



The Historical Society of the Tenth Judicial Circuit

www.10thcircuithistory.org • E-mail: Info@10thcircuithistory.org

CHAIR'S NOTES By Greg Kerwin

Flags for each of the states in the Circuit, classic cherry wood cases, warm directional lighting, and a new noise-reducing rug now grace the southwest corner of the Byron White courthouse in Denver. With your support, the Society is working with the Court to fill these display cases and wall panels. We welcome ideas from Society members on the content for future displays. The Society is planning a reception in September 2011 to celebrate the opening of this new exhibit space. The following displays, and others, will be ready by September:

Brown v. Board of Education of Topeka: Panels trace the story of the most significant civil rights ruling of the past century, part of which originated in Kansas. Thurgood Marshall argued this case for the NAACP twice in the Supreme Court before the Court, led by the new Chief Justice Earl Warren, issued its unanimous landmark desegregation ruling rejecting "separate but equal."

McVeigh/Nichols trials for bombing Murrah Federal Building: A piece of the exploded Ryder truck, Tim McVeigh's mug shot, shards of broken glass from the shattered Murrah building, a crushed briefcase, a child's truck, and sketches from the criminal trials before Judge Matsch recount the April 19, 1995 tragedy and its aftermath, which united Oklahoma City and Denver.



Photo from the collection of
University of Oklahoma College
of Law

Oklahoma maps and photos: Maps of Oklahoma territory including the proposed State of Sequoyah and its constitution from 1905 reveal Oklahoma's colorful past, along with photos of outdoor law offices during the 1884 land rush, where a chair, a sign and a makeshift table were all enterprising lawyers needed to hang out a shingle.

Bringing the rule of law to the frontier, justice and equality in Wyoming: The Wyoming exhibit will feature information about the trial and conviction of Tom Horn, a notorious Wyoming outlaw: a photo of the jury that convicted him in 1902, which included an African-American juror; the leather bound briefs filed in Horn's appeal to the Wyoming Supreme Court; movie posters; and a book. The exhibit will also include books from John Davis, author of *Wyoming Range War: The Infamous Invasion of Johnson County*, and a bronze of Eliza Stewart, the first woman juror in America, who sat on a jury in Laramie in 1869.

Colorado artifacts: See the roll book of lawyers admitted to practice in the federal court in Colorado between 1937 and 1953, including Bob Harry and Richard Matsch, along with color sketches of murals of the Byron White courthouse and a photo of the court clerk's office in Denver in 1899.

Other U.S. Supreme Court justices from states in the Tenth Circuit: Test your knowledge of three other justices besides Byron White who came from states in the Tenth Circuit (Kansas, Utah, and Wyoming). Note: two of the three were born outside the U.S.

State Project Updates

Kansas: The U.S. District Court in Kansas celebrated its 150th anniversary with a special program and dinner in Overland Park, KS on January 28, 2011. US Supreme Court Justice Sonia Sotomayor discussed her background and initial work on the Supreme Court in a fireside chat program. Fritz Klein, nationally known for his re-enactments as Abraham Lincoln, spoke from the vantage point of 1865 about Lincoln's 1859 visit to Kansas and the years that followed. A new book to commemorate this anniversary was published in April 2011: "Justice on the Prairie: 150 Years of the Federal District Court of Kansas," by Professor Mike Hoeflich of the KU School of Law

Lifetime Members of the Society can be found on the website: http://www.10thcircuithistory.org/lifetime_members.htm

C O U R T H O U S E S O F T H E 1 0 T H C I R C U I T

Moss U.S. Courthouse • *By Michelle M. Oldroyd*



The Frank E. Moss United States Courthouse in Salt Lake City has been the primary home to the United States District Court for the District of Utah for over a century. The building has both character and integrity. It is filled with granite and marble, ironwork and portraits, and has provided a fitting backdrop to the important legal decisions of this District.

Opened in November 1905, the building served as both the Post Office and the Court, and has since contained offices from all three branches of the federal government. The Frank E. Moss U.S. Courthouse is the oldest building in Salt Lake City's Exchange Place Historic District, which consists of eight buildings constructed between 1903 and 1917. Additions were completed to the structure, to create its figure-eight design, in 1912 and 1932. The Exchange Place Historic District was added to the National Register of Historic Places in 1978, and is also listed as an historic landmark on the Salt Lake Register of Cultural Resources. In 1990, the Courthouse was renamed in honor of Frank Edward Moss, a Utah native who served from 1959 to 1977 as United States Senator from Utah.

