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ILC Judicial Profile Series: United States Bankruptcy Judge Meredith A. Jury

Dear constituency list members of the Insolvency Law Committee:

The following article is the fourth in a series of profiles of Ninth Circuit bankruptcy judges. Judge Meredith Jury and members of the Insolvency Law Committee met in her chambers and discussed her personal and professional background, observations from the bench, and issues of interest.

Judge Jury is a United States Bankruptcy Judge in the Central District of California, with chambers in the City of Riverside. She was first appointed to the bench in November 1997, and reappointed in 2011. She also serves as the Chief Judge of the Ninth Circuit Bankruptcy Appellate Panel (BAP), having been appointed to that Court in 2007 and reappointed in 2014.

Prior to Taking the Bench:

Judge Jury received her undergraduate degree in English, with minors in History and Journalism, from the University of Colorado. After experimenting with teaching, she obtained a law degree from UCLA in 1976. Following law school, she accepted a job as the first female associate at Best, Best & Krieger, LLP, a Riverside-based firm, where she became a well-respected litigator handling complex litigation cases. She subsequently became the firm's first female partner and happily practiced at the firm for over twenty years.

Due to her strong reputation as a litigator, Judge Jury was asked to apply for a newly-created position of United States District Court Judge in Riverside. While she did not get that assignment, by the time the position of United States Bankruptcy Judge in Riverside became available a short time later, Judge Jury was intrigued. She applied for and was selected for the position.

The transition from private practice to the bench was easy for Judge Jury. She says, "I knew what I liked and didn't like about how courtrooms were run. I still call my calendar the way Judge Naugle did." One thing the judge misses about private practice is having clients. "I had some great clients, mainly small businesses. I miss my relationships with these clients."

Dual Roles Serving as a Bankruptcy Judge and on the Ninth Circuit Bankruptcy Appellate Panel:

Judge Jury talks of her "day job and night job," serving as a bankruptcy judge and as a BAP judge. As she describes it, "my day job is to write novels, and my night job is to review novels....The standard of review is everything on appeal. I didn't think of that as a trial judge."

For the BAP, the judge usually reads the bankruptcy court ruling first and moves backward from there. She reviews the record on appeal before she reviews the parties' briefs. "We get the bench memos one week before oral arguments and independently review them before the oral arguments. The judges on the panel discuss the cases at dinner the night before. We like consensus, and feel better about a 3-0 decision. When there's a dissent, it's an intellectual exercise and usually a close call, and we want the Ninth Circuit to review the issue. It's the same thing with a concurrence. It's a way to get a position in front of the Ninth Circuit." After the BAP decides the issue, if there is a further appeal, the Judge comments, "I have an intellectual curiosity as to what the Ninth Circuit will do, but it's out of my hands."

Judge Jury is keenly aware that the BAP writes for four audiences: (1) the parties, (2) other bankruptcy judges, (3) the Bar, and (4) the Ninth Circuit. “We try to make it as persuasive as possible.” She believes that, with very minor exceptions, judges on the Ninth Circuit understand and respect the value the BAP adds to the bankruptcy appellate process.

Although the judge believes that the BAP’s decisions are important, she agrees that “some bankruptcy judges do not believe they are bound by the BAP’s decisions. I don’t feel bound by BAP opinions. The BAP can’t be binding precedent because District Court decisions aren’t binding precedent. You can’t have one appellate court as precedent and not the other.” However, the judge also notes that most bankruptcy judges follow BAP opinions. In fact, she states that, “95% of the time I follow the BAP and cite the BAP. Most bankruptcy judges do.”

Though she notes that the majority of oral arguments do not affect the outcome of the BAP’s decisions, Judge Jury still believes they are important. Following oral arguments, BAP panels discuss each case and, a small percentage of the time, pre-oral argument positions change.

On the impact of *Stern v. Marshall*, the judge states that “it hasn’t changed my day job or night job. Almost all parties consent to final judgments being entered by the bankruptcy court, even in fraudulent transfer cases.” Judge Jury believes that district courts look at reports and recommendations from bankruptcy courts differently than appeals from bankruptcy courts, and that the district courts are likely to follow the bankruptcy court’s reports and recommendations.

Observations from the Bench:

Judge Jury enjoys her role as a bankruptcy judge, and as a member of the BAP. “I have the best job in the world. I get incredible stimulation from my job and learn something new every day.”

She is very cognizant that each time she rules, it impacts a party. The judge notes that “the hardest thing to do is rule against a good lawyer when they did a good job for their client but the law or the facts are against them. I state the tentative ruling orally in court. It’s hard, but necessary. It’s more active than a passive written tentative. I analyze better when I must orally explain my decision, a very active thinking process.”

The judge is well known for presiding over the City of San Bernardino bankruptcy case. She reflects that, “Chapter 9 is expensive and it’s really a last resort. There is not really much appellate law on Chapter 9 cases. It’s mostly bankruptcy court judges opining.” Judge Jury is pleased with the progress in the San Bernardino case, recognizing that this case could not go more quickly.

While unsure whether the underlying financial issues giving rise to this case have been solved, the judge is happy to see that “there’s a much more organized financial situation now. A consultant became the city’s chief financial officer and has done a really good job. It wasn’t easy.” The judge also thinks that the press coverage of the bankruptcy case has been fair. “They get it 99% right. Once in a while they blow it, but they try to get it right.”

The Judge’s Chambers and Her Law Clerks:

The Judge utilizes technology and does 50% of her reading online, including reading cases on Westlaw. However, she prints out critical cases for further review. She comments that she reads the Insolvency Law Committee’s eBulletins on a regular basis, and tracks the new opinions and decisions by the Ninth Circuit and the BAP. Judge Jury often works from home at night or on weekends. “I plan ahead to do BAP work offsite and download the key files to my iPad.”

Judge Jury also relies heavily on her law clerks. Part of the judge’s process for preparing for oral arguments on appeal is to see if she can persuade her BAP law clerk to agree with her position. “I have a great BAP law clerk, Kitty Krus, who used to work for Judge Hargrove and has been a clerk since 1991. She’s always one step ahead of me, because she gets to read the appellate briefs before I do. We don’t always agree. If I haven’t convinced Kitty by the time of the oral argument, I have to reconsider whether my position is right or wrong.”

The judge views her present and past law clerks as part of her family. “I know where they all are in their careers.” The judge also officiated at five of her law clerks’ weddings. Judge Jury reflects that “I would be delighted if any of my law clerks became a judge. You never know. Being a judge wasn’t in my career path.”

The Judge’s Interests:

Judge Jury is a sports enthusiast. “I’m a pre-Title IX person. My mom played tennis and I’ve always liked sports.” The judge enjoys watching NCAA women’s basketball the best. She also enjoys regularly working out and

watching basketball games at the gym. The judge is an avid biker and hiker, having hiked the Grand Canyon and taken bicycle trips all over the United States.

The Judge plans to retire within the next two years, after the San Bernardino bankruptcy case concludes and she has completed her term on the BAP. Prior to being appointed to the BAP, the judge was on the Riverside Mayor's Commission on Aging. In retirement, she plans to volunteer to help seniors, focusing on senior financial abuse issues. "I care about the senior population and want to use my skills to help." Judge Jury does not see herself ever slowing down, even in retirement. "I like to keep busy. I like challenges."

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