Aldon J. Anderson
United States District Judge for the District of Utah

Aldon J. Anderson was born January 3, 1917 in Salt Lake City, Utah. He graduated from the University of Utah Law School where he was president of the law school student body. In 1945, after working in the legal division of the Utah State Tax Commission he entered the private practice of law. He was elected District Attorney for the Third Judicial District in 1952 and re-elected in 1956. In May 1957, he was appointed by Governor George Dewey Clyde as District Court Judge in the Third Judicial District (Salt Lake County). He served on the State bench until 1971.

He was nominated by President Richard M. Nixon to take the place of retiring Judge A. Sherman Christensen on the federal bench. The nomination was approved by the Senate on July 22, 1971. He became the Chief Judge for the District of Utah in 1978. He took senior status in 1984.

He served as Chief Judge for the District of Utah and for a term as president of the United States District Judge Association for the Tenth Circuit Court of Appeals. He was instrumental in establishing the American Inns of Court and served as the first chairman of the United States Inns of Court Foundation. The Aldon J. Anderson Inn of Court was named in his honor. Due in large part to Judge Anderson's energy and efforts the Inns of Court were expanded to several hundred chapters across the country. He worked to establish the first Inn of Court which was used as a prototype or model for adoption nationwide. The Chief Justice of the United States Supreme Court, Warren Burger, presented Judge Anderson an award in recognition of Judge Anderson's unselfish service as president of the Inns of Court Foundation during its formative years.

He was appointed to the federal bench after an intense struggle between the other two federal district court judges in Utah: Chief Judge Willis Ritter and Judge A. Sherman

Christensen, who took senior status. Judge Christensen was replaced by Judge Anderson. Although both Judges Ritter and Christensen were intelligent jurists, they were polar opposites. The one was mercurial and had difficulty controlling his passions; the other was the most reserved model of decorum. Judge Anderson was noted for his even temperament, scrupulous impartiality and abilities as a peacemaker. In Chief Judge Ritter's Courtroom construction workers on the courthouse were briefly incarcerated for making noise and lawyers were threatened to "spend the rest of their natural lives in jail". By contrast, down the hall Judge Anderson brought balance to the District with his constant, even-minded approach. He was exceptionally considerate of the parties and counsel appearing before him, and he increased the respect for the Utah federal judiciary with his openness and courtesy to the public and the bar. Chief Judge Ritter would not hold joint activities with the state and federal bars. Judge Anderson reached out to the Utah bench and bar. Instead of new attorneys attending two separate swearing-in ceremonies, there was only one which was held in the federal courthouse.

Judge Anderson assumed the responsibility for the Northern Division of the Court because the Chief Judge refused to recognize the existence of a courtroom in Ogden. This meant Judge Anderson traveled from Salt Lake City to Ogden, Utah once or twice a month, or as often as needed, to conduct business in the unstaffed Ogden Courthouse. During trials, he commuted to Ogden each day. He took a law clerk and the courtroom deputy clerk with him. It took added time because Judge Anderson always drove under the speed limit. [1]

He resolved with diplomacy a source of contention within the district related to the assignment of cases. Chief Judge Ritter had previously become the subject of a calendaring order from the U.S. Court of Appeals for the Tenth Circuit. It resulted because of Judge Ritter's method for assigning cases between former District Judge Christensen and himself. Judge Ritter

[1] Recollections of Brent D. Ward, former law clerk to Judge Anderson and former United States Attorney for the District of Utah.

had a system where the numbers 1 through 4 were assigned to cases as they were filed. 1's and 3's were assigned to Judge Ritter and 2's and 4's were assigned to Judge Christensen. Some attorneys quickly learned they could file two identical cases and each one would be assigned to a different judge. They would then immediately dismiss the one assigned to the judge they did not want. The Tenth Circuit order was to implement a random case assignment process. On occasions when Judge Ritter deviated from this system in assigning himself cases, Judge Anderson was always with "his usual aplomb able to resolve the issues without embarrassment to the court"[2]. He was not too proud to "walk down the hall to mend fences with Chief Judge Ritter and keep communications open."[3]