Fifteen District judges have served, to date, in this Courthouse. It is said by many court staff and bar members that one judge in particular keeps his hands in the day-to-day administration of this courthouse. Judge Willis Ritter is said to "haunt" the space and to frequently make his "presence" known with a flicker of lights or the unexpected arrival of elevators with doors that mysteriously open and close. Recently, the Court added a gallery of portraits of our senior and former judges to the ceremonial courtroom, including a rare portrait of Judge Ritter on permanent loan to the Court from the University of Utah art collection.

Early in 2011, construction will begin on a new federal courthouse on an adjacent site to meet the expanding needs of the District Court. Completion is expected in 2014. Once the new federal courthouse is occupied, the Moss Courthouse will be renovated and will continue to serve as home to the Bankruptcy Court. The construction project has necessitated the relocation of another historical building, the pre-1900s Odd Fellows Hall, from the west side of the Courthouse to the north side of the Courthouse (across the adjacent Market Street). This was no small feat. The three-phase moving process, including footage of the building being driven across the street and lowered onto its new foundation, can be viewed online at YouTube.

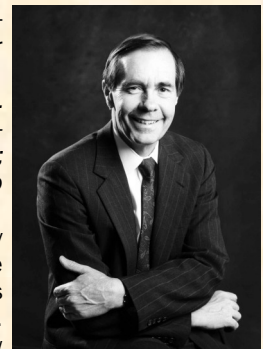
N O T A B L E L A W Y E R S

Rex Edwin Lee • *By Justice Thomas Rex Lee, Utah Supreme Court*

Rex Edwin Lee was one of the most prominent appellate advocates of our time, having argued 59 cases in the United States Supreme Court and many others in the Tenth Circuit and other appellate courts throughout the country. As Solicitor General of the United States and as a renowned private practitioner, Lee argued numerous landmark cases in the Supreme Court, including: *Pike v. Bruce Church*; *Dames & Moore v. Regan*; *Valley Forge Christian College v. Americans United for Separation of Church and State*; *INS v. Chadha*; *Lynch v. Donnelly*; *United States v. Leon*; *Allen v. Wright*; *Garcia v. San Antonio Metropolitan Transit Authority*; *Aguilar v. Felton*; *Corporation of Presiding Bishop v. Amos*; *Karcher v. May*; and many others.

Lee grew up in St. Johns, Arizona, where his family owned and operated sawmills, grocery stores, and service stations. He did his undergraduate studies at Brigham Young University, where he served as student-body president prior to his graduation in 1960. In 1963, Lee graduated first in his class from the University of Chicago Law School. He then served as a law clerk to Justice Byron R. White at the U.S. Supreme Court. From 1964 to 1972, he practiced law with the Phoenix, Arizona law firm of Jennings, Strouss & Salmon. In 1972, Lee became the founding dean of the J. Reuben Clark Law School at BYU at the age of 37. He later served for two years as Assistant Attorney General in the Ford administration and for four years as Solicitor General in the Reagan administration. In 1985 he joined the law firm of Sidley & Austin and concurrently occupied the George Sutherland Chair as a Professor of Law at BYU. From July 1989 until December 31, 1995, Lee served as the tenth president of BYU. When he accepted that office, he secured an agreement from the board of trustees that allowed him to pursue his avocation as an appellate advocate in his "spare time." During his term as BYU president, Lee argued numerous cases in the U.S. Supreme Court. At that time, he recounted how important it was to continue his work as an appellate advocate, noting that a violinist could hardly be asked to give up his beloved instrument just because he took a job as a university administrator, and he could not see giving up the "art" that he cherished.

The art of appellate advocacy was an important part of the life of Rex Lee. The contributions he made to the law extend beyond the landmark cases that he argued. They include, most importantly, the lives he touched and lawyers he mentored, some of whom are among the most prominent of today's "Supreme Court bar." Indeed, the very existence of a bar of prominent, private Supreme Court advocates owes its genesis in large part to Rex Lee, who established a model of the modern U.S. Supreme Court practice when he left the Solicitor General's office and established a successful practice at Sidley & Austin. His legacy lives in that practice, in the many judges and advocates whose lives he touched, and in the important jurisprudence left in the wake of the cases he argued.

