

An Interview with the Honorable John Michael Vazquez, United States District Judge for the District of New Jersey

by Maureen T. Coghlan

The Honorable John Michael Vazquez received his commission to serve as a United States district judge for the District of New Jersey on Jan. 29, 2016. Judge Vazquez ascended to the federal bench after spending his entire law career in New Jersey, serving as an assistant United States attorney in the district, as the first assistant in the Office of the Attorney General, and as a partner in private practice. As Judge Vazquez approaches the close of his first year on the bench, he graciously sat down to share his personal experience and sound advice for the attorneys appearing in his courtroom.

Q: Where did you grow up?

I was born in Honolulu, Hawaii, but moved to New Jersey after a few months. The majority of my childhood was spent in Wharton, a town in Morris County. I am the oldest of three brothers.

Q: What inspired you to become a lawyer?

I cannot point to one moment that inspired me to practice law. Instead, my own personal interests, along with several events, influenced my decision to become an attorney. For example, while attending Rutgers College I had several professors who had a significant impact on my future career decision. In short, they inspired critical thinking and analysis on difficult topics.

Q: Did you enjoy law school?

I was fortunate to attend Seton Hall University School of Law and have many fond memories of my time there. The administration, professors, and my classmates were wonderful. I gained tremendous legal knowledge and was well prepared for the bar exam. Seton Hall is a critical player in the New Jersey legal community.

That being said, I also found law school to be a significant challenge. In addition to the course work and the anxiety that is innate to law school, I was the first in my family to attempt a career in the legal profession. I found that law students who had family in practice also had a better perspective from the outset.

Q: Do you have a person or mentor whom you credit with helping you with your career?

I have been incredibly fortunate to have several mentors and colleagues who have played significant roles in my career. In law school, professors Angela Carmella, John Wefing, John Cornwell, and Lori Nessel stood out. I then clerked for the Honorable Herman D. Michels, P.J.A.D., who was an ideal role model for any jurist. Thereafter, I worked with Stuart Rabner (now chief justice) and Anne Milgram (then attorney general), both of whom were incredibly gifted attorneys but even better people. Finally, my former partner, Michael Critchley, instilled in me the importance of meticulous preparation and the necessity of sound judgment.

Q: What do you count among your most notable life events or proudest professional achievements?

My most notable life events center on my family. My wife and I are parents to two wonderful teenage daughters. In addition, I have a large number of nieces and nephews. Spending time with my family, whether it be during a formal event or a casual get together, is my favorite activity.

From a professional standpoint, the day that I was sworn in as a judge was second to none. As a practicing attorney, there are several trials that come to mind. Overall, I most appreciate earning the professional respect of those whom I admire.

Q: What advice would you give to lawyers appearing before you for the first time?

Preparation is a must, but it is only the starting point. Preparation must always be guided by good judgment and sound advocacy. Also, attorneys develop reputations, for better or worse. All counsel should aspire to have the reputation of your word being your bond and your representations being unassailable.

When trying a case, counsel should always be considerate of the jury. This sounds obvious, but some counsel approach trials with a sense that the jury is fortunate to be in the presence of the lawyer. The jury, however, has the last word. For example, if counsel anticipates a detailed evidentiary issue, it should be raised through an *in limine* motion. If the issue must be dealt with during trial, then counsel should notify the court so that the matter can be addressed either before or after the trial day so that the jury is not kept needlessly waiting.

Q: What would you caution a lawyer practicing before you not to do?

I would caution lawyers not to merely parrot their written submissions. Doing so makes oral argument superfluous. I work hard to prepare for argument, and I generally have specific questions that I want the attorneys to address. At the same time, I usually give all counsel time at the end of argument to raise any additional issues that they wish.

Q: How would you describe your ideal brief?

Concise, interesting, and persuasive; do not cite 10 cases when one will do. I have found that the best attorneys do not waste their time on issues that are extraneous or on which the facts/law are not in their favor. Conversely, other counsel tend to argue every point regardless of the merits. This unfortunately subtracts from any viable argument that they may have.

Q: Under what circumstances would you accept an informal letter brief?

The circumstances depend on the issue being addressed. For example, if the attorneys are in the midst of trial and desire to address an evidentiary point, a short and informal letter is not only permitted but preferable. Similarly, if I request supplemental briefing following oral argument, an informal letter brief is welcome. Also, as a former practicing attorney, I understand the demands of an active practice. As a result, if

an unforeseen event occurs (either personally or professionally), I will give counsel leeway.

Q: Are you amenable to telephone conferences in lieu of formal in-court hearings?

I am, depending on the circumstances. If the proceeding is an argument on a substantive motion, then I will insist that counsel appear in person. However, if counsel want to review a minor point or scheduling issue, I am happy to do so by phone.

Q: How do you prefer to receive communications to the court?

Given the size of our dockets in the district, I prefer written communications filed through ECF/Pacer. This preference reflects the reality of managing a large docket. It also ensures a complete and accurate record.

Q: What factors do you consider when weighing whether to grant permission to file a sur-reply?

