

Daily Journal Daily Opinions

www.dailyjournal.com

© 2013 The Daily Journal Corporation. All rights reserved.

## Judicial Profile



HON. James R. Lambden  
Justice California Appellate Courts  
Bar Number: 066513

### PROFILE

**Career Highlights:** Appointed to 1st District Court of Appeal, 1996; appointed to Alameda County Superior Court, 1989; private law practice, Fitzgerald, Abbott & Beardsley, Oakland, 1975-1989 Law School: Hastings College of the Law, 1975 Age: 58

By Laura Ernde  
Daily Journal Staff Writer

SAN FRANCISCO - James R. Lambden went on a backpacking trip in the Sierras six years ago that ended with a broken leg and a ride in the back of a police car.

The 1st District Court of Appeal justice was coming down from Darwin Bench near Mount Whitney and had already made it through the most challenging part of the trail when he slipped on some pine needles and heard a snap.

It happened early in the morning, so Lambden patiently waited with a stash of Vicodin while his son and another hiking buddy went for help. A helicopter picked him up just before sunset and took him to a hospital in the nearby town of Bishop.

After being treated, Lambden had no way of getting to the hotel where his wife was going to pick him up the next day. With no taxis in the small town, he finally got help from the local police, who gave him his first and only ride in the back of a cruiser.

---

Lambden, 58, is reminded of the story by a landscape watercolor that hangs in his chambers. He had sketched out the picture on the trail and finished it at home as his leg healed in a cast.

The scary incident, which Lambden seems to take in stride, hasn't stopped him from enjoying the outdoors, although it's made it tougher to convince his wife, whom he affectionately refers to as "The War Department," to let him go back out on the trail.

To keep in shape, Lambden walks the two miles each way every day between the courthouse and the waterfront, where he commutes by ferry from Benicia to San Francisco.

When he's training for a trip, he'll load his pack with filled water bottles and take the steepest route over Nob Hill.

Occasional backpacking companion William Alsup, a judge on the federal bench in San Francisco, called Lambden a careful, methodical mountaineer.

"If you only had room for one other person on your trip and you were way out in the middle of the wilderness, Jim would be the perfect candidate," Alsup said. Lambden's unflappable style on the trail translates into careful deliberation when he's working.

"I would regard myself as sort of an academic judge," Lambden said. "I'm just interested in getting the right answer."

Politically, he's been at various times registered as a Democrat and a Republican. Now he's an Independent.

One can imagine him refereeing verbal sparring matches between two polar opposites on the appellate court's lively Division Two. Justice J. Anthony Kline was Democratic Gov. Jerry Brown's legal affairs secretary, and Justice Paul Hearle was appointments secretary under Republican Gov. Ronald Reagan.

By comparison, Lambden and the fourth justice in the division, James A. Richman, who's also a former Alameda County judge, tend to be low key during oral arguments.

"They're always surprised when I do get exercised about something," Lambden said of his colleagues.

To prepare for monthly oral argument, the justices send focus letters to let the attorneys know what legal issues they want to hone in on.

On the day of the argument, there are no time limits like there are in most other appellate divisions.

---

"We just let you talk until you're not interested anymore," said Lambden, who has served on the Court of Appeal for nearly 13 years. He was appointed by Gov. Pete Wilson after serving seven years as an Alameda County Superior Court judge and working in private practice as a civil trial lawyer in Oakland.

Judging also runs in his family, although he has to trace back several generations to find where it all began. His great-great-grandfather "General" Franklin Dixon was a justice of the peace in West Texas. At the time, such justices were nonlawyers who also functioned as judges, which "when you think about it is quite a conflict of interest," Lambden said.

Dixon, who never served in the military but used the title of "general," was famously erratic. One time, after sending a woman to an insane asylum, he dressed in a bonnet and ran around the neighborhood to terrorize his neighbors just for fun.

Lambden still has Dixon's law book, "Texas Statutes, 1895."

His parents were farmers who came to the San Francisco Bay Area after the Dust Bowl of the 1930s wiped out their livelihood.

