



BenchMarks: Eric M. Nakata

Superior Court Judge,
County of San Bernardino

by Ed Butler

A lifelong sports enthusiast, Judge Eric M. Nakata these days leads a collaborative team of desert judges striving to keep abreast of burgeoning criminal caseload.

Supervisor of Victorville District of San Bernardino County Superior Court, Judge Nakata expresses pride in the teamwork of local judges “here to support justice” who “chip in when necessary to cover for each other.”

Operating two judges short and contending with merciless constitutional timelines, Victorville District has had to cut way back on civil litigation and farm out criminal overflow to the courthouses at Joshua Tree and Barstow.

Now with 10 ½ years of desert judging under his belt, the youthful and competitive Judge Nakata appears to have the spirit to tackle the challenges that judicial administration might bring.

Now on criminal trial assignment, Judge Nakata has a long perspective on local adjudication, having served as deputy district attorney at Victorville for 11 years before Gov. Pete Wilson appointed him Municipal Court judge in the fall of 1995. Gov. Wilson also elevated him to Superior Court in early 1998, upon the retirement of Judge Stanley Hodge.

Formerly gangs and homicides prosecutor, Judge Nakata laments the growth of gang activity and violent crime in the High Desert.

He has very warm memories of his work as High Desert juvenile court judge, having personally invested much of himself in the establishment of a High Desert juvenile court. He presided in that court three years.

Born in Pasadena, Judge Nakata was largely raised by his paternal grandparents at Pacoima, after they had farmed for a time in Rancho Cucamonga. His father and mother divorced when he was only four, and the grandparents were the main raisers of him and his sister as dad operated his three gas stations in the San Fernando Valley.

As for his interests as a youth, “I’m a sports nut, fanatic, whatever you call it,” Judge Nakata admits. In high school he lettered in football, basketball, track and baseball. As a college student he retained his enthusiasm for athletics, and coached

for the Los Angeles city schools. This interest continued with his playing on a traveling rugby team, even as a student at the Southwestern University School of Law in Los Angeles.

As an adult in the High Desert, he has been extremely involved in youth sports, serving as league president as well as coaching in soccer, baseball and basketball.

More recently, he has given himself a break, embracing fishing “anywhere” and also bowling.

In high school he worked in his father’s gas stations, and then studied for two years at UCLA, partly as a pre-med major. The law was calling him, however, as there was “something about the law that intrigued me, interested me.”

He interrupted his UCLA studies when both of the grandparents who raised him fell into ill health. He took time off to look after them: “I felt it was only fair. They took care of me when I was little. I would take care of them when they were old.”

To accommodate this need, he resumed studies closer to their home in 1975 at Los Angeles Valley College before transferring to California State University, Northridge, where he received a bachelor’s degree in psychology in 1978.

While studying law at Southwestern, he found time to work as a substitute teacher for the Los Angeles and Pasadena schools, as well as certified law clerk for the Los Angeles County district attorney’s office. Back then, John Van De Kamp was DA and Johnnie Cochran was his assistant.

Admitted to the State Bar in 1982, Judge Nakata spent his first two years as attorney in private practice. In addition to handling his own cases, he was associated with several other attorneys in miscellaneous practice areas including criminal, family, civil and personal injury, largely in the San Fernando Valley.

His 11-year stint as prosecutor for San Bernardino County began in 1984. He was principally gang and homicides prosecutor in the desert, back when gang grant funding did not extend beyond the Rancho Cucamonga and San Bernardino offices.

One prosecution still vivid in his memory is the Any Kind Check Cashing case in Barstow, in which four gang individuals were implicated in a robbery and murder in the fall of 1989. The same crime spree, lasting until April 1999, involved the deaths of seven persons, kidnapping and attempted murder of a police officer, and a 22-count information altogether. Judge Nakata prosecuted three of the four defendants.

