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Arden Carmichael Section

By Edgar Sanchez Bee Staff Writer

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“Attorney is living a dream”

He argued pledge case before Supreme Court

Sacramento attorney **Terence J. Cassidy** has waged legal battles before Sacramento juries and all the way up to the ultimate judicial body, the U.S. Supreme Court.

Twenty-six years into his career, the Carmichael resident, a specialist in federal litigation with emphasis on representing government entities in civil rights cases, recently said he is living a dream.

“As long as I can remember, I wanted to be an attorney,” **Cassidy**, 51, said in his Sacramento office.

Cassidy, best known for urging the U.S. Supreme Court to keep, “under God” in the Pledge of Allegiance, was recently named “Santa Clara of the Year” by the Sacramento Chapter of the Santa Clara University Alumni Association.

The 1977 graduate of Santa Clara University was honored for his service to California’s capital and to his alma mater.

“**Terry** has already made his mark on the legal profession...in such a huge way,” said Paul Wagstaffe, a fellow attorney and association member. “We are proud of him.”

According to Wagstaffe, **Cassidy** also was recognized for his work in the court case Elk Grove Unified School District v. Newdow.

Michael Newdow, a Sacramento atheist and lawyer, sued the school district in 2000, claiming the Pledge of Allegiance recited by students each morning was unconstitutional because it contains the words “under God.”

In 2002, the 9th U.S. Circuit Court of Appeals agreed with Newdow, finding it was unconstitutional for Congress to add “under God” to the pledge in 1954.

The Porter Scott Law Firm, in which **Cassidy** is a partner, represented the district in fighting Newdow’s suit, although **Cassidy** didn’t join the fray until the case reached the 9th Circuit. **Cassidy** assumed a bigger role as the matter headed to the U.S. Supreme Court.

On the morning of March 24, 2004, **Cassidy** and his partner, **Michael Pott**, awoke early for the final hearing. “I felt we were very well-prepared – but there’s always a sense of anticipation, not knowing exactly what questions the justices will ask,” **Cassidy** said.

That morning, the justices listened for 10 minutes as **Cassidy** attacked Newdow's complaint as having no merit. Then-Solicitor General Theodore Olson, representing the United States, argued for 15 minutes in support of the school district.

Cassidy then provided five minutes of rebuttal to Newdow's arguments. "The crux was whether the Supreme Court would uphold the acknowledgment of religion as being part of this nation's historical tradition," **Cassidy** said.

In the end, the Supreme Court sidestepped the constitutional issue, finding instead that Newdow had no standing as a plaintiff because he didn't have primary custody of his daughter, who at the time attended an Elk Grove public school. His daughter lived with her mother.

"I am very proud of our appearance before the Supreme Court," **Cassidy** said. "I was given an extremely unique opportunity, perhaps a once-in-a-lifetime (chance) to represent God and my country."

Cassidy also appeared before the Supreme Court in 1997 in another epic dispute. In that case, **Cassidy** addressed the court for 30 minutes, arguing that Sacramento County Sheriff's Deputy James Smith was not liable in connection with a high-speed chase that ended in the death of 16-year-old Philip Lewis.

In May 1990, Lewis was riding on the back of a speeding motorcycle driven by a friend, Brian Willard, in Orangevale. The pair came upon two sheriff's deputies, one of whom ordered them to stop. When one deputy gave chase, Willard accelerated, reaching speeds of 100 mph.

The pursuit ended when Willard lost control of the cycle, causing Lewis to be thrown to the ground. Lewis was run over by Smith, who slammed on his brakes but could not avoid hitting him.

Lewis' parents sued the deputy and the county, but the Supreme Court ruled that neither could be held responsible for the death because the deputy's conduct was unintentional and he did not act maliciously.

Cassidy, who is Catholic, said he was "quite surprised" to be named Santa Clara of the year. He received his law degree from McGeorge School of Law in 1981, four years after he earned a bachelor's degree in history from Santa Clara.

He and his wife of 27 years, Elisse Cassidy, a teacher at Loretto High School, have four grown children.

Newdow is still seeking to remove "under God" from the Pledge of Allegiance. He has filed a new suit challenging the daily recital of the pledge in the Rio Linda Union School District.

He filed the complaint on behalf of parents in that district, which **Cassidy** represents.

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