

# Hon. H. Russel Holland

## Senior Judge, U.S. District Court for the District of Alaska

by Darrel J. Gardner



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One of the most important, famous, and complicated federal cases in Alaska's legal history involved the Exxon Valdez oil spill on March 24, 1989, in Prince William Sound. The litigation involved thousands of individual claimants, and the multitude of cases were all eventually assigned to one federal judge in Alaska: Hezekiah Russel "Russ" Holland.

Born in Pontiac, Mich., Holland received a Bachelor of Business Administration from the University of Michigan's Ross School of Business in 1958 and a Bachelor of Laws from the University of Michigan Law School in 1961. Following law school, he began his legal career in Anchorage, Alaska, as a law clerk for Justice Buell A. Nesbett of the Alaska Supreme Court. Starting in 1963, he worked as an assistant U.S. attorney until he left government employment in 1965 to enter private practice in Anchorage. On March 6, 1984, Judge Holland was nominated by President Ronald Reagan to a seat on the U.S. District Court for the District of Alaska. He was confirmed by the Senate on March 26, 1984, and received his commission on July 16, 1984. He served as chief judge from 1989 to 1995 before assuming senior status on Sept. 18, 2001.

Judge Holland's family history runs deep in America. The first Holland ancestor in America—Gabriel Holland from England—arrived in 1632. Judge Holland's father, born in 1898, was from Virginia, and later moved to Detroit to teach high school. His mother, who was Irish, was also a school teacher. Holland's father took an interest in the law and eventually earned a law degree during his summer breaks. His father practiced law in Pontiac, Mich., briefly; he was quickly appointed a municipal judge and then elected to be a circuit judge in Pontiac, where he presided for approximately 30 years. Judge Holland has one sister, a Catholic nun who became a canon lawyer in Rome, where she spent 20 years before retiring in Michigan. She served as the president of an umbrella organization for Catholic women's organizations and was instrumental in settling a contentious dispute between the Vatican and numerous Catholic women's religious organizations in the United States.



Judge Holland attended high school in Pontiac, where, as he puts it, he just "muddled through." Pontiac was a very industrial town, with a good portion of the population employed by General Motors. The high school was almost purposefully segregated between industrial arts and pre-college. Judge Holland pursued the academic track, although he did not like math. He became president of his senior class and was a member of the debate team. He played no sports in high school, although he did like to bike. A highlight of his youth was going to Northern Michigan to visit his grandmother, who had a hunting cabin in the woods on Lake Superior.

Judge Holland said that his father was his greatest influence. His father believed that everyone should know how to do things with their hands in addition to being well educated. Consequently, as a young man, Judge Holland learned how to trim fruit trees, lay brick, work on a car, and build a house (which he did in Anchorage in the early 1970s).

After high school, Judge Holland went to the University of Michigan, where he enrolled in a general liberal arts program. His favorite subject in college was geology, and he seriously considered becoming a geologist. Geology is still an interest of his; he reads and follows it and is fascinated by the volcanic action

in the Aleutian Islands. By the end of his second year of college, however, he had decided to pursue a career in law, so he transferred to the business school—a decision he never regretted. He said it was “one of the smartest things he’d done in his life,” and that his business education helped him succeed in law school. Although his father was a lawyer and judge, the senior Holland did not weigh in on Judge Holland’s decision to go to law school.

Judge Holland described his most memorable moment in law school at the University of Michigan: His contracts instructor, professor Harvey, was the designated “hatchet man” for the first-year law school class; his job was to cull the unsuccessful students from the group. He was the one who was tasked with asking low-performing students not to return after the academic breaks at Thanksgiving and Christmas. While Judge Holland worked very hard in contracts, he only got a C-plus grade, which was very disappointing for him. After the summer break, when he went back to register for his second year, there was a note with the registrar directing him to see professor Harvey. With some serious concern about his academic future, he went to find the professor, who invited him into his office for some “news.” The professor then explained that he had regraded the exams over the summer and changed Judge Holland’s grade to a B. The intense fear Judge Holland had been feeling immediately turned to elation. The following year, Judge Holland was “very glad to be done with law school.” He received his Bachelor of Laws degree in 1961. Several years after graduation, he received notice from the university telling him that the law degree had been changed from “Bachelor of Laws” to “Juris Doctor,” and that if he wanted a new diploma, to send them \$100. “I have only the original Bachelor of Laws diploma hanging on my wall,” he chuckled.