Lambden announced his intention to become a lawyer at the ripe old age of 12. Only Lambden, who got the story from his older brother, doesn't remember it. All he knows is he didn't want to have to do any math.

A college adviser tried to talk him out of law school, but Lambden went to UC Hastings College of the Law anyway.

The choice has worked out well. So well, in fact, that even though Lambden is almost eligible for retirement, he's not even thinking of leaving.

"This is too good a job for me to give up," he said.

Lambden said he especially enjoys the part of his job that allows him to work on improving access to the justice system. He chairs the Judicial Council's Standing Committee on Access and Fairness and raises money for a State Bar fund that goes toward providing legal services to poor people.

"He is an absolutely marvelous person who's very, very dedicated to improving access," said Mary Lavery Flynn, the Bar's director of legal services outreach. "He's very gentle and soft-spoken and very effective. He makes sure that he follows up issues. He will just pick up the phone and try to talk to people."

When it comes to his work writing opinions, appellate lawyers said they have no fear of putting their cases in Lambden's hands.

---

"He tends to be less vocal than Tony Kline or Paul Hearle, but there's no doubt he holds his own and is a very capable jurist," said Paul Fogel of Reed Smith in San Francisco, referring to Lambden's colleagues in the 1st District.

Jon Eisenberg, a former staff attorney on the Court of Appeal, worked briefly with Lambden. More recently, Lambden handled a settlement conference for one of his cases.

"He's a real gentleman," said Eisenberg of Eisenberg and Hancock in Oakland. "He had some real gravitas that my client appreciated."

The case didn't settle, but the other side probably regretted that after Eisenberg ended up winning.

Eisenberg has also sought Lambden's advice on hats. The justice has an impressive collection in his office and knows quite a bit about them. When Eisenberg bought a convertible on his 50th birthday, Lambden steered him toward a Kangol hat for sun protection.

In addition to being an outdoorsman, an artist and a hat collector, Lambden also does the cooking at his house and takes care of the family pets - four cats and a rabbit.

Lambden has two adult sons, Evan and Eric.

Here are some of Justice Lambden's recent opinions and the attorneys involved:

In re H.E., 169 Cal.App.4th 710 (Cal. App. 1st Dist. 2008) - juvenile dependency

For the defendant and appellant: Gino V. DeSolenni, Crescent City

For the plaintiff and respondent: Gena Rae Eichenberg, Humboldt County counsel's office

Spencer v. Marshall, 168 Cal.App.4th 783 (Cal. App. 1st Dist. 2008) - real estate dispute

For the plaintiff and respondent: James Lee Hand, Victorian Legal Center, Oakland

For the defendant and appellant: James E. Toothman and Joel F. Donahoe, James E. Toothman & Associates, Los Gatos

People v. Castagne, 166 Cal.App.4th 727 (Cal. App. 1st Dist. 2008) - drug possession

For the defendant and appellant: Matthew Zwerling and Jeremy T. Price, First District Appellate Project, San Francisco

For the plaintiff and respondent: Bridget A. Billeter and Gregg E. Zywicke, deputy attorneys general

---

McCarthy v. Pacific Telesis Group, 163 Cal.App.4th 176 (Cal. App. 1st Dist. 2008) - employment sick leave

For plaintiffs and appellants: David A. Rosenfeld of Weinberg, Roger & Rosenfeld, Alameda

For defendants and respondents: J. Al Latham Jr. and Thomas E. Geidt, Paul, Hastings, Janofsky & Walker

Devonwood Condominium Owners Association v. Farmers Insurance Exchange, 162 Cal.App.4th 1498 (Cal. App. 1st Dist. 2008) - fire insurance coverage dispute

For the defendant and appellant: Linda J. Lynch of Sarrail, Lynch & Hall, Burlingame

For the plaintiff and respondent: Michael D. Michel and Jeff M. Fackler of Michel & Fackler, Emeryville

*This profile originally appeared in the Los Angeles Daily Journal and the San Francisco Daily Journal March 12, 2009.*

---