



## Judicial Profile

by Jeffrey C. Krause

# Hon. Richard M. Neiter U.S. Bankruptcy Judge for the Central District of California

**H**on. Richard M. Neiter, U.S. bankruptcy judge for the Central District of California, was sworn in during February 2006, after more than 40 years of private practice at Stutman, Treister & Glatt Professional Corp. Judge Neiter's knowledge and experience derived from decades of representing parties to large, complex bankruptcy cases serves him and the parties who appear before him well. He also brings to his courtroom the energy, intelligence, open-mindedness, compassion, and patience that marked his long and successful career in private practice.

Judge Neiter grew up in Los Angeles and attended Hamilton High School, the University of California at Los Angeles, and the University of Southern California Gould School of Law. Judge Neiter's appointment as a bankruptcy judge is not his first judicial appointment: in his senior year, he served as a chief justice of Hamilton High School's Supreme Court.

The judge's father, Harry, passed away when Richard was 12. His father had run two grocery stores in partnership with Richard's uncle. When Harry passed away, Richard's mother, Ida, became actively involved in managing the markets. Judge Neiter worked his way through school at those markets.

Judge Neiter has always been a tenacious competitor. At Hamilton High School, he was a star sprinter. Now he spends time most weekends playing tennis. His older brother, Jerry Neiter, a retired lawyer who practiced for decades in Los Angeles after graduating from the same law school a few years ahead of Richard, says that when they both worked at the family grocery stores, they were the two fastest cashiers, but to this day they do not agree on which of them was faster. This competitive streak was a valuable attribute in Judge Neiter's career as a practicing attorney.

At UCLA, Judge Neiter was an active member of the Pi



Lambda Phi fraternity, where he became friends with Rafer Johnson, a track star in his own right. Judge Neiter received a Bachelor of Science degree with honors from UCLA in 1959 and went directly to the law school at USC. He served as a member of the board of editors of the *Southern California Law Review* from 1960 to 1962, when he received his J.D. He later served on the board of trustees at the Law School Alumni Center.

---

*Jeffrey Krause is a partner and co-head of the Business Restructuring and Reorganization Practice Group at Gibson, Dunn & Crutcher LLP. He spent almost 25 years of his practice working with Judge Neiter at Stutman, Treister & Glatt Professional Corp. and extends his appreciation to Theodore B. Stolman and others at the firm for their assistance in providing information for this article.*



**Judge Neiter has always been an active member of his community; he believes in giving back. He is a past president of Temple Judea, in Tarzana, Calif., and was the chairman of the San Fernando Valley Community Relations Committee. In the 1970s, he was a co-founder of Achieving Personally Planned Learning Experiences.**

Judge Neiter has always been an active member of his community; he believes in giving back. He is a past president of Temple Judea, in Tarzana, Calif., and was the chairman of the San Fernando Valley Community Relations Committee. In the 1970s, he was a co-founder of Achieving Personally Planned Learning Experiences. APPLE was designed to provide alternative learning experiences for students in Los Angeles by bringing together members of the community and involving parents in the educational process.

The other co-founders of APPLE included Judge Neiter's wife of 53 years, Lois. Lois and Judge Neiter met when they were students at UCLA. Both share an interest in contemporary art and love to travel; therefore, much of their travel revolves around their passion for art. Judge

Neiter's extensive knowledge of contemporary art is just one more manifestation of his broad intellectual curiosity.

Judge Neiter is the father of two adult children, Mark and Deborah; both live in Los Angeles. He has five grandsons ranging in ages from 2 to 8 years old. He is a devoted father and grandfather, spending time with his grandsons almost every week.

Judge Neiter joined Stutman, Treister & Glatt directly out of law school. At the time, it was the pre-eminent bankruptcy boutique in California and was regarded as the "go to" firm to represent debtors in bankruptcy cases

and out-of-court restructuring transactions. During Judge Neiter's tenure of more than four decades at Stutman, Treister & Glatt, Congress enacted the Bankruptcy Reform Act of 1978. Judge Neiter represented debtors and trustees in complex Chapter X and Chapter XI cases under the former Bankruptcy Act, as well as debtors in Chapter 11 cases under the "new" Bankruptcy Code.

