

Judicial Profile

JUSTIN TORRES

Hon. Kurt D. Engelhardt U.S. District Judge, Eastern District of Louisiana

FOR HON. KURT D. ENGELHARDT, running marathons and judging share one common characteristic: both are primarily a mental game. “You can handle the physical part of a marathon. It’s the mental part of slowly building up your stamina” that counts, says Engelhardt. “In running, as in judging, faster isn’t necessarily better. There’s discipline in not wanting something too quickly.”

Engelhardt, a federal district judge for the Eastern District of Louisiana since 2001, knows what he’s talking about. A runner as a young man, he didn’t have time for the sport once he began practicing law in New Orleans in the late 1980s. Twenty years later, in the aftermath of Hurricane Katrina, he took up running again with a vengeance. Adopting a 20-week training program, he entered his first marathon—the Mardi Gras Marathon—in 2008. His second marathon took place this winter, and another is coming up in the spring. “Fifteen minutes into my first marathon, I knew I wanted to do it again,” says Engelhardt. “It’s addictive.”

A local boy who grew up in the eastern part of New Orleans, the path leading Judge Engelhardt toward the federal bench began at Louisiana State University, where he was a Double Tiger—a graduate of LSU undergraduate and law school. He entered law school because, he jokes, his father “told me, you like to argue, you should go be a lawyer.” More seriously, he explains that he came to the law through a love of history. “I was fascinated by the idea of the Constitution and how we govern ourselves through law.” After graduating from LSU in 1985, he clerked for two years for a state appellate judge, Charles Grisbaum, whom Judge Engelhardt credits with teaching him legal writing. “He was a no-frills guy. He liked bare bones facts, analysis, and a conclusion,” Judge Engelhardt recalls. “He worked on the KISS principle: keep it simple, stupid. I need what I need to decide the case and not anything else.”

After his clerkship, Judge Engelhardt joined a small civil litigation firm in New Orleans—a job that quickly gave him the chance to test his skills in the courtroom as lead counsel in a weeklong civil jury trial, at which one



Photo by K. Morgan Sasser.

of the largest firms in the city was representing the other side. “The learning curve on that one was straight up, let me tell you,” Engelhardt says with a smile. “I was successful in the limited sense that the settlement was on the low side of fair and the client was satisfied. But by the end of it I had lost so much weight my suits didn’t fit well.”

Nevertheless, the experience taught him the most valuable lesson of his 15-year career as a litigator working mostly in insurance defense and contract cases: the importance of extensive, meticulous preparation. “You win cases at your desk, by knowing the case better than your opponent does,” says Engelhardt. “I was hardly at the top of my class [in law school] but I was able to hold my own because I worked hard to consider each case on its own, from every angle.” His trial-by-fire experience also convinced him that law firms should do more to get young associates into court quickly. According to the judge, “until you have responsibility for something you won’t know how to do it. ... Firms pay big bucks to get the best academic records out there and then put these kids in the library. Let these young lawyers get in there and try cases.”

Since becoming a federal judge, Engelhardt has presided over some of the most high-profile cases in the district, including a suit the state filed against the

federal government to halt Gulf Coast oil leases without a more extensive environmental impact analysis as well as a 45-year-old desegregation case in Jefferson Parish, La. Along with the rest of the district judges in southeastern Louisiana, he also lived through the disruption of the court's operations in the aftermath of Hurricane Katrina. Engelhardt's own home was flooded, and he had to evacuate his office and move it to Baton Rouge. Congress would eventually pass emergency legislation allowing the Eastern District of Louisiana to sit outside of its territorial jurisdiction in the aftermath of the storm—the first time in American history a federal district court was given such latitude.

The devastation of the city and surrounding parishes caused a massive spike in cases filed in the Eastern District just as the court was trying to reopen chambers and reassemble its staff. From 2005 to 2006, the civil caseload of the Eastern District jumped 112 percent and another 58 percent the following year, temporarily giving the district the largest caseload of any district court in the country. More daunting than the skyrocketing caseload, however, were the real-world implications of the work.

"The decisions over things like policy exclusions in insurance contracts, concurrent cause clauses—the decisions were so far reaching," recalls Judge Engelhardt. "Every judge knew that the decisions would have enormous impact on people's lives and their ability to rebuild. It was very humbling." One small bright spot to emerge as a result of Katrina, says the judge, was the increased cooperation among the diaspora of attorneys, witnesses, and defendants from New Orleans. "We had lawyers copying their files for opposing counsel, because whole offices were destroyed. Cooperation became the mindset." The court also enacted a far-reaching disaster response plan that Judge Engelhardt hopes will become a model for other courts.

Katrina also gave rise to Judge Engelhardt's most prominent case—a mass joinder action in which hundreds of plaintiffs sued the manufacturers of trailers that FEMA has provided to residents of the Gulf Coast after the hurricane. The plaintiffs alleged that the ubiq-

uitous white trailers caused widespread exposure to formaldehyde, which is an irritant and carcinogen. After months of discovery and motion practice—including a far-reaching ruling denying the government's motion to be removed from the case on sovereign immunity grounds—Judge Engelhardt presided over the first of several bellwether trials in September 2009, which resulted in a judgment of no liability against the defendants.

As a judge, Engelhardt says that his greatest frustration is the occasional paucity of reliable facts provided by attorneys. "Whether in motion practice or in trial, attorneys control the flow of facts to the court. Oftentimes, we rule and attorneys come back to say, wait, those aren't the facts! Well, we only know what you tell us." Especially in the cases related to Hurricane Katrina, Judge Engelhardt believed that it was important that "people feel like they've been heard, that they had their day in court and someone listened to them." Ensuring that all relevant and reliable facts come forward, he says, helps litigants "have confidence that the case wasn't decided on [some issue] unknown to them."

Running remains Judge Engelhardt's curative for the pressures of judging as well as his connection to a world outside the law. He often runs with a local club, with dozens of members from all walks of life ranging from their teens to their 70s. Among this group, he's just one more runner—not a judge who needs to be convinced, cajoled, or kissed up to. "The people that I run with, some know I'm a judge and some don't, and none of them care. I'm just another runner to them," he says. "We're all just trying to make our miles." **TFL**

Justin Torres previously clerked for Judge Engelhardt. He now clerks for Judge Edith Brown Clement on the Fifth Circuit Court of Appeals.