

MAGISTRATE JUDGE

DAVID O. NUFFER

by Jonathan O. Hafen

Following his graduation from J. Reuben Clark Law School in 1978, Magistrate Judge David Nuffer was faced with a choice—where to begin his legal practice. He had attended high school in Naperville, Illinois, a Chicago suburb. Perhaps remembering too well the cold Chicago winters, Judge Nuffer adopted a “winter avoidance” approach and moved to St. George.

Judge Nuffer practiced law in St. George for approximately 25 years. In 1995, Judge Nuffer was appointed as a part-time United States Magistrate Judge. He spent about one quarter of his time from 1995 to 1998 hearing cases. From 1998 to 2002 his case load increased to half time. In 2002, Judge Nuffer became a full-time judge and moved to Salt Lake City.

During his seven years as a part-time judge and part-time lawyer, Judge Nuffer gained a unique perspective on “stupid and annoying things” that judges and lawyers shouldn’t do. He hopes that this perspective will help him to be a better magistrate judge.



Practice Pointers

Judge Nuffer offers the following guidance to practitioners appearing before him:

- It is unproductive to ever characterize opposing counsel as anything.
- Counsel should never take a position which lacks common sense appeal.
- Judge Nuffer tries very hard to be prepared prior to each hearing, including having a ruling in mind as he takes the bench. However, he is often swayed by oral argument.
- Practitioners should expect Judge Nuffer to almost always rule from the bench, because, in his words, “an issue is never more clear than when the parties, counsel, and the judge are all together.”

Case Management

Judge Nuffer spends approximately 60% of his time on civil matters and about 40% of his time on criminal matters. Most of Judge Nuffer’s hearings are in criminal cases.

Judge Nuffer spends significant time dealing with discovery disputes. In his experience, many discovery disputes are caused by one party “sitting” on the case.

Judge Nuffer has two law clerk, Lori Lewis and Marva Hicken. Both Ms. Lewis and Ms. Hicken have extensive experience. Anndrea Sullivan Bowers acts as Judge Nuffer’s courtroom deputy and case manager. Judge Nuffer does not have a secretary. Practitioners should be aware that for all inquiries regarding cases or telephone appearances, counsel should contact Anndrea Sullivan Bowers with opposing counsel on the line.

A High-Tech Judge

For a self-described “rural Utah lawyer,” Judge Nuffer is fascinated with technology, particularly as it relates to the practice of law. For example, Judge Nuffer prefers that counsel contact him through e-mail. His e-mail address is: Utmj_nuffer@utd.uscourts.gov. To avoid ex parte contact, Judge Nuffer requests that all such e-mail messages be copied to opposing counsel. Judge Nuffer or someone from his staff will try and respond to all such e-mails either the same day or the following day. Although Judge Nuffer prefers e-mail contact, in the case of urgent discovery disputes, such as battles during depositions, telephone calls to Anndrea Sullivan Bowers are an appropriate way to contact the Judge.

Judge Nuffer is actively involved in the Federal Court’s technology committee. He has been glad to see the Court moving toward paperless filing. He expects that by May 2004, federal court filings will be

made by the internet. Judge Nuffer sees a number of benefits to e-filing. For example, it will greatly reduce photocopying costs. In addition, all pleadings will be available to all parties and counsel 24 hours a day, seven days a week, including exhibits.

Judge Nuffer believes that electronic filing will be a great benefit to rural practitioners because it will allow counsel to file electronically from anywhere there is internet access. In addition, the Magistrate Judges will have access to all pleadings when they are filed. The current process provides for a filing to be made with the court clerk, who then forwards it to the District Court Judge, who then forwards it to the Magistrate Judge. This process can take time, sometimes resulting in situations where the Magistrate Judges are asked to act on pleadings they have not yet received. Through e-filing, Judge Nuffer anticipates that this will no longer be a problem.

Judge Nuffer recommends that counsel make use of the Federal Court website: www.utd.uscourts.gov. This website will provide a tutorial for e-filing. It also contains numerous links, judicial biographies and other information helpful to the practitioner. For more information on electronic filing, see this issue's *Clerk's Corner*.