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From the Los Angeles Times
JUICE VS. JUSTICE | A TIMES INVESTIGATION
In Las Vegas, They're Playing With a Stacked Judicial Deck
Some judges routinely rule in cases involving friends, former clients and business associates -- and in favor of lawyers who fill their campaign coffers.
By Michael J. Goodman and William C. Rempel
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June 8, 2006

LAS VEGAS — When Judge Gene T. Porter last ran for reelection, a group of Las Vegas lawyers sponsored a fundraiser for him at Big Bear in California. Even by Las Vegas standards, it was brazen. Some of the sponsors had cases before him. One case was set for a crucial hearing in four days.

"A Lavish Buffet Dinner will be catered By Big Bear's Premier Restaurant," invitations to Porter's fundraiser said. "There will be Food, Fun, Libations … a 7:30 p.m. Sunset Cruise on the Big Bear Queen … a Zoo Tour for the Little Ones." Porter, 49, a Nevada state judge, attended. The evening blossomed into a festival of champagne, lobster and money. Organizers said guests contributed nearly $30,000, dropping much of it into a crystal punch bowl.

Some lawyers considered it protection against ill fortune. Robert D. Vannah, a sponsor of the fundraiser whose firm had the hearing scheduled in Porter's courtroom in four days, would later explain his donation this way: "Giving money to a judge's campaign means you're less likely to get screwed…. A $1,000 contribution isn't going to buy special treatment. It's just a hedge against bad things happening."

Vannah and others in his law firm, along with one of their consultants, made donations worth a total of $13,500, fundraising reports show. It was the fattest combined contribution of the night.

On the other side of the case, counsel for Michael D. Farney, then a resident of Ojai, Calif., whose company was being sued, hadn't chipped in a dime. Worried that bad things might happen to him, the lawyer, Douglas Gardner of Las Vegas, asked Porter to withdraw from the case. "The timing of the campaign gala," Gardner's motion said, "is too close."

Porter refused, protesting he had "no bias or prejudice."

At the hearing four days after the fundraiser, Gardner requested a delay.

Porter refused that too.

The case went to trial, and Porter ordered Farney's company to pay $1.5 million in damages.

The California businessman said his attorneys were appalled. " 'Hometown justice,' " Farney said they called it. "I don't plan to go back for more."

Porter's refusal to withdraw is hardly unusual in Las Vegas courts.

This is a juice town, some Las Vegas attorneys openly concede. Financial contributions "get you juice with a judge — an 'in,' " Ian Christopherson, a lawyer in Las Vegas for 18 years, said in an interview. "If you have juice, you get different treatment. This is not a quid pro quo town like, say, Chicago. This town is a juice town."

Las Vegas is one of the fastest-growing metropolitan areas in the United States. Since 1960, census figures show, its population has exploded by 1,246%. But many of its courts have not grown with it, much less grown up. At the heart of the Las Vegas court system are 21 state judges who hear civil and criminal cases, and who can be assigned anywhere in Nevada, but who are called district judges because they work out of courthouses in the judicial districts where they are elected. These state judges often dispense a style of wide-open, frontier justice that veers out of control across ethical, if not legal, boundaries. The consequences reach beyond Nevada, affecting people in other states, especially California.

Some of the effect falls upon visitors from Los Angeles who come here to gamble, flirt with sin and have a good time. More than a quarter — about 29% — of the 38.5 million visits to Las Vegas in 2005 were made by Southern Californians, including many who came here more than once. By that estimate, published by the Las Vegas Convention and Visitors Authority, Southern Californians make more than 11 million visits to Las Vegas every year.

But the effect falls, as well, upon Californians in business. Like Michael Farney of Ojai, who owned Elite Marine, a boat company that served southern Nevada and Lake Mead, an uncounted number of people from Southern California hold financial interests in Las Vegas and its surrounding metropolitan area. Of all businesses that relocate to Nevada, according to the state Commission on Economic Development, at least 36% come from California.

Whether they want to play or do business, all who come to Las Vegas, from Southern California or elsewhere across the nation, expect a fair shake, especially from its courts. Las Vegas is a town, however, where some judges, operating in a new $185-million Clark County courthouse two blocks from casinos, wedding chapels and strip clubs, routinely rule in cases involving friends, former clients and business associates, even in cases touching people to whom they owe money.

In 1990, Porter borrowed $15,000 from attorney George P. Kelesis. While he owed Kelesis the money, Porter ruled in at least six cases involving the law firm of Cook & Kelesis. A recent search found no statement in court records that he told opposing attorneys about the loan. Kelesis says he had left the firm but allowed it to continue using his name to boost its stature. Porter promised to repay the money in 1993, according to county records. But when he retired from the bench in 2003, his disclosure statements show, he still owed Kelesis at least $5,000.

Porter, who has joined a Los Angeles-Las Vegas law firm, declined to be interviewed for this story and would not respond to written questions.

Las Vegas is a town where James C. Mahan, 62, who served initially on

the state bench and is now a federal judge, awarded more than $4.8 million in judgments and fees during more than a dozen cases in which a recent search of court records found no statement that he disclosed his ties to those who benefited. Mahan, who sometimes wears a holstered semiautomatic pistol on his right hip while sitting at his desk in the U.S. courthouse, approved court fees for a former business associate who twice served as his judicial campaign treasurer and was instrumental in his federal appointment.

Mahan approved additional fees for his former law partner, who was providing free legal services for the judge's wife and the judge's executive judicial assistant and with whom he still had financial ties, including property ownership and a profit-sharing arrangement.

In an interview, Mahan said the relationships made no difference in his decisions. "I don't care who the attorneys are," he said. He denied seeing any conflict of interest and grew angry at being questioned.

Las Vegas is a town where District Judge Nancy M. Saitta, 55, running unopposed in 2002, raised a political war chest totaling $120,000. She received nearly $70,000 from 140 attorneys and law firms. All 55 lawyers or law firms giving $500 or more had cases assigned to her courtroom or pending before her, according to court and campaign records. Her campaign collected donations at fundraisers hosted by lawyers, also with cases before her.

In one instance, Saitta awarded more than $1 million in fees for a certified public accountant and his attorneys, two of whom held a fundraiser for her while she was ruling on their case.

In an interview, Saitta said, "People who appear in my courtroom are all on equal footing." She said she came up with likely contributors to invite to her fundraisers by finding out who gave readily to other judicial campaigns. Did she take names from her court docket? "Oh," she said, "I would never do that."

Las Vegas is a town where District Judge Sally Loehrer, 59, also running unopposed in 2002, collected about $80,000 in campaign funds. Of 54 attorneys and law firms contributing $500 or more, fundraising reports and court records show that 51 had cases pending before her or assigned to her courtroom. On the eve of one fundraiser, according to the reports, four law firms gave her 12 bottles of wine, a 13-inch TV, two DVD players, a gas grill, dinner for four at Zefferino's restaurant, two theater tickets, two golf lessons and a pool float with two beach towels. All four firms, court records show, had cases pending before her.

In response to written questions, Loehrer said: "I do not keep a list of persons who have contributed in my head, in my desk nor on my computer…. My decisions are based solely upon my understanding of both the facts and the law at the time of the decision and nothing more." She said the wine, beach towels and other items were given away as door prizes.

Loehrer publicly donated $3,300 of her campaign contributions to other candidates, records show. They included candidates for district attorney and attorney general, both of whom try cases before her.

Nevada judicial canons say judges shall not "publicly endorse" another candidate.

She responded that her "best analysis" of the canons and a subsequent advisory ruling by Nevada's Standing Committee on Judicial Ethics and Election Practices was that judges may buy tickets to campaign functions regardless of cost. She did not say whether her donations, ranging from $150 to $900, were for tickets.

But the ethics committee noted that any donation of more than $100 had to be reported publicly. Hence, it said, if a ticket cost more than $100, then buying it constituted "a public endorsement" and was "in violation of the Nevada Code of Judicial Conduct."

Las Vegas is a town where District Judge Joseph S. Pavlikowski, 78, officiated on May 4, 1969, at the wedding of Frank "Lefty" Rosenthal, notorious as a front man for the Chicago mob — and then accepted a discounted wedding reception for his own daughter at a casino where Rosenthal was a top boss. Pavlikowski subsequently ruled for Rosenthal in three cases when authorities attempted to bar him from running a casino.

Today, Pavlikowski is a senior judge, commissioned by the Nevada Supreme Court to serve at its pleasure without accountability to the voters.

He declined to be interviewed and would not respond to written questions.

Las Vegas is a town where District Judge Donald M. Mosley, 59, gave unspent campaign funds to a girlfriend. He called it a loan. She said it was a gift. Canon 7 of the state Code of Judicial Conduct said a judge or a candidate for judicial office "should not use … campaign contributions for purposes unrelated to the campaign." Mosley acknowledged six years ago in a deposition that he provided her with $10,000 of his political money. Mosley said it was restored to his campaign fund, but his girlfriend said she did not repay it.

Mosley's campaign fundraising reports leave the matter unresolved. They show that the money was neither withdrawn nor paid back.

In a written statement, Mosley said he had been subjected to absurd and unsupported allegations by political opponents and by the girlfriend, with whom he eventually fought for custody of their child. "Neither these individuals nor their attacks," he said, "deserve the dignity of a response."

Judicial campaign rules vary from state to state. The Nevada Supreme Court, the top court in the state, whose justices collect money from lawyers and casinos for their own campaigns, allows district judges to accept campaign donations from people who might appear before them. State judicial canons encourage the judges to solicit and accept the donations through campaign committees, but the canons also allow the judges to do it personally.

U.S. and Nevada judicial canons say judges should withdraw from cases where their impartiality might reasonably be questioned. Nevada canons also say judges must avoid even the appearance of impropriety and should reveal on the record anything that they think anyone in court

could reasonably consider relevant to disqualification — even if the judges do not think they should withdraw.

Nevada, however, does not require judges to reveal when their donors appear before them.

When lawyers in California and Nevada, along with a number of Nevada district judges, both sitting and retired, were asked about how this affected justice in Las Vegas, many spoke openly about its pernicious effects — particularly about how lawyers and their clients sometimes must pay to play on a level field.

They also told how the effects of judicial corruption seep from Nevada across the state line into California.

Federal and state rules are often ignored, some lawyers said. They cited a good-old-boy culture of cronyism and chumminess that accepted conflicts of interest as "business as usual" and as part of Nevada's maverick history of government-sanctioned prostitution, gambling, drive-through marriages and quickie divorces.

"The common excuse is that this is the way it's always been done — fast and loose — the wild, wild West," said Las Vegas attorney Charles W. Bennion. "But the people making those excuses are the only ones that benefit, and they want it to stay that way."

A common perception among a dozen out-of-state lawyers interviewed about their experiences in Nevada courtrooms is that justice in Las Vegas is just another form of legalized gambling.

"I don't think what goes on in Nevada bears any resemblance to a justice system," said John C. Kirkland, a Santa Monica attorney. He said he had clients who were victimized in Las Vegas courts. "It's an old-boy network. It's not a legal system."

Justice in Nevada, conceded Cal Potter III, a veteran Las Vegas lawyer, is such that "outside law firms just don't trust Nevada courtrooms."

Many blame the campaign funding practices of district judges who have to run for office. "There should be a provision in the law prohibiting judges from directly soliciting a campaign contribution," said state Judge Brent Adams of Reno. "The one standard for a judicial candidate in Nevada today is, 'How much money can you raise?' "

During the most recent Nevada election in which all district judgeships in Las Vegas were on the ballot, 17 incumbents raised more than $1.7 million in campaign funds, collecting much of it from lawyers and casinos with cases pending before them, campaign financial reports and court records show. At least 90% of all contributions for the election, held Nov. 5, 2002, came from lawyers and casinos.

