

## Judicial Profile



### HON. COLEMAN A. SWART

Judge

Los Angeles County Superior Court

**PROFILE** Coleman A. Swart looked grumpy.

As a recent trial crawled forward in his Pasadena courtroom, Swart swiveled back and forth in his chair behind the bench and appeared to stare at the ceiling.

A break in the prosecutor's relentless questioning of the alleged victim of a restraining order violation stopped the Pasadena Superior Court judge in midswivel. The defense attorney had objected.

"What is your objection?" Swart asked abruptly.

The attorney pointed to a document that the prosecutor was attempting to enter into evidence.

"Your Honor, I have never seen this -" the attorney began.

"Overruled," Swart said, his answer clipping the heels of the lawyer's last word.

He then turned to the prosecutor: "I think we're getting a little far afield. I understand where you're going, counsel, but let's move along."

Economy of word and time have been Swart's courtroom mantra since he took the Superior Court bench in 1983 with a campaign pledge to deliver "swift and sure justice."

The former deputy district attorney keeps a grueling calendar of mainly civil and probate matters but does his part as a member of the court's executive committee by hearing an occasional criminal case.

Plaintiffs' attorney Tom Girardi has tried several matters before Swart and concedes that his judicial temperament "is not exactly like Johnny Carson."

But Girardi cautioned that Swart's curt bench persona hides a "nice man" with a "phenomenal" talent for settling cases.

"He has an intuition about the value of cases that is uncanny," Girardi of Girardi & Keese in Los Angeles said. "He truly can get experienced lawyers before him and chip away a little at their theory, and the next thing you know cases get resolved."

Attorney Robert Baker felt so confident in Swart's abilities that he waived a jury in a medical malpractice case before the judge two years ago. Baker lost the case.

"But I still thought he was a terrific judge. The guy is straight down the middle," Baker of Baker, Keener & Nahra in Santa Monica said. "He is, in my view, one of the most respected judges."

The Pasadena Bar Association took the same view in 2001 by naming Swart its Judge of the Year.

Lawyers long have described Swart as intelligent and impartial. The San Marino native and former U.S. Navy Reserve commander made his mark as a criminal court judge by ruling fearlessly in difficult cases.

Several of Swart's rulings have been reviewed by the California Supreme Court, which has upheld him more often than not.

"[Making tough decisions] is what they pay you for," Swart said. "There are judges who are afraid to make a decision. I think it's better to make a decision and to be told by the appellate court that it's wrong than to hold up the judicial process."

During his days on the criminal bench, Swart sentenced to probation a man who gave his terminally ill uncle a fatal drug overdose, describing the case as "a true mercy killing."

Four months later, he handed down a prison term of 15 years to life for a 70-year-old

grandmother who said she fatally stabbed her husband in self-defense after enduring 48 years of physical abuse at his hands.

"Whether or not she is a battered woman is for the jury to decide, and the jury decided she wasn't," Swart said at the time. The judge said he imposed the prison term because letting the second-degree murder go unpunished would "invite anarchy" into society.

Some of his personal ties have led to controversy as well.

In 1985, Swart issued an order halting tabulation of absentee ballots in the cliffhanger U.S. Senate race between Democrat Dianne Feinstein and Republican Michael Huffington. A former GOP activist, Swart agreed to issue the order from his home on a Saturday at the request of Huffington's father and a lawyer for Republican Party activist Allen Brandstater.

At the time, Swart did not comment on the incident.

"It appeared to me that there had been a lot of people allegedly voting from one residence," Swart said recently.

In 1998, Swart was exonerated of any wrongdoing by the Commission on Judicial Performance for accompanying prominent plaintiffs' attorneys on a weeklong Mediterranean cruise the year before. Swart said he paid his own fare and that of his wife.

At 62, Swart is a stern man with a walrus mustache and the beefy build of an ex-football player, Swart is almost soft-spoken in court. From the bench, he projects the worried air of a man in a constant hurry.

During his first year on the bench, Swart reduced a backlog at the Pasadena courthouse by insisting on doing pretrial evaluations of his criminal cases. Swart ordered probation reports of defendants at arraignment instead of sentencing, then scheduled a hearing to inform the attorneys how he would sentence the defendants if they pleaded guilty.

