



BenchMarks: David Cohn

**Superior Court Judge,
County of San Bernardino**

by Ed Butler

Entering the legal profession fulfilled a childhood dream of Judge David Cohn, who had ventured into acting and piano tuning and restoring before starting law school at age 30.

One eager to embrace a challenge, he has served as supervisor of the Victorville Superior Court district about a year, despite having served as a judge less than two years. One major challenge on becoming judge was embracing a criminal judicial assignment after a 16-year civil practice career. As it turns out, he takes to the criminal area with relish, and envisions tackling eventually all the different kinds of Superior Court calendars.

A resident of Redlands with his wife and daughter, Judge Cohn was born and raised in Thornton, Colo., a suburb of Denver. Both of his parents were teachers, his father in special education and his mother until she turned to motherhood. The judge's one sibling, a sister, works as a clerk in district court in Colorado.

The judge says skiing was a favorite pastime growing up, as "it's hard to grow up in Colorado without being a skier." His passion for music also began in childhood, and growing up he played the piano, guitar and clarinet. Violin lessons are one of his favorite leisure time activities these days.

His creative side led him to major in theater at U.S. International University in San Diego. Like many actors he found that field a struggle, relying on miscellaneous odd jobs to get by. He feels acting provided valuable life experience and acknowledges that theatrical training "gave me a certain level of confidence about oral presentation in court." His acting included two years of stage work for the Performing Arts Repertory Theater in New York, doing educational historical dramas.

As a music enthusiast, he entered piano tuning and restoring and did that on a self employed basis.

An urge for a more intellectually challenging pursuit turned him back to his old interest in law school, and he entered the four-year night program at the University of San Diego. He describes the law as "something that I had always been interested in and had thought about doing . . . I got back to a childhood goal, so to speak."

Receiving his law degree in 1987, he embarked on a career in civil practice that started with two years in commercial and real estate litigation at a small San Diego firm, Dorazio, Barhorst, and Bonar. He then joined a larger firm in San Diego, Gray, Cary, Ames and Frye, engaged in commercial and security work. That led to his move to Redlands in

1994 and practicing in insurance defense at the San Bernardino office of Barton, Petrini, and Conron. The Inland Empire attracted the family with job opportunities and its lower cost of living. His last stint as advocate, before Gov. Davis named him to a new judgeship, was as partner in the San Bernardino office of Lewis, Brisbois, Bisgaard and Smith, the eighth largest law firm in California. His practice areas there included commercial litigation, public entity defense, and at the last, defense of insurance companies. The public entity work was mostly personal injury defense for Riverside County.

As an attorney he was honored by the State Bar for pro bono activities.

Having had a long term interest in becoming a judge, Judge Cohn says he values the impartiality of the role and the opportunity to help resolve disputes. His first assignment at Victorville was civil trials in Dept. 10. Then came his baptism in criminal jurisprudence, starting with preliminary hearings in Dept. 8 and continuing for nearly a year now with felony jury trials in Dept. 3.

While his advocacy work had been limited to the civil area, "I was astonished at how quickly I was able to get up to speed in the criminal area," he says. He was apprehensive at first but "the lawyers were wonderful in helping me out."

He describes presiding in criminal cases as "very rewarding . . . each case is extremely interesting. It's obviously a very important part of the court's work and frankly it's a lot of fun."

Contrasting civil and criminal, he says the dynamic is different in that in criminal cases the judge is less involved in settlement, although most criminal cases are resolved by settlement.

From the point of view of court district supervisor, Judge Cohn expresses satisfaction with how all the players are performing their roles. "We have a very heavy caseload (at Victorville) but we're bearing up," he says. The district is having to deal with the gap created by the recent retirement of Judge Rufus Yent. Approval was recently obtained to hire two more courtroom clerks for the district.

"The administrative staff here at Victorville is absolutely wonderful," Judge Cohn emphasizes. Thanks to its strength, he is free to focus as supervisor on assuring an equitable distribution of workload among courtrooms.

After several facilities upgrades over the years, there aren't any more planned right now, looking ahead to a longterm plan for a consolidated High Desert courthouse.

Along with other districts in the county, Victorville in April will begin cracking down on citizens who fail to respond to their jury summonses. Such individuals will be issued an order to show cause compelling them to appear at an enforcement hearing. At Victorville Judge David Williams will be hosting such hearings twice a month. Judge Cohn says

Joshua Tree District had implemented the crackdown on a pilot basis, and found in practice that word spread in the community and the shoddy response rate improved markedly. The Superior Court countywide expects to enjoy a similar result.

On the subject of specialized courts, Judge Cohn testifies among many that drug courts, now held everywhere in the county, have been "extremely successful." Judge John Martin, presiding now at San Bernardino, has conducted a pilot domestic violence court and Judge Cohn, who has attended judicial conferences on this initiative, says the county Superior Court is considering expanding its use. A mental health court has been launched at San Bernardino.

Judge Cohn says the success of the drug court model has prompted consideration of it for other problem areas.

Having been a longtime civil litigator, Judge Cohn was asked for his opinion of growth of the alternative dispute resolution and private judging movement.

"It's a mixed bag. I have concerns about the privatization of our judicial system," he comments. While the avenue helps reduce congestion in the courts by resolving disputes more expeditiously, it acts as "a bit of a brain drain" by depleting judicial resources with the attraction of remunerative rewards in private judging. He's also concerned about private litigants who can't afford private dispute resolution and cloaking disputes of interest to the public in a secret deliberative process. He notes that San Diego County has a court rule resisting this.

Asked to offer advice or reminders for attorneys appearing in his court, Judge Cohn says, "Be on time or let the clerk know by telephone that you'll be late."

He has high praise for the advocates who appear before him. "The quality of advocacy here in the desert is very high," in terms of both public and private practitioners and prosecutors and defenders alike, he says. "I'm very impressed."

He also experiences a civil demeanor between opposing advocates in both civil and criminal areas. "The ability to get along without being contentious and have that interfere with litigation is very high here in the desert," he reports. He adds that strong civility in the criminal area "was really a surprise to me" in light of what's at stake in criminal adjudication.

In addition to learning the violin, Judge Cohn off work is learning Spanish via taped instruction on his daily commute between Redlands and Victorville. These days his athletic passion is mountain biking.

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