Frequently, a donation was dated within days of when a judge took action in the contributor's case, the records show. Occasionally the contribution was dated the same day.

"It can seem like a shakedown," conceded Jeffrey Sobel, a judge who lost his seat — and that was the point. Sobel collected donations of

$1,000 to $5,000 each from 39 attorneys or law firms while their cases were pending in his courtroom, records show. The Nevada Commission on Judicial Discipline investigated him after learning that he had discussed campaign contributions during a conference on a case pending before him. Commission records show Sobel told one attorney that "he was f---ed because he hadn't contributed while others had."

Sobel later said he was joking, but the commission ruled last July that he had violated the state Code of Judicial Conduct, censured him publicly and "permanently barred [him] from serving as an elected or appointed judicial officer in Nevada." The commissioners recommended that "judges should avoid, even during normal campaign activities, soliciting campaign help from attorneys" with cases pending before them, and even from attorneys with "the reasonable likelihood of future litigation" in their courts.

Nonetheless, the commission allowed Sobel to continue to mediate and arbitrate cases, which comprised the majority of his law practice, and it allowed him to continue to be appointed as a special master, who investigates claims in lawsuits and makes recommendations to judges.

Because of campaign contributions from lawyers and casinos appearing before them, said Don Chairez, a former Las Vegas state judge, "Nevada judges find themselves losing or bargaining away their integrity or independence."

Some lawyers, said Steve Morris, a prominent Nevada attorney with 35 years of experience, "are in almost terror of not giving" to judges seeking campaign contributions. His law firm spread about $7,500 in contributions among 11 candidates in the 2002 election, fundraising reports show.

"If it's a close call," Morris said, "asking judges to treat lawyers who contribute money the same as lawyers who don't is asking for the superhuman. When judges come around and say, 'I need money,' it's a nasty bit of business."

At the very least, some lawyers said, pay-to-play can get them favorable court dates on crowded dockets.

Each state judge in Las Vegas handles more than 2,700 cases a year. A contribution of $500 to $1,000 might not "get you a favorable ruling, [but] it can grease the skids … get your case called first," said former prosecutor Ulrich Smith, in private practice since 1995.

Bucking this system can be the "kiss of death," some lawyers said. "If you speak out, certain judges take it personally," said Grenville Pridham, a state deputy attorney general for 11 years who is now in private practice in Las Vegas. "You'll pay dearly when you visit their courtroom."

In 2002, Pridham ran for district judge. During his campaign, he denounced fundraising by judges. He accepted no donations.

He lost by more than 160,000 votes.

It got worse, Pridham said. Since the election, he said, regardless of when his cases are scheduled, some judges "call the lawyers around me,

even if it's out of order, until I'm the last private attorney left in the courtroom."

Some lawyers are particularly critical of the way judges use leftover campaign money.

Thirteen of the 17 incumbent judges in 2002 ran unopposed, but they collected $967,000 anyway, in both cash and checks, according to fundraising reports. After the election, 11 of the unopposed judges reported they were sitting on a total of about $634,000 in unspent contributions.

"It's scandalous how much unused campaign money is allowed to pile up," said Sobel, the former judge who was defeated. "There's no limit on how much you can keep…. There is no watchdog and no real definition of what exactly is or isn't proper. You can return [unspent money], or save it for a future campaign, or you can give it to a charity, or spend it for some political purpose.

"That leaves a good deal of room for interpretations of all kinds. You could argue that [having] dinner on the Strip gives you a chance to talk to waiters and maitre d's — so, technically, you're campaigning."

Disclosing the size of an unspent bankroll is mandatory, said Dean Heller, Nevada's secretary of state and chief elections officer. But the requirements for specifying what happens to it, he said, are vague. "It's pathetic … a system designed by politicians to work for them."

Heller said the Legislature gave him only seven people to monitor elections and the campaign reporting of up to 1,000 candidates statewide. Worse, he said, legislators "won't give us authority to audit or even look for reporting irregularities unless we receive a complaint in writing. We get a lot of complaints over the phone, but not many want to put it in writing."

He said the Legislature had rejected his attempts to toughen requirements to disclose unspent contributions. "They want to raise as much money as possible," Heller said, "and tell the public as little as possible."

The public information officer for state courts in Las Vegas, Michael Sommermeyer, advised judges to say nothing in response to questions from The Times. "My recommendation is for all of the judges to refuse to comment," he said in an April 28 memo to Saitta.

Saitta was among three state judges who chose to ignore Sommermeyer's memo. "My job as a public servant has to be open to scrutiny by the public," she said. "I have to be answerable and subject to that scrutiny. I can't hide. I don't have anything to hide."

Case Study

Gene Porter

The lawyers who filled the crystal punch bowl with money at Judge Gene

Porter's fundraiser at Big Bear certainly had reason to believe that he would not hesitate to hear their cases.

A Times review of lawsuits that came before Porter during his eight years on the bench shows that 61 presented possible conflicts of interest. In 50 of them, there is no statement in court records that he withdrew or disclosed the possibility of a conflict.

The 61 cases were found in a review of more than 2,000 legal actions involving members of his former law firm as well as his former legal clients, political allies, business associates and creditors.

One example involved Desert Springs Hospital in Las Vegas. Porter's law firm had listed the hospital as one of its "representative clients" in the Martindale-Hubble legal directory the year Porter was appointed to the bench. Porter had been the hospital's attorney of record in at least three lawsuits, court records show.

When six cases naming Desert Springs as the plaintiff or defendant came before Porter as a judge, there is no statement in court records that he revealed his former relationship to the hospital.

In a seventh case, in January 1997, he withdrew, saying, "Because this court represented Desert Springs at the time of this incident … this court hereby disqualifies itself."

But Porter did not withdraw from the other cases.

Similarly, in at least 15 cases, Porter did not disclose his longtime friendship with attorney Matthew Callister when he presided over Callister's cases. He and Callister had been friends since high school, and Callister became his close political ally when they served together in the state Assembly. Callister also served as a resident agent for a real estate company formed by Porter's wife.

In a lawsuit involving two business executives from California, Porter appointed Callister as a $200-an-hour receiver, or caretaker of assets. One of the executives, Irenemarie Kennedy of Laguna Niguel, had sued Ashik Patel of Orange, her partner in Seaspan Inc., a hotel management firm incorporated in Nevada.

Porter instructed Callister to run the company during the dispute, replacing another receiver appointed two weeks earlier by another judge. "I wasn't happy," Patel said in an interview. Soon, Patel said, he learned "that the judge and Callister were buddies." Then, Patel said, he made another discovery: "Callister had an association with the other side."

According to court documents submitted by Patel's lawyer and records in the Nevada secretary of state's office, while Callister was serving as receiver in the Seaspan suit, he or his law firm were resident agents for two other corporations and a partnership formed by Kennedy — and he had been doing legal work for Kennedy and her family lawyer.

Patel's lawyer, Samuel B. Benham, asked Porter to allow Callister to withdraw. Court records show that Porter denied the request without comment.

Callister declined to be interviewed and did not respond to written questions.

Kennedy did not return phone calls. Instead a man identifying himself as "Mike Walker, an advisor to the Kennedys," responded, saying: "I don't know if the relationship between Callister and the judge was disclosed at the time, but afterward we did learn they had a relationship. But I met with Callister at least five times, and he was objective and is doing a good job."

In 2002, Porter was reelected to a six-year term. In a campaign fundraising report filed Jan. 10, 2003, he said he still had $32,816 "cash on hand." Porter resigned that September, saying financial considerations forced him from the bench.

As of this week, Secretary of State Heller said, Porter had not met a requirement to file an accounting of his unspent campaign money.

Licensed to practice in Nevada and California, Porter has joined a Las Vegas-Los Angeles law firm and serves as a private judge for Alternative Resolution Centers, a mediation and arbitration firm that provides settlement and fact-finding services in Las Vegas and Los Angeles.

Case Study

Nancy Saitta

The fight was over a company with a subsidiary that made a liposuction machine, which guzzles fat from loins, necks, thighs and waists.

The company was Medical Device Alliance Inc., incorporated in Nevada but whose subsidiary was based in Carpinteria, Calif. Minority shareholders said Donald McGhan, its founder and chief executive officer, should be removed. McGhan fought back. The dispute landed in the courtroom of Judge Nancy M. Saitta.

In June 1999, she appointed George C. Swarts, a certified public accountant, as a receiver — someone to run the company while it was embroiled in the dispute.

Within six months, McGhan and a second, separate group of stockholders filed complaints that Swarts' decisions were biased, lacked expertise and often were unauthorized by Saitta.

Privately, attorneys expressed dismay. "George [Swarts] had inordinate power" with the judge, Alfred E. Augustini, a Los Angeles attorney and legal advisor to McGhan, said in an interview. Swarts "would threaten us, tell us, 'The judge will do anything I ask, whatever I present to her.' George was running the case. We had to yield to George … comfort George … agree with George. He was God … the great pooh-bah … the big Jabba the Hutt."

What Swarts wanted most of all, Augustini said, was "to keep the meter running." The case was in limbo, he said, and "limbo was paying very well."

Swarts' fees were mounting.

"We tried to get Saitta to fire Swarts," Augustini said, "but that only made things worse."

McGhan tried to disqualify Saitta from the case.

"Judge Saitta has publicly pronounced McGhan guilty three times without hearing the evidence or the testimony of witnesses," said his Nevada attorneys, Steve Morris and Todd L. Bice, in a motion filed in August 2000. "By passing judgment … without a trial, Judge Saitta can no longer be considered a fair and neutral arbiter…. Under the law, she is required to step aside."

Swarts' attorneys countered that the real target of the attack was Swarts.

The request to remove Saitta went before Lee Gates, the chief judge in Las Vegas at the time.

But Gates had a possible conflict. An attorney from the Frank Ellis law firm, which often represented Swarts, was defending Gates' wife, Yvonne Atkinson Gates, a county commissioner, against a recall, including a lawsuit that court records show was on appeal before the state Supreme Court.

A recent search found no statement in court records that Judge Gates disclosed the relationship or similar relationships in two other cases involving his wife and the Ellis law firm.

Within two weeks, he denied the motion to disqualify Saitta, declaring that she "is not biased or prejudiced concerning any party."

By now, Saitta had come under attack for refusing to let anyone examine paperwork supporting the first bill submitted by Swarts and his lawyers: $524,680 in fees from June 29, 1999, to May 30, 2000.

"Unconscionable … exorbitant … outrageously excessive," said lawyers for McGhan and one of the stockholder groups. Attorney Matthew Callister, who represented a second group of stockholders, said in a motion that if Saitta did not deny Swarts' fee or require him to account for its size, then "a great injustice will occur in this case."

Nonetheless, Saitta approved Swarts' request for $524,680, as well as a second request, this one for fees totaling $662,411 for him and his attorneys covering June 2000 through September 2001, court records show.

Attorney Daniel J. McAuliffe, representing McGhan and other defendants, complained in a motion that Swarts had filed the second request 13 months late, "in violation of this court's order."

In yet another motion, Swarts asked that fees be doubled for his attorneys through 2001 and requested 18% interest on unpaid fees since his appointment in 1999.

McGhan's attorneys protested that Swarts' requests "provide for the looting of [the company] to line the pockets of various and numerous

counsel — all with no accountability." The request for 18% interest, they said, was "astonishing…. Even Visa and MasterCard charge less."

Nonetheless, Saitta approved both of those requests as well.

In 2002, according to a report McGhan entered into court records, she approved $588,000 for Swarts and $630,000 for his lawyers.

When she was asked about the fees during her interview, Saitta said: "I handle 2,400 cases a year. You're asking me for details on one case. I don't have time to go back and look up every case."

Neither Swarts nor Judge Gates responded to written questions.