During the summer before law school, Judge Holland decided that he wanted to find some fun “junk job,” so he applied to become a counselor at a youth camp located near Everett, Wash. He drove to Washington in an old Pontiac that his father had given him, camping along the way. Eventually he arrived in Washington and started looking for the camp. As he drove deeper into the woods, not sure where he was, he suddenly came upon a young woman walking in the narrow road. He asked her, “Is this Hidden Valley Camp?” She said, yes, her name was Diane, and she was also a camp counselor. She’d grown up in Hawaii and had just finished her first year at Pomona College. He introduced himself, and about 18 months later, after Judge Holland’s first year of law school, they were married. Diane transferred to the Michigan business college, and she finished her degree at the same time Judge Holland graduated from law school.

In 1961, on the very day that Judge Holland finished his last law school exam, he and Diane packed up the car and off they drove—to Alaska. Why Alaska? The idea was inspired by friend and law school classmate, Jim Bradley, who became a lawyer in Juneau. Judge Holland and Diane talked about it; they both liked the Pacific

Northwest, but job opportunities were limited. They ultimately decided, “Why *not* Alaska?” Judge Holland also wanted to make his own career path apart from his father’s legacy in Michigan. Bradley got a job in Alaska based on writing a letter, so while still in law school, Judge Holland wrote three letters of inquiry: one letter to the Alaska Supreme Court, one to the Alaska Superior Court, and one to the U.S. Attorney’s Office. He was quite surprised to receive an almost immediate response from Alaska Supreme Court Chief Justice Buell A. Nesbitt offering him a position as a law clerk. There was no interview, and he hadn’t even included a writing sample!

When the Hollands finally arrived in Anchorage, they didn’t know anyone. They found a motel to stay at, and after Judge Holland started his job, they found a little house to rent from a local schoolteacher. By the end of that first summer, they had saved enough money to put a deposit down on a house of their own. Judge Holland and Diane had three children in quick succession. Judge Holland said that his proudest accomplishment is “my family, and building our family home on the mountainous hillside above Anchorage in 1972-1974.”

While he was still working for Justice Nesbitt, Judge Holland received a long-delayed letter from U.S. Attorney Warren Colver, who also expressed interest in offering him a job. So, as his clerkship with Judge Nesbitt was winding up, he walked into the U.S. Attorney’s Office and asked to see Colver. Judge Holland was wearing an Alaska sweatshirt with totem poles on it; he said, “Here I am!” Colver said, “I hope you didn’t come all the way here just based on this inquiry.” Judge Holland cheerily replied that he’d already been in Alaska for 18 months, working for Justice Nesbitt, and that he had passed the bar exam. Colver hired him almost on the spot.

After working as an assistant U.S. attorney for about two years, Judge Holland was hired as an associate attorney at the law offices of Stevens and Savage. He quickly became a partner in the firm, which became Stevens, Savage, and Holland. Founder Ted Stevens was soon elected to represent Alaska in the U.S. Senate, leaving his caseload to Judge Holland. It was a basic commercial practice that went through several name changes during the 19 years that Holland was a member of the firm.

Then one day, Judge Holland read in the Anchorage newspaper that U.S. District Judge James A. von der Heydt would soon be taking senior status. For the first time in his life, Holland considered being a judge, thinking it “might be interesting; it was just the right time and the right place.” He called Stevens’ Senate office, but never had a direct conversation about the judgeship with him. Instead, he spoke with Stevens’ secretary and expressed his interest in the position. She called back a day or so later and said, “Go ahead and apply.” The Alaska Bar Association conducted a poll to rate interested judicial candidates; Judge Holland placed third. While he was undergoing the bar poll, he heard through the grapevine that legendary Alaska trial lawyer Edgar Paul

Boyco thought he was “a fairly decent guy, but naïve.” In retrospect, Judge Holland said he was right, “at least with the naïve part.” Then, in March 1984, Judge Holland received notice that he had been nominated to become Alaska’s next federal judge.

At the Senate confirmation hearings, Judge Holland was among three judges who were up for confirmation on the same day. Judge Holland described the process as “very amicable,” but after the first nominee launched into a lengthy answer and was told afterward that a simple “Yes” or “No” would have sufficed, Judge Holland, who was next, decided to “keep my responses brief.” He was confirmed and received a congratulatory call from President Reagan. Judge Holland notes that “the whole process was much less political back then and it only took a few months.” In short order, he left his practice to a former law partner and moved into the federal building and courthouse in downtown Anchorage. When he arrived, Judge von der Heydt was still in his chambers, so the court built Judge Holland a new office and courtroom. At the time, there were only two U.S. district judges in Alaska (there are now three); it was just him and Judge James Fitzgerald, who passed away in 2011. In 2014, the federal courthouse in Anchorage was officially renamed the James M. Fitzgerald U.S. Courthouse and Federal Building.

