



BenchMarks: John M. Pacheco

Superior Court Judge,
County of San Bernardino

by Ed Butler

Judge John M. Pacheco is a former baseball talent who began working as a small child, and became an attorney as an avenue of service.

Now a San Bernardino County Superior Court judge for 5 ½ years, he rates his current family court assignment as his favorite at this time. He has embraced it to the point of now serving as San Bernardino District family supervisor, and has high praise for his collaborative bench colleagues. "When you have great colleagues, it always makes your job a lot easier," he says.

Now a family judge for two years, he previously presided over chiefly criminal matters, first at Joshua Tree and then Rancho Cucamonga.

A former personal injury plaintiff's attorney who was born and raised in the Inland Empire, Judge Pacheco expresses warm congeniality and deep enthusiasm for his work.

He was born in Riverside, one of six children of a construction worker dad and homemaker mom (later a seamstress). The family moved to Bloomington when he was in third grade, and he grew up the rest of the way there.

One of his vivid early memories is that of riding the bus to school for the first day of kindergarten. "I was petrified because I had never been away from my mom," he recalls. The downward stairs into the school seemed endless. "I didn't know what to expect. That was really traumatic for me."

When his father's construction work was slow, the future judge accompanied the family to the Central Valley, where both his parents and older siblings performed farm work such as picking. He remembers the fun of waking up in a tent to the smell of freshly brewed coffee. Instead of serving cereal, his mother improvised by cutting up tortillas and putting them in coffee with sugar and milk.

"They were poor times. I was little. I knew no different. It was fun to me," Judge Pacheco recalls.

Ranch owners nicknamed him "nature boy" after he, as a toddler, was observed wandering and napping in the orchard in the buff.

The judge's lifelong devotion to work began at age six or seven, when he assisted his brother at El Rivino Golf Course, in south Riverside, moving grass sprinklers in sometimes very frigid weather at night. The judge was to work at several golf courses as he worked his way through school.

His other jobs included gardening at people's homes starting around age 12. He was motivated to save for a dirt bike, but turned over half his earnings to his mother to help with family expenses.

In addition to working at other golf courses, including Red Hill Country Club as a university undergraduate, he labored at the Ontario Motor Speedway (late in high school) as it prepared for its grand opening. He also worked at Chief Auto Parts while in college.

A lover of baseball from an early age, he found time to go out for the sport all four years at Bloomington High School. He also competed interscholastically there in football and basketball.

His achievement in baseball, however, won him the regional Ken Hubbs Athlete of the Year Scholarship, and also a baseball scholarship at California Polytechnic University, Pomona. He attended there for four years, as a political science major, before transferring to Azusa Pacific University, also on baseball scholarship, in the interest of having more playing time (and less second string time). He completed his bachelor's degree at Azusa, having switched his major to history because the school didn't offer a political science major.

Judge Pacheco says his parents encouraged going to college. Two of his older sisters attended local universities and work as educators.

Reflecting on his growing years in Bloomington, he says "there are a lot more houses (now). It's not quite as rural." His high school graduating class, in 1971, numbered approximately 150 persons.

Around the time he was wrapping up his undergraduate study he tried out for the Angels twice and then gained a strong chance of being accepted by the Portland Mavericks baseball team. He was deterred from that by a couple of things: his fiancé said playing at Portland would preclude their getting married, and he anticipated second string status on the team. (His defense position was center field.)

He opted for marriage in 1977 and then went to work for Vons for several years as a grocery clerk.

As an enrollee of Western State University School of Law in Los Angeles, he was able to dovetail his studies with the graveyard shift as stock clerk at Vons. He recalls having law lecture tapes blasting from his tape

recorder in place of the music favored by co-workers.

Judge Pacheco says a number of things drew him into the legal profession. One thing that left a strong impression, when he was 13, was a traffic accident in which he and his father were hauling trash to the dump in an old truck. The judge felt his father bore an unfair financial burden as a result, sparking a desire in Judge Pacheco to help the under-represented achieve justice. While he didn't have many legal role models to draw upon, he recalls being impressed by legal fiction such as Perry Mason and his interest was encouraged by his family.

He says the admissions officer at Western State was "kind of taken aback" by his insistence that his motivation was truly to help other people.

Judge Pacheco got his feet wet in several clerking jobs as a law student. One of them, on work study, was assisting the late Judge David Hennigen of Riverside with law and motion matters. "It was fantastic," he recalls, to review issues and then recommend decisions to the judge and discuss them with him.

He also pursued law clerking jobs for Jimmy Gutierrez, as city attorney of Chino, and his partner, Mike Bidart, who was chiefly engaged in dairy farm matters. Another clerking job was with Gassner and Gassner, and still another, with Rose, Klein and Marias, of San Bernardino and Pomona, where he later was to work as associate and partner.