In 2002, an election year, Saitta announced that she would seek another term on the bench. Nevada judges seeking reelection historically try to scare off potential opponents by raising large war chests quickly. By March, however, Saitta had raised less than $5,000, campaign records show.

She got help from J. Randall Jones, one of Swarts' attorneys in the ongoing Medical Device Alliance case.

With major decisions in the case still pending, Jones, of Harrison, Kemp & Jones, held a fundraiser for her. The fundraiser was set for May 2 at Jones' home in Las Vegas. Invitations said, "Minimum Suggested Contribution: $500." A cohost was Mark James, an attorney for Medical Device Alliance shareholders. James had played a key role in persuading Saitta to appoint Swarts.

In the 60 days leading up to the fundraiser, Jones, as Swarts' lawyer and a Saitta defender against the accusations of bias, appeared before her at least four times and received favorable rulings, which included her approval of a hotly contested $4-million "good faith settlement" sought by Jones' and James' clients against Wedbush Morgan Securities, based in Los Angeles.

During the fundraiser, Saitta personally greeted about two dozen contributors. Court and campaign records as well as interviews show that at least 18 of the contributors were lawyers with one or more cases pending before her at the time.

The event collected about $20,000 on her behalf.

At election time, she ran unopposed.

Jones and James were asked in separate telephone interviews why they held the fundraiser.

"I think it is incumbent upon attorneys to support good candidates for the bench and retain qualified judges," James said. He added, "That's all I have to say."

Jones said, "I have nothing to say to you." He hung up.

In her interview, Saitta said Jones "asked if he could do the party." Attorneys attended from both sides of the Medical Device Alliance case, she said. "As a candidate, you just show up. You meet with the

people. You shake their hands. There's a bowl for the checks."

She said her campaigns do not accept cash. If anyone tries to hand her a check personally, she said, an aide standing beside her takes it instead. "I don't want anything to do with the money."

Saitta and Swarts served as judge and receiver in the case until Medical Device Alliance was sold in January 2004 for $60 million and all claims were settled, court records show.

When Swarts and his lawyers originally persuaded Saitta to name him the receiver, they dismissed predictions that the "costs of Mr. Swarts' appointment would be in excess of $1 million." Such claims, they said, were "hyper-alarmist arguments" and were "grossly over-exaggerated."

In fact, the cost of Swarts' receivership topped $1 million within its first three years, court records show.

Case Study

Donald Mosley

Donald Mosley, the judge who turned over $10,000 of his unspent campaign money to his girlfriend, testified in 1999, nine years after he did it, that it was "the only cash I had available at the time."

He said he did not seek any legal opinions about the legality of what he did.

"I don't know that it's a direct violation to borrow against [campaign funds] on occasion and return the money plus interest," Mosley said during a deposition in an unrelated defamation suit and counterclaim. "I'm not too concerned about that as an infraction of ethics."

Mosley said he gave the money to Terry Figliuzzi (who later changed her name to Mosley). "The situation was that it was early in December and her parents were coming out from Minnesota to visit us … [and] she wanted to buy Christmas gifts and show her parents a good time."

Mosley said he loaned his girlfriend the money because she expected to win a lawsuit over an unpaid real estate commission of more than $600,000. "It was thought at the time that it was just a matter of several weeks or a month or so and she would have this enormous judgment and so the money would be available."

Eventually, the judge said, the $10,000 was restored to his campaign fund when he received $20,000 from a claim against the judgment.

In an interview, Terry Mosley disputed the judge's version, saying that she had regarded the $10,000 as a gift — "Christmas money. He brought it home in cash and tossed it on the table. It wasn't a loan. I never signed anything."

She said the $20,000 was unrelated to the gift. "I never paid Don back for that — not to this day."

Judge Mosley's campaign funding reports do not resolve the conflicting versions. His 1990 reports say he raised $56,811 and spent $27,573 — leaving $29,238 unspent, but the reports show no $10,000 withdrawal or loan.

The reports he filed in 1996, before his next campaign — one year after Terry Mosley won her $606,877 judgment — reflect no loan repayment.

In 1990, the year Mosley said he withdrew the money from his campaign fund, Canon 7 of the Nevada Code of Judicial Conduct held that a judge or candidate for judicial office "should not use … campaign contributions for purposes unrelated to the campaign."

Today, the question is covered by Canon 5, which says judicial candidates "shall not use or permit the use of campaign contributions for the private benefit of the candidate or others."

Since 1991, Nevada state law has banned personal use of campaign donations by any state or local candidate. In its most recent formulation, Nevada Revised Statute 294A.160 states: "It is unlawful for a candidate to spend money received as a campaign contribution for his personal use."

Apart from what Mosley did with his campaign money, his girlfriend's real estate lawsuit entangled him in a conflict from which he did not withdraw.

To provide her with a $100,000 security bond for her suit, Mosley put up his house as collateral — giving him a direct stake in the outcome of her case. He arranged for his girlfriend to hire attorney Jason G. Landess, who was appearing before him in another case. While Landess represented Mosley's girlfriend, court records show the judge made several rulings favoring Landess' other client.

The opposing attorney in that case, Richard McKnight, said in an interview that he was never informed about Mosley's stake in Landess' case on Terry Mosley's behalf. "I kept getting my brains beat out in Mosley's court," he said. "It felt sometimes like Mosley and Landess were teaming up against me."

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From the Los Angeles Times
JUICE VS. JUSTICE

A Judge Who Isn't Playing by Fast and Loose Rules
By Michael J. Goodman
Times Staff Writer

June 8, 2006

LAS VEGAS — Judge John S. McGroarty did it differently.

In the last Nevada election in which all district judgeships in Las Vegas were on the ballot, 13 incumbents ran unopposed. Unlike others, McGroarty returned his unspent campaign contributions.

"I sent the money back. It wasn't mine to keep," McGroarty said in an interview. "I didn't have an opponent, so I didn't need it. I don't want slush funds … money burning a hole in my pocket."

Particularly, McGroarty said, when the money comes from those who are likely to appear in court before him. "It can seem like a quid pro quo," he said.

Not every state judge in Las Vegas plays fast and loose with conflicts of interest. McGroarty, 64, has been a state judge since 1982.

He retired as a regular judge this year and was commissioned as a senior judge to fill in and ease the caseload. He says he does his best to avoid conflicts.

It is not always easy. Being a judge in Las Vegas, McGroarty said, "puts personal integrity to the test."

"This is a fast track, a fast town — very fast," he said. "This isn't Des Moines, Iowa." He rubbed his thumb and forefinger together to indicate money. "This is a juice town," he said. "Go out there and start messing with that juice, and it will come back and get you.

"There are crosscurrents. Go out there with impunity, and you will get burned."

McGroarty said he would never knowingly seek a campaign contribution from anyone with a case pending in his courtroom.

When that sort of thing happened, he often found out. "Somehow," he said, "the big contributor is always brought to your attention." Then, McGroarty said, "I'll take extra time, do more research" to make absolutely certain that all of his decisions in the case are well-supported by the facts.

The 2002 judicial election illustrated how far McGroarty was willing to go to avoid conflicts of interest. The 13 unopposed incumbents, including McGroarty, raised a total of nearly $1 million in contributions well before any challengers could file papers to run against them.

At least 90% of their cash came from lawyers, law firms and casinos that frequented their courtrooms, according to a comparison of court and campaign records. Some of the judges collected contributions, the records show, even while they were deciding a contributor's case.

The incumbents, including McGroarty, spent part of their campaign

money for early displays of determination to scare off potential competitors. "I put up signs around town right away," McGroarty said, "like everybody else."

When the filing period closed, all 13 remained unopposed.

Their victories were assured.

But they all had leftover campaign funds. In their campaign filings after the election, other unopposed judges reported that they were still holding a total of $634,000.

McGroarty was the only one who gave his leftover money back.

"Don't get me wrong. If I had an opponent, I'd use the money," McGroarty said. "I know other judges keep the money, and that's their business."

McGroarty had received 96 contributions, ranging from $20 to $5,000, for a total of $31,666, campaign records show. That was a comparatively small amount of money. Seven unopposed judges had amassed war chests ranging from $69,531 to $166,401, the records show.

McGroarty listed campaign costs totaling $14,759, largely for fundraisers, advertising, campaign staff and office expenses. He reported that he had $16,907 left when the filing deadline passed and he was unopposed.

The following month, he returned his leftover campaign contributions, prorating the returns to each of his 96 contributors. "I think it worked out," McGroarty said, "that everybody got back about 56 cents on the dollar."

A $20 contributor, for example, was refunded $14. McGroarty's lone $5,000 contributor, Coast Hotels and Casinos, was refunded $2,800, records show.

McGroarty said he returned his leftover contributions in 1996, as well, when he also ran unopposed.

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http://www.latimes.com/news /politics/la-na-vegas9jun09,1 ,7879395.story
From the Los Angeles Times
JUICE VS. JUSTICE | A TIMES INVESTIGATION
For a Vegas Judge and His Friends, One Good Turn Led to Another
James Mahan got his jobs on the state and federal benches through the connections of old pal George Swarts. Things turned out well for Swarts too.
By Michael J. Goodman and William C. Rempel
Times Staff Writers

June 9, 2006

LAS VEGAS — Without help from a friend, James Mahan might never have

become a Las Vegas state judge. Certainly he wouldn't have gotten one of the top judicial jobs in town: a lifetime appointment to the federal bench.

Then again, without Mahan, his friend George Swarts would never have gotten to run an Internet porn business, a hotel-casino hair salon or a Southern California software company. Indeed, the careers of Judge James C. Mahan, 62, and his friend George C. Swarts, also 62, whom he appointed again and again as a receiver to manage troubled businesses, might be the ultimate example of how juice replaces justice in Las Vegas courtrooms.

In this town, people speak reverently of having juice, or an "in," and Mahan — bearded, likable but sometimes caustic — has made it a striking feature in his courtroom. First as a state judge and now as a federal judge, he has approved more than $4.8 million in judgments and fees during more than a dozen cases in which a recent search of court records found no statement that he disclosed his relationships with those who benefited from his decisions.

On the state bench for three years, and since his appointment as a U.S. District Court judge four years ago by President Bush, Mahan has approved many of these fees for Swarts, a certified public accountant who had served as his judicial campaign treasurer and whose political connections got him appointed. Mahan approved additional fees for Frank A. Ellis III, 51, a former law partner with whom the judge still owned property and participated in a profit-sharing plan. Ellis also provided free legal services for Mahan's family and for his executive judicial assistant.

Mahan, like a number of Las Vegas judges, has taken on cases despite state and federal prohibitions against such apparent conflicts. Some Las Vegas judges have ruled in cases involving their friends, even those to whom they owe money.

The practice harms visitors and business people alike, especially Californians, who come here in large numbers to work and play. They fall victim to an untamed style of justice, blatantly tangled in clashing local interests.

Las Vegas is a town of instant millionaires, 60-second weddings, six-week divorces and a sly wink at conflicts of interest, to say nothing of the abuses that go with them. Some California lawyers view Las Vegas justice as just another crapshoot. When they are pressed about it, some Nevada lawyers openly condemn the system. The excuse, says Las Vegas attorney Charles W. Bennion, "is that this is the way it's always been done — fast and loose."

Even in Las Vegas, however, Judge James Cameron Mahan stands out.

When owners fight over a business, judges often appoint someone independent as either a special master, to investigate the dispute, or as a receiver, to run the business until the differences are settled.

On 13 occasions in state and federal court, Mahan has installed Swarts, a large man in a business suit who tells people how to spell his name — "think of 'wart' with an 's' on each end" — or his son, Curtis, 41, taller and more often casually dressed, at up to $250 an

hour, to be a special master or receiver in cases that come before him.

