

# *The* Trial Lawyer

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# THE HONORABLE ANGELA BRADSTREET

BY ISABELLE TAN



**The Honorable Angela Bradstreet of the San Francisco Superior Court, appointed by the former Governor Arnold Schwarzenegger, gets candid about courtroom egos, Settlement Conferences and missing all the hugs.**

Judge Bradstreet received an LL.B. from the University of Bristol. She then moved to the United States after painfully coming out as gay to her parents in London. She was accepted into the University of California, Berkeley and earned her LLM there in 1980.

Judge Bradstreet spent several years in private practice before becoming the California State Labor Commissioner. From there, in 2010, she was appointed to the bench by Governor Schwarzenegger. At the time, she was only the third openly LGBTQ individual to be appointed to the bench in the Bay Area.

She has been and continues to be one of the greatest advocates for diversity in the profession, and has been recognized for her extraordinary efforts to educate and encourage young lawyers in the courtroom.

In 2017, San Francisco Superior Court launched the Judicial Settlement Program to settle larger, high-exposure cases. Judge Bradstreet was selected to pilot the new program. Today, the program has expanded to over ten judges participating on the panel. Judge Bradstreet continues to use her considerable experience to really work with the litigants and position these complex cases for settlement, especially during the pandemic.

**How long have you been on the bench now and what is your current assignment?**

Well, I don't know where the time goes, I've been on the bench over 10 years now, going into my eleventh year. I am in a Civil Settlement and Trial department, and have been for the past 4+ years.

I was asked by Judge Jackson, when she was Presiding Judge, to spearhead the judicial settlement program, and I have continued to do that along with several other colleagues.

I give a lot of credit to the Presiding Judge, Judge Feng who has expanded it to include other judges. It started off with me about four years ago. Then it expanded to myself and Judge Ross. Judge Feng has expanded the program to include several other colleagues as well, and has put an emphasis on trying to settle cases in these very difficult COVID times, and it's been working. Judge Feng has been such a big supporter of the program and has given us all the tools and time we need in order to be successful.

**When you were tapped to become a judge, what was the biggest motivator for you?**

Very simply, it was really wanting to stay in public service. It was really wanting to give back. I came to this country from London not knowing anyone about some forty years ago, and I had nothing more than a backpack, and it's been very, very good to me. After 25 years in private practice, I decided I wanted to go into public service and give a little back. I was very fortunate to be appointed State Labor Commissioner by the Governor for some three and a half years. It was a wonderful job when I was enforcing all the minimum wage laws for workers in

this state. I very much wanted to remain in public service and that's really the prime reason that I wanted to become a judge at that time in my life.

**What is your favorite part about being a judge right now?**

My favorite part is definitely settling cases to help litigants resolve their cases and go on with their lives. There have been many poignant moments where litigants have hugged me (although under COVID of course, that can't really happen anymore). I find the most rewarding part of my assignment is being able to resolve cases for the benefit of the litigants and to avoid years of litigation including appeals which only causes them more stress, more anxiety, more costs. Settling cases is really a win-win for everyone. Giving people closure and allowing people to move on with their lives. It is a win for the court too in terms of being able to save judicial and court resources.

**Do you have any memorable stories that really stick out to you?**

There are a couple of plaintiffs who really touched me deeply. One of them had been a very young heroin addict and without going into all the facts, she had been injured when she fell out of a third story window that had violated code. She was very seriously injured, when I saw her at the settlement conference, she had been doing incredibly well and had enormous progress with rehabilitation and tons of physical therapy and the like. She had made enormous progress, not only with her physical injuries, but also she was clean and sober, and she was studying for a degree. Being able to give her closure by effectuating a very reasonable settlement for her, and to see how she reacted and how she appreciated getting the closure and being able to move forward. That's something that will stay with me forever.

Another one that comes to mind is getting the most beautiful note from a plaintiff that had been a journalist and who had suffered a brain injury in the workplace. It was a very hard-fought case and the facts were complicated. Finally, after several settlement conferences, we were able to get a resolution which will enable her not to worry about medical expenses and the like for the rest of her life. She wrote me this beautiful letter after the settlement conference thanking me for making a difference. That will stay with me too.

**Are you still currently presiding over any trials?**

Well, I have presided over many, many trials but at the moment, during COVID, the Presiding Judge thinks my best use is primarily trying to settle cases. So that's what I've been doing for the last several months. That's not to say I won't be doing trials in the future, but he feels that's the best use of my time right now. But I certainly have done many, many trials



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in my department until COVID came along. I still have some single assignment cases that I schedule hearings and things like that on.