Another memorable prosecution was that of an opportunistic rapist, a gangster who had set up a drug business in Apple Valley after working as a collector/enforcer for a street gang in Los Angeles. The

defendant learned from a neighbor woman that a couple of his “salesmen” had been arrested. He rewarded the woman by forcing his way into her home, raping her and stealing her belongings. Judge Nakata says the defendant was memorable for his Herculean physical strength, as he managed to peel the rubber coating off the wall of a holding cell and tear it to shreds. It took four to six deputies to move him from one place to another.

The judge laments the increase in gang activity in the region.

As for becoming a judge, “It seemed like a logical extension of my career,” Judge Nakata says. He had had the challenge of prosecuting three persons for capital crimes and wasn’t sure whether he wanted to take on administrative duties at the district attorney’s office.

His appointment to the Municipal bench in 1995 followed the elevation of Judge Margaret Powers to Superior Court.

Judge Nakata has filled a variety of assignments at the Victorville court, including approximately three years as juvenile court judge, two years on civil, and one in family court, with the remainder presiding over adult criminal court.

He describes juvenile court as “my baby,” and both the most emotionally taxing and most rewarding judging he has done. He looks back with pride at the rigors that were required of him in getting the Victorville juvenile court established, working with many public officials and interested citizens.

Judge Nakata says juvenile court affords the opportunity to address sociological changes in the youth world that are not afforded at the level of adult criminal adjudication. He expresses pleasure at receiving letters of thanks from individuals who hated him at the time he was subjecting them to court regulation. They express appreciation “for making a difference in their lives, for getting their attention.” He says it’s a “most rewarding” calendar in that “you can still do things in young people’s lives, at least some of them.”

Presently as Victorville District’s supervising judge, Judge Nakata has the responsibility of general oversight, including making sure that the caseload is adequately handled and that judges’ absences are covered. With the county already short of judges, up against its relative workload, Victorville has had the extra challenge of having two courtrooms dark for lack of judges.

One operational issue that really irritates Judge Nakata is a shortage of courthouse parking. In his opinion, “the citizen here is really being hurt” when jurors have to park blocks away to appear for duty. He finds that “outrageous” while Victorville operates “a tremendously busy court”

unable to acquire additional parking area. One stopgap has been the district attorney's rental of a dirt parking area across the street on Civic Drive.

Judge Nakata says the court was pleasantly surprised by the large recent turnout for jury duty in a death penalty case. He does not feel that the juror appearance rate is any worse in the desert, compared to other districts.

On the subject of early release of prisoners from jail because of a space shortage, Judge Nakata believes the sheriff overall has used good discretion in choosing prisoners for early release. "I think his guidelines have been fair."

Asked to relate crime trends during his time as judge, Judge Nakata reports a large increase in the desert in gang-involved cases, plus more types of gangs, and an "astronomical" growth in rate of homicides. Observing much more violent crime than when he was a prosecutor, Judge Nakata says "the desert has changed in that respect and not for the better."

He finds that more urbanized counties have had a modern tendency to refer welfare recipients and parolees to the High Desert, where they find the cost of living to be less. "Unfortunately, a lot of the bad folks have come up here," the judge says.

With legislation providing more judgeships expected, Judge Nakata was asked to suggest ideal traits for a prospective judge. He says the ideal candidate is "someone who wants to work hard, someone who has a good grasp of the law." Strong criminal law background would help, too, he says, because of the special workload demand in that area.

His general reminders for attorneys are short and simple, that they be prepared and on time. "That's all I ask," he says.

As for what he likes about judging in general, "I enjoy the role of public servant and administering justice."

Off work, Judge Nakata says his favorite pursuits these days, besides fishing and bowling, include travel with wife Michelle, a financial consultant. He especially enjoyed visiting Jamaica twice, a place that fascinates him, and looks forward to future adventures to Alaska, Europe – including Austria where Michelle is from – and Asia.

He is the father of three children, including an older daughter in college who has expressed tentative interest in the law. His son is a college freshman.