Mahan has then given his approval when George Swarts hired Ellis, low-key and quiet-spoken, or his firm, at up to $250 an hour, to represent Swarts in nine of these cases. In all, Mahan ordered plaintiffs and defendants to pay Swarts and Ellis more than $700,000, the records show.

U.S. and Nevada judicial canons say judges should withdraw from cases where their impartiality might reasonably be questioned. Nevada canons also say: "A judge should disclose on the record information that the judge believes the parties [in a case] or their lawyers might reasonably consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification."

A recent search of court records in the 13 cases involving Swarts or Ellis, as well as interviews with litigants and their attorneys, found no disclosure of Mahan's relationship with either of the two men. Complaints of excessive fees and inaction occasionally united opposing sides to implore him to remove Swarts. In case after case, he refused.

Mahan's judicial power and soaring reputation silenced many of those who suspected or knew of his undisclosed ties, according to lawyers. He was southern Nevada's top-rated state judge in 2000 and 2002 in a biennial survey of attorneys by the state's largest newspaper, the Las Vegas Review-Journal.

In an interview with The Times, Mahan acknowledged that he routinely did not disclose personal relationships. He dismissed them as insignificant and bristled at being questioned.

Face flushed and jabbing a forefinger in anger, Mahan said he appointed receivers in lawsuits based upon their ability and experience. He said he had named Swarts as a receiver for those two reasons and not because of any favoritism.

Mahan also said he had never influenced Swarts to choose Ellis to represent him as receiver's counsel.

"I don't see any conflict of interest," Mahan said.

At one point during the interview in his chambers at the Las Vegas federal courthouse, Mahan moved in his chair, and a holstered semiautomatic pistol became visible on his right hip. In written questions submitted for this story, Mahan was asked about the pistol. He did not respond.

In a separate interview, Swarts said his appointments from Mahan were proper. "I don't think that is a problem," he said. "In fact, if you were going to put someone in a position of responsibility, why wouldn't you put in someone you know, someone you trust … somebody you knew had integrity?"

When he was asked if Mahan was favoring him with lucrative court assignments, Swarts replied: "Me and Judge Mahan? That's amazing. That's crazy! That's the craziest thing I've ever heard…. Judge Mahan's only appointed me two or three times."

When he was told that Mahan had in fact appointed him in a dozen or more cases, Swarts replied: "No way! No way! I know what you guys are going to do. You're just trying to make us look bad. I don't see any reason to talk to you…. Judge Mahan? He's a fine person. I can't believe you're looking at him."

Ellis was given written questions about his relationship with Mahan and cases in Mahan's court. He did not respond.

One Las Vegas attorney willing to speak out about Mahan, P. Sterling Kerr, who represented two clients in a case before him, said the judge appointed Swarts simply "to give his friends some business."

Kerr called it "a travesty of justice."

Chapter 1

The Lee Case

Mahan has been dismissive of conflicts from the start.

He came to Las Vegas as a lawyer in 1973 and went to work for John Peter Lee, a veteran Nevada attorney. Seven years later, Lee hired Frank A. Ellis III. Two years after that, Mahan and Ellis set out on their own.

Within six months, Mahan sued Lee, claiming that Lee had stiffed him on a profit-sharing bonus. Lee sued back, claiming that Mahan took office furniture, including a desk, and left behind an interest-free IOU, payable only when he got his bonus.

With Ellis representing him, Mahan pursued the matter to the Nevada Supreme Court. It ruled in Lee's favor and ordered Mahan to pay for the furniture — desk and all. "I was surprised at [Mahan's] deep-seated resentment," says attorney Richard McKnight, who had spent five years with him at Lee's firm.

Seventeen years later, when Mahan became a state judge in Las Vegas, Lee asked that he disqualify himself "from all of our firm's [cases] due to past problems between you and the firm … so we may protect our clients."

Court records show Mahan wrote back: "I have instructed court administration to recuse me from all of your cases."

Mahan did disqualify himself shortly afterward during a case in which Lee was an attorney, court records show. But in another case seven months later, Mahan refused to withdraw when Lee and his son James, also an attorney, asked him to when they appeared in his courtroom as co-counsel, according to court records and interviews.

The Lees were representing a woman in a palimony suit over a $35-million estate.

A jury ruled against the Lees' client. The Lees asked Mahan to order a new trial, saying, among other things, that he had wrongly instructed

the jurors. Court records show that Mahan denied the request.

"It was improper," John Peter Lee said in an interview. "I still feel that way."

When he was asked why he did not withdraw, Mahan said in an interview: "I decided I was going to hear that case. Judges are supposed to hear cases."

Asked about the desk and other furniture he took from Lee's law firm, Mahan shrugged, smiled and patted an unremarkable but ample wooden desk in front of him.

"This is the desk," he said.

Chapter 2

Swarts and Rogich

Many of Mahan's undisclosed relationships were with Swarts, a politically connected businessman who grew up in Las Vegas.

His financial relationship with Mahan began as early as 1988, when the law firm of Mahan & Ellis formed the first of at least 12 companies or joint ventures for Swarts, several in partnership with Frank Ellis' father, according to Nevada secretary of state records. Often either Mahan or the younger Ellis — or both — served as resident agents or directors.

One such project drew Swarts and the elder Ellis into a lawsuit against investors in a development deal. Court records show that Ellis and Swarts were represented by Mahan and another attorney.

During the 1990s, Mahan expanded his ties with Swarts.

A booming Nevada economy gave him the opportunity. The boom attracted entrepreneurial opportunists with more brass than bankroll. Business disputes and bankruptcies began choking the Nevada courts. In some cases, judges appointed receivers to protect investors, preserve assets and manage troubled businesses while the conflicts dragged on.

Like special masters, receivers are independent, neutral officers of the court, answerable only to the judges who appoint them and typically give them absolute control over the businesses in dispute. Receiverships are easily abused. Historically, state and federal courts appoint receivers only as a last resort.

In contrast to California's rules, Nevada's requirements for receivers are loose. In both states, receivers are governed by court orders. In Nevada, lawyers write the orders and judges sign them, sometimes changing them as they see fit. But in Los Angeles County, for instance, judges begin with standardized orders and use or rewrite them. Steve Morris, a prominent Las Vegas trial lawyer with 35 years of legal experience in Nevada, said, "Rules for receivers here are short, ambiguous and elastic."

By the mid-1990s, Swarts had become a receiver in both state and

federal courts. He brought in his son, Curtis, also a CPA. In 1996, the law firm of Mahan & Ellis incorporated them as Swarts & Swarts.

With increasing frequency, Swarts asked judges to let him hire his own counsel at the expense of the parties in dispute. Most often, he chose Mahan & Ellis.

In 1998, Mahan decided to become a state judge.

His decision put him in Swarts' debt for two favors. In Nevada, state judges are elected. Mahan ran for a judgeship in Las Vegas, and as the first favor, Swarts, seasoned in local politics, agreed to be his campaign treasurer.

Mahan lost the election.

"I decided not to stop," he said in an interview. Two state judges from Las Vegas had won seats on the Nevada Supreme Court, creating a pair of vacancies. Newly elected Gov. Kenny Guinn, a Republican, would fill them after his inauguration in January 1999. "I began 'running for appointment,' " Mahan said.

In this quest, Mahan needed only one vote — that of Nevada power broker Sig Rogich, a Republican fundraiser and media specialist who had been a consultant to Presidents Reagan and George H.W. Bush. It was Rogich who was responsible for the elder Bush's TV ad showing Democratic opponent Michael S. Dukakis perched on a tank with a helmet dwarfing his head.

More important to Mahan, Rogich had masterminded Guinn's gubernatorial election. Guinn had never run for public office.

Rogich was part of old Las Vegas. By contrast, Mahan was a newcomer, but he knew an insider: Swarts. He and Rogich had been friends since grade school.

Indeed, while Swarts had been Mahan's campaign treasurer, Rogich had entrusted him with keeping the books for Guinn's $6-million campaign as well. Records show that Swarts donated his time.

Now, in the second of the two favors, Swarts spoke to Rogich on Mahan's behalf.

"I put [Mahan's] name in with Sig," Swarts said in an interview. "And why did I do that? Because I believe Jim Mahan is one of the finest people I have ever known…. I'd put his name in again."

Mahan was summoned to Rogich's office. "He wanted to meet me," Mahan said in an interview. After the meeting, said a participant who requested anonymity, Rogich promised to "go to the governor."

It worked.

On Feb. 22, 1999, during his second month in office, Guinn appointed Mahan to the bench in the state's 8th Judicial District in Las Vegas.

In an interview, Rogich refused to discuss the matter publicly.

Seventeen days after the appointment, Mahan was assigned to decide the

appeal of a lawsuit that Rogich won in Justice Court against Phillip Crenshaw, a Las Vegas store owner, over a damaged stereo.

Despite the canons demanding that judges disqualify themselves when their impartiality might reasonably be questioned, Mahan sat in judgment on the appeal.

He reduced Rogich's $3,449 award by $90, but decided in his favor.

R. Clay Hendrix, the attorney for Crenshaw, said he was unaware of Mahan's connection to Rogich until after the case ended, when he received an invitation from Rogich to a Mahan fundraiser. Hendrix was asked how he felt when he found out about Mahan's ties to Rogich. He shrugged and looked away.

This was, after all, Las Vegas.

Mahan was given written questions about this and other cases in this story. He did not respond.

Chapter 3

Elkind-Wilson Case

When Mahan became a state judge, he left Mahan & Ellis. But the law firm did not exactly leave him. He remained a part owner and landlord of the law firm property and continued to draw interest from the Mahan & Ellis profit-sharing plan, according to land records and financial disclosures required of state and federal judges.

The disclosures show that he received income from the law office building until June 2001 and from the profit-sharing plan until mid-December 2002, when his share of the proceeds was rolled over into an IRA.

Meanwhile, the financial fortunes of his former law firm were tied in part to the fortunes of one of its most active clients — George Swarts. On the eve of Mahan's appointment to the bench, court records show, the law firm represented Swarts in three receiverships involving combined legal fees of about $150,000.

During the first weeks of his judgeship, Mahan acknowledged a conflict if he were to preside over a case involving Ellis, court records show. On March 26, 1999, he disqualified himself from a case "to avoid the appearance of impropriety and implied bias" because Ellis was his former law partner.

But 2 1/2 weeks later, in his second month as a judge, Mahan recommended and then appointed Swarts as a $200-an-hour caretaker in a business dispute — and then approved Ellis as Swarts' attorney, according to court records.

The case involved Stuart Matthews Wilson, a hairstylist who finally struck gold: The Desert Inn hotel-casino on the Las Vegas Strip had selected him to take over its exclusive four-star spa.

The Desert Inn wanted him to expand. He didn't have the money, so he took on a partner, Abbott Elkind, a contractor and client who chipped in about $400,000 for 51% ownership.

Right away, they fought. Soon they sued each other.

In an interview, Wilson recalled their first hearing: "We get to the courtroom and this guy, George Swarts, is already there, waiting. Out of the blue, Judge Mahan has this guy come in as a receiver to take over our beauty salon."

There was a glitch. Wilson's attorney, James Lee, said appointment of a receiver would violate the salon's lease with the hotel-casino. So Mahan decided to call Swarts a special master.

Lee would later write into the court record that, "in fact, Swarts was appointed to be a receiver … [and] to act as a receiver in every sense of the word."

At the start, according to court minutes, Mahan promised Wilson and Elkind that they would "be included in [Swarts'] business decisions." Within a month, however, Robert Goldstein, Elkind's lawyer, said in a court filing that they were no closer to a buyout — and that Swarts, in effect, had frozen Elkind out of the business.

In response, Mahan wrote that Swarts "shall run the salon business as he sees fit."