The sense of humor Judge Anderson developed in his youth and as a state trial court judge from 1957 to 1971 enabled him to keep proper order in his courtroom without dressing down attorneys who strayed from accepted procedures. One prominent Utah litigator attempted an annoying and improper tactic during a jury trial by asking a question of a witness as he walked toward the witness and then as the answer came, the attorney turned his back on the witness and made facial gestures to the jury calling in question the credibility of the answer. Judge Anderson immediately sent a note to his law clerk to "water the jury". The expression on the Judge's face and his obvious displeasure with this courtroom tactic signaled to the clerk, this was the Judge's solution to the problem. The law clerk took a pitcher of water and filled a single cup and passed the cup down to a juror as the attorney asked the next question. The jury, instead of watching the attorney's face, was eying the cup of water as it was being passed along. As the attorney prepared to ask his next question, the clerk poured a second cup of water and passed it down the row of jurors. After being upstaged several more times, the attorney in exasperation threw up his hands and said "Your Honor, we cannot go on until Gunga Din has

[2] Recollections of Brent D. Ward.
[3] Judge Ralph Mabey, former law clerk to Judge Anderson and former Bankruptcy Judge.

finished his chores." The judge was unsuccessful in his attempt to muffle his laughter, and the attorney ceased the improper tactic.

Judge Anderson, a hard worker, student of the law and dedicated jurist still kept his perspective that life was more than the practice of law. He and his wife Virginia maintained this balance as they reared seven children in Salt Lake City and at the family cabin on Hebgan Lake.

In 1971, he was only allowed enough money in his budget to have one law clerk. However, rather than hire a bailiff, he hired two law clerks and split the salary of the two positions between the clerks. He extended himself to his law clerks and tried to expand their horizons. While in his later years as a senior judge he asked one of his law clerks, "what are you reading?" The clerk rattled off all the legal things an ambitious clerk might expect he should be reading. Judge Anderson's response was "what are you really reading?" The next day he gave the clerk a copy of Wallace Stegner's Angle of Repose. The clerk asked him what it was about. And Judge Anderson responded, "Life."[4]

Bigger than life, Judge Anderson was a physically imposing sight on the handball, racquetball or squash court. With his large stature he would stand in the middle of the court and with his large hands easily defeat his opponents. He was a nationally ranked singles and doubles champion in handball. He was a multi-year state champion in racquetball and a city champion in squash. He taught (among others) Judge Monroe McKay of the United States Circuit Court of Appeals for the Tenth Circuit, how to play racquetball. To entice his law clerks to play racquetball with him, he would spot them 12 points, and then proceed to beat them 15 to 12.[5]

He was patient with litigants, counsel, jurors and his staff and law clerks. During the tumultuous end of the Viet Nam War, one of his clerks presented the Judge with a memo on a

[4] As remembered by Justin Toth, attorney with Ray Quinney & Nebeker in Salt Lake City.
[5] Recollection of Douglas Matsumori, attorney with Ray Quinney & Nebeker in Salt Lake City.

civil rights case involving two prisoners at the Utah State Prison. The memo concluded that the warden should be incarcerated. Judge Anderson, smiled, but did not adopt the research memo.

Judge Anderson wrote 56 published opinions while on the state court bench covering wide areas of the law. While on the federal court, Judge Anderson published 195 opinions ranging from long arm statutes and jurisdictional questions to antitrust and patent infringement cases.

In Engineered Sports Products v. Brunswick Corp., 362 F.Supp. 722, (D. Utah 1973) the court established an early precedent liberally construing a state long-arm statute. This patent infringement case involved the manufacture of foam fitting ski boots. Even though only .6% of Raichle's total production was purchased by consumers in Utah, there was extensive advertising in Utah for the product. Raichle and other ski boot manufacturers had dispatched executive officers to Utah to purchase Plaintiff's ski boot material. Judge Anderson gave a broad interpretation of the long-arm statute and subsequent decisions in other cases followed his analysis.

