

Newsmaker | Terence Cassidy

WHO IS HE?

Attorney, partner, Porter Scott Attorneys

THE ESSENTIALS

Age: 52

Born in San Francisco, raised in Millbrae; lives now in Carmichael with wife Elise, who recently retired after teaching history at Loretto High School. They have four children: Kevin, 27; Cara, 25; Brian, 22; and Erin, 20
Education: B.A., Santa Clara University; J.D., McGeorge School of Law

HIS FAVORITE THINGS

- **Book:** "Trinity" by Leon Uris
- **Movie:** "The Godfather"
- **Restaurant:** Vinoteca
- **Vacation spot:** Packer Lake in the Sierra
- **Music:** Rolling Stones
- **Hobbies:** Fishing, travel, music, sports
- **Quote:** "The young man knows the rules, but the old man knows the exceptions."
Oliver Wendell Holmes
- **Hero:** Teddy Roosevelt
- **Pet peeve:** People who litter

WHAT WOULD YOUR FRIENDS BE SURPRISED TO FIND OUT ABOUT YOU?

Well, maybe that I think our society is too litigious. There are a number of lawsuits involving disputes between neighbors that clog the court system. The parties should sit down and work things out. That contention might not increase my popularity among trial attorneys, but I think many would agree with me. I believe many of these disputes could be resolved by a mediator who gives both sides an opportunity to have their day in court without actually being in court.

BOB SCHMIDT | CORRESPONDENT

Terence Cassidy is a trial attorney, a litigator. He never ever thought he would be anything else.

"Early on I was intrigued by the old 'Perry Mason' television show, and I really took to his ability to investigate, analyze and then make a courtroom presentation," Cassidy said.

Cassidy doesn't spend all his time in Sacramento courtrooms. Twice he has appeared before the U.S. Supreme Court.

In his most recent appearance, in 2004, he represented the Elk Grove Unified School District as it appealed a decision by the 9th Circuit Court of Appeals, which had held that it was a violation of the establishment clause of the U.S. Constitution for public school teachers to lead students in the Pledge of Allegiance with the phrase "under God."

The lawsuit had been brought by Michael Newdow on behalf of his third-grade daughter. Cassidy argued that Newdow had no standing to bring the suit because he did not have legal custody of his daughter. The Supreme Court unanimously agreed and overturned the decision, but did not address the constitutional question raised by the lawsuit.

"Presently pending is Newdow's latest challenge to the pledge, this time involving the Rio Linda Joint Union School District.

"Hopefully this issue will be resolved once and for all in favor of the pledge as it is currently worded because we were able to cite a 4th Circuit Court ruling in Virginia that allows the pledge so long as kids can opt out of reciting it."

How do you prepare for an appearance before the U.S. Supreme Court?

Carefully. Part of what you do is engage in moot courts with various counsel in the areas in which you're going to argue and fine-tune your opening remarks. You fine-tune the responses to questions you anticipate receiving. You also attend a number of Supreme Court hearings to try to get a feel for the justices and achieve a comfort level for the appearance you're going to be making.

What I learned from watching the court is that often, after the opening remarks by an attorney, there's a period of 40 to 75 seconds, and then (former) Justice Sandra Day O'Connor would clear her throat and say "Counsel ..." and then you were off and running.

Sometimes she clears her throat while a statement is being made. What you hoped to do was complete as much of your statement as possible before Justice O'Connor cleared her throat and asked a question. I found that to be a pattern for her, and it occurred in both of the cases in which I appeared before the court.

Did your knees shake when you argued those cases before the court?

No, but I imagine my

heart was beating faster than usual. It was more an excited anticipation. I knew I had prepared carefully, and that gives you confidence. It helped that I had clerked for California Supreme Court Justice William Clark, and that experience, plus my preparation ... gave me a certain comfort level.

Why did you become a trial attorney rather than an attorney focusing on business or taxes?

There are lawyers who deal with what we call "transactional work," and there are lawyers who are litigators. Our office does some transactional work, but, primarily, we are litigators. We prepare cases as though they're going to go to trial and oftentimes present them at trial.

For me, working in litigation, particularly in the civil rights arena, is very intellectually challenging. We're not only looking at different factual scenarios in every case, we also have to keep a keen eye on the evolving case law that may apply to our cases.

Most litigators find that they are spending less time in the courtroom than they used to. A greater number of cases now rely on alternative dispute resolution by arbitration and mediation using retired judges. I think that's good for the system.