That August, court records show, Ellis billed $4,694 for three months, and Swarts presented a three-month bill for $95,928. "My lawyer and I looked at each other in disbelief," Wilson recalled. "Swarts was charging $30,000 a month for basically having somebody pick up the salon's receipts each night."

Both sides filed motions pleading with Mahan to remove Swarts and sell the business before there was nothing left. They said a bookkeeper or payroll service could do for $1,000 a month what Swarts was doing for 30 times that amount.

But Mahan refused to remove him.

In March, a year after Mahan appointed Swarts, Wilson filed for bankruptcy in federal court. "Swarts and Judge Mahan … destroyed everything I built up in this town for 20 years," Wilson said. "Nobody — lawyers, anybody — wanted to go up against Judge Mahan or Swarts.

"Anything Swarts wanted from the judge, Swarts got."

The Desert Inn closed in August 2000. Elkind, 66, died in January 2002. Wilson now works at a beauty salon in another hotel on the Strip.

When asked about the propriety of appointing his friend Swarts, Mahan responded, "I appoint receivers based on their backgrounds and the job at hand." Citing another case, he added, "I know George [Swarts] has done securities work before, so I picked him for a securities case."

Mahan said Swarts was just one of several receivers he had used. He

named two others. "I just want someone who is competent. I knew [Swarts] was competent. That's why I appointed him."

When asked about the propriety of approving Ellis, his former law partner, to represent Swarts, Mahan responded angrily: "It's up to the receiver to pick his own attorney. I never select them. Receivers select their own attorney. I've never imposed an attorney on any receiver. I don't care who the attorneys are."

Regarding his financial interests with Ellis, Mahan said he made no profit from the income listed on his financial disclosure report as rent from the Ellis office building, because it equaled his share of the mortgage payment. He noted that he sold his interest in the building to Ellis in June 2001.

By then, however, Mahan had been on the bench for two years and had involved Swarts and Ellis in at least seven cases and approved their fees.

As for the Mahan & Ellis profit-sharing plan, Mahan continued to receive interest from it for 18 months after selling his property ownership, his financial reports show — and during that period, court records reveal, Mahan appointed Swarts as a receiver and approved fees for Ellis' law firm as Swarts' counsel in at least five additional cases.

Swarts, in an interview, said there had never been anything improper about his court appointments from Mahan or any other judge. "I don't hobnob with judges…. I don't solicit cases. But when a judge calls, I respond."

Swarts was given written questions about the details of this and other cases in this story. He did not respond.

Chapter 4

The Topless Case

Three people from Detroit wanted to open a topless bar in Las Vegas.

Ronald Sweatt, his wife, Lydia, and investor Robert Katzman formed a 50-50 partnership, called Motor City III. In 1997, they bought an empty lounge near the Strip and began turning it into a cabaret with bare-breasted dancers. Their investment totaled nearly $1 million.

Felony tax evasion convictions ended the Sweatts' chances for licensing in Nevada. So they put the lounge up for sale.

Katzman sold his interest to Ed Gardocki, also of Michigan. The Sweatts accused Katzman and Gardocki of dealing in secret and sued them in Michigan.

They, in turn, sued the Sweatts in Las Vegas.

The case was assigned to Mahan.

He appointed George Swarts as receiver. Mahan said, however, that Swarts' son, Curtis, would handle the matter because he would bill at a lower rate, according to court minutes. "No one loses if a receiver is appointed," Mahan said. Both sides "will be looking at a pile of money, not a piece of property."

Swarts hired the law firm of Alverson, Taylor, Mortensen, Nelson & Sanders to represent him. Two and a half years passed, and the topless lounge still was not sold. Moreover, according to court records, the tab for Swarts and his attorneys had climbed to more than $100,000.

Both sides tried to get rid of Swarts. Mahan refused.

• On one side: Attorney P. Sterling Kerr, who represented the Sweatts, said in court documents that the fee for Swarts and his attorneys "shocks the conscience" because their only job was selling an empty building.

"Those guys raped my client," Kerr said in an interview. "Mahan was looking for an excuse to give his friends some business."

• On the other side: Katzman and Gardocki said Swarts and his attorneys had been paid out of partnership funds without court approval and had failed to pay county taxes on the lounge "to the point where the property itself is in jeopardy."

A month later, Swarts reported that he had paid the taxes.

Attorney Peter Christiansen, who represented Katzman and Gardocki, reminded Mahan that he had promised that Swarts' son, Curtis, would handle the receivership and charge less. Instead, Christiansen said, "George Swarts did the overwhelming majority of the work."

Swarts and his lawyers have "treated this case as a cash cow," Christiansen said. If attorneys on both sides combined and quadrupled their fees, he said, they wouldn't approach what Swarts and his attorneys were charging.

Some charges, Christiansen said, were for duplicate services, services not rendered and services negligently rendered.

Records show that George Swarts billed $200 an hour.

A review of resumes and contemporaneous cases shows that four other Nevada receivers charged $150 to $175 an hour. A year earlier, court records show, Swarts had charged $150 an hour.

Swarts and his attorneys told the court that attacks against them were laced with distortions, sometimes fabricated, sometimes absurd and often as "appalling as they are incorrect." They accused both sides of opposing their every move and of creating unnecessary, baseless and frivolous litigation.

As for whether Swarts was running the receivership and not his less-expensive son, Swarts said that Mahan had set the same fee for both of them.

By 2005, the topless lounge was still unsold. On July 25, Swarts said

his fees had reached $285,000. Michael Hall, an attorney representing Katzman, was asked what his client and others in the case thought about Swarts' fees. He replied, "They thought it was ridiculous."

State Judge Michelle Leavitt, who replaced Mahan when he went on the federal bench, discharged Swarts as the receiver. On July 27, Leavitt signed an order "approving sale" of the property and said Swarts' fee "comes off the top."

The property finally sold for $1.9 million, Hall said. After fees for Swarts and the attorneys, the pile of money promised by Mahan had vanished.

In an interview, Swarts was asked to explain how partners so divided could be so united in their criticism of him.

"Well, Sterling Kerr hates me," he said, referring to the Sweatts' lawyer. "I have a thankless job. You've got to be crazy to do this. It's not possible to do this job and not have someone get mad at you. I've had lawyers come across the table at me…. When I come in, both parties hate each other, and in the end, both parties hate me."

Chapter 5

Adult On-Line Case

Andrea Norman retired from the escort business when she was 26.

In April 2000, she said, she and her then-fiance invested $500,000 in Las Vegas Adult On-Line Productions Inc., a website marketing prepaid cards to anonymously view or buy Internet pornography.

"It was a great idea," she said in an interview at her gated town house near the Strip. It was late morning. She wore a nightgown, an anklet and rings on her left hand and the second toe of her right foot.

Norman and her fiance put their $500,000 investment into a corporate account.

One day, she said, she got a call from the bank. "I just about s---. There was $16,832 left."

Norman sued her two stockholder-managers.

Meanwhile, Mahan ran to keep his seat on the bench. Swarts served for the second time as his campaign treasurer. Mahan won without opposition, and in June 2000, midway through the race, Norman's lawsuit went to his court. While Swarts was still his treasurer, Mahan appointed him as the receiver for Adult On-Line.

Norman recalled the first hearing. "George [Swarts] was already there in court. Bam-pow! He was in as receiver. No discovery. No questions. [Mahan] just put in a receiver. It was pre-decided … pre-set. My mouth hit the floor."

Mahan assured Norman that he saw "potential value here and that [the]

asset should be preserved," court minutes show. "Mr. Swarts … will keep the business running."

Swarts chose the Ellis law firm, where Mahan had been a partner, to represent him, and Mahan approved the appointment. Mahan was still receiving what he described as rent, or "investment income," from the law firm office building, as well as interest from the Mahan & Ellis profit-sharing plan, according to the financial reports he would file from the federal bench.

Three months after the suit was filed, the two stockholder-managers complained to Mahan, saying they feared that Las Vegas Adult On-Line Productions Inc. was "being bled dry." They said Swarts had frozen or emptied their accounts, would not pay creditors, had broken financing promises and would communicate only through attorneys charging up to $250 an hour.

Unless Mahan intervened, they wrote, they would "be headed into bankruptcy."

But Mahan allowed the receivership to continue.

A month later, court records show, Ellis told Mahan at a hearing, "There is little money" left.

Mahan ended the receivership in December, records show, and approved fees of $15,525 for Swarts and $19,293 for the Ellis law firm for the three months of July 3 to Oct. 9.

"In the end, whatever funds were in the account went to pay the receiver," Norman said. "If I ever see [Mahan] on the street, I'm going to spit in his f------ face."

Chapter 6

The NetSol Case

On June 11, 2001, dissident stockholders, escorted by armed guards, took over the offices of NetSol International Inc., a software company in Calabasas.

Although NetSol was based in California, it had been incorporated in Nevada, and its deposed managers sought assistance there. They sued in Las Vegas state court, and the case was assigned to Mahan.

"The judge, right out of the blue, said: 'Maybe we should get a receiver…. I know a guy who is perfect for this,' " John C. Kirkland, a Santa Monica attorney for the dissidents, said in an interview.

Mahan ordered a recess, Kirkland said, and Swarts appeared in the courtroom. "Right away," Kirkland said, local attorneys told him that Mahan and Swarts "were best friends, had barbecues … were very close…. We were told in no uncertain terms: This is the 'judge's receiver,' and we were going to have to live with him."

Again, Swarts chose the Ellis law firm, where Mahan had been a partner, to represent him in the receivership, court records show.

By now, Mahan had sold his interest in the law firm real estate. But according to his financial disclosure statements, he was still receiving interest from the Mahan & Ellis profit-sharing plan.

Todd L. Bice, a Las Vegas attorney for NetSol management, said in a telephone interview that he had been unaware of any relationship between Mahan and Swarts. "I don't remember that the issue ever came up in court."

A month later, records show, Kirkland, the dissidents' counsel, accused Swarts of devaluing the firm. "What once was a multimillion-dollar company is now a penny stock," Kirkland said, adding that NetSol was doomed.

In August 2001, Mahan ended the receivership. He ordered NetSol to pay Swarts and the Ellis law firm $65,000 for two months' work.

Although many computer-based companies suffered during the technology bust, NetSol's plunge was dramatic. In March 2000, its stock traded at $75 a share. By October 2002, the stock had fallen to a nickel a share.

This week, it closed at $1.86 a share.

Kirkland scoffed at the Las Vegas justice system. "It's the most corrupt system I've ever seen," he said. "They hometown everyone."

Chapter 7

A Federal Judge

By February 2001, the second anniversary of his appointment to the state bench, Mahan's name had surfaced for possible nomination to the federal bench by George W. Bush, the newly elected president.

Sig Rogich had been the finance chairman of Bush's Nevada campaign. When he learned that Bush would nominate two judges in the state, he made three telephone calls on Mahan's behalf, according to a political insider who requested anonymity.

One call was to Sen. John Ensign, the Nevada Republican who would recommend potential appointees to Bush.

"I nominated Judge Mahan," Ensign said, "because of his outstanding record and reputation. Throughout his career, he has demonstrated a careful and deliberative nature, and a commitment to fairness and the proper application of the law."

The second call was to the screening panel for the Senate Judiciary Committee.

The third was to the White House.

Mahan won Ensign's approval, as well as the endorsement of Nevada's veteran Sen. Harry Reid, a Democrat.

"Sen. Reid joined Sen. Ensign in supporting the nomination," said Reid's spokesman, Jim Manley, "because he felt Judge Mahan had the qualifications necessary to serve as a U.S. District Court judge."

Bush nominated Mahan on Sept. 10, 2001, to be one of the five U.S. District Court judges then in Las Vegas. The Senate confirmed him without controversy, and he joined the federal bench on Jan. 30, 2002, a lifetime post.