Judge Neiter was a mainstay of Stutman, Treister & Glatt from 1962 until he took the bench in 2006. During that time he was appreciated and respected by his partners for his tremendous work ethic, his creative problem-solving skills, and his efforts to mentor younger lawyers within the firm. He is incredibly loyal. Not only did he stay at a single firm for more than 40 years, for most of that time he teamed with a single administrative assistant, Joanne Metcalf. Judge Neiter repeatedly used his consensus-building skills, which he brought to the representation of his clients and now brings to his efforts as a settlement judge, to build and maintain the firm at which he spent his entire career in private practice.

Judge Neiter represented all types of parties in restructuring matters, but he was best known for

representing debtors and trustees. He represented the Chapter 11 debtors in *Sambo's Restaurants Inc.* and *Wilson Foods Corp.*, the fifth largest meat packer in the United States. He represented the Chapter X trustees in *Pacific Homes*, the Chapter XI trustee in the San Francisco case of *Pacific Far East Line Inc.*, and the federal receiver in the racketeering action involving the Bicycle Club in Gardena. He also served as a counsel in a liquidation under the Securities Investor Protection Act and for the creditors committee in the Chapter 11 case of *Consolidated Freightways Corp.* in the bankruptcy court in San Bernardino.

The unique combination of skills and innate consensus-building ability that Judge Neiter developed as a lawyer may be best illustrated by his central role in the successful restructuring of Pacific Homes under Chapter X of the former Bankruptcy Act. Pacific Homes operated multiple facilities to care for the elderly. Most of the residents at its facilities were members of the United Methodist Church, and many of them had purchased contracts which they prepaid in full, in exchange for Pacific Homes' commitment to care for them for the remainder of their lives. As people lived longer and medical expenses increased, the amounts paid for these contracts proved to be grossly insufficient to provide lifetime care, and Pacific Homes faced the inability to continue operating its facilities and caring for its elderly residents.

On my first day as a summer associate at Stutman, Treister & Glatt, Judge Neiter brought me to a global settlement meeting among the class action plaintiffs' lawyers, who represented residents who had relied on these contracts; the trustee for Pacific Homes; and representatives of the United Methodist Church, which had encouraged its members to buy these contracts. The Church contended that it was unaffiliated with Pacific Homes, was not responsible for its parishioners' decisions to buy the lifetime contracts, and could not be sued at all, much less held liable for the obligations of Pacific Homes. Special counsel for the trustee and class counsel for plaintiffs' lawyers contended that the residents who had purchased the lifetime contracts had been misled by their Church. At times the meeting became heated; the stakes were extremely high. Absent a creative solution, Pacific Homes would have been forced to close its facilities, leaving 1,800 elderly residents without a place to live. Many of these residents had spent their life savings on their contracts with Pacific Homes.

The successful negotiation of a complex multiparty settlement of the class action lawsuits and the Chapter X reorganization case was the result of the ingenuity, hard work, and constructive efforts of many professionals, but none of them were more important to the ultimate success of the Pacific Homes case than Judge Neiter and the trustee. Their skill in building a consensus among parties who were angry and did not trust one another foreshadowed Judge Neiter's success as a mediator and a jurist. Bankruptcy Judge James E. Moriarty, before whom the Pacific Homes Chapter X case was pending,

described the case and the successful consensus building, of which Judge Neiter was one of the principal architects, as follows:

To say that this was an unusual case was putting it mildly. During the almost twenty years the writer has served the Bankruptcy Court, he has handled many large and complex cases, cases involving many times the assets and liabilities involved in this case; but how does one place a dollar value on the well-being and even the lives of 1,800 elderly persons?