He worked through complex antitrust and patent infringement cases. In an antitrust case, he refused to certify the class action. However, he presided over a 2 ½ month jury trial in which small egg producers obtained a verdict against large, vertically integrated, multi-state, egg producing, processing and distribution companies for violations of Sections 1 and 2 of the Sherman Act (15 USC §1, 2) for price fixing and an attempt to monopolize. Judge Anderson's instructions and actions were affirmed by the Tenth Circuit. Cackling Acres, Inc. v. Olson Farms, Inc., 541 F.2d 242 (10th Cir. 1976).

He was supportive of proper governmental activity. In United States v. Ashby, 864 F.2d 690 (10th Cir. 1988), Judge Anderson, sitting by designation, held that the circumstances gave the officer probable cause to search the vehicle for marijuana, following a traffic stop.

The Judge contributed to the body of basic, sound contract law in Gull Laboratories, Inc. v. Diagnostic Technology, Inc., 695 F.Supp 1151 (D. Utah 1988). He held that the license was unenforceable for lack of mutuality and the licensor could not sue on an unenforceable contract. That ruling was fatal to the licensee's claim for improper termination of a contract because the contract was unenforceable. Neither party could maintain a claim for intentional interference with economic relations. His analysis of numerous contract claims and defenses and his insights strengthened that body of law.

He dealt with a high profile battle between environmentalists and local Governments in scenic Southern Utah. In Sierra Club v. Hodel, 737 F.Supp. 629 (D. Utah 1990), a time consuming, landmark case, he wrote an opinion authorizing the county, with BLM approval, to improve a two lane road down part of the historic Burr Trail in Southern Utah, but he required the county to relocate part of the road between two wilderness study areas. Both sides appealed. The Circuit affirmed the ruling as to the right-of-way, but reversed the court's finding that the equivalent of an environmental impact statement had been conducted. Holding that the project came under NEPA, the appellate court required a finding of no significant impact or an environmental impact statement. If no adverse impact was found on the wilderness study areas, the project could go forward. The county brought a motion to partially dissolve the preliminary injunction. Part of the road was improved and part was left for the completion of the environmental assessment process. Further motions were brought and the litigation proceeded with additional hearings. After thorough hearings and reviews of the issues in this high profile case, Judge Anderson struck a balance between the environmentalists and the local population's desire to make some historically important areas more easily accessible to the public.

After giving the State of Utah adequate opportunity to explain its actions, Judge Anderson struck down a Utah statute aimed at regulating the content on cable television. He

declared the Utah law unconstitutional. The Tenth Circuit affirmed his decision. The United State Supreme Court affirmed 7 to 2. The language in Community Television v. Wilkinson, 611 F.Supp 1099, 1117 (D Utah 1985) is worth quoting.

> Cable television is a powerful form of communication. Used properly, it can edify and inspire as well as entertain. Used improperly, it can seriously damage the quality of life that we have and reduce public tastes to their lowest common denominator. Following Supreme Court precedent, today's ruling delineates an area in which private individuals, particularly parents, must assume an important responsibility for maintaining a decent society. The first amendment puts "the decision as to what views shall be voiced largely into the hands of each of us, in the hope that the use of such freedom will ultimately produce a more capable citizenry and more perfect polity and in the belief that no other approach would comport with the premise of individual dignity and choice upon which our political system rests."

As noted by Judge Bruce S. Jenkins, former Chief Judge for the District of Utah: "[Judge Anderson's] work is the product of a vigorous mind, careful scholarship, the proud work of an adept legal craftsman. His work has been admired, followed, quoted and relied upon by judges throughout this nation… If there is one characteristic that stands out in the great body of his work, it is that of balanced judgment."[6]

His balanced judgment was a natural concomitant to his balanced life.

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[6] Judge Bruce S. Jenkins, Senior Judge of the United States District Court for the District of Utah, Comments at Memorial Service for Judge Anderson.