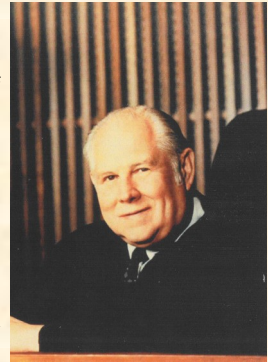


DISTINGUISHED JUDGES' BIOGRAPHIES

Judge William J. Holloway, Jr. • *By Judge David J. Richman, Colorado Court of Appeals*

Judge William J. Holloway, Jr., a lifelong Oklahoman and proud of it, was born in the small town of Hugo, Oklahoma in 1923. The family moved to Oklahoma City when his father, William Holloway, Sr., was elected Lieutenant Governor. During the time his father subsequently served as Governor of the state, the younger Bill completed his elementary and high school education in the public schools of Oklahoma City. The future judge attended Oklahoma University for two years before leaving to serve in the United States Army during World War II, returning to Norman to receive a bachelor's degree from the University in 1947. He received his LL.B from the Harvard Law School in 1950.

He returned from the East to practice law with his father and uncle in Oklahoma City, but soon left to serve as an attorney with the Department of Justice in Washington, D.C. from 1951 through 1952. Thereafter, he returned to the private practice of law in Oklahoma City, eventually joining the firm of Crowe and Dunlevy. Although thought to be a confirmed bachelor, he was overwhelmed by Helen Hoehn, the daughter of Mr. and Mrs. William F. Hoehn, of Enid, Oklahoma, and they were married in 1963. He continued in private practice until he was appointed to the Tenth Circuit Court of Appeals by President Lyndon Johnson in September 1968. From September 1984 through September 1991, Judge Holloway served as the Chief Judge of the Tenth Circuit.



While this author served as law clerk to Judge Holloway, we took many lunchtime strolls down Broadway Avenue in Oklahoma City, barely able to advance ten feet without a person coming up to greet the Judge, and he would return the greeting with the name of each and every individual. Thus, it is not surprising that in 1991 Judge Holloway received the Humanitarian Award from the Oklahoma City region of the National Conference of Christians and Jews. In 1988 he received the President's Award from the Oklahoma Bar Association in recognition of his twenty years of judicial service, and in August 1991 Oklahoma City University conferred on him an Honorary Doctor of Laws Degree.

Service as a law clerk in Judge Holloway's chambers has been a springboard to the bench for at least four of his former clerks, Judge Jerome Holmes, now himself serving on the Tenth Circuit, Magistrate Judge Robert Bacharach of the Western District of Oklahoma, George Lindley, a retired Oklahoma district judge, and the undersigned, a member of the Colorado Court of Appeals. Academia has also benefitted from many former Holloway clerks. Moreover, Judge Holloway would laughingly tell us former clerks that he also played a role in advancing the career of now Justice Ruth Bader Ginsburg. In *Moritz v. Commissioner*, 469 F. 2d 466 (10th Cir. 1972), Judge Holloway writing for the panel, held, *inter alia*, that a provision of Internal Revenue Code denying deduction solely to a male taxpayer who has never married and its allowance to women and widowers, divorcés, and husbands under certain circumstances, is an invidious discrimination and invalid under due process principles. The lawyers
(continued on next page)

Judge Clarence A. Brimmer • *By Judge Philip A. Brimmer, U.S. District Court for the District of Colorado*

After completing military service following World War II, Clarence A. Brimmer resumed his studies at the University of Michigan Law School and, upon his graduation in 1947, returned to his home town of Rawlins, Wyoming to begin his legal career. He went to work for his father, Clarence A. Brimmer, Sr., who had a law practice. His father made him a partner in 1951, at which time the firm name was changed to Brimmer & Brimmer. Rawlins was a town of just 7000 people and when Emily Docken, a pretty school teacher from Iowa, arrived in town, the news spread. Clarence and Emily were married in 1953 and had 4 children. Judging came quickly. Judge Brimmer was a part-time municipal judge in Rawlins from 1948 to 1954 and was a part-time U.S. Commissioner/Magistrate from 1963 to 1971. Judge Brimmer was also active in the Republican Party. He was chairman of the Carbon County Republicans for eight years and served as chairman of the state Republican Party from 1967 to 1971.

