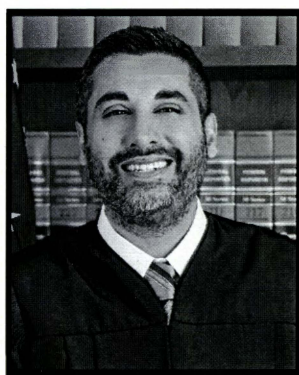


Q&A with the Hon. Jay C. Gandhi

By Caitlin S. Peters



[Editorial Note: Before his appointment to the United States District Court for the Central District of California as a Magistrate Judge in 2010, Judge Gandhi was a litigation partner at Paul Hastings LLP. There, he specialized in complex business litigation and class actions, and represented both plaintiffs and defendants in a variety of state and federal jurisdictions.

Judge Gandhi's accolades include, most recently, the 2015 Benjamin

Aranda III Judge of the Year Award and the 2014 Judicial Excellence and Public Service Award. Judge Gandhi currently serves as a vice-chair of the Court's ADR committee, sits on the board of directors of the Federal Bar Association, and is a member of the judicial advisory board of the Constitutional Rights Foundation. Judge Gandhi graduated Order of the Coif from the University of Southern California Law School and clerked for United States District Judge Kenneth M. Hoyt.]

Q: You are a strong supporter of, and frequent participant in, alternative dispute resolution. What sug-

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The Road to the Gavel: What to Expect When Applying for a Judicial Appointment or Nomination

By Kimberly A. Knill

Orange County's State Court bench boasts a long list of ABTL members, including many of the county's most recent judicial appointees. For those hoping to one day follow in their footsteps, this article addresses the appointment/nomination process in California. It also shares the experiences of several recent Governor Brown appointees to the Orange County Superior Court, and of the most recent appointee to the Fourth District Court of Appeal, Division Three in Orange County.



California's court system is the largest in the nation and serves a population of more than 38 million people – about 12 percent of the total U.S. population. The State's judiciary consists of 2,171 authorized judge positions in the superior courts of California's 58 counties, 105 authorized justice positions in the six courts of appeal, and seven Supreme Court justices. In Orange County, the Legislature has approved 124 judicial offices in the superior court and eight judicial offices in the Fourth District Court of Appeal, Division Three.

Superior court judges in California are appointed by the governor. Court of appeal and Supreme Court justices are nominated by the governor and must be confirmed by the Commission on Judicial Appointments before the appointment becomes effective. Under some circumstances, judges may also be elected by the public. Once appointed, a judge is required to compete in the next general election cycle on a nonpartisan ballot in order to retain his or her seat on the bench.

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The Young Lawyers Division Report

By Adrienne E. Marshack

The 2016 Young Lawyers Division is off to a great start. The year's first Brown Bag Lunch was held on March 3, 2016, and included an engaging panel of four Orange County Superior Court Judges who were recently assigned to the Civil Panel: the Honorable Martha Gooding, James Crandall, Walter Schwarm, and Nathan Scott. Judge Gail Andler graciously hosted the lunch in her courtroom, which was well-attended. Attendees received incredible insight from these Judges who came to the bench with extremely different backgrounds and experiences. We thank Judges Gooding, Crandall, Schwarm, and Scott for participating and Judge Andler for hosting.



There are several upcoming YLD events to look forward to in the next several months. Some dates have been confirmed and other events are confirmed but yet to be scheduled, so members should look for emails and announcements about them. Upcoming events this year include:

April 21—Brown Bag Lunch with United States Magistrate Judge Jay Gandhi.

May 10—Whiskey tasting ("Whiskey Across America") at Bosscat Kitchen & Libations in Newport Beach, sponsored by Network Deposition Services.

May-July —Judge Gail Andler of the Orange County Superior Court has agreed to participate in what will be her final Brown Bag Lunch before she retires.

In addition, Justice David Thompson of the California Court of Appeal, 4th District, Division 3, will be hosting a Brown Bag Lunch on a date when the Court of Appeal is hearing oral argument. Details to follow, but participants will be invited to arrive early or stay after the lunch to hear argument before the Court.

Later this year, ABTL will also be hosting an MCLE on the fundamentals of appellate practice in California and the Ninth Circuit. The MCLE will be

held at the Orange County office of Manatt, Phelps & Phillips, LLP, and the presenter will be Benjamin Shatz, a partner at Manatt, Co-Chair of the firm's Appellate Practice Group, and Certified Appellate Specialist. This will be a great opportunity to learn appellate procedure and substantive appellate practice tips from an experienced and engaging appellate practitioner.

We hope to make 2016 one of the most fun and informative yet for YLD members, and the calendar is shaping up nicely so far. We hope to see you at our YLD events!

