

FAMILY LAW COURT NEW PLAYERS; NEW (OLD) RULES

by Andy Ross

[Published in the April 2010 Contra Costa Lawyer]

As the new year began, three experienced judges were newly appointed to the family court. According to Family Court Presiding Judge Joyce Cram, it is hoped (and the judges are encouraged) that each judge will spend three years in this position. The judges bring with them a variety of backgrounds, but in their experience in the family court thus far, they share a common concern: What appears to be a certain "casualness," which surprises them and they hope will be corrected quickly. Chief concerns relate to chatting in the courtroom while court is in session and the lack of formality in addressing the court.

All of the new family court judges were appointed by Governor Schwarzenegger in May through September of 2005. This article introduces you to the judges, tells you a little bit about them personally, and gives you a sneak peak about what they expect of us in the courtroom.

Charles ("Ben") Burch

Judge Burch was appointed in April of 2005. Prior to his appointment, he spent 27 years as an assistant United States attorney for the U.S. Attorney's Office, where he primarily focused on white collar and public corruption cases. Judge Burch earned his J.D. degree from the University of Chicago and his B.A. degree from Stanford University. The judge was born in San Mateo, and after his father retired from the Air Force, his family lived in Marin County. He has lived in Contra Costa County for 31 years, either in Walnut Creek or Moraga. He has spent many years coaching youth basketball and baseball. He likes to jog, travel, work in his yard, and play golf.

Judge Burch is currently sitting in Department 23 at the classic courthouse. According to Judge Cram, he will be assigned all "long, long-cause" trials. The hope and plan is that every two-day or longer trial will be assigned to him. Counsel will be directed to appear Monday morning. Cases with scheduling problems (out-of-state witnesses, experts on a limited time schedule) will be given priority to the extent possible. The judge will hear cases day to day, sometimes two to three cases on the same day as they continue into the week, giving counsel significant time to attempt to settle their cases, a practice highly encouraged by the bench. Judge Cram believes that this is a far better system than in the past (e.g. if a trial could not be completed in its estimated time, it would either be mistried [rarely] or continued for weeks or months out [frequently]). Judge Burch will also be conducting probate trials, LPS trials, and domestic violence cases in the morning — particularly brand new domestic violence cases, which are not associated with a dissolution proceeding or a paternity case. Needless to say, Judge Burch is very busy.

Judge Burch requests that attorneys appearing before him at trials file a pretrial brief "briefly and accurately describing the claims that they will prove at the trial." Briefs should contain legal citation and a coherent explanation of the facts. He expects lawyers to be courteous and to treat each other like strangers meeting for the first time, and — most important — to be prepared.

Charles ("Steve") Treat

Judge Treat was appointed to the bench on July 28, 2005. Prior to his appointment to the bench, he was a civil litigation partner with Latham and Watkins for some 17 years. And from 1982 to 1983, Judge Treat served as a law clerk for the United States Supreme Court Justice, William Brennan, in Washington, D.C. He was also a clerk for the United States Court of Appeals. Judge Treat received his B.A. degree from Michigan State University and his J.D. degree from the University of Chicago Law School.

Judge Treat questioned whether the personal details of his life were "too boring" for print. He grew up as an Army brat, having lived all over the U.S. and in Germany. He has been married for 20 years and has two teenage boys. For the last two summers, he took his son to do volunteer construction with Habitat for Humanity in Hungary and New Orleans. He enjoys hiking, when he is not too lazy, and attending his son's baseball games.

Judge Treat would like both sides to file brief, informal statements one week in advance of either a settlement conference or a trial, advising the court of the open issues and each side's position with regard to each of those positions. His advice to advocates: "Be prepared and be polite."

Patricia M. Scanlon

Judge Scanlon was appointed to the bench on September 9, 2005. She served as a deputy public defender in the Contra Costa County Public Defender's Office for 23 years, the last four of which she worked on juvenile dependency cases. After taking the bench in October of 2005, she spent two years in a general criminal assignment in the Richmond branch, followed by two years in the Richmond court, handling juvenile dependency and delinquency cases, as well as the unlawful detainer calendar and assisting with preliminary hearings and criminal motions. Judge Scanlon earned her B.A. degree from Mt. Holyoke College in Massachusetts and her J.D. degree from Boalt Hall School of Law at the University of California at Berkeley.

Judge Scanlon shows Basenjis. She has shown three in championships and received an award of merit for her Ozzy at the national championship show a few years ago. She was also selected as the top breeder/owner/handler in Northern California a few years back. Since taking the bench, she has not had time to show her dogs.

Judge Scanlon expects attorneys to act professionally, to be on time, and not to wear open-toed shoes (just kidding!).

So what you read here is everything you had to know as a cub scout/brownie: be punctual; be polite; be prepared.

— Andy Ross gives special thanks to Judge Cram for her thoughts and comments given to him the day before her vacation (on short notice) and to Commissioner Huffaker, who (on even shorter notice) collected much of the personal information about the judges contained in this article.