Judge Holland said that his favorite thing about being a judge is that he “enjoys managing litigation.” He doesn’t have a least favorite thing about being a judge. He describes himself as “an introvert, which served me well as a judge.” His three “career highlights” include the *Venetie* case,<sup>1</sup> which raised the question of whether lands conveyed to Alaska Native tribes under the Alaska Native Claim Settlement Act of 1971 were Indian country. He concluded that they were not Indian country, but the Ninth Circuit reversed his ruling; on appeal, the Supreme Court unanimously reversed the Ninth Circuit. The ruling was 9-0 in support of Holland’s decision. This was a monumental decision because it had the practical effect of prohibiting almost all Native tribes in Alaska from collecting taxes for activities conducted on tribal land.

The second highlight was the *Katie John* case,<sup>2</sup> which dealt with subsistence fishing rights for Alaska Natives. The dispute stemmed from a conflict between federal law, which gives a subsistence hunting and fishing priority to rural Alaska residents, and the state constitution, which calls for equal access to fish and game for all residents. The litigation lasted about three decades and ultimately determined that the federal government will retain management of subsistence fishing and hunting on about 60 percent of Alaska’s inland waters. In Holland’s view, “The state missed a wonderful opportunity to reacquire the ability to do fish and game management for both state and federal lands. There was just too much antagonism between local folks and rural folks.” His perception was that “the urban folks just couldn’t abide by the rural folks having preference.”

The third highlight, of course, was the massive Exxon Valdez spill litigation.<sup>3</sup> In his opinion, “the lawyering on both

sides was absolutely superb. Both sides worked together to manage the litigation in an exemplary fashion. If that had not happened, it would have been a complete disaster. The lawyers really helped me do my work on that case.” The litigation spanned decades and involved multiple appeals to the Ninth Circuit Court of Appeals. He was “dreadfully disappointed” that the Supreme Court “picked that particular case to make some new admiralty law with respect to the amount of punitive damages that could be imposed.”

On the day Judge Holland became eligible to take senior status in 2001, he was in the Australian Outback at an Aboriginal community consorting with the locals. He visited Australia twice, including one six-week stint involving an overland trip from the west coast over the Kimberley mountain range, almost to the northwestern border of Western Australia. They traveled on the back of a five-ton Isuzu truck, driving through rivers. He said it was his most interesting travel experience. Judge Holland now spends a lot of time in Portland, Ore., but he’s always happy to get home to Alaska. One person he holds in great respect is the Arctic explorer and Canadian-born anthropologist Vilhjalmur Stefansson. According to the judge, he was the last real “raise your own money to go on an expedition” Arctic explorer. Stefansson extensively explored and documented the Arctic in the early 1900s, and Judge Holland has “read pretty much everything Stefansson has written.”

One of Judge Holland’s law clerks from the mid-1980s had this to say about the judge: “He is the embodiment of everything a judge should be. Scrupulously fair, thoughtful and attentive to all aspects of judging, he is a no-nonsense hardworking guy whom *The Wall Street Journal* once noted as being a lawyer’s lawyer. No judge ever gave the taxpayers more for their money, and few have given as much.”

During his time as a district judge, Holland “enjoyed the criminal work,” but once he went senior and reduced his caseload, he wanted to concentrate on civil litigation. Since going senior, he enjoys traveling; he’s helped out as a visiting judge with the Arizona District Court, which has recently experienced numerous vacant judicial positions and an overwhelming caseload. At present, he plans to maintain his status as an active senior judge; however, having just turned 80, he is also cognizant that he wants to retire when the time is right—he “doesn’t want to make the mistake of staying on too long.”

When asked to reflect on his life and career, Judge Holland thought for a long moment and said, “The main thing that I’ve learned is that this world is full of a lot of decent people, and sometimes they get mucked up pretty bad. I hope that, through the process we go through here, we help some of them get straightened out, one way or another.” ©

## Endnotes

<sup>1</sup>*Alaska v. Native Vill. of Venetie Tribal Gov’t*, 522 U.S. 520 (1998).

<sup>2</sup>*Katie John v. United States & State of Alaska*, 247 F.3d 1032 (9th Cir. 2001).

<sup>3</sup>*Exxon Shipping Co. v. Baker*, 554 U.S. 471 (2008).