

Zazzali: Watchdog for the Little Guy
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By Frank Askin

THE TITLE of chief justice of New Jersey is a fitting capstone for the extraordinary career of an extraordinary public servant, James R. Zazzali.

Jim Zazzali has spent his entire professional career representing either the general public as a government lawyer or the underdog as a lawyer for working people and their trade unions. As a public citizen, he was the honorary chair of the 1980 New Jersey Committee for a Nuclear Arms Freeze, which successfully promoted an advisory referendum on the New Jersey ballot urging the United States to enter a bilateral agreement for nuclear disarmament with the former Soviet Union.

Zazzali also points proudly to the fact that upon graduation from law school in 1962, while most of his classmates were seeking big bucks with the major law firms, he spent the next two years working for labor unions in the South, where most of his activities with unorganized workers was closely related to the budding civil rights movement there.

His government titles have included attorney general of New Jersey; chairman of the New Jersey State Commission of Investigation; vice-chairman of the Disciplinary Review Board; special master (by appointment of the United States District Court) for the county jails in Essex, Monmouth and Bergen counties; chief of the Appeals Division of the Essex County Prosecutor's Office, and general counsel to the New Jersey Sports and Exposition Authority.

He also served as a delegate from the U.S. Department of State to several United Nations conferences.

In all of those positions, he earned a reputation as a lawyer's lawyer. That reputation is probably best exemplified by the fact that Zazzali, a Democrat, was first appointed to the Supreme Court by Gov. Christie Whitman, a Republican.

While not easy to pigeon-hole ideologically, his judicial record shows a strong commitment to the protection of the rights of working people, which undoubtedly reflects his background as a lawyer for labor unions.

In cases before the Supreme Court during his relatively brief tenure (six years), he could be counted on to side with the worker when it came to a contest with the boss.

In a case involving public employees, he helped create a 4-3 majority which allowed whistle-blowers to collect punitive damages from public entities.

A telling dissent

Zazzali's commitment to the "little guy" in disputes with big corporations is illustrated by his joining the dissent in *Martindale v. Sandvik Inc.* in a 4-3- decision that upheld a provision in an

employment contract requiring that work-related disputes be arbitrated, thus forfeiting the right to sue.

The dissent intoned: "We should not countenance a practice by which employers take unfair advantage of prospective employees by requiring their consent to arbitration agreements contained in printed employment application forms as a precondition to being considered for a job."

Zazzali's commitment to protection of the working poor is also illustrated by the dissent he joined in 2002 in *Toll Bros. v. Township of West Windsor*, where he faulted the majority of the court for not providing greater support for the plaintiff's efforts to provide affordable housing under the court's Mt. Laurel doctrine.

Although Toll Brothers won the case, Zazzali and Justice Gary Stein argued that the remedy did not go far enough in providing affordable housing.

Although generally viewed as a key cog in what is probably the most progressive state supreme court in the country, Zazzali tends to be a strong supporter of the law-enforcement community, probably reflecting his background as a prosecutor. A prime example is his vote just last week upholding the right of police to enter a home without a warrant so long as the owner consents to a police request. Zazzali joined a 4-3 majority in support of the police and distinguished an earlier court ruling that disallowed the search of automobiles pursuant to such verbal permission.

Curiously, Zazzali's commitment to both labor and the law-enforcement community may have identical roots. During his career as a practicing lawyer, with the Newark firm founded by his late father and brother, Zazzali represented many police unions, including the New Jersey Patrolmen's Benevolent Association. Zazzali says his own father was influenced to become a union lawyer by the deaths of his brother and sister-in-law from illnesses related to their jobs in Newark sweat shops.

James R. Zazzali is an appropriate and deserving addition to along list of distinguished New Jersey Chief Justices: Arthur Vanderbilt, Joseph Weintraub, Richard J. Hughes, Robert Wilentz and Deborah Poritz.

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