



THE HISTORICAL SOCIETY OF THE TENTH JUDICIAL CIRCUIT

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Chair's Note

By Alleen VanBebber

At year's end, we can look back at significant work, including measurable progress in coordination with the Court, toward a permanent historical exhibit on the first floor of the Byron White Courthouse; work toward a complete update of *The Federal Courts of the Tenth Circuit: A History*, which was first published in 1992; presentation of district-wide programs; and cooperative efforts with other non-profit groups to help communities gain knowledge and understanding of their federal courts at work.



Too many people view lawyers, judges, and the courts as separate from—and foreign to—daily life. The Society's primary goal is to keep the history of the Court alive and vibrant, in order to show how legal history is woven into the life of every individual and every community. In these, my last months as your

Board Chairman, I thank all of you for your work in support of the Society. Whether you continued your years of hands-on support, financial support, or both; or whether you were new to the ongoing work of the Society, we hope you will help continue our mission with the good and cheerful spirit that you have shown so many times.

Also, please join me in welcoming our able current President, Steve Balman, to the office of Chairman, and in giving him your support and best wishes as he begins his two-year term in January 2016.

CIRCUIT HAPPENINGS

Introducing the New Chief Judge of the Circuit, the Honorable Timothy M. Tymkovich

By Timothy Zimmerman

On September 30, 2015, the Tenth Circuit held an investiture ceremony to welcome the Honorable Timothy M. Tymkovich as the 12th Chief Judge of the Circuit. Chief Judge Tymkovich is only the second Chief Judge to hail from Colorado, following the very first Chief Judge of the Circuit, Robert E. Lewis.¹

Judge Tymkovich, or Judge T, as he is affectionately known to his clerks, is a Denver native and a third-generation Coloradan, having attended Colorado College in Colorado Springs and then the University of Colorado Law School in Boulder. After graduating from law school, Judge Tymkovich clerked for Chief Justice William H. Erickson on the Colorado Supreme Court. Judge Tymkovich has tried to model the experience of his clerks after the experience he had with Chief Justice Erickson many years ago, and the Judge credits Erickson as his closest mentor throughout his career. After clerking, Judge Tymkovich entered private practice at the Denver firm of Davis Graham & Stubbs, in their Washington D.C. office. Notably, while at DGS, Judge Tymkovich counted among his colleagues David Ebel and Neil Gorsuch, who were a senior partner and summer associate, respectively.

¹ Interestingly, Judge Lewis was first nominated to the United States District Court for the District of Colorado by President Teddy Roosevelt in 1906, and then nominated by President Warren Harding to a seat on the Eighth Circuit in 1921. When the Tenth Circuit was formed in 1929, Judge Lewis took over as Chief and served until he assumed senior status in 1940.

After practicing at DGS, Judge Tymkovich was appointed Colorado Solicitor General by then-Attorney General Gale A. Norton, whose leadership style and commitment to public service the Judge has tried to emulate. As Solicitor General, Judge Tymkovich argued two cases before the United States Supreme Court and numerous cases in Colorado state and federal courts, including the Tenth Circuit. After serving as Solicitor General until 1996, Judge Tymkovich returned to private practice and opened his own firm, Hale Hackstaff Tymkovich.

In 2003, President George W. Bush nominated Judge Tymkovich to the Tenth Circuit, and his nomination was swiftly approved by the Senate only two months later. Since 2003, Judge Tymkovich has served on the Tenth Circuit and has developed a reputation as a fair and pragmatic jurist, who is, above all else, interested in reaching the correct result in the cases he rules on. In addition to his duties on the Tenth Circuit, Judge Tymkovich took an active role on the Judicial Resources Committee of the United States Judicial Conference, and served as chair from 2011 until his elevation to Chief Judge.

Several former clerks spoke at the investiture ceremony—and dozens were present—commenting on Judge Tymkovich’s deep relationships with his clerks and his judicial temperament. The Judge has a reputation for



Photo courtesy of the Honorable Timothy M. Tymkovich

carefully considering each case, deciding just the issues presented, and trying very hard to reach a consensus with the other panel members. In addition, his clerks commented on the importance of oral argument to the Judge, who each term reminds his clerks that oral argument may be one of the most important days in the parties’ lives, and that the Court has a responsibility to be well prepared for each case and to treat all cases with the utmost respect.

Judge Tymkovich praised the former Chief, Judge Mary Beck Briscoe, at the investiture, and remarked that he has “big high heels to fill.” In addition to continuing the good work that Judge Briscoe started—including guiding the Circuit through some very difficult financial times and raising the profile of the Circuit by serving on the seven-member Executive Committee of the Judicial Conference—Judge T plans to: (1) “first, do no harm”; (2) continue pushing the Circuit to be a model in efficiency and a leader in the adoption of technology in its duties; and (3) continue to decide cases in a timely and fair manner.

The Judge has ruled on a number of high-profile cases, including two that were affirmed by the United State Supreme Court over the last two

terms—*Burwell v. Hobby Lobby Stores* and *Loughrin v. United States*. In addition, Judge Tymkovich remarked that one of his most memorable and unique cases was *United States v. Hatch*, where the court used the 13th Amendment, which outlawed slavery in 1865, and the 1883 *Civil Rights Cases* (particularly the “badges and incidents of slavery”

line of precedent), as the rationale to affirm the constitutionality of the federal Hate Crimes Act. Judge Tymkovich also commented that he is proud of the many employment law cases he has worked on, along with a law review article on this subject he authored, *The Problem with Pretext*, which has been widely cited—including by Justice Alito’s majority opinion in the 2013 decision *Vance v. Ball State University*.

Judge Tymkovich is married to Suzanne Lyon, who is a former U.S. Department of the Interior attorney and western novelist, and they have two sons: Michael, a project manager at a consulting firm in Washington D.C., and Jay, a second year law student at Georgetown University Law Center. Since 2008, Judge Tymkovich has taught Election Law every fall at his alma mater, the University of Colorado Law School, and spends as much time as possible in the Colorado mountains and at his condo in Breckenridge. At the investiture, one of his former clerks remarked that she looks forward to the day when the Judge decides to moves his chambers to Breckenridge permanently. When asked about the chances of doing this, Judge T remarked that “it depends on the snow.”