

BenchMarks: Virginia A. Phillips

Federal Court Judge,
County of Riverside

by Ed Butler

The goal of giving jurors a positive experience of the judicial system is especially meaningful to Judge Virginia A. Phillips, for eight years a federal district judge at the Riverside Division of Central District.

A former Riverside County Superior Court commissioner, Judge Phillips says "I enjoy the opportunity... in jury trial to insure that members of the community who come in to serve as jurors are treated with the utmost respect and gratitude as they deserve to be." Her aim is to "run the courtroom and trial in an orderly fashion so that their time is used in a fashion that shows respect." She'd like the jurors to experience the judicial system as one that makes sense to them, one that is chosen by the people and not imposed, and that contributes to the administration of justice.

Judge Phillips also derives satisfaction from working with all the staffers of the district court, including the fresh graduate law clerks inspiring in their intelligence and hard work. "Everyone (on staff) is committed to working really hard to do the best possible job," she says.

A bench officer for 16 ½ years now, she spent four years as a Central District magistrate judge between her state court commissioner and federal district judge duties.

She joined the state bench in Riverside after nine years with Best, Best and Krieger, much of that as litigation department partner.

Judge Phillips was born and raised in Orange County, one of nine children. Her father worked as an executive in the amusement park industry.

She earned her bachelor of arts degree in history at the University of California, Riverside.

She says the law attracted her as a way to contribute in many possible ways, such as aiding clients and also society at large. Also, she enjoyed the research and writing involved in her undergraduate study.

After graduating from UCR, she promptly enrolled in the Boalt Hall School of Law at UC Berkeley, receiving her juris doctor degree in 1982.

The same year she went to work as an associate at Best, Best and Krieger, litigating in a wide variety of areas including business law and municipal and special agency law,

in subject matter ranging from employment to contracts to real estate. She recalls that she especially enjoyed opportunities to represent the local Press-Enterprise newspaper in First Amendment matters and also representing public entities in environmental and contract-related matters.

While enjoying the advocacy work and her colleagues, Judge Phillips says a desire "to work in public service" prompted her to apply for the job of Superior Court commissioner. At first she was assigned all the civil law and motion matters of the court, such as demurrers, discovery motions, writs, summary judgments and ex parte matters. When the parties agreed, she also presided over civil trials, both court and jury trials. After the court shifted from a master calendar to direct calendar system, she handled law and motion and trial in the same department. She occasionally presided over felony jury trials when there was overflow from regular criminal departments.

Judge Phillips says she applied for a federal magistrate judgeship out of interest in different kinds of cases and having enjoyed the federal work she had done at her law firm.

Voted into that office by a majority of the Central District judges, she commuted 5 ½ years to the downtown Los Angeles federal courthouse, until a suitable Riverside Division courthouse could be completed.

She says the application process for seeking a federal magistrate judgeship is similar to that of seeking appointment by the president to be a federal district judge. Both entail a lengthy, written application, requiring listing of references including one's cases, publications, and academic honors. Magistrate candidates undergo a series of interviews and evaluation by an outside committee of lawyers who have tried cases before the candidate bench officer and litigated against her. The vote by district judges follows interviews by them.

She says screening of prospective district judges (presidential appointees) varies by the political party of the U.S. senators. In her case she was nominated by Sen. Barbara Boxer and appointed by President Bill Clinton after interviews, FBI check, and ABA investigation and rating.

In her case, it was a two-year wait between nomination and confirmation in November of 1999. She was only the second Central District magistrate judge to be elevated to district judge. She now serves as chairman of the district's magistrate judges committee.

Judge Phillips says the combined civil and criminal caseload of the Riverside division is divided equally among four bench officers, two district judges and two magistrate judges. She estimates that one fourth to one third of her cases is criminal and the

rest civil. Among the cases that go to trial, about as many are civil as are criminal. She finds that civil cases demand more court time because there are many more motions to be heard.

Asked to state a favorite litigation area for her to preside over, she says the likely correct answer is "the case that you're working on right now."

She says the incidence of categories of federal crime charges before the court varies with the presidential administration, its prosecutorial emphasis. Lately she has been experiencing greater numbers of large scale drug trafficking crimes, white collar financial crimes such as Ponzi schemes and identity theft, and child pornography cases which "unfortunately seem to be on the rise." She says the incidence of bank robbery cases, once more profuse, has dropped off.

As for jurors abiding by their summonses, Judge Phillips says "we have a pretty good response rate." The juror population is drawn from both Riverside and San Bernardino counties, two of the nation's largest counties in land area. If desired, the court will provide overnight accommodations for those who must travel more than 70 miles from their residence to Riverside.

Judge Phillips believes Riverside Division does "pretty well" accommodating self represented litigants. She notes that subject matter jurisdiction is such that not as many pro per parties are seen by the federal court as the state court.

Starting Jan. 1, 2008, the federal Central District will require that all civil filings be submitted electronically. That follows such a mandate for criminal filings starting Jan. 1, 2007. Before they can participate, attorneys must complete a court-approved workshop and obtain a password for access.

Judge Phillips says Central District, being the largest in the nation in caseload and numbers of judges, is a relative latecomer among federal courts in instituting this requirement.

Asked to contrast the procedural styles of California state and federal courts, Judge Phillips hastens to emphasize the importance of attorneys knowing the difference. She says one unfortunate mistake by some attorneys is assuming that their familiarity with state court procedure allows them to give short shrift to federal rules and procedures. "I see that too often. That can be a fatal mistake for your client's interest," she warns. She encourages new federal court advocates to familiarize themselves with the Federal Rules of Civil Procedure, local district rules, and federal sentencing guidelines. She also encourages federal advocates to join their local federal bar association to avail themselves of valuable programs in federal practice.

Another point of advice she has for advocates is to “keep the briefs that you file, motion papers and oppositions, short and to the point.” She quips that the 25-page maximum is “not a mandatory minimum.”

Further, on oral argument upon a motion, she says advocates can rest assured that the judge has read the pleading. While emphasis is appropriate, “You don’t have to stand up and repeat your paper,” she says.

Among her activities, she has been active in Inn of Court and local nonprofit organizations. While an attorney she taught a seminar on topics in constitutional law in the law and society program at UCR.

A widow without children, Judge Phillips has listed her favorite pastimes as reading, writing, gardening and hiking.

Ed Butler is branch manager of the Law Library for San Bernardino County.

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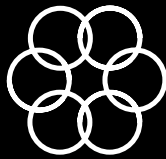
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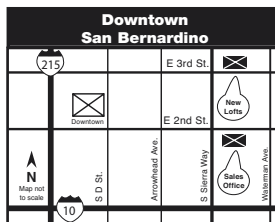
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