

Judicial Profile

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Hon. Andrew J. Guilford U.S. District Judge, Central District of California

MASTER LEGAL STYLIST Bryan Garner closes one of his books on advocacy with the advice that to become a better writer one must become a better person. With that guidance in mind, consider the character of the federal jurist who began an opinion denying a motion to transfer venue in a criminal case with this graceful prose:

The essence of American culture lies in our founding documents. A principal feature of those documents is that when the government, with its immense power, accuses a person of a crime, that person is presumed innocent until proven guilty in a trial before an unbiased jury. These principles are not mere platitudes taught to school children, but are central to our nation's commitment to the protection of individual liberty. Including such concepts in the opening of this Order may seem unnecessarily obvious and sentimental. But sadly, it is not. For in this case some have disgraced our collective American heritage by actively seeking to deny the Defendants their right to a fair trial by an unbiased jury. This has been done by some seeking the money that comes with fame, and sponsored by others seeking profit. The conduct includes encouraging citizens to lie under oath in one of our country's courts. These selfish acts dishonor not only our country, but those who have made great sacrifices to preserve the freedoms and rights that define who we are as a people.

But the Court finds that the advocates of such lawlessness are not nearly as important as they pretend, and their listeners are not the gullible audience they suppose. The Court will not overreact to bait offered by largely satirical commentators. Cynicism will not prevail, and the Court is confident that the population of Orange County will produce twelve jurors who will embrace their obligation as citizens of this country to provide the Defendants with a trial before an unbiased jury.



In those two elegant paragraphs, free of legalese or citation to authority, the reader—any reader, lawyer or layperson, sophisticated or not—is able to understand the dispute's core, the hinge legal issue, and its resolution. The writer's framing of the issues and word choice convey a lot about the writer, too. That principle is important, and ethics matter. That optimism will beat cynicism. That service and sacrifice should be honored. That merit should trump notoriety. That the force of an idea should not have to trip over the size of the words used to convey it. As Winston Churchill, one of the heroes of U.S. District Judge Andrew J. Guilford of the Central District of California, once counseled, "Short words are best."

One sees these and other traits manifest in Judge Guilford's opinions and also in his life. The son of a school bus driver and mechanic father and a housewife and part-time bookkeeper mother, he was the first lawyer (and is now the first judge) in his family. He says that he "stumbled into law not really knowing what a lawyer does," recounting that he had intended to be a teacher, before a teacher dissuaded him, and an economics professor, until an economics professor dissuaded him from that choice, too. But there is clearly too large a measure of self-deprecation in that description. Judge Guilford graduated summa cum laude from UCLA and from its law school in 1975, where

he also served on the law review and as an extern for California Court of Appeal Justice Lester Roth.

Even that auspicious academic career could not have signaled the legal career Judge Guilford has had since then, even before taking the bench. One of California's leading legal newspapers selected him as one of California's Top 100 Attorneys—not once, but in five different years. The Supreme Court of California appointed him to its Advisory Task Force on Multi-Jurisdictional Practice. Judge Guilford served as president of the California State Bar Association at a critical time during its existence—soon after California's governor vetoed a funding bill and the bar's very existence was threatened. The American College of Trial Lawyers elected Judge Guilford as a Fellow, and several organizations, including the Judicial Council, the Anti-Defamation League, and the Poverty Law Center, have honored him with a variety of awards across the span of his private practice career. The list goes on.

All of that considerable public service was performed while simultaneously having a demanding day job, as it were: being one of the best trial lawyers in California at one of the state's leading law firms. When one looks back at the cases Judge Guilford handled as lead trial counsel, one is struck by the variety of technical, business, and legal disciplines they spanned. Constitutional claims, contract claims, tort claims, intellectual property claims: While a lawyer, Judge Guilford handled these and more, in an era in which most lawyers of that stature specialized. To those who know him, that comes as no surprise. One of the first descriptions that the judge's lawyer friends use when asked about him is "intellectually curious," and the judge confirms that trait. "That's one of the aspects of law that I've always enjoyed the most," says the judge. "The ability to learn about a variety of things, whether that's an area of law, business, or policy, and to interact with people from so many walks of life." Serving as a district judge has allowed him to continue to pursue that intellectual curiosity. "District courts resolve, at least in the first instance, an incredible variety of disputes," notes the judge, and he "really enjoy[s] the interchange with counsel during oral arguments or trials" across the broad array of subject matter that come within a district court's jurisdiction.