The system, which often led to settlements, was widely adopted by his Pasadena colleagues.

Swart switched to a civil calendar in 1989. His favorite cases are medical malpractice cases because he professes to enjoy and learn from the expert witness testimony. His calendar also includes typical tort fare such as wrongful termination, product liability, "slip and fall" cases and auto accidents.

Swart enjoys trials - especially the interplay between skilled attorneys - but he insists on kicking off every case with a mandatory settlement conference.

"I take this very seriously, and I will sanction lawyers who don't," he said. "I pride myself on my ability to settle cases nobody else would settle."

A photograph of actress Elizabeth Taylor in Swart's chamber marks his most famous settlement. The actress and a former boyfriend sued each other over ownership of Taylor's signature perfume, *Passion*.

The former boyfriend also claimed the actress had given him the right to use her name in perpetuity. The witness to the contract was Taylor's two-time husband, Richard Burton.

Swart settled the acrimonious case during jury selection in December 1990, and he persuaded the parties to agree never to bring the matter to court again.

Part of his approach is to take a hands-on interest in each case - Swart rarely sends discovery matters to a referee - and to keep lines of communication open.

"I am always available to settle a case before they file paperwork," he said. "At a settlement conference, I will give an honest opinion about what the case is worth."

Swart said he will make every attempt to accommodate attorneys' schedules and that he expects the same in return.

"I want them to be well-prepared and to understand that we start on time," he said.

His goal is to run his courtroom "as efficiently as possible, giving both sides their day in court."

Lawyers who don't know their stuff in court can expect to be called to sidebar.

"I will not embarrass a lawyer in front of a jury. That's not fair to anyone," Swart said.

"[Swart] gets a little short with people who are not totally prepared," Baker said. "He doesn't suffer fools gladly."

In civil matters, Swart doesn't consider himself particularly sympathetic to plaintiffs or defendants, but probate is another matter.

"I take a strong view that it is the responsibility of the court that everything be done to protect

[the probatee's] interests," he said. "There are situations where family members take advantage of them."

Swart has spent most of his life in the San Gabriel Valley. Born and raised in San Marino by two teachers, he earned a math degree from Occidental College in 1961. He joined the U.S. Navy after college to learn about new missile technology but ended up as the legal officer on the first ship he was assigned to. His father was a naval officer in both world wars.

He reluctantly attended the naval justice school and graduated third in a class of 80. He became fascinated with the trial process while handling courts martial and decided to become a lawyer.

Swart spent his last 21/2 years in the Navy managing a missile production plant and attending Golden Gate University School of Law at night. Upon completing his navy stint and law school in 1967, Swart returned to Los Angeles to join the district attorney's office.

Nine years later, Swart made his first run for the bench in an unsuccessful challenge to Pasadena Municipal Court Judge John F. Hassler Jr.

An active Republican Party member and former president of the California Republican Assembly for Los Angeles, Swart held out little hope that Gov. Edmund "Jerry" Brown Jr. would appoint him to the bench.

He had better luck in his 1982 race for the seat of retiring Judge Arch Tuthill. He ran unopposed in 1988, 1994 and 2000.

In 1998, Swart lost a runoff to James Bascue to be presiding judge of the Los Angeles Superior Court.

A professed sports nut, Swart regularly indulges his passions for skiing, golfing and tennis, and he recently taught himself fly-fishing. He and his wife of 10 years, Caroline Kelley Swart, keep a house at Lake Arrowhead where the judge plies his antique canoe.

The couple have four grown children from previous marriages.

Things are changing in the San Gabriel Valley, and he's all in favor of it.

Swart is winding down his activities with local social organizations such as the Optimist Club, the University Club, the Pasadena Republican Club and the Pasadena Tournament of Roses Association. He still captains his golf team at the local country club and acts as president of Occidental College's alumni association, however.

"One of the things I like about my life is that I have friends of all different persuasions," Swart said. "Nobody's right and wrong, they all have their positions. As a judge, I've learned to listen to all sides."

**- GINA KEATING**

*This profile originally appeared in the Los Angeles Daily Journal on February 25, 2002.*

*(Note: A previous profile of Judge Coleman A. Swart, written by Rebecca Kuzins, appeared in the Daily Journal on July 26, 1988.*