Mahan's confidants, allies and business pals were not far behind. As his executive judicial assistant, he hired Jeri Winter, a former member of his campaign staff who had been his executive judicial assistant when he was a state judge.

Within little more than a month, he approved the hiring of the law firm of his former partner, Ellis, in a federal case while Ellis was representing Winter at no charge in a bankruptcy. Only five months before, Ellis had represented Mahan's wife in a family probate, also for free.

The federal case was over E-Rex Inc., developer of the Dragonfly, a portable printer-fax with Internet capability. Dissident shareholders had sued executives, accusing them of mismanagement, according to court records.

Mahan appointed Swarts, this time as a special master, to investigate the accusations, the records show. According to court minutes, Mahan ordered the dissidents to pay Swarts an advance of $5,000 and an overall fee of $250 an hour.

Mahan approved hiring Ellis' law firm to represent Swarts at $210 an hour.

"We had no idea that the federal judge, Judge Mahan, had a relationship to Swarts or his attorney," Ruben F. Sanchez, a Woodland Hills lawyer representing E-Rex, said in an interview. "That was never disclosed."

Sanchez said E-Rex hired Harold Gewerter, a Nevada attorney. Gewerter was asked in a telephone interview if he knew at the time about Mahan's relationships with Swarts and Ellis. He replied: "I heard indirectly that — I have no knowledge of any relationship. Judge Mahan did a fine job."

Mahan awarded Swarts $17,267 and the Ellis law firm $1,582 for work during March, April, May and June, the court records show.

In July 2002, Mahan dismissed the lawsuit.

The dissidents appealed. In January 2004, a three-judge panel of the U.S. 9th Circuit Court of Appeals reversed Mahan's dismissal in part, saying he had erred by denying the shareholders an opportunity to amend their complaint. The appeals court sent the case back to Mahan.

In April 2005, Mahan granted a change of venue to Florida. The case was appealed again. It remains an open case.

Chapter 8

Interstate Mortgage

One month after he appointed Swarts in the E-Rex case, Mahan was assigned a federal lawsuit accusing Interstate Mortgage Group Inc. of Las Vegas and its former owner and president, David Ferradino, of fraud, breach of contract and breach of fiduciary duty, court records show.

Two and a half years earlier, Swarts had been appointed conservator, or custodian, of Interstate Mortgage, the records show, and then had been appointed receiver of the firm, which had been seized by the Nevada Financial Institutions Division, a state agency that regulated mortgage brokers.

The suit was filed by Robert and Ruby Rogers of Phoenix, who demanded the return of $110,000 lost through what they called "fraudulent acts" by Ferradino and his company — plus $5 million to punish them. The suit meant the firm Swarts was managing had become a defendant in Mahan's court, and Swarts was a defense witness.

Mahan had vouched for Swarts a month earlier by appointing him special master in the E-Rex case.

Now he was sitting in judgment upon a firm Swarts was managing in a case accusing the company of fraud.

Representing Swarts and Interstate Mortgage in Mahan's courtroom was the Ellis law firm, where Mahan had been a partner and where Ellis had represented Mahan's wife in a probate and was still providing free legal counsel for Mahan's executive assistant in her bankruptcy case.

"We were never told Mahan [had] any connections with Swarts or his attorney," said plaintiff Robert Rogers in a telephone interview.

Mahan dismissed Interstate Mortgage as a defendant, records show. That left Ferradino as the sole defendant. He was ordered to make restitution.

Rogers said he settled with Ferradino in 2003 for $82,000.

Chapter 9

The Bulloch Case

Less than a month after dismissing Interstate Mortgage and its conservator Swarts from the case, records show, Mahan decided a lawsuit in favor of Howard Bulloch, a longtime Las Vegan, and awarded him more than $4 million.

Mahan and Bulloch were former business associates.

In July 1997, Mahan, then a partner in Mahan & Ellis, and Bulloch, a Las Vegas real estate agent, were on a receivership team to sell 89.07 acres in Laughlin, Nev.

At the time, the judge in the case appointed Swarts as receiver. Swarts had hired Mahan as his lawyer and recruited Bulloch to sell the property. Mahan's billings, filed in 1998 court records, show how closely Mahan and Bulloch had worked together.

Jan. 20: "Review letter … to Howard Bulloch." Jan. 22: "Review letter … to Bulloch." Jan. 30: "Review proposed flyer from Bulloch. Telephone call with Bulloch: proposed revisions." Feb. 5: "Review proposed purchase and sale agreement from Howard Bulloch; revise and return to Howard." Feb. 10: "Telephone calls with Howard Bulloch." Feb. 12: "Conference telephone call with Howard Bulloch … incorporate my suggestions and revisions, which I faxed to Howard yesterday. Conference with client; Howard Bulloch." Feb. 13: "Review marketing efforts documentation from Howard Bulloch." Feb. 19: "Telephone call … Howard Bulloch's office." Feb. 24: "Review information from Howard Bulloch."

That March, the property was auctioned for $1.25 million, Mahan reported to the judge.

Five years later, Bulloch appeared in Mahan's federal courtroom.

He was suing Michael Shustek, a mortgage broker. According to court records, Bulloch contended that Shustek had wrongfully collected a $3.8-million fee on loans to buy land on the edge of Las Vegas.

In March 2003, at the end of a weeklong trial during which Mahan served as judge and jury, he ruled in Bulloch's favor, saying Shustek's fee was excessive and unlawful.

Mahan refunded the fee to Bulloch, plus interest — for a total of $4.12 million.

A recent search found no statement in court records that the judge had revealed their prior relationship. Bulloch said in a telephone interview that it was disclosed.

Shustek's attorney, Steve Morris, was asked in an interview if he knew that Mahan had a prior relationship with Bulloch.

"I'm astounded," Morris replied angrily.

Six weeks later, the Nevada Financial Institutions Division, which regulated mortgage brokers, said that Shustek's fee had been lawful and appropriate.

Shustek appealed Mahan's decision. A three-judge panel of the U.S. 9th Circuit Court of Appeals decided in November that Mahan did not have jurisdiction to hear the case.

The 9th Circuit ruling is being appealed to the Supreme Court.

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Times researcher Nona Yates contributed to this report.

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http://www.latimes.com/news /politics/la-na-vegas10jun10,1 ,6561749.story
From the Los Angeles Times
JUICE VS. JUSTICE | A TIMES INVESTIGATION
How Some Nevada Judges Stay Under the Radar
Senior judges are exempt from some rules of accountability. The careers of three jurists reflect the ethical questions that can result.
By Michael J. Goodman and William C. Rempel
Times Staff Writers

June 10, 2006

LAS VEGAS — One Nevada judge was nearly indicted on blackmail charges. Another ruled repeatedly for a casino corporation in which he held more than 10,000 shares. Still another overruled state authorities and decided in favor of a gambling boss who was notorious as a mob frontman, and whose casino did the judge a $2,800 favor.

Yet the Nevada Supreme Court has conferred upon these judges a special distinction that exempts them from some of the common rules of judicial practice and reduces their accountability. They are among 17 state judges whom the high court has commissioned as senior judges.

Unlike regular judges, senior judges are not answerable to the voters, but serve at the pleasure of the high court, and that can mean for life. Unlike regular judges, they can reject assignments until they are given a case they want to try. Unlike regular judges, they cannot be removed from a case by peremptory challenge. And until last year, they did not have to disclose their financial interests.

With this exceptional flexibility, they could try lawsuits in which they had a personal stake without revealing it. And because they cannot be removed by peremptory challenge, which normally permits a one-time replacement of a judge at the beginning of any case simply for the asking, it is possible for litigants to be stuck with senior judges, their conflicts of interest and their decisions.

The judge who was nearly indicted is James A. Brennan. He resigned as a state judge to avoid being charged by a federal grand jury with blackmail. After the state Supreme Court returned Brennan to the bench and then named him a senior judge, he presided over at least 16 cases involving participants in his real estate deals. A recent search found no statement in court records that Brennan publicly disclosed those relationships.

The judge who ruled for a casino corporation in which he held stock is Stephen L. Huffaker. He owned 12,000 shares of the corporation while the case was before him. In addition, he presided over cases involving another casino corporation whose foundation gave his son a partial scholarship to Yale University. A recent search found no statement in court records that Huffaker publicly disclosed the scholarship at the time.

The judge who ruled in favor of the gambling boss is Joseph S. Pavlikowski. In 1969, he officiated at the wedding of Frank "Lefty" Rosenthal, known as a frontman for the Chicago mob. Pavlikowski then accepted a discounted wedding reception for his daughter at a casino where Rosenthal was a top executive. He subsequently ruled for Rosenthal in three cases when authorities tried to take action against him.

Senior judges, including Brennan, Huffaker and Pavlikowski, are on call statewide to fill in temporarily at any level of the state courts in which they have previous experience. Sometimes they are brought in when local judges disqualify themselves from sensitive and thorny cases.

The Supreme Court, the highest-ranking court in the state, created senior judges in 1977 to ease a workload that has since grown to an average of 2,700 cases for each regular judge in Las Vegas per year.

The high court acted independently of the Legislature. It wrote its own rules for the senior judges, said Ronald R. Titus, the state court administrator. "Nothing in the statutes," Titus said, "talks about senior judges."

The Legislature, however, controls their budget. At one time it was limited to $340,000 annually, and at one point senior judges numbered as few as half a dozen. But since then, more senior judges have been added. The Legislature budgeted $1.5 million last year. Their number may continue to grow along with southern Nevada.

In response to written questions, Robert E. Rose, chief justice of the Supreme Court, said senior judges were accountable because their decisions might be appealed to the Supreme Court. It is, however, the same court that appointed them.

"We must rely on the senior judge to recuse himself or herself in conflict-of-interest situations," Rose said, "or at least bring [the conflict] to the attention of the parties [involved in the case]. And any party can file a motion to disqualify a judge for cause."

Unlike a peremptory challenge, however, removal for cause is not automatic and must be decided by another judge.

Rose also said court administrators monitored the performance of senior judges.

"Many senior judges have had long and distinguished careers," Rose said. "History has shown that judges have the ability to rule fairly and impartially on cases, based on the facts and the law…. To date, no application to become a senior judge or justice has been denied….

"Senior judges are a tremendous asset to the judiciary and the citizens," Rose said. "They are often among the most experienced judges around. They serve only when needed, thus providing a great resource at a bargain price. Without senior judges, it would be necessary to add full-time judges at a cost of millions of dollars.

"Senior judges simply provide the best bang for the buck."

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James A. Brennan

Chapter 1

Threat of Indictment

Judge Brennan almost wound up in the dock himself.

In 1988, a friend, Ada Livingston, died. She had been living with Brennan's mother. The judge and his mother found $56,000 worth of savings bonds in her suitcase. The bonds were issued to Livingston and her granddaughter, Marianne Catelli, who lived in Long Branch, N.J., according to court records.

"Brennan said he would send me the bonds, but then I had to cash them and give him half the money," Catelli, now 61, said in a telephone interview. She said Brennan did not tell her the total value of the bonds. "He said he would mail me a few bonds to cash, and then, when I paid him, he would send me more."

Catelli went to the FBI. William A. Maddox, then the U.S. attorney in Las Vegas, said in an interview that he took the matter to a grand jury and determined that Brennan and his mother could be indicted "for blackmail under federal law." Maddox, now a state judge in Carson City, Nev., said his goal was not to indict but "to force Brennan to resign and to keep him from being a judge again."

"I didn't like what he did," Maddox said. "That's not the kind of thing a judge should do."

Brennan agreed to resign and not run for reelection for at least 18 months, Maddox said. "We figured the 18 months would put Brennan beyond the next judicial election [in 1990], and then, by the next judicial election [in 1996], he would have been out of the public eye for eight years." Together with the investigation, Maddox said, this passage of time would "make it pretty hard [for him] to get elected."