When asked about being a generalist in an era of specialists, Judge Guilford again self-deprecates. "I was lucky. When I started practicing, I had great mentors who taught me about matters that are core to lawyering. The importance of professionalism. Classic, time-tested techniques for great advocacy. The value of reducing—no, not just the value, but the need to reduce—the needlessly complex to the compelling simple. I was able to work on my skills in those areas across a variety of cases relatively early in my career," he says. By the time that firms started the now-firmly-entrenched move to specialization, "I tried to be a trial lawyer and an advocate. So that was my

specialization." He is concerned that, given the pressures in the legal market and other factors, opportunities for honing the craft of advocacy are being lost.

But not with his law clerks while working in his chambers. In talking with former clerks, the amount of time Judge Guilford invested in helping them become better lawyers becomes immediately clear. Christy Von der Ahe, now in private practice at a noted California-based firm, recounts that "[a]fter oral arguments or trial, the judge would always take time to tell us what the lawyers did well and what they didn't, and why approaches worked or didn't. And he let us participate in his post-trial jury debriefings. I learned a lot during those sessions." She also reports that Judge Guilford "is a very picky writer." One of the "central lessons I learned from him is to boil things down to the essential." She recalls that he had a practice of charging his clerks a dollar (that he never collected) for every word that he could delete from a draft opinion without changing the meaning. "It was a strong lesson. I certainly was in debt more in the early weeks of my clerkship than at the end," she says with a laugh. Joseph Wilbert, now in private practice at one of the most exclusive firms in the country, echoes his colleague. "Judge Guilford emphasized excellence—getting the right answer and investing the time and effort to do that," he recalls. "Cases in the Central District, particularly high-stakes commercial cases, often involve issues where there is no clear precedent. You're navigating uncharted territory. The judge really taught us how to analyze hard legal issues. For example, he'd give us hypotheticals—if a fact were different, how would that affect the analysis? What's the endpoint of an argument? Learning from such a thoughtful judge is great training early in a career," he observes. Not that it was all work and no play. Judge Guilford often had weekly basketball or tennis games with his clerks at local courts. "He still has a mean jump shot," Wilbert notes a bit ruefully.

Judge Guilford is keenly aware that published opinions of the district court also become, as he puts it, "part of the common law" on which future courts and lawyers will rely. But he often writes for a broader audience. For example, in a criminal case he may also write with the defendant and his family in mind, so that the defendant can understand why he was sentenced, even if he does not understand the nuances of the U.S. Criminal Code. Judge Guilford recounts an instance in which he received a letter from a relative of a person he had sentenced. The letter drives home the point that a criminal sentence sends ripples that directly affect more people than the defendant and victims of a crime. In all his writing, Judge Guilford tries to "respect the time of the audience."

That's a lesson—respect the time of the audience—that he advises trial lawyers and advocates to heed more closely. Reflecting on the different vantage points that lawyers and judges have during a trial, he thought-

fully notes that “the perspective the bench provides is interesting, because it really allows you to see when lawyers are connecting with the jury and when they’re not.” Expanding the point, he explains that “lawyers have to be listening closely to the response to the last question, while thinking what question to ask next, what questions not to ask—many different things not needing the judge’s focus.” Because of those roles and perspectives, “judges can be in a perhaps better position to see whether the lawyer is persuading the jury.” In particular, he counsels that “lawyers should pay more attention to that. In a jury trial, except for motions directed to me, jurors are the decision-makers. They’re the ones you need to persuade.” He concludes forcefully that lawyers should “pay more attention to whether you’re doing so. And you won’t persuade them if you’re not respecting their time.”