The judge's past interests have included the International Order of Footprinters, a law enforcement support organization, and the study and instruction of *kajukenbo*, a Hawaiian style of karate. He holds a second degree black belt in the discipline.

Judge Nakata says martial arts training has the value of teaching people what their limitations are, both in terms of learning one's potential and avoiding the pitfalls of going too far.

Ed Butler is Rancho Cucamonga branch manager of the Law Library for San Bernardino County.

16th Annual Red Mass

by Jacqueline Carey-Wilson

More than 200 members of the legal community and their families gathered at the 16th Annual Red Mass on May 2, 2006. The Red Mass is celebrated to invoke God's blessing and guidance in the administration of justice. The Mass was held at Saint Catherine of Alexandria Catholic Church in Riverside. Judges, lawyers, and public officials of several faiths participated. The Mass was dedicated to Louise Biddle, member of the Red Mass Steering Committee, past Executive Director of the Riverside County Bar Association, and a cornerstone of the Inland Empire legal community, who recently passed away.

The principal celebrant of the Red Mass was the Most Reverend Rutilio Del Riego, the Auxiliary Bishop of the Diocese of San Bernardino. Rabbi Hillel Cohn, Rabbi Emeritus of Congregation Emanu El in San Bernardino, read a passage from the Old Testament. Also participating in the service was Mary Jo Carlos, an attorney with the State Compensation Insurance Fund, Deacon F. Michael Jelley, Vice Chancellor of the Diocese of San Bernardino, who is in his final year at California Southern Law School, and Patricia Byars Cisneros, research attorney at the Court of Appeal. Prayers of the faithful were offered, which included remembrances of Louise Biddle and all the other members of the legal community who passed away during the last year.

A banner depicting the Holy Spirit, the Scales of Justice, and the Ten Commandments was placed on the altar at the beginning of the Mass to symbolize the impartiality of justice and how all must work toward the fair and equal administration of the law, without corruption, avarice, prejudice, or favor.

At the reception immediately following the Mass, Loretta Holstein presented attorney Jane Carney with the 2006 Saint Thomas More award. The Saint Thomas More award is given to an attorney or a judge whose conduct in his or her profession is an extension of his or her faith, who has filled the lives of the faithful with hope by being a legal advocate for those in need, who has shown kindness and generosity of

spirit and who is overall an exemplary human being.

In October 2000, Pope John Paul II proclaimed Saint Thomas More to be the patron of statesmen and politicians. In his proclamation, the Pope stated that Saint Thomas More's "life teaches us that government is above all an exercise of virtue. Unwavering in this rigorous moral stance, this English statesman placed his own public activity at the service of the person, especially if that person was weak or poor; he dealt with social controversies with a superb sense of fairness; he was vigorously committed to favoring and defending the family; he supported the all-round education of the young." Without question Jane's activities over the years mirror those attributes of Saint Thomas More highlighted by Pope John Paul II.

Jane gives countless hours of service to civic improvement efforts, government reform projects, educational opportunity development, and a variety of charitable organizations. Jane is a wonderful, faith-filled person whose life resonates with the virtues of grace, generosity, and compassion. Jane humbly accepted the award and in her remarks highlighted the good works of Bob Holstein, Loretta's husband and the first recipient of the Saint Thomas More Award, as an example of how to live one's life in service to others. Jane is truly a woman for all seasons, and the Red Mass Steering Committee was pleased to recognize her extraordinary service and devotion to church, community and justice.

The Red Mass Committee is accepting nominations for the 2007 Saint Thomas More Award. The award will be given at the reception following next year's Red Mass, which will be on Tuesday, May 1, 2007. If you have any questions or would like to be involved in the planning of next year's Red Mass, please call Jacqueline Carey-Wilson at (909) 387-4334 or Mitchell Norton at (909) 387-5444.

Jacqueline Carey-Wilson is deputy county counsel for the County of San Bernardino, editor of the Riverside Lawyer, and co-chair of the Red Mass Steering Committee.