



Hon. Robert L. Pitman

District Judge for the Western District of Texas–Austin Division

by David R. Schleicher



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Want to make a favorable impression in Judge Robert Pitman's court? Consider erring on the side of being a problem-solver versus a war fighter, working from a place of humility rather than self-importance, being respectful of everyone's time rather than spending an hour on cross-examination, and playing by the rules but with an openness to innovate. It is no coincidence that these are the same traits one can expect to see from the bench in Judge Pitman's court.

Such an approach may also be why he has ranked so highly in bar judicial polls, but he for one refuses to speculate on that. Notwithstanding having been student-body president when attending Abilene Christian University, he lacks an elected official's urgency to comment on everything. But he does have some advice for lawyers who end up in high-profile disputes: use your time before the court to focus on the litigation. Putting on a show for the reporters or a client may provide a momentary feeling of elation, but winning the case and doing so in a cost-effective manner feels better in the long run.

In a hearing before the court, Judge Pitman likes the lawyers to engage in dynamic listening. Take opportunities to find common ground and hunt for solutions that may not have been readily apparent at an earlier stage in the litigation. He won't tolerate abuses of the rules (the truism "beware the wrath of a patient man" may apply here), but he won't let rigid adherence to rules stand in the way of the parties making progress toward final resolution of the litigation.

Judge Pitman was known for a time as the Western District of Texas "I-35 Judge" because of his travels on the interstate between the San Antonio Division to the south, the Austin Division in the middle, and the Waco Division to the north. This gave him a perspective on how lawyers interact in different-sized cities, from San Antonio (seventh largest city in the United States), to Austin (11th largest), to Waco (183rd largest). For the most part, he discerned that the attorneys in all three locales treated each other with respect and saved their battles for meaningful issues.

He found this to be especially true among prosecutors and the criminal defense bar, where they all



expect to see each other another day, and money is the not ultimate issue. He hopes what appears to be the start of an initial trend away from collegiality is not a long-term one, as it is in some other large cities.

Prior to taking the bench, Robert Pitman served as an interim U.S. attorney, deputy U.S. attorney, and then Senate-confirmed U.S. attorney, with time also in the Executive Office for U.S. Attorneys. This time in the "nation's largest law firm"—the Department of Justice—taught him that sometimes when a party says, "Your honor, we're doing the best we can," it may actually be true, especially in dealing with bureaucracies. On the flip side, having the ability to hold a party or attorney truly accountable when they flagrantly misbehave is one of the aspects of being a federal judge that he finds most fulfilling.

Another thing he appreciates is the intellectual rigor required in responding to requests for emergency injunctive relief. He is cognizant that he must quickly study, learn, and rule justly on the matter, keeping in mind that in many cases that initial order dictates the final outcome of the dispute. This contrasts with the necessarily in-depth deliberation required for sentencing defendants.

The profound result on the life of the defendant and his or her family means Judge Pitman finds that a

day of pronouncing sentencings can end up being much more emotionally draining than even a long day in a jury trial. And any given sentence may still weigh on his mind years later.

When in court with a jury, it is not unusual for Judge Pitman to look over and see that the jury members often have a very different view regarding the value of time compared to the attorneys trying the case before them. Judge Pitman explains that unnecessarily dragging out presentation of evidence not only may make a jury resentful, but it also makes the jury less likely to identify and remember the most critical pieces of it. In his Austin courtroom, Judge Pitman enjoys how the city's economic diversity produces a broad range of issues and types of disputes to resolve, beyond the typical drug, gun, and immigration prosecutions that can consume the docket in other Texas cities.

While some judges prefer to resolve discovery disputes themselves, and others prefer a magistrate to handle almost all of them, it is more case specific for Judge Pitman. If he has already invested a considerable amount of time becoming familiar with the case, he is more likely to directly address a discovery dispute. But if it's a newer one to him, he generally lets the magistrate judge handle it. One of three Austin Division magistrates is randomly assigned to each case at the time it is filed.

When it comes to life outside the court, Judge Pitman in recent years has ended up trading in his longtime devotion to being a horseman for instead biking around Austin, often riding 40 miles a weekend. He finds cycling provides a chance to see things from a different perspective, and it clears his mind, keeps him healthy, and leaves the air cleaner than would a Sunday drive.

Growing up in the Fort Worth area, Judge Pitman had four siblings but no attorney role models. He credits his choice of the profession to the influence of a Youth in Government program while he was a junior in high school. He won at the state level in the mock trial proceedings (see photo) and went on to compete at the national level. While earlier family members had gone into medicine, he was more drawn to the back-and-forth of the law (and—as with many lawyers—the fact that it did not require post-Trigonometry-level math skills).

Over the years, he left behind some of what he had ingrained from a strict and very conservative religious upbringing. But he credits it with honing his analytical and logic skills in a way that another background might not have. He observes that the same process he used then often is applicable now: (1) read a text; (2) consider what it meant when written; (3) determine how it is to be applied now; (4) debate; (5) consider again in light of the discussion; and (6) repeat.

Asked what advice he would give to a lawyer hoping to someday become a federal judge, Judge Pitman had these thoughts. First, many are qualified, but few chosen, so don't make it your only goal. Next, as a practical matter in getting nominated, consider that sometimes it turns out to be better to be everyone's second choice

and nobody's first choice. Third, hope all the stars align. Lastly and most importantly, in the meantime do the things you should be doing anyway as a lawyer—work hard while earning the trust and respect of judges and other attorneys.

San Antonio Division District Judge (and former Chief Judge) Fred Biery offered praise for Judge Pitman's willingness to take on the 180-mile docket of hearing cases from San Antonio to Waco. He also described Judge Pitman as having been a pleasure to work with as a U.S. attorney, always maintaining regular contact with the judiciary. Biery reports that assistant U.S. attorneys and support staff thought well of Judge Pitman, too. Elizabeth Cottingham had a similar experience, first coming to know Judge Pitman when they were AUSAs together in the Austin office.

Her initial impression of him was that he was charming, bright, and had a clever sense of humor. She saw him put others at ease with his kind demeanor and disarming smile, and by keeping them laughing. She saw him rely on the same high degree of emotional intelligence in his roles as a magistrate judge, as chief of the Austin U.S. Attorney's Office, then as the Western District of Texas U.S. attorney, and finally as district judge.

Ms. Cottingham recommends that lawyers who will be appearing before Judge Pitman be well-prepared, having fully considered any position they plan to argue for, and be candid, courteous, and sincere. They should be prepared for the occasional unexpected and pointed question, suggesting that he may be looking for something other than a stock, routine answer.

One experience Judge Pitman will not forget is serving as the interim U.S. attorney at the time of the 9/11 terrorist attacks. He observed that numerous law enforcement agencies set aside their differences and focused on the mission of making the nation safer. He describes times of crisis as providing unique opportunities for progress if people are willing to work together. He explains how this requires an empathy for how others came to viewpoints that may be very different from your own. (Through an earlier master's degree in international human rights law from the University of Oxford in England, he had a true opportunity to learn from others' perspectives.)

He cautions that the other side of the coin is that a crisis may bring to the surface and foment differences that can do real damage to a country. Whether the judiciary, law enforcement agencies, or otherwise, he views maintaining stable institutions to be essential to recovering from such tragedies, as he considers the United States to have successfully done after 9/11. ☉