This Court may be old-fashioned, but it believes that there is more to life in general than a mere dollar sign. In our modern commercial world, many persons seem to have lost sight of the well-being of our fellow man.

In this case the Trustee, his counsel, and counsel for the residents' committee took a hopelessly insolvent operation and by hard work and skill in a very novel situation and over persistent and aggressive opposition converted it into a solvent, on-going operation that should . . . be able to continue to provide these much needed services for the community.<sup>1</sup>

In describing Judge Neiter's contribution to this successful resolution, Judge Moriarty wrote as follows:

Since its inception over thirty five years ago, the Stutman firm has specialized in Bankruptcy matters, insolvency, Debtors' and Creditors' rights and corporate reorganization. In the legal community of Los Angeles and the state of California, this firm is considered to be one of the best. Their service in this most unique case was certainly of the highest level. . . .

Special Counsel was consulted and was involved in many administrative problems due to the unusual problems and difficulties the Debtors' operation presented. However, the greatest contribution of Special Counsel was the formulation of the plan of corporate reorganization which was finally approved by the Court. . . .

[T]he expertise of Special Counsel was clearly evident in the plan that was developed to resolve many unusual problems normally not encountered in a general Chapter X proceeding.<sup>2</sup>

In many ways, *Pacific Homes* is an illustration of the skill set that Judge Neiter developed over his many years of practice and has brought to the bankruptcy court and to his work as a settlement judge. It involved unusual legal issues not previously encountered and required tremendous creativity. It required Judge Neiter and others to formulate solutions that addressed the competing priorities of multiple

different parties. It required someone to build a consensus among parties who did not trust one another and who had tremendous financial and nonfinancial stakes in the ultimate outcome. Judge Neiter listened carefully to the concerns of all the parties. That willingness and ability to hear and understand each party and to clearly communicate to each party that its concerns have been heard are some of Judge Neiter's greatest strengths as a judge.

For me personally, the *Pacific Homes* matter also demonstrated another side of Judge Neiter. I was a summer clerk at that first meeting. Judge Neiter explained to me, then a neophyte in bankruptcy and complex multiparty litigation, the various dynamics in a room filled with multiple adverse parties. He took the time to answer my questions and clearly enjoyed teaching me.

Judge Neiter exercises these same mentoring skills with his law clerks and externs. Lovee Sarenas has been his senior law clerk since he was first appointed. Other law clerks and externs rotate through Judge Neiter's chambers. He expects the highest quality work product from his externs and law clerks and provides them with extensive constructive criticism, working through with them the detailed legal memoranda and tentative rulings that he uses in deciding his cases. He listens carefully to the arguments of his externs and law clerks and encourages an open discussion of the issues presented. Sarenas describes the debates that often takes place in the judge's chambers as "mini moot courts," at which the externs and law clerks defend their legal analyses, learning valuable advocacy skills in the process. Judge Neiter enjoys working with these law students and young lawyers.

Judge Neiter has far more experience than the vast majority of counsel and parties that appear before him. Many professionals with comparable experience become impatient and inclined to form quick judgments without listening to the opinions of others. Judge Neiter carefully listens to parties and counsel. It is necessary, but not sufficient, to give each party a full and fair hearing. Judge Neiter seeks to ensure that each person appearing before him believes that he or she has received a fair hearing and understands the process, even if Judge Neiter ultimately rules against the person.

One of the biggest differences between Judge Neiter's practice of law representing sophisticated parties to complex business transactions and the cases that are presented to him as a judge is the predominance of cases in which individual debtors appear in propria persona or with counsel who have very limited bankruptcy experience. Judge Neiter gives each of the parties and the counsel who appear before him respect and treats them with equal personal dignity, whether they are a pro per debtor or a senior bankruptcy specialist. He spends the extra time to explain to them why they are before him and why he is making the rulings that he does.