In March 1989, Brennan announced that he was stepping down. It was not long, however, before he was back on the bench.

When his 18-month hiatus ended, 16 Las Vegas state judges signed a resolution of support — whereupon the Supreme Court appointed him to a 58-day temporary judgeship, beginning Jan. 2, 1991, to ease the caseload in his old judicial district. The appointment was continued for a year, and in 1992 the Supreme Court commissioned Brennan as a senior judge.

He is in his 14th year without having had to face election.

Maddox said: "Our goal was to make sure Brennan wouldn't run — never serve on the bench again. What can I say?"

The news did not reach Catelli until March 2004, when a Times reporter called. "Isn't that cute!" she said. "I was told he wouldn't get back in office. If it were you or me, we'd be in jail. They said they were going to keep him out of the next election. Well, isn't that cute! It's all about who you know, isn't it?"

Brennan was given written questions about this and other cases in this story. He did not respond.

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Chapter 2

A Testimonial

The letter praised a man accused of smuggling drugs.

Judge Brennan wrote it to a federal magistrate in Tampa, Fla., vouching for Benjamin Barrington, then 48, of Las Vegas, who was under indictment on charges of running a cocaine smuggling ring in Nevada, Texas and Florida. Barrington was appearing before the magistrate for bail.

A transcript of the bail hearing shows that Brennan's letter was one of three from judges who vouched for Barrington. The others, according to the transcript, were from Charles Springer, then the chief justice of the Nevada Supreme Court, and from Dan Ahlstrom, then a Las Vegas justice of the peace.

The case received wide publicity. Court records and a report in the Las Vegas Review-Journal newspaper show that Brennan's letter, dated Nov. 21, 1985, was the most effusive.

"For the last couple of years," Brennan wrote, "I have been a guest in Ben's home, where I have had the opportunity and the pleasure to observe a very dedicated husband and father. Ben's son, Benjie, and his wife idolize Ben, and a team of horses could not separate Ben from his family. On numerous occasions, Ben and I have gotten together for 'intelligent' conversations over cocktails, and I unequivocally state that Ben is a man who will make every court appearance which is required of him."

In a recent interview with The Times, the Florida magistrate, Thomas G. Wilson, recalled being troubled. "I thought right away it was a violation of judicial ethics. So when we broke from the hearing, I went right to the judicial ethics codes, and it said in plain English a judge is not to voluntarily lend the weight of his office to support someone's interest like this."

Wilson denied bail for Barrington. He received a lengthy sentence, according to a spokeswoman for the Federal Bureau of Prisons, and he died in custody. Wilson said the Nevada judges who vouched for Barrington "gave the impression the bench was a good-old-boys group. It didn't raise my opinion of the Nevada judiciary."

Springer, now a Reno attorney, told The Times, "I shouldn't have written that letter." Ahlstrom, now the public administrator for Clark County, including Las Vegas, said that in hindsight "a judge would be well advised not to write such a letter."

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Chapter 3

The Venetian

After Brennan was returned to the bench and named a senior judge, the way he handled one major case came under particular attack.

The case involved a breach-of-contract dispute between the $1.5-billion Venetian casino and resort and its builder, Lehrer McGovern Bovis Inc. Brennan appointed his former law clerk, Erika Pike Turner, as special master to conduct hearings.

Venetian lawyers said Turner was inexperienced and that her law firm represented four clients who had interests in the case. Moreover, they said, Brennan had given her such sweeping authority that "essentially nothing remains for [him] to do but enter judgment."

When Brennan did not remove her, the Venetian complained to the Supreme Court about Turner — and said that Brennan, as an appointee under the senior judge program, had not been independently elected. Venetian lawyers also pointed out that he had been forced to resign years earlier to avoid indictment.

The Supreme Court did not rule on the senior judge issue, but said that Brennan had abused his discretion by giving Turner such broad authority.

One justice, Deborah Agosti, said Brennan had been appointed to ease the court caseload, but then had appointed someone to relieve him of his caseload. He "ought to handle this case himself," she said.

A jury awarded Lehrer McGovern Bovis $44.2 million — but also awarded the Venetian $2.3 million for shoddy workmanship.

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Chapter 4

Conflicts of Interest?

Judge Brennan's financial dealings tell a story of power in Las Vegas. He has been in business with some of the most influential people in town.

He and his Brennan Family Limited Partnership and the James A. Brennan Family Revocable Trust have appeared in at least 180 recordings of land and financial transactions in southern Nevada since his return to the bench in 1991.

His partners and co-investors number more than 300 and include some of Nevada's most powerful political and gambling figures.

Since 1997, for example, Brennan has participated in at least 45 real estate transactions in Las Vegas with Gov. Kenny Guinn, now in his second term, and with Guinn's family. Many of the transactions were made through the Kenny C. Guinn IRA; the Guinn Family Trust; the governor's son, Jeffrey; and the son's mortgage company, Aspen Financial Services, county land records show.

Nevada Lt. Gov. Lorraine Hunt also appears with Brennan in several transactions.

Aside from the governor, an array of longtime casino bosses, developers, lawyers, financiers, contractors, real estate agents, bankers and mortgage brokers often have been named in land records as repeat real estate partners and co-investors with Brennan over the years. Some are lawyers.

Many have had cases before him.

Sometimes he has withdrawn, but rarely said why.

Without disclosing his relationships, Brennan has ruled in at least 16 lawsuits since 1991 that involved one or more of his real estate or investment partners or their attorneys, according to a review of land and court records.

U.S. and Nevada judicial canons say judges should withdraw from cases where their impartiality might reasonably be questioned. Nevada canons also say judges must avoid even the appearance of impropriety and should reveal on the record anything that they think anyone in court could reasonably consider relevant to disqualification — even if the judges do not think they should withdraw.

For senior judges, including Brennan, disclosing all financial relationships has been voluntary until 2005. Now disclosure is required yearly. Historically, however, few if any senior judges ever revealed their financial interests. That made it hard for those appearing before them to know whether the judges had a conflict of interest.

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Joseph S. Pavlikowski

Chapter 1

'Lefty' Rosenthal

The first whiff of possible conflict came at a wedding.

It was 1969. The groom was Frank "Lefty" Rosenthal, whose Las Vegas exploits as a casino boss for the Chicago mob would be portrayed by Robert De Niro in the movie "Casino."

Pavlikowski, then a justice of the peace, performed the ceremony.

The wedding was at Caesars Palace hotel and casino on the Strip. In an interview with The Times, Rosenthal said that Pavlikowski's services, along with the band and a catered reception, were "comped," or provided without cost, compliments of Caesars Palace.

By 1974, Pavlikowski had been elected a state judge in Las Vegas, and the Stardust hotel and casino, under Rosenthal's control, did Pavlikowski a favor. His daughter held a wedding reception at the Stardust, and it gave him a "comp" worth $2,800 on the $4,000 tab.

The comp was revealed by The Times 2 1/2 years later in a series of

stories about Las Vegas. Pavlikowski first said, "I paid that bill." Then he said he paid only $1,200 and sent another $1,000 to the Stardust afterward, but that his check was returned. He said the bill "was padded" to help waiters with their tips.

The second and third whiffs of conflict came in the mid-1970s when, in highly publicized actions, the state Gaming Commission and the Licensing Board of Clark County, which includes Las Vegas, tried to deny Rosenthal's bid for licensing as a key employee at the Stardust.

He appealed the Gaming Commission's action to state court. Under rules calling for random selection among the 12 state judges then in Las Vegas, Rosenthal drew Pavlikowski to hear his case.

A recent search found no statement in court records that Pavlikowski publicly disclosed his role in Rosenthal's wedding or that he had accepted a $2,800 comp from a Rosenthal-controlled casino.

Pavlikowski ruled in his favor.

On Feb. 3, 1977, the state Supreme Court overturned the ruling.

While the case was still on appeal, however, Rosenthal filed a separate court action to prevent denial by the county licensing board.

That case was assigned to Pavlikowski as well.

Again, a recent search found no statement in court records that he publicly disclosed his ties to Rosenthal.

And again, Pavlikowski ruled for Rosenthal, granting a temporary restraining order as well as subpoenas to depose board members.

Rosenthal agreed to drop all but one of the board members from the case: Robert Broadbent, who said in an affidavit that Pavlikowski was biased in Rosenthal's favor.

The case was transferred to another judge.

In 1989, Rosenthal found reason to go back to court again. The Gaming Commission had put him on its List of Excluded Persons, known as the Black Book, a mug-shot catalog of notorious cheaters and mob associates that barred them from Nevada casinos.

His lawyers removed the judge assigned to his case and, again, under rules mandating random selection, Rosenthal drew Pavlikowski.

And again, Pavlikowski ruled in Rosenthal's favor, ordering that he be removed from the Black Book.

In his ruling, Pavlikowski said he had disclosed that he was the judge who had decided the gaming license disputes. James J. Rankl, the deputy attorney general who handled the Black Book case, said, however, that he could not recall such a disclosure.

"I think," Rankl said, "that is something I would have remembered."

At the time, Pavlikowski was not yet a senior judge, and he could have

been removed with a peremptory challenge. But Dan Reaser, chief deputy state attorney general for gaming at the time, said there was no need. "I knew we would prevail at the Supreme Court."

Reaser was right. The high court reversed Pavlikowski. The Black Book banned Rosenthal from Nevada casinos. On its "exclusion/ejection list," the state said Rosenthal "was suspected of overseeing a Las Vegas casino on behalf of organized crime."

In an interview with The Times, Rosenthal was asked: "You're the expert handicapper, Frank. What were the odds that you'd draw the same judge each time?"

Rosenthal paused.

"I didn't even know about" the Black Book case, he said.

He was shown copies of Pavlikowski's ruling and the Supreme Court reversal. "I'll be damned," he said. "You're telling me something I didn't know. I should drop [Pavlikowski] a line. Is he still living?"

A transcript of the Black Book proceedings shows that Rosenthal had flown in from Florida for the case, was present in Pavlikowski's courtroom and identified himself to the judge by name.

Pavlikowski was given written questions about this and other cases in this story. He did not respond.

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Chapter 2

Drunk Drivers

Arrested for drunk driving? Call John Watkins.

That's who Pavlikowski's son turned to when he lost his driver's license after a drunk-driving arrest in July 1986. The son, Joseph P. Pavlikowski, was 23 at the time. At an administrative hearing, he sought a reversal, and John G. Watkins represented him.

Watkins had been Pavlikowski's law clerk — one of several who became his friends. As private attorneys, they remain fiercely loyal to Pavlikowski and to one another, according to Andrew S. Myers, who is one of them. Pavlikowski, in turn, is loyal to them, Myers said. "It's like a club … a network."

Watkins fought 16 months to regain driving privileges for Pavlikowski's son. In March 1988, he won. A state court returned the driver's license.

During that time, according to court records and interviews with two former prosecutors, Pavlikowski signed 29 orders temporarily returning driving privileges for Watkins' other clients, even though their drunk-driving cases were being heard by other judges.

A recent search of court records found no statement from Pavlikowski that he asked for or received approval from the judges — or publicly

disclosed his relationship with Watkins.

Grenville Pridham, who spent 11 years as a state prosecutor, said he discovered that many of Pavlikowski's orders were never sent to the Department of Motor Vehicles. Hence, Pridham said, the DMV was crediting drunk drivers with serving their suspensions when, in fact, they were still driving.

The Supreme Court said Pavlikowski had acted improperly and that Watkins' failure to inform the DMV was "reprehensible." The court fined Watkins $500.

In some cases, Pavlikowski restored driving privileges for people facing their second or third drunk-driving convictions.