What I am doing right now, and I think most of my colleagues are also doing, is scheduling all of the settlement conferences and all of the mediations remotely. Unless there is a specific agreement among the parties and a specific justification why it shouldn't be done remotely and why it needs to be done live, in which case I will consider that.

I was very skeptical whether or not I could be as effective remotely as I have been live. Well, now I have become a complete convert. It is very, very possible to strike up a rapport and a connection and a trust by people via Zoom. If anything, I have had just as high, if not higher, a settlement rate doing settlement conference and mediations remotely. The other advantage has been accessibility. I had a settlement conference just a few weeks ago, I was on Zoom with New York Counsel, Israeli counsel, Counsel from Paris, as well as Counsel from California. One cannot do that as easily live. It definitely has huge advantages. Plus, insurance carriers have a hard time telling me they cannot attend a remote settlement conference when they are on the East Coast. There is absolutely no excuse. I mandate all of the carriers and all persons with settlement authority to participate. With Zoom, whether they are in New York or across the world, there is no excuse.

#### Is there anything you miss about in-person proceedings?

I'm a people person. I miss the personal interaction terribly from a selfish standpoint. I miss getting hugged at the end of a successful settlement conference. I miss shaking hands

with all the counsel. I miss the interpersonal contact because I am such a people person. But in terms of the effectiveness of the conference, I think it's just as effective on Zoom, and in fact there are big pluses just as I've described to proceeding by Zoom. If it's a particularly sensitive case, or for example, perhaps if it's an employment-related case, like a sexual harassment case, that may be a good reason that an in-person settlement conference will be more effective. That is something that I would discuss with the attorneys ahead of time to see what everybody thinks.

#### Can you walk me through how you run your settlement conferences?

I have my own procedures and how I do it involves a lot of preparation.

Once a Judicial Mandatory Settlement Conference has been ordered by the presiding judge—or is sent to me by our ADR director, Elizabeth Kelber—then I will have my clerk contact all counsel and provide them with some available dates because I get very booked up.

I will then ask the parties to meet and confer amongst themselves and pick one of those available dates. I make it clear at the outset that all persons with settlement authority, all carriers, if applicable, and all parties must participate without fail.

Once a date is picked from those available dates, my clerk will send out a Standing Order that specifies that settlement conference statements are due 10 days ahead of the settlement conference, provides a page limit and specific requirements regarding format and other matters. It's very specific.

After I have reviewed the settlement conference state-

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ments, I always (or virtually always) schedule a pre-settlement conference call with counsel. A private call with each counsel for each party. I find this invaluable because that is the opportunity the attorneys have to tell me any issues that they want to discuss outside the presence of their client. They can be frank with me and specifically frank about some of the weaknesses of their case and their clients' expectations. We can have a frank discussion about some of the dynamics. It could be the dynamics between them and the other side or it may be the various dynamics between them and their client and controlling their client's expectations. Those are the things that are invaluable for me to know ahead of time.

One thing I never want to do is embarrass an attorney in front of his or her client. Ever. So, if I have a concern about something, I want to discuss it with the attorney ahead of time. I never want to surprise the attorney in front of their client. I never ever make the attorney look bad in front of their client. I think that's really, really important.

Frankly, the level of representation that we get in San Francisco is extraor-

dinarily high so that rarely happens. Sometimes, though, it happens. Sometimes it also happens that the client just has really unrealistic expectations. It's really good for me to know that coming in so that I can actually help with that at the settlement conference.

These calls that I have ahead of time are very important in being able to actually get a successful resolution.

Also, it's not at all unusual for me to reach out and say "Please send me such and such deposition. I want to read the following depositions. I want to read the actual medical records. I want to see the actual contract language. I want to see pictures." Many lawyers in the community will have experienced getting an email from me asking for them to go beyond whatever is in the settlement conference statement. I want to see the actual testimony. I want to see the actual report. I want to see the actual records, etc. So I really drill down to the facts and the actual records in the case.

It can make such a big difference. If I talk to each side about the actual record, it makes a big difference since it's hard to dispute the actual record. It happens time and time again that I have to, and I

will, point out what the actual testimony was as opposed to what the perception about the testimony.

It takes a lot of time and preparation. I've had people tell me all the time that they really value that and how surprised they are by it! But honestly, I think it's a big key to being able to settle some of these big cases that the trial lawyers bring me!

In the Order I issue regarding settlement conferences, it says to be prepared to be there all day and even after working hours, if necessary. I go all day and into the evening, however long it takes to get it done. Everybody has to commit. Everyone is ordered to participate and be available all day and after working hours, if necessary.