♦ *Adrienne E. Marshack is a partner at Manatt, Phelps & Phillips and the chair of the YLD.*

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gestions do you have for advocates who appear before you in mediation?

A: Preparation is key. A settlement conference with me mirrors a traditional, comprehensive mediation, which includes – along with a fierce commitment to neutrality – pre-mediation discussions, merit-based evaluation, and tenacious follow-up. So if throughout that process, you understand your client's interests and priorities and appreciate your case's strengths and weaknesses, you can both negotiate more effectively at the bargaining table and make your client feel confident that he, she, or it is well-situated to secure the best available settlement.

Q: Parties often posture or believe that their opponents are "too unreasonable," or the parties are "too far apart," to mediate. When is the right time to come to the table?

A: I'm an eternal optimist and, given any lawsuit's innate uncertainty and notable expenses, both economic and non-economic, the time is *always* ripe to at least explore settlement. In nearly every case I mediate, the parties begin the proceeding sitting at polar opposites, but end the long, tiring day – or days – shaking hands in agreement. Why? Because the ending isn't about the beginning, it's about the process: a process of promoting dialogue, solving problems, and building momentum towards a resolution.

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Q: Besides mediation, what other work at the Court are you passionate about?

A: Trials. The Central District's voluntary consent list and direct assignment program allow parties in civil matters to agree to have their cases tried before Magistrate Judges. You've probably heard the familiar refrain that the wheels of justice grind slowly. But by "consenting," parties have the opportunity to have their cases heard sooner and on a firm schedule. And in turn, I have the opportunity to use my background in civil litigation to fairly and effectively manage their trials.

Q: Some commentators have bemoaned "the vanishing jury trial." Are trials declining, and if so, should we be alarmed by this trend?

A: Personally, my trial calendar feels as busy as ever. But I've heard a number of people make that observation and voice those concerns. On the negative side, even seasoned lawyers have less courtroom time today, so that skill set can suffer. But I see both sides of the coin. The sheer expense, time, and unpredictability of a trial, particularly a complicated or "high stakes" one, are not attractive features to most people. Accordingly, and understandably, many parties elect to resolve their differences via other mechanisms.

Q: Some highly anticipated changes to the Federal Rules of Civil Procedure went into place late last year. How have they affected your court's proceedings?

A: Primarily, the amended rules have underscored the importance of proportionality, especially as it relates to the growing volume, and the attendant cost, of discovery. Judges are being asked to act as deliberative gatekeepers: to be inquisitive and thoughtful of precisely what productions may be warranted under a cost-benefit calculus that accounts for the needs and importance of the case. Only time will tell if the amended rules will accomplish their intended purposes, but in the courtroom their effects are being felt already.

Q: Have you noticed any changes in the practice of law since you were at Paul Hastings, and if so, how do you address them now that you are on the bench?

A: The legal landscape has shifted in a number of ways. For example, many of my friends – whether plaintiff or defense, private or public, in big law or boutique firms – feel enormous pressure to practice

law as *efficiently* as possible. Being a lawyer, and especially a trial lawyer, is difficult and hard work nowadays, and I remain mindful of that fact.

Q: Your resume is filled with participation in committees, boards, and associations. Why is it important to you – and why should it be important to attorneys – to be involved in these "extracurriculars"?

A: Plainly put, the bench relies on the bar, and the bar relies on the bench. These kinds of activities allow judges and attorneys to get to know each other and to build communities. Those ties make individual practices, and our profession as a whole, more rewarding and fulfilling.

The ABTL thanks Judge Gandhi for his time.

♦Caitlin S. Peters is a litigation associate at Gibson, Dunn & Crutcher LLP.

-Road to the Gavel: Continued from page 1-

The first step in the judicial appointment process is to complete and submit an application. Judicial applications can be found on the governor's website (www.gov.ca.gov) and differ slightly depending on the court where appointment is sought. The application is intended to attract applicants from throughout the legal system and to result in a judiciary that is diverse in experience, gender, ethnic background, and geography. Those who have reviewed the application know it can appear daunting, and completing it will be a time-consuming task. Having a mentor judge who has successfully navigated the process can be invaluable. Starting a judicial application might be likened to reviewing jury instructions before filing a complaint – it provides a road map and sets forth the necessary elements for a successful outcome. Knowing the information the governor requests and finds important will assist the applicant in preparing for the task of submitting a comprehensive application.

A lawyer must practice law in California for 10 years before applying for the bench. Having passed the bar examination, most candidates will likely be presumptively qualified to know the law. What, then, are the qualities that set apart one applicant from the next? Most judges and lawyers agree impeccable judicial temperament is a paramount quality of a great judge. The application should therefore demonstrate the candidate's patience, appropriate demeanor, ability

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