In 1971, Governor Stanley K. Hathaway appointed Judge Brimmer as Wyoming's Attorney General to replace James E. Barrett, who had been appointed to the Tenth Circuit Court of Appeals. During his term as Attorney General, Judge Brimmer instituted many reforms, such as helping to create the Division of Criminal Investigations, which assists local law enforcement in different criminal investigations and operates the Wyoming crime laboratory. Judge Brimmer resigned as Attorney General in 1974 to run, unsuccessfully, for Governor. In 1975, President Ford appointed him as the U.S. Attorney for the District of Wyoming and, in that year, nominated him for the vacancy on the United States District Court created by Judge Ewing T. Kerr taking senior status. The Senate confirmed Judge Brimmer on September 26, 1975.

Judge Brimmer became just the fourth federal district judge in Wyoming's history, which, given that Wyoming became a state in 1890, is a testament to his predecessors' longevity. As the only active district judge in the District, Judge Brimmer also became the chief judge, which position he held until 1992. During that time, he presided over many important natural resources cases. He tried some colorful cases as well, including one euphemistically referred to as *Miss Wyoming v. Penthouse*, a defamation case filed by Wyoming attorney Gerry Spence that featured testimony by Penthouse publisher Bob Guccione in newly-purchased Western wear and velvet pants. The Cheyenne jury was not impressed, awarding plaintiff \$26.5 million. Judge Brimmer served on the Executive Committee of the Judicial Conference from 1995 to 1997, was president of the Tenth Circuit District Judges Association from 1978 to 1980, and was a member of the Judicial Panel for Multidistrict Litigation from 1992 to 2000. He took senior status in 2006. Judge Brimmer has recently been honored for his service to the people of Wyoming by the Wyoming Trial Lawyers Association and the Wyoming Chapter of the Federal Bar Association.

OFFICERS & DIRECTORS

Directors

Steven K. Balman, OK
Philip A. Brimmer, CO
Mary Beck Briscoe, KS
James O. Browning, NM
A. Bruce Campbell, CO
Jonathan A. Dibble, UT

David M. Ebel, CO
Robert H. Harry, CO
Paul J. Hickey, WY
Patricia Hummel, UT
Bruce S. Jenkins, UT
Gregory J. Kerwin, CO

Andrew W. Lester, OK
Robert N. Miller, CO
Terrence L. O'Brien, WY
James P. O'Hara, KS
Andrew G. Schultz, NM
Stephanie K. Seymour, OK

Stuart D. Shanor, NM
Joseph T. Thai, OK
Alleen Castellani
VanBebber, KS
Kathryn H. Vratil, KS
Brooke C. Wells, UT

Officers

Gregory J. Kerwin, Chairman
Patricia Hummel, Archivist

Paul J. Hickey, President
H. Frank Gibbard, Secretary
Michael H. Hoeflich, Historian

Alleen C. VanBebber, Vice President
Leslie N. Beard, Treasurer

Judge William J. Holloway, Jr. (cont'd)

representing the taxpayer were Ruth Bader Ginsburg and her husband, Martin Ginsburg. Although Judge Holloway always made his claim in a joking manner, his assertion was recently confirmed when Justice Ginsburg herself, in an address to the Tenth Circuit Bench and Bar Conference in August 2010, read a talk written by her late husband which he had planned to deliver. The title of the talk: "How The Tenth Circuit Got My Wife Her Good Job." Judge Holloway's authorship of the Moritz case is a prominent feature of the theme of the talk.

Judge Holloway is a member of St. Luke's United Methodist Church of Oklahoma City, Phi Gamma Delta fraternity, the American Law Institute and the American, Oklahoma, Oklahoma County and Federal Bar Associations. A tireless worker, Judge Holloway has completed more than 42 years of service on the Tenth Circuit. As a Senior Judge, he continues to sit regularly with the Circuit, and apparently has no plans to change his approach to his lifelong work.

The Historical Society of the Tenth Judicial Circuit
1550 17th Street, #500
Denver, CO 80202

Non Profit Org
US Postage PAID
Denver CO
Permit No. 4551

TO: