

# **FEDERAL** **CIVIL PROCEDURE** **BEFORE TRIAL**

Chapters 1-7

**Judge Karen L. Stevenson**  
United States Chief Magistrate Judge  
Central District of California

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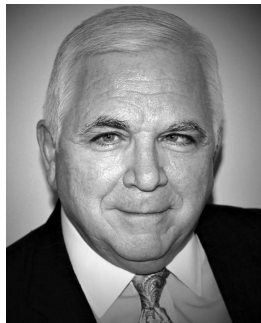


## ABOUT THE AUTHORS



**Hon. Karen L. Stevenson** was appointed Chief Magistrate Judge for the United States District Court for the Central District of California, effective January 1, 2023, and was appointed to the bench as U.S. Magistrate Judge on August 10, 2015. She is a member of the American Law Institute, a Fellow of the American Bar Foundation, and a former Executive Editor of the American Bar Association's Litigation News publication.

Judge Stevenson earned her J.D. *with distinction* at Stanford Law School. She earned an M.A. in European History at Magdalen College, Oxford University, England as a Rhodes Scholar and received her B.A. in History (Phi Beta Kappa) at the University of North Carolina, Chapel Hill, where she was a Morehead Scholar.



**James E. Fitzgerald** is a mediator, arbitrator, and trial consultant and strategist with Fitzgerald Legal Consult, P.C., since 2021. From 1980 to 2020, Mr. Fitzgerald was a partner in several large national and international law firms and focused on trying cases in federal and state courts, specializing in business litigation, direct insurance and reinsurance, complex coverage and bad faith, professional liability (including directors and officers), securities, and entertainment law matters. Mr. Fitzgerald has tried over 60 jury trials and dozens of

bench trials in state and federal courts around the country, has handled dozens of federal and state appeals, and handled dozens of arbitrations before various tribunals (including AAA, ARIAS (AIDA Reinsurance and Insurance Arbitration Society), JAMS, NASD/FINRA, and the Independent Film and Television Alliance). Mr. Fitzgerald is a Panelist on the AAA National Roster of Arbitrators, and is an ARIAS certified mediator and arbitrator. Mr. Fitzgerald has been a trial advocacy instructor for the National Institute for Trial Advocacy (NITA) for over 30 years, and a frequent lecturer, article writer, and presenter on trial strategy/advocacy and a variety of insurance/reinsurance issues during his career.

Mr. Fitzgerald received his J.D. from Fordham University Law School and his undergraduate business degree from Georgetown University. He has been licensed to practice by the California and New York Bars since 1983 and 1980, respectively.

## PREFACE

We set several goals in writing this book in order to maximize its usefulness to you, our readers:

Our first goal is to make the complexities of federal civil procedure *understandable*. We state the rules as clearly and simply as possible, and illustrate their application in typical cases. We present the materials in logical sequence and cross-reference related doctrines.

Our second goal is to *localize* the materials. We focus on the procedures in your local federal district court. We attempt to cover all relevant local rules. Wherever possible, we cite to cases in your circuit.

Our third goal is to provide a reliable *up-to-date* reference source. We therefore minimize historical discussions. This book will be revised frequently so as to catch developing new trends and eliminate obsolete materials.

Our final goal is to provide a true practice guide. We alert you to common pitfalls in federal practice . . . and suggest “practice pointers” that will enable you to present your cases more confidently and (hopefully) more successfully!

A word about our citations: For sake of brevity, we omit *certiorari denied* by the U.S. Supreme Court and other nonsubstantive subsequent history on court of appeals citations. (However, some judges find such information valuable and may expect you to provide it.)

Now, some *caveats*:

Procedural issues often involve several doctrines concurrently. Thus, rules discussed under one subject may be affected by other doctrines discussed elsewhere in this book. We include many cross-references but cannot foresee every overlap. Readers must rely on their own analyses to identify all relevant doctrines in a particular case.

While we cover many local rules, additional policies and procedures may apply in particular judges’ courtrooms (“local, local rules”). Litigators are expected to ascertain these rules by checking with the courtroom clerk for the judge involved.

No book can substitute for independent research and analysis of primary sources. We believe our citations and interpretations are accurate, but they should not be taken as “gospel.” Other judges and lawyers may disagree. Indeed, the authors reserve the right to disagree on matters presented to any of us.

Finally, a dedication: This Practice Guide is designed for and dedicated to federal civil litigators whether they appear regularly or only occasionally in federal court. We hope this book will lighten their burdens and take the “fear out of flying” in federal court.