Are there other suggestions that Judge Guilford would make to advocates? “Don’t be fooled by the term ‘oral argument,’” he says. “The best ‘arguments’ I’ve experienced while a district judge are those where the advocates approach the issues non-confrontationally, both with me and with each other. Where the tone is more conversational and the exchange is more like a debate than an argument. I know the advocates are trying to win. But I’m trying to get to the right answer. If you help me to do that, you’re more likely to win.” And, above all, “be candid and honest. If you don’t know an answer, tell me—and tell me when you’ll have it. And if you need to back away from something you said in the brief, it’s better to tell me in the oral argument rather than have me draw an adverse conclusion about whether I can trust what you’ve written.”

Judge Guilford has also served on appellate courts, sitting by designation on both the Ninth Circuit and the Federal Circuit. As a lifelong trial lawyer and now a trial judge, how did he find that experience? “Really enjoyable. The care that the appellate judges took in fine-tuning their opinions was impressive.” At or following one of his district court oral argument calendars, the judge notes he will issue “five to fifteen opinions of five to fifteen pages in length.” With that sort of workload and those sorts of deadlines, “there is a limit to how much fine-tuning any district judge can perform. It’s probably too strong to say that there is a luxury of time at the appeals court,” he says. “But there is certainly more time to think about particular word choices in writing an opinion at an appellate court. That is a benefit. And, of course, you have colleagues who are responding to your work, by editing it or joining it or,” he notes wryly, “writing a separate opinion telling you why you are wrong.”

Judge Guilford’s intellectual curiosity also manifests outside of the practice of law and judging, as a visit to his chambers attests. Busts and pictures of one of his heroes, Winston Churchill, are on display, as is a statue of another hero, Don Quixote. Vivid, arresting photographs of places and people that the judge took during a trip to India catch the eye immediately. (He once said

that he “can measure the quality of my life by the time I can devote to my [photography].”) An autographed picture of Buzz Aldrin, who was part of the first manned lunar landing in history, rests near a picture of the judge with former Los Angeles Dodger Maury Wills, whose campaign for the Hall of Fame Judge Guilford has aided in, among other things, a commentary that borrows from the Gettysburg Address. (The judge describes *Don Quixote* as one of the best books he’s ever read, but emphatically disclaims any connection between that book and his effort to get Wills into the Baseball Hall of Fame.) A parting gift from a law clerk and a present from his daughter, with a common theme, provide what is perhaps a bit of a surprise: the judge’s enthusiasm for the music of The Rolling Stones. The former takes the form of cover art from *Bridges to Babylon* signed by Mick Jagger and Keith Richards; the latter, a drawing of Jagger. And his obviously deep love for and pride in his family is much in evidence. Pictures of his wife, Loreen, and two daughters appear in several places in chambers.

Judge Guilford became a judge at the height of his private practice career and at a time when big-firm partners make multiples of what a district judge makes—indeed, when starting associates at certain firms can make more than a sitting district judge. Does he think, like many commentators, that the compensation disparity between district judges and lawyers of his stature in private practice is causing some not to apply to the bench? Perhaps an indelicate question, but he answers it with the diplomacy that likely served him well when, for example, leading the California State Bar Association. “It’s basic economics that higher pay correlates to a larger pool of applicants,” he notes. “But there are many non-monetary aspects of judging that are important and rewarding. It’s also important that lawyers not lose touch with society. Maybe the relevant comparison isn’t to big-firm lawyers but to society in general. Maybe from that perspective judicial pay looks different.”

Which calls to mind another quote from the judge’s hero, Winston Churchill. “We make a living by what we get, but we make a life by what we give.” Lawyer Andrew Guilford’s career was characterized and defined by leadership and his long service to the people of California. Judge Andrew Guilford’s judicial career makes sure that service will be remembered, valued, and continued through his teachings for many years. **TFL**

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