

No-nonsense judge expected to keep Nacchio trial on track

By Sara Burnett, Rocky Mountain News
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It was the King of Pop vs. the King of Courtroom C203.

On the witness stand sat Michael Jackson, the Grammy-winning pop singer who inspired fans around the world to moonwalk and sport a single, sequined glove.

On the bench was Edward W. Nottingham, the no-nonsense federal judge with a low tolerance for courtroom shenanigans, unprepared attorneys or unnecessary delays.

Jackson, testifying in a 1994 civil copyright-infringement trial, had sung and danced in his chair, entertaining the crowded gallery for about an hour. But when he failed to answer a question to Nottingham's liking, the judge made it clear he was not impressed.

"Mr. Jackson, just answer the question," Nottingham barked.

"I am," a smiling Jackson replied.

"No, you're not."

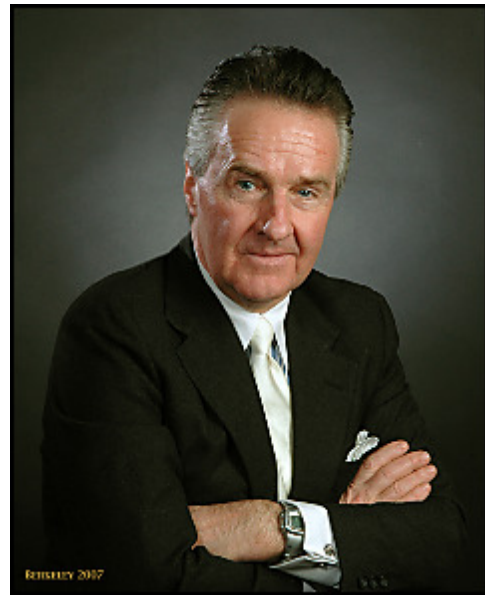
"I'm trying," Jackson said.

"You're failing."

The anecdote is classic Nottingham - putting a person firmly in his place and keeping proceedings moving along, even if the witness happened to have recorded one of the biggest-selling albums of all time.

They are skills that should serve Nottingham well come March 19 when he is scheduled to preside over one of the biggest trials in years at the federal courthouse in Denver: the United States of America vs. Joseph P. Nacchio.

The case against the former Qwest CEO has the potential to get bogged down in complicated details of alleged insider trading. It also comes with big-gun lawyers on both sides, including a lead prosecutor and lead defense attorney who have served as judges.



Edward W. Nottingham worked in the U.S. attorney's office and later in private practice.

But make no mistake, those who know Nottingham say: If he scheduled the trial to take no more than 30 days, the trial will wrap up within 30 days.

And inside courtroom 1001 on the top floor of the new federal courthouse, there will be only one judge.

Not always popular

Nottingham grew up on an Eagle County ranch and graduated from Grand Junction High School. After attending Cornell University, an Ivy League college in Ithaca, N.Y., he returned to Colorado for law school.

He was a prosecutor in the U.S. attorney's office for two years before joining Sherman & Howard, Denver's oldest law firm. He became partner there before joining a private firm in Grand Junction, where he was partner until being appointed to the federal bench.

As an attorney, Nottingham was "a consummate professional," recalled James Rollin Miller, who heads the litigation group at Moye White in Denver and who went up against Nottingham when the judge was in private practice and an assistant U.S. attorney.

Nottingham worked hard, Miller said. He was ethical and always prepared. He didn't play games, and opposing attorneys could take him at his word.

"He was what he expects people to be," Miller added.

Those high expectations certainly haven't made Nottingham the most popular judge at the federal courthouse.

In the 1990s he was known for scheduling hearings at 6:30 a.m. for lawyers who had irked him, usually by filing frivolous motions or having petty disagreements with one another. When everyone arrived, Nottingham would be "ready to yell at you," one attorney recalled.

He still doesn't hesitate to fire terse words at lawyers or witnesses or anyone else he thinks deserves it. Just a few weeks ago he criticized the attorneys in the Nacchio case, saying they were acting like "petulant children in a sandbox."

Nottingham declined to be interviewed for this story. He also predicted there would be plenty of people willing to talk about him but few, if any, who would allow their names to be used.

He was right.

Several attorneys said they didn't want to jeopardize future pleadings in front of Nottingham by commenting.

"Everyone who goes before him is nervous," one of those attorneys said. "Those who aren't should be."

Yet one of the lawyers who attended his share of 6:30 a.m. hearings - and was the only one to publicly speak out about it, in a 1999 article in *Westword* - said Nottingham never held his words against him.

"He's not that type of person," said Curtis Kennedy, attorney for the Association of U S West Retirees.

Start early, work late

Kennedy may have disagreed with some of Nottingham's tactics in the past, but he thinks people following the Nacchio trial will be impressed.

Nottingham is the "anti-Ito," Kennedy said, a reference to Judge Lance Ito, the California jurist who became the butt of national jokes - including Jay Leno's "Dancing Itos" - during the O.J. Simpson trial.

Ito also was criticized for bungling jury instructions in the savings and loan scandal case against Charles H. Keating Jr. The error led an appeals court to overturn Keating's conviction for insider trading.

Nottingham, by contrast, will run a tight ship, several attorneys said. He'll start on time - probably on the early side - and work late each day. He'll demand lawyers and their witnesses be ready, and won't put up with any gamesmanship.

"It will be a well-run, fair trial," Miller predicted.

Kennedy agreed.

"He's just perfect for a case like this," he said.

Judge Edward Nottingham at a glance

- **Age:** 59
- **From:** Family ranch on Eagle County land that is now part of Beaver Creek resort before they moved to Grand Junction, where Nottingham graduated from high school.
- **Education:** Cornell University, 1969; University of Colorado School of Law, 1972
- **Legal career:**
 - Law clerk,** U.S. District Court for the District of Colorado, 1972-73
 - Private practice,** Denver, 1973-76, 1978-87
 - Assistant U.S. attorney,** District of Colorado, 1976-78
 - Private practice,** Grand Junction, 1987-89

Nominated for federal judgeship by President George H.W. Bush in October 1989; confirmed by U.S. Senate and commissioned in November 1989

• **Interesting cases:**

In 2005, Nottingham ordered a Steamboat Springs woman thrown in jail because she wouldn't stop filing lawsuits he called "frivolous," "abusive" and "gibberish." The woman spent four months in prison before agreeing to drop the suits. Once free, she promptly filed appeals.

In 2003, his office was flooded with angry phone calls after he ruled the popular federal "do not call" list violated telemarketers' free speech rights. An appeals court overturned the ruling but not before radio stations broadcast the phone number of the judge's chambers, urging people to call and complain.

Also in 2003, he questioned the U.S. military's use of a mandatory anthrax vaccine. While Nottingham dismissed the case of a soldier dishonorably discharged for refusing the vaccine, he said her claims that it was unsafe were reason for concern. "The military will be held accountable if it is using its own soldiers as guinea pigs," he said.

burnetts@RockyMountainNews.com or 303-954-5343