. Maintaining that reputation is as important as the skills an attorney acquires throughout his or her career.