Judge Neiter is also a skilled mediator, in great part because of his willingness to listen patiently to both the legal arguments presented and the parties' goals. He served as a mediator on the bankruptcy court's panel of volunteer

mediators for more than 10 years. He was a member of that panel from the time it was formed until he was sworn in as a judge. As a member of the panel, he volunteered to conduct a number of mediations each year without compensation. As a bankruptcy judge, he serves as a settlement judge for other judges in the Central District.

Jim Stang, one of the founders of Pachulski, Stang, Ziehl & Jones, represented a party to a matter in which Judge Neiter served as settlement judge. Stang said that Judge Neiter was well prepared and incredibly patient. He is always prepared. He often counseled younger lawyers at Stutman, Treister & Glatt that it was critical that they be the most prepared lawyer in the courtroom in every case they handled. They could not always have the most sympathetic client, the winning case law, or the strongest evidence, but they could always be the most prepared advocate.

Judge Neiter's preparation is the result of his work ethic. When he was a senior partner at Stutman, Treister & Glatt, he was usually the first attorney in the office. I remember thinking how hard I was working as I encountered him in the parking garage of our offices before 6 a.m. as we both arrived—only to learn that earlier that morning he had already inspected the office building at the center of a case he was litigating.

Judge Neiter brings that same work ethic and thorough preparation to his job as a bankruptcy judge. Virtually every matter on his calendar is the subject of a bench memorandum and a tentative ruling prepared by one or more of his externs and one of his law clerks. He works with them in preparing, reviewing, and critiquing these memoranda and rulings.

Stang commented that Judge Neiter was well prepared when he served as a settlement judge and was a very quick study, because of his many years of experience and strong intellect. Judge Neiter quickly understood the nuances of the case, but Stang was more impressed by Judge Neiter's willingness to listen patiently to each party's full presentation. In the end, this enabled the parties to feel heard and to understand their adversaries' positions and goals.

Judge Neiter brings these skills to his job as a decision-maker, as well. The bankruptcy process often involves contested motions to obtain bankruptcy court approval to engage in particular transactions or litigation. Judge Neiter can and will recommend to parties solutions that litigants may

not have considered as alternative solutions to the contested motions presented to him. Through his ability to listen to the priorities of the parties and apply his decades of experience and creative problem-solving skills, Judge Neiter can sometimes recommend to the parties a resolution that does not require the winner/loser dichotomy that so often results from knock-down, drag-out litigation. David Neale, a founding member of Levene, Neale, Bender, Rankin & Brill L.L.P., commented on Judge Neiter's ability to apply his years of experience to formulate pragmatic suggestions that often enable the parties to resolve their disputes after an initial hearing. Neale described Judge Neiter as "an activist judge," in the sense that he can provide the parties with creative ideas and concrete insights that often provide a catalyst for consensual resolutions.

That said, Judge Neiter does not hesitate to render a prompt decision. He recognizes that making clear, prompt decisions on individual matters presented to him minimizes wasted time and effort by the parties and their counsel. Neale and his adversary both had sufficient confidence in Judge Neiter's skills and preparation that they stipulated to have him conduct a jury trial. The trial was ultimately canceled when the parties, with the assistance of Judge Neiter, reached a negotiated settlement. Neale said that Judge Neiter's greatest strengths include his intelligence and his extensive experience, because these two factors combined enable him to understand both the technical legal issues presented and the practical implications of his decisions.

Judge Neiter brings to the bench (and to his other endeavors in life) a strong work ethic, thorough preparation, intellect, and an unusual combination of patience and decisiveness. Perhaps more important than any of these individual traits is Judge Neiter's inherent respect for each individual who walks into his courtroom. Like his peers, he strives to reach a fair decision in each case presented to him. Judge Neiter's respect for the participants and the process drives him to go a step further to make sure that the parties understand that they have received a fair day in court. ☺

#### Endnotes

<sup>1</sup>*In re Pacific Homes*, 20 B.R. 729, 737 (Bankr. C.D. Cal. 1982).

<sup>2</sup>*Id.* at 742-43.

# Friend Us. Follow Us. Join Us.



[www.fedbar.org](http://www.fedbar.org)