In April 1997, Watkins asked Pavlikowski to let Paulette O. Riggs drive while she appealed her second drunk-driving conviction in four years. This conviction had involved an accident. A prosecutor said Riggs' blood-alcohol level was more than 2 1/2 times the legal limit in one conviction and nearly four times in the other.

Pavlikowski allowed her to drive anyway, pending review of her case.

After five months, Riggs' case was transferred to another judge. He revoked her driving privileges.

"Pavlikowski did favors for Watkins that no judge would do for other attorneys," said Pridham, the former state prosecutor.

In frustration, prosecutors exercised peremptory challenges in 1994, 1996 and 1997 to remove Pavlikowski from cases involving Watkins.

At Watkins' request, Pavlikowski refused to remove himself.

That might have been a first, according to state Judge Peter Breen of Reno, who retired in 2005 after 31 years on the bench. "I can't remember any [other] judge trying to strike down a peremptory challenge" in favor of himself.

Watkins was given written questions about these and other cases in this story. He did not respond.

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Chapter 3

Favoritism?

A Times examination of court records shows that during the decade before 1999, when he became a senior judge, Pavlikowski determined the outcome of at least 72 cases in which Watkins or his firm defended clients accused of drunk driving or other criminal activity.

A recent search of court records found no statement from Pavlikowski that he publicly disclosed their relationship. In 66 of the cases, or nearly 90%, Pavlikowski ruled in favor of Watkins' clients by reducing, dismissing or reversing charges or other actions filed against them, the records show.

Thirty of those cases were appeals by clients whose driving privileges had been revoked by DMV hearing officers after drunk-driving arrests. In 26 of the 30 cases, or more than 86%, Pavlikowski granted the appeals, restoring driving privileges.

By contrast, 19 of 21 such appeals to Las Vegas state judges, or more than 90%, normally are denied, according to a recent 12-month survey by the DMV. "Chances of getting a reversal in [state] court are 1 in 10," said Randall Pike, a longtime Las Vegas criminal defense attorney.

In California, "your chances for such a reversal are 1 in 50," said Anthony Scott, a Redondo Beach attorney, who said he had handled about 1,500 drunk-driving cases in the last 14 years.

How did Watkins fare before other judges?

A Times review of 209 DMV license revocations that Watkins appealed to 10 other judges shows they ruled against his clients in 176 cases — and for them in 33. Hence, his success rate was 16%.

As for the success rate of Watkins' fellow attorneys before Pavlikowski, a Times examination of 317 drunk-driving appeals shows that while Pavlikowski granted nearly 90% of Watkins' appeals, he approved three of 18, or not quite 17%, of the appeals from other lawyers.

Prosecutors who appealed Pavlikowski's rulings favoring Watkins almost always succeeded.

In 12 of 14 instances since 1983 in which the state appealed Pavlikowski's rulings against the DMV in favor of Watkins' clients, the Nevada Supreme Court reversed Pavlikowski unanimously. The other two appeals were dismissed.

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Chapter 4

Appointing Proteges

Pavlikowski's commission as a senior judge in 1999 gave him no pause in appointing his former law clerks as defense attorneys in criminal cases.

For one case, budget-strapped Nye County, northwest of Las Vegas, paid two of his former clerks tens of thousands of dollars — and remodeled a public library into a courtroom for Pavlikowski.

Pavlikowski was assigned to the case in October 2000. On trial were Robert "Red" Dyer, Nye County's former public administrator, and his wife, Jennette. They were charged with stealing from estates of the deceased while the assets were under their jurisdiction. Dyer had named his wife as his deputy.

Pavlikowski appointed two of his former clerks, Andrew Myers and Martin Hastings, to defend them. Records show Pavlikowski had

appointed Hastings in at least 15 other cases.

A recent search of court records found no statement from Pavlikowski that he publicly disclosed his relationships with Myers and Hastings, but their connection was no secret. "We knew they were 'Pav's' former law clerks," Robert S. Beckett, the Nye County prosecutor, recalled. "Still, I was optimistic…. We have a tight budget and didn't want this to drag. We felt 'Pav' would move this case along."

Instead, Beckett said, it became one of the longest and most expensive cases in Nye County history. By the time it ended, court records show, Pavlikowski had ordered the county to pay Myers' fees totaling about $52,000 and Hastings' fees totaling about $61,000.

And then there was the courtroom.

Neither Myers nor Hastings wanted to drive the 120-mile round trip from Las Vegas to the tiny town of Pahrump and back every day on a two-lane road clogged with trucks, Myers said in an interview.

Beckett said: "We knew 'Pav' didn't want to drive out here" either.

As the trial neared, the official courtroom was closed to remove mold suspected of causing bloody noses, hair loss, fatigue, memory loss, rashes and sore throats, according to county records and interviews.

In its place, a corrugated metal building on a rocky lot was converted into a crude, temporary courtroom.

Pavlikowski balked.

"So we decided to build a courtroom for 'Pav,' " Beckett said. The county spent about $10,000 to renovate the library. "We even made a plaque for him."

But, Beckett said, "they still wanted to get the case to Vegas."

Myers and Hastings argued that the Dyers could not get a fair trial in Pahrump.

Beckett, however, produced a survey that said the "majority of the public has not formed an opinion" on guilt or innocence.

Pavlikowski let jury selection begin, but prosecutors complained that he granted Myers and Hastings twice the legal number of peremptory challenges for disqualifying jurors — and the jury pool ran dry.

Two more alternates were needed.

Chief Deputy Dist. Atty. Kirk Vitto asked Pavlikowski "to send out for additional jurors," court transcripts show. "The sheriff is standing by and will serve those people. We can have them here after lunch…. We are so close."

But Pavlikowski said no.

Publicity, he said, made it impossible to summon more jurors who were impartial.

He declared a mistrial.

Moreover, Pavlikowski said, he already had booked a courtroom in Las Vegas.

"We were devastated," Beckett said.

In Las Vegas, five weeks of trial produced 139 witnesses and 800 exhibits for the prosecution. "We were getting the hell beat out of us," defense attorney Myers recalled. Then the next-to-last prosecution witness, Terry Rusheen, took the stand.

A former friend of the Dyers, Rusheen said he had been "self-employed with macaws and cockatoos as a bird trainer and entertainer." The record shows he blurted: Jennette Dyer "told me to kill her…."

Lawyers for both sides jumped up and shouted, and Pavlikowski ordered jurors to disregard the statement.

Myers and Hastings demanded a mistrial. Prosecutor Vitto asked Pavlikowski to poll the jurors on whether they had heard what Rusheen said.

But Pavlikowski granted the mistrial without asking the jurors anything.

He set a new trial date.

When the defense requested a delay, Vitto objected. And before Pavlikowski could rule, Jennette Dyer disappeared.

Now Myers had no client. Court records show Pavlikowski appointed him co-counsel, along with Hastings, for Robert Dyer, the remaining defendant. Pavlikowski ordered that Myers be paid the "customary rate of $75 per hour."

Robert Dyer pleaded guilty, then asked to withdraw the plea. Hastings said Dyer had not been thinking clearly because of oxygen deprivation caused by jailhouse rules limiting use of his pocket inhaler for asthma.

Dist. Atty. Beckett said Dyer submitted no evidence to support the claim.

But Pavlikowski granted Hastings' request.

He also reversed himself on the difficulty of picking an impartial jury in Pahrump and returned the case to Nye County, where a new state judge had been trying Dyer on separate charges of attempting to bribe and intimidate a witness.

With that, Hastings withdrew as Dyer's lawyer. Pavlikowski approved.

Myers, for his part, said he never drove back to Pahrump to appear on Dyer's behalf. He said he did not know that Pavlikowski had appointed him co-counsel.

In the end, Robert Dyer pleaded no contest to theft and possessing stolen property, records show. He was sentenced in June 2004 to two to five years in prison.

The sentence was in addition to a 1- to 2 3/4 -year sentence for

witness tampering.

His wife remains a fugitive.

Hastings did not respond to written questions about the case.

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Stephen L. Huffaker

Chapter 1

Casino connections

Downtown casinos and the city of Las Vegas sued Carol Pappas and her sons.

A 63-year-old widow, she and her two boys owned a corner strip mall. A casino consortium, with the city on its side, wanted the land to build a parking garage as part of downtown redevelopment. The suit claimed eminent domain.

It went to Huffaker's court in November 1993. He let the consortium bulldoze the property.

Pappas filed a counterclaim saying the city and the casinos conspired to take her property improperly and to violate her civil rights.

Huffaker presided over the high-visibility case for 21 months. His 1994-95 financial disclosure statements showed only that he was receiving a "small interest on stock dividends." But in August 1995, he revealed in court that he held 12,000 shares of Elsinore Corp., owner of the downtown Four Queens hotel and casino, which had a major stake in the redevelopment.

Grant Gerber, an attorney for Pappas, told Huffaker in a letter: "For you to preside over this case violates [judicial] canons." Two days later, Huffaker withdrew.

But he had been issuing rulings for 21 months.

The attorneys for Pappas asked for dismissal of all Huffaker rulings.

Request denied.

They asked to question Huffaker under oath: Did he have other conflicts of interest in the case?

Request denied.

Their concern about other possible conflicts appeared to be valid. A nonprofit foundation sponsored by Mirage Resorts Inc., which owned the Golden Nugget, another casino involved in downtown redevelopment, had given Huffaker's son, Stephen, an $11,000 scholarship to Yale in 1994, according to court records.

Casino mogul Stephen A. Wynn owned Mirage at the time.

The year the scholarship was awarded, The Times found, Huffaker was

presiding over the Pappas case and four other lawsuits involving the Golden Nugget.

A recent search of court records found no statement from Huffaker that he publicly disclosed the scholarship at the time. Nor did he reveal it in his annual financial disclosure statements.

The Pappas lawsuit ended in August 2004 when the city settled for $4.5 million, according to court records and an interview with Gerber.

Huffaker did reveal his son's scholarship in 1994 in another case involving Wynn's casino interests. Moreover, in his financial disclosure statements for 1994 through 1997, he said his son had worked at Wynn's Treasure Island hotel and casino, his Shadow Creek golf club and at the law firm of Schreck, Jones, Bernhard, Woloson & Godfrey, which represented Wynn's interests.

At various times during those years, Huffaker presided over five lawsuits involving the law firm or Wynn's casinos, according to court records.

In a sixth case, Huffaker presided for nearly a year before Schreck attorney James R. Chamberlain reminded him that his "son is employed as a runner for the summer months at the firm," court minutes show.

The opposing lawyer had no objection, according to the minutes.

In a seventh case, a lawyer objected to a similar conflict. The lawyer represented Joseph Canterino, then a 40-year-old New York dockworker who sued the Mirage. Canterino said he suffered mental illness after being savagely beaten and robbed of $70,000 while he stayed at the hotel in 1992.

Canterino blamed lax security.

A jury awarded Canterino $5.8 million, court records show.

Huffaker called the judgment "absolutely shocking," according to the records.

He reduced it to $1.5 million.

In an affidavit, Canterino's lawyer, Eckley M. Keach, said Huffaker had failed during the case to disclose Stephen Huffaker's scholarship.

Huffaker replied that he had told Keach and a Mirage attorney about the scholarship.

Both said they could recall no such disclosure.

In 2002, the case was settled for an undisclosed amount.

By then, Huffaker had announced he would not seek reelection, and the Supreme Court commissioned him as a senior judge.

He was given written questions about these cases by The Times, but he did not respond.

Huffaker received the senior judge commission despite being one of the

most avoided state judges in Las Vegas.

During 2001, for instance, the year before he was appointed, attorneys dodged his courtroom 163 times by exercising one-time peremptory challenges to remove a judge without explanation, court records show.

Now, as a senior judge, Huffaker is immune from peremptory challenge.

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