As a general rule, sur-replies are disfavored. In deciding whether to grant permission, I consider whether the original movant unexpectedly raised a new issue in her reply brief. In other words, I review whether the opposing attorney had a fair opportunity to address the issue and whether she could have reasonably anticipated the issue.

Q: What do you think are the most important attributes of a successful federal practitioner?

The most important attribute is sound judgment, because it is from such judgment that all other case decisions flow. In addition, attorneys must have a firm command of the law and facts. I find that the best advocates are able to synthesize issues, while marrying the law and the facts, and anticipate how their adversaries will respond. Moreover, top attorneys are equally comfortable arguing a complex area of law to the court as they are communicating with a jury. As far as demeanor, civility and a good sense of humor can be valuable tools for any federal practitioner.

Q: What common mistake(s) do you see practitioners make and what remedies would you suggest?

One error is the failure to concede obvious points. This error can infect oral argument and trial. At oral argument, counsel have limited time and need to focus on legitimate points of contention. At trial, fighting over a records custodian when not necessary is counterproductive.

Slight repetition, either before a court or jury, is understandable. Needless repetition, however, is counterproductive.

In certain cases, the most knowledgeable attorney is not the one arguing. Certain lead counsel refuse to defer to other attorneys when doing so would bring clarity and avoid delay. The best lead counsel, in my view, are those who are willing to let the appropriate attorney address an issue. For example, if the court has a specific question about a factual detail, I am always impressed when lead counsel indicates that she will let her partner or associate address the matter because he is most familiar with the issue.

Finally, a common error is raising an inordinate amount of issues. This communicates to the court that counsel has not really thought through her case and is instead relying on the court to sort it out. Being an effective advocate requires both judgment and courage—judgment to know what issues are critical and courage not to raise unnecessary issues.

Q: How would you recommend that an attorney proceed if he or she thinks oral argument would be helpful to the court?

First off, request oral argument. My practice is to generally grant argument if counsel requests it. However, before requesting such argument, be sure that such argument is going to materially add to your written submissions. In fact, counsel should state her reasons for requesting such argument. This exercise will force counsel to think about why oral argument is necessary and will also give the court an idea as to why oral argument may be prudent.

Q: What is your preferred procedure for receiving notification of an application for emergency relief? For example, should a practitioner file an emergent motion as well as contact your chambers to provide notice that a party is seeking emergent relief?

Counsel should first file the application with the clerk's office. The clerk will docket the matter and inform counsel to whom the matter is assigned. Counsel should also bring additional copies for the court, and the clerk's office will immediately deliver the additional copies to the court.

Before filing any application for emergent relief, counsel should review the Federal Rules of Civil Procedure as well as the local rules. One common error is

failing to inform the opposing party of the filing when an *ex parte* submission is not permitted under the law.

Q: How would you describe the process of becoming a federal judge?

The process takes time, and also requires a lot of work by the candidate. Any candidate must be prepared to track down and confirm every aspect of her entire legal career and, for the most part, her adult life. For example, if you have ever spoken at an event, you must provide copies of the event (if available) and any remarks that you made. The process is also memorable; testifying before the Senate Judiciary Committee with your family in attendance is a remarkable experience.

The process itself is actually two-fold. The first step is acquiring the proper experience so that you are qualified for the position. I do not think that anyone can plan on becoming a federal judge; there are too many variables beyond the control of a candidate. That being said, an attorney can certainly prepare herself so that if the opportunity arises, she is well qualified.

The second step is the actual nomination process. Within this aspect, there are factors that are within the candidate's control and those that are not. The key is focusing on matters within your control, such as preparing your Senate Judiciary questionnaire and preparing for the committee's questions. The other aspects, such as the dates of your hearing and of your vote, are out of your control. The senators are extremely helpful in this regard. I think that it is very important to respect the advice and consent process, not only because it is constitutionally required but also because that is the sphere in which the Senate operates on a daily basis.

Q: Is being a judge what you thought it would be?

It is far better than I had imagined. I knew that there were areas in which I did not have experience, such as class action matters. However, I have also learned of several areas of which I was not aware, such as a Hague Convention case regarding whether a child should stay in the United States or be returned to his birth country. The breadth of matters that we handle on a daily basis—from civil to criminal to certain appeals—makes the job incredibly interesting and challenging.

Q: What do you find most challenging about being a judge?

I find federal sentencing to be the biggest challenge. Based upon my determination, another person can be spending a great deal of time incarcerated. While this is an awesome responsibility, it is also essential to our justice system. I strive to ensure that a sentence is just.

Q: What do you find most rewarding about being a judge?

There are many aspects of the job that are rewarding. I am fortunate to work with terrific magistrate judges and district judges. I have interesting cases and get to watch talented attorneys ply their craft. I see litigants whose lives are impacted, sometimes to a large degree, by the outcome of cases before me.

My overarching goal as a judge is to ensure that all who appear before me are treated fairly. The greatest compliment that I could receive as a judge is if the attorneys and litigants before me agree that, win or lose, they got a fair shake and were heard. ■