

SIMS, Richard “Rick” Maury III

ASSOCIATE JUSTICE, COURT OF APPEAL, Third Appellate District

Appointment/Election: Appointed [succeeding Associate Justice Cruz Reynoso, elevated] by Governor Brown Jr. Dec. 1, 1982, confirmed by Commission on Judicial Appointments Dec. 29, 1982, oath same day, confirmed by electorate to 4-year term Nov. 4, 1986, to 12-year term Nov. 6, 1990, and to another 12-year term Nov. 5, 2002.

Other Judicial Office: Judge, Superior Court, Placer County, May 1, 1980 (date of oath) to Dec. 29, 1982, appointed to newly-created position Feb. 19, 1980 by Governor Brown Jr., and elected in 1982.

Past Employment: Private law practice, San Francisco, Calif., 1972-80 (partner, 1978-80, and associate, 1973-78, Thelen, Marrin, Johnson & Bridges; and partner, Penrod, Himelstein, Savinar & Sims, 1972-73). General Counsel, Sheriff’s Dept., City & County of San Francisco, 1972-73. Assistant Executive Director, San Francisco Committee on Crime, 1970-72. VISTA Volunteer Attorney, U.S. Government, San Francisco, 1968-70 (served with San Francisco Neighborhood Legal Assistance Foundation).

Memberships/Awards: Member: Calif. Judges Assn., 1980—; Calif. State-Federal Judicial Council, 1999-2001; and Rotary International, 1980-85 and 1991-2001. Former member: CJER Governing Committee, 1990-91 (Vice Chair, 1991); Cow County Judges Assn., 1980-82; Board of Directors, San Francisco Bar Assn., 1979-80; and Board of Directors, Walden House, Inc. (nonprofit drug abuse treatment facility), 1973-79. President, San Francisco Barristers Club, 1975-76.

Teaching/Lectures/Panelist: Faculty (CJA): “Advanced Summary Judgment,” 2006; Faculty (CJER): Cow County Judges Assn., 2002; Appellate Research Attorneys Institute, 1998, 2002, 2003, 2006 and 2007; Civil Law and Procedure Institute, 1987; New Appellate Research Attorneys Orientation Program, 1987; The Modern Criminal Jury Trial, 1987; New Appellate Court Judges Institute, 1986; Calif. Continuing Judicial Studies Program (CJSP) (Mid-Career Judges College), 1986 (Criminal Trials); Civil Law & Procedure Institute, 1985; and Criminal Law and Procedure Institute, 1985. Participant: The Rutter Group program, Update Civil Procedure, 1992, 1991, 1990, and 1987 (panelist, Civil Procedure); and CEB programs, Evidence for the Business Lawyer (panelist), Disposing of Litigation Prior to Trial (panelist), and Legal Writing (panelist). Adjunct Professor of Law, Univ. of San Francisco School of Law, San Francisco, 1972-75.

Publications: Author: “Defense Motions for Summary Judgment” (2007); “On Pomp, Ceremony, and Civilized War,” The Brief/Case (Dec. 1980); and “Consequences of Depositing Separate Property in Joint Bank Accounts,” 54 State BJ 452 (1979).

Noteworthy Cases: Significant decisions authored by Justice Sims include: *Morgan Creek Residential v. Kemp* (2007) 153 Cal.Supp.4th 675 (explaining legal relationship of holder of letter of credit); *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26 (establishing requirements for judicial notice of legislative history materials); *Bagatti v. Department of Rehabilitation* (2002) 97 Cal.App.4th 344 (holding rights of disabled under Calif. Fair Employment and Housing Act are broader than under Federal American with Disabilities Act); *Board of Administration v. Wilson* (1997) 52 Cal.App.4th 1109 (holding administration could not withhold contributions due to Public Employees’ Retirement System); *Bagatti v. Department of Rehabilitation* (2002) 97 Cal.App.4th 344 (holding rights of disabled under Calif. Fair Employment and Housing Act are broader than under Federal Americans With Disabilities Act); *Davis v. Gaschler*, (1992) 11 Cal.App.4th 1392 (holding doctrine of reasonable implied assumption of the risk did not prohibit plaintiff from suing for dog bite); *McGarity v. Dept. of Transportation*, (1992) 8 Cal.App.4th 677 (holding expert could not testify about crash test when expert had not reviewed the report in preparing the expert’s opinion); *Brock v. First South Savings Assn.*, (1992) 8 Cal.App.4th 661 (holding lien of purchase money deed of trust takes priority over unrecorded vendor’s lien); *Childers v. Shasta Livestock Auction Yard, Inc.*, (1987) 190 Cal.App.3d 792, 235 Cal.Rptr. 641 (holding employer remains liable for injury caused by employee’s consumption of alcohol within scope of employment despite enactment of Civil Code § 1714 and Business & Professions Code § 15602); *Pierce v. Pacific Gas & Electric Co.*, (1985) 166 Cal.App.3d 68, 212 Cal.Rptr. 283 (holding consumer, who was injured when mechanical failure in electric utility transformer sent 7,000 volts, instead of expected 220 volts, into her home, may sue electric utility for strict liability in tort).

Education: J.D. (June 1968), Harvard Univ. Law School, Cambridge, Mass. (senior class President); B.A. (June 1965, cum laude), Amherst College, Amherst, Mass.; Graduate (1961), Redwood High School, Larkspur, Calif.

Personal: Born Dec. 3, 1943; Oakland, Calif. [son of former Court of Appeal Associate Justice Richard M. Sims Jr.]; Married. Two children.

Interests: Special interests include skiing, snowshoeing, gardening, hiking, and reading *The New Yorker*.

Admission: Admitted to Calif. Bar, to U.S. Court of Appeals, Ninth Circuit, and to U.S. Dist. Court, Northern Dist. of Calif., Jan. 9, 1969; to U.S. Supreme Court Nov. 20, 1972; and to U.S. Dist. Court, Eastern Dist. of Calif., in 1973.