#### **How many days before trial is a settlement conference usually set?**

Could be anywhere between 2 weeks or 6 weeks before trial. If the parties all agree to a mandatory settlement conference sooner than that, they can always contact Elizabeth Kelber, the Director of our ADR program. She will consider it.

*Continues on page 30*



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» *President's Message continues from page 4*

pre-death pain and suffering as recoverable damages in California survival actions. This applies to cases filed after January 1, 2022, and to cases which have been granted C.C.P. 36 preference prior to the end of the year, so there is a big incentive to move ahead with those motions now. The new law has a sunset clause, so hopefully it will be extended.

Some bad news: there are three pending ballot initiatives for the 2022 election targeting us, two of which limit all attorney fees to 20%. This harkens back to the "terrible twos" in 1996. Back then we barely squeaked out a win against devastating fee caps. We did not know we had won until 3:00 am. None of these initiatives has qualified for the ballot yet and we do not know who the financial backers are. CAOC is building up a war chest, which can sometimes persuade our adversaries to stand down. I have contributed and hope that all of you will too.

One final note: at the CAALA convention, CAALA's longtime Executive Director, Stuart Zanville, told me that he is retiring. When I reflect on the myriad jobs that our Executive Director Juliette Bleeker does so well I can only say that I am very glad that this is not happening at SFTLA! [TL](#)

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» *The Honorable Angela Bradstreet continues from page 32*

Under our mediation program, as indicated on our website, if the parties agree to a specific judge to serve as their mediator, they can fill out a form that's available on the website and submit it. Ms. Kelber will try hard to accommodate requests for specific judges.

The mediation program is a possible vehicle to try and have a specific judge, like myself resolve the matter. There are a number of judges that are on the mediation panel.

**What is your greatest peeve that attorneys do when in a settlement conference with you?**

Personal animosity between counsel having a detrimental effect on the ability to resolve the case. It is so counter-productive. I have to spend a lot of time and energy trying to dissipate personal attacks and personal animosity. It's really unfortunate when that becomes the case. It doesn't happen often, but when it does, it really impacts the ability to resolve the case. It requires a lot of energy to dissipate the bad blood. It's so unnecessary.

It's always good to take a step back and take a big breath and say, "What am I trying to accomplish here for the benefit of my client? How is this helping my client?"

The other pet peeve is both sides, and I see it on both sides, are so intractable in their positions to the point of being unreasonable. Again, it doesn't happen very often, but when it does, it poses its own unique set of challenges. Again, sometimes ego can get involved and that generally is not productive.

**What should we expect on the day of the settlement conferences?**

I very rarely, if ever, do a joint session. The only time I've ever done a joint session, is when both sides seem to have a misunderstanding on how to calculate a number or a methodology that was used. That is the only time I've brought both sides together.

Generally, I put all parties into break-out rooms.

If it makes sense to put all the defendants into a joint break-out room, I will have discussed that ahead of time. Sometimes it makes sense to start off with a joint break-out room for the defendants and separate them out as needed.

If there's more than one Plaintiff in a complex action with separate claims, then each Plaintiff is in their own break-out room. If they all have the same damages, then I'll put them all together in the same break-out room. All of this is discussed ahead of time.

I encourage attorneys to let me know if they want to talk to me offline outside the presence of their clients. They can certainly do that. I will never talk to the client outside the presence of the attorney, however.

Most importantly, I always order the defense, or both parties depending on the resources, to have a court reporter available on Zoom with the Zoom link so that we can put any settlement on the record immediately and create a binding settlement agreement under Code of Civil Procedure § 664.6. You don't want any issue regarding enforceability or somebody changing their mind the next day.

**What's something about you that's unrelated to your professional life that lawyers who appear before you may not know but offers some insights about you?**

Well, I used to be a national junior tennis player in England. I'm a rather pathetic golfer and I love to cycle. Everyone thinks I'm really tough, but I'm a pussycat around my wife, Cherie. She's definitely the boss.

**What accomplishment are you most proud of?**

I think there are two things, actually. One is professional and one is personal.

The professional one is receiving the ABA Margaret Brent Woman of Achievement Award which is the highest award that can be given to a woman attorney in the United States. It was very thrilling and very meaningful to me because I have spent many years working for the advancement of women in the profession.

The personal one is persuading my amazing wife, Cherie, to marry me!

Cherie and I were married by Senator Feinstein about six years ago. You know that was definitely a day that will be in my heart forever. I'm extraordinarily proud of my wife. [TL](#)