His attorney work at Rose Klein, which spanned 14 years, was chiefly in third party liability connected to workers compensation litigation. One of his cases at the firm was *Robb v. City of Upland*, which resulted in a more than \$1 million court trial verdict for his plaintiff client in a "slip and fall" case.

He subsequently worked as a partner with Florentino Garza and son in San Bernardino from 1995 until 2001, in personal injury work. Just before his appointment as judge, one of his high profile cases, *McKown v. Wal-Mart*, was heading toward publication in the official reports. The California Supreme Court held that Wal-Mart would be liable for injuries caused by its unsafe equipment it has provided for use by an independent contractor.

Judge Pacheco says he hadn't really thought about judging when local Judge John Kennedy observed him present his closing argument in the *McKown* case, which won a \$752,000 verdict for his client. Judge Kennedy encouraged him to apply for judicial appointment. One thing that made the prospect attractive was the idea of having more control over his work schedule, after seven-day advocacy work weeks took time away from his wife and three children.

Appointed to the bench by Gov. Gray Davis in the fall of 2001, Judge Pacheco spent the first couple of years presiding over mostly criminal matters at Joshua Tree. While he found it very stimulating to preside in a different area of law, he experienced an itch to work closer to home. Joshua Tree "is a nice place but the drive was killing me," he admits.

Then came a transfer to Rancho Cucamonga District, where a two-month civil assignment allowed him to preside over a medical malpractice jury trial. Then he switched to criminal preliminary hearings there and after a nearly a year transferred to San Bernardino. He has been handling family court there since April 2005. While he had been warned of its rigors, "it turns out, I absolutely love it," Judge Pacheco says.

He says he likes to encourage estranged spouses to reach agreement, drawing upon their own acquaintance with their family's circumstances. He likes to re-set matters for later to let them work on some sort of a pact. He says he feels the weight of decisions by the court and "I don't take these decisions lightly."

He expresses strong satisfaction with the role of judge in general. "I love learning the law. There's not a day that goes by that I don't learn something new," Judge Pacheco says. "I love to try to be a problem solver and follow the law to the best of my ability."

He praises the local family bar for making it possible to get through the heavy family caseload that could justify one or more additional judicial officers at San Bernardino District. He says the attorneys "work together well," to negotiate cases where possible, while "they really have the best interests of their client at heart." While seeking agreement, "they're not selling the farm. They're getting what their client wants," the judge says.

As a member of the state Judicial Council Access and Fairness Committee, he admits that self representing family litigants "are always at a disadvantage." While having to be "fair to both sides," he tries to alleviate the burden by narrowing issues and the fact collection needed.

On the subject of affordability of legal services, he notes a recent initiative to try to split family cases between portions borne by the parties themselves and more demanding issues borne by their attorneys. He says there has been some attorney reluctance on this, possibly out of fear of malpractice exposure.

As a former contributor of pro bono services to the indigent, Judge Pacheco encourages attorneys to participate.

He says with resources being limited as they are, such contributions are a valuable way for successful attorneys to give back to their community.

Among other issues, he comments:

- Contingency fees are valuable for justice in personal injury work, and can be negotiated according to the work required. Prospective plaintiffs need to be encouraged to be truthful with their attorney up front.

- The growing private judging movement is a good thing, because "it saves the courts the time of litigation, the trial time." He explains further, "It's the art of war... you do everything you can to avoid the war."

- He's glad to see increasing diversity in the judiciary. However, those picked should be "people who are truly diverse in the heart... it's not just color."

Asked to suggest ideal traits for prospective new judges, Judge Pacheco would choose "someone that's energetic, intelligent, willing to learn the law (and who has come) from a good background" of achievement, "somebody who has excelled in their field."

As president-elect of the local chapter

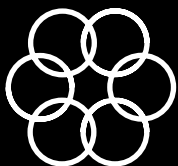
of American Inns of Court, Judge Pacheco is a big fan of civility among attorneys. As he puts it, "You can be zealous. I'm okay with that," as the attorney needs to believe in the client's case. "At the same time, there is a way to do that." While good advocacy is to be admired, he warns that underhanded, backstabbing tactics will result in failure for the perpetrator.

Off work, Judge Pacheco is especially devoted to family. He and wife Patricia, a homemaker, are still involved in the activities of their young adult children. Marina, 19, who has expressed interest in a law career, is a second year UC Riverside student who also is a dancer. Joseph, 21, who also has attended UCR, still competes in soccer. John, 24, graduated from UC Berkeley last year.

Judge Pacheco is an avid physical fitness buff who has run 11 marathons and recently ran a 5 K sponsored by the mayor of San Bernardino. He also works out in other ways several days a week.

Among his professional activities, he formerly served on the California Interpreters Advisory Panel.

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