

When Comet Thomas M. Goethals blazed into the Court of Appeal, there was already a brilliant career in its tail.

Tom had already established himself first as an unfailingly successful homicide prosecutor and administrator in the Orange County District Attorney's Office. When he left that office to enter private practice, he was in charge of all felony prosecutions in a county of over 3,000,000.

He proved himself a superb criminal defense attorney when he moved to the other side of the counsel table and then demonstrated his versatility by adding a string of civil litigation successes to his resume. He had tried over 200 cases and become a leading light in the Orange County bar -- his peers had elected him to the Board of Directors of the Orange County Bar Association -- when Governor Gray Davis tapped him for the Superior Court bench.

His appointment was welcomed and applauded as a fair-minded and intellectually excellent addition to that court. But it turned out to be much more.

Judge Goethals turned out to be even more impressive than Attorney Goethals. He proved himself to be not just a first-water intellect, but a fair and courageous bench officer. His brilliance illuminated a series of scandals in the Orange County criminal courts and brought him to the forefront of the county's bench.

Courage and brilliance are always in short supply so his subsequent appointment to the Court of Appeal was a surprise only because he did not fit the diversity and inclusion emphasis of the time. And his seven years on the Court were a fitting capstone to his practice of law.

He heard over 1750 cases and innumerable writs. He wrote opinions in 545 of those, and 46 of them were published, becoming the law of the state. And, ever the model of collegial decision-making, he wrote only two dissents.

His first published case, *PacifiCare Life and Health Ins. Co v. Jones* (2018) 27 Cal. App. 5th 391, was a massive bad faith litigation between the California Insurance Commissioner and an insurance company that seemed to have been mistreating its insureds for years. It made perfect sense that a man who had established a reputation for nonpareil integrity would make his first appellate splash by addressing its absence. Tom's opinion shone a bright and valuable light on the issue of insurance bad faith.

Later cases returned to this subject often. Cases like *Hedayati v. Interinsurance Exchange of the Automobile Club* (2021) 67 Cal. App. 5th 833 illustrate his no-tolerance

rule for unfairness and sharp practices. If your case came across Tom Goethals' desk, you'd better hope it was flying a flag of truthfulness and fair dealing.

Another of Tom's areas of repeated attention was attorney misconduct. In *Moore v. Superior Court* (2020) 57 Cal. App. 5th 441, he penned a groundbreaking case upholding the right of the trial court to hold in contempt an attorney whose admitted "strategy" was to intimidate opposing counsel with hyper-aggressive language and conduct. The Moore case has been cited by judges throughout the state and has greatly improved the practice of law.

He returned to the question of attorney misconduct in *Falcon Brands, Inc. v. Mousavi & Lee, LLP* (2022) 74 Cal. App. 5th 506, in which he explicated the *Flatley* Rule that while the anti-SLAPP statute aims to protect free speech and petition rights, it doesn't shield illegal activities such as litigation demand letters whose threats amount to extortion. This was another major case in promoting -- indeed, requiring -- integrity in the practice of law.

And a case Tom referred to as one of his favorites, *Edwards v. Ellis* (2021) 72 Cal. App. 5th, was a return to his recurring theme of rejection of lack of integrity. This was a classic dirty politics case out of Dana Point, in which Tom called out the falsehoods in a campaign mailer, and forced the promoter of those falsehoods to defend a lawsuit against him. Again, deception and maliciousness had drawn Tom into the fray, and he responded brilliantly.

These were the dominant themes of Tom's time on the court. He addressed hundreds of other issues, including some very dry and technical stuff. But these were the kind of cases that best illustrated his heart and his mind at full throttle.

What follows is a compilation of a simply spectacular career on the Court of Appeal. It was my great privilege to witness that career up close.

These published opinions reflect his courage, his adroit use of language, and his dazzling analytical skills. What they cannot demonstrate is what a splendid colleague he was, how modest and open-minded was his character, and how much he was loved by all who worked with him at the Court. For that you'll have to talk to anyone -- anyone -- who knows him. Start with me.

-- William Bedsworth