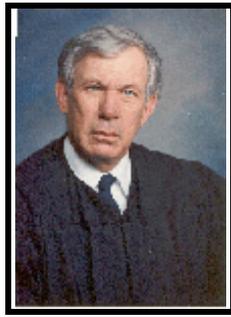


BENCH MARKS:

J. Michael Welch

Presiding Judge of the Superior Court of California
– County of San Bernardino



by Ed Butler

The law was a career choice made early by Presiding Judge J. Michael Welch. Having graduated from Sacred Heart School in Redlands and playing on starring basketball teams at Newman (Fontana) and Aquinas (San Bernardino) high schools, he was influenced by his dad's work experience in arriving at his career choice. For a time his father was an investigator for the Iowa attorney general's office, and this afforded Judge Welch a look at the attorney's life. Also, many of his classmates at Loyola University of Los Angeles, where he majored in history, opted for careers in the law. He earned his juris doctor degree at the University of San Diego.

Judge Welch began his law practice career at the San Bernardino district attorney's office, which he found to be a great source of career orientation, as he had been advised. He later went into private practice, emphasizing criminal and family work, in the course of which he became a state certified criminal law specialist. After a couple of his private practice associates, Joe Johnston and Dennis Cole, became judges he worked a few years at the public defender's office before his appointment as commissioner in 1990. His gubernatorial appointment as judge followed in late 1995.

Criminal defense work, after prosecution, took some adapting at first but "it grew on me like anything else," says Judge Welch. While prosecution is more prestigious in bringing the guilty to justice, he notes that defense is less regimented in terms of strategies that one can employ.

As a bench officer, Judge Welch began as a family law commissioner but since 1993 has adjudicated criminal matters, including death penalty cases. It was unique for him to be a commissioner hearing felonies and some defense attorneys avoided him, fearing pro-prosecutorial bias. Judge Welch says that he derives great satisfaction from resolving legal disputes. "You've accomplished what they've asked you to do, you've done it within the facts and law." He appreciates the heavy impact of criminal adjudications on people's lives. In family law, he has derived satisfaction from helping convince parents to recognize how their children need both of them.

Judge J. Michael Welch brings a spirit of community to his role as presiding judge of San Bernardino County Superior Court. A congenial jurist, he seems to readily embrace the challenge of fitting a growing caseload into increasingly inadequate resources. He was already seasoned in caseload management when he became presiding judge in January 2002. While still a commissioner, he supervised the Rancho Cucamonga criminal courts. After his appointment as superior court judge by Gov. Pete Wilson in 1995, he supervised the West District courts and then the Victorville courts, dovetailing the latter assignment with that of assistant presiding judge.

The biggest challenge facing the county courts today, says Judge Welch, "is trying to balance ever increasing caseload with a finite number of judicial officers, and in such a way that we can get the job done." Because of limited resources, "each day there is something new that comes up, and that is driven by our budget issues . . . You become reactive rather than proactive."

Judge Welch notes that San Bernardino has one of the highest per-judge caseloads in the state, something on the order of 5,000 to 6,000 new case filings annually per judge. Coping measures include "calendar techniques," consolidating cases of the same category into the same calendar. Opportunity for "weeding" of pendent matters is provided, such as multiple steps of preliminary conferencing to

encourage settlement where possible. Accordingly, despite creative measures, it can get to be too much with too few judges and too few advocates. One source of relief is to allow judges to change assignments to have a break from a pressured calendar.

Pending legislation would accord San Bernardino County 22 new judges out of 150 statewide. Once they were funded, there would have to be courtrooms to accommodate them.

A local court facilities master plan, nearing completion, would place 16 at Central District and six at West District in Rancho Cucamonga. Judge Welch explained that Rancho could have six more courtrooms in its courthouse by moving offices elsewhere. San Bernardino or Central could start on its 16 with temporary housing of courtrooms now located in the 1926 courthouse, which is sadly in need of earthquake retrofit.

The earthquake retrofit of Central, says Judge Welch, is a remaining condition for state takeover of court finances. The state, as part of making fair funding available to all courts, needs to take title to court facilities. A stumbling block is the earthquake hazard of Central. With rehab funding now in place, he hopes that remodeling can begin and relocation to temporary courtrooms occur within a year.

Earthquake safety is a priority to Judge Welch, as the 1926 edifice lacks reinforcement to prevent the floors from pancaking atop each other in a major quake. He said reinforcement could take the form of something akin to "flying buttresses" but installed within walls on the inside. Plans envision having the bolstered historic building hold clerk's offices on the first two floors and civil courtrooms on the third. Six courtrooms would be added to the newer T-wing, which would house criminal courtrooms.

Beyond the earthquake retrofit work, financing of new courtroom construction is uncertain. As it stands, the state legislature has refrained from a 2004 state ballot measure to float \$3 to \$4 billion in court construction bonds.

While state consolidation of court financing was designed to help assure funding for jurisdictions of all population sizes, Judge Welch said the takeover in the early 1990s resulted in a 1994 "baseline" for financing that needs to be adapted to changing circumstances. A key factor is the constant population inflow into the Inland Empire that helps skew more judicial workload into this area. Adaptation to state takeover has included setting up a personnel system for the courts apart from county personnel. Burdens include expansion of courthouse security expense.

Over the years, coping measures to help bear workload have included consolidation of courts and expansion of private judging.

Judge Welch says that consolidation of municipal and superior courts "was a lifesaver, the only way we could get business done." San Bernardino voluntarily consolidated ahead of time, gaining a more efficient unified administration and broadening scheduling flexibility. The judiciary adapted easily, he said: "We're a closely knit bench. We get along well together." Similarly, "we really would be hurting," if it weren't for the growth of private judging helping bear the load of civil dispute resolution. "It has really worked well. It has gotten cases out of the system."

The availability of retired assigned judges took a hit, however, when a new ethical rule prevented private judges from also serving as superior court assigned judges. While statewide this resulted in 30 percent of retired judges opting out of assigned judging. According to Judge Welch, San Bernardino has been relatively lucky in continuing to have them available.

Judge Welch relates that the local bench finds local attorneys to be very cooperative about accommodating to the time pressures of the courts. He said local attorneys are well prepared and appreciate the need to obtain resolution of legal issues. He would remind a new practitioner to be mindful of time constraints and to "get right to the nitty gritty of it" and be prepared to negotiate and settle. "We have precious little time to try cases and we have to use every bit of it."

Ed Butler is the Manager of the Rancho Cucamonga Branch of the Law Library of the County of San Bernardino.