

## Hon. John C. Holmes

By  
Robert P. Floyd III

Federal agency administrative law judges (ALJs) serve a critical role in providing due process for citizens who find themselves wrestling with an increasingly regulated way of life. Often the first opportunity for a citizen to argue his case on an objective basis is when he goes before an ALJ. Although employed by the agency, ALJs are charged with deciding cases based on the law, regulations and precedent, without regard for the often competing interests of their employer agencies, and must earn and maintain the confidence of the public by avoiding even the appearance of undue cooperation with or influence by the agency. Judge John C. Holmes of the U.S. Department of Labor (DOL) has aptly and credibly negotiated this often thorny course for over 25 years, earning the respect of those appearing before him, working with him, and working for him.

Raised in Cincinnati, Ohio, Judge Holmes is the middle child of three. His father, a biochemist, always emphasized academic achievement. His brother is a graduate of MIT, received his PhD from Harvard and is currently a professor and chair of the History of Science Department at Yale University; his sister is a graduate of Vassar college. Judge Holmes attended Hamilton College and the Miami University of Ohio, where he majored in History and Political Science. Before graduating in 1956, Judge Holmes spent his junior year in Denmark, and assisted in initiating a junior year-abroad program for the school. Judge Holmes attended the New York University School of Law as a Root-Tilden Scholar and later graduated from the Columbus School of Law at the Catholic University of America in Washington, D.C.

After brief stints in private practice and as a lobbyist, Judge Holmes began his service with the DOL as a hearing officer in 1975, and was appointed as an ALJ in 1980. The Department of Labor ALJs conduct hearings and issue written decisions and orders covering over 65 laws affecting the American work place, all of which must withstand appellate scrutiny. Judge Holmes has decided in excess of 3,000 cases, a level of productivity that is unmatched at DOL. Believing justice delayed is justice denied, he maintains his own "rocket docket," but his decisions always reflect a careful and full review of the entire record, and a thorough legal analysis.

Judge Holmes never fails to bring compassion and realism to the courtroom and views each case and each party to that case individually. Given his strong belief that our system of justice requires judicial restraint and judicial in-

dependence, Judge Holmes makes certain not to substitute his own preferences and philosophy for the law. These high standards have contributed to credibility with litigants and counsel. In proceedings before Judge Holmes, the parties have often noted that he gives substance to the concept of agency due process and fairness. Even the losing parties more readily accept Judge Holmes' decisions because they know he gave them a fair hearing and an objective, prompt decision. Judge Holmes is also quick to point out that his judicial independence could not be achieved without the support and respect for judicial independence provided by the agency at all levels.

Judicial independence does not for Judge Holmes mean silence on controversial or complex issues. In certain relatively rare instances, especially where the proper application of the facts to the law appears to compel a result intuitively at odds with the purposes of the statute, or where Judge Holmes believes the courts should reassess their thinking or the direction of precedence, rather than resorting to judicial activism to reach a "just" result, Judge Holmes maintains an unusual approach. Judge Holmes will label a final section of his opinions "Comments," clearly differentiating his decision in the case from the dicta he would like to address to the parties or the reviewing authorities for their future consideration concerning the issues involved.

Judge Holmes believes that cutting edge cases are the spice of life at the trial level. To explore all aspects of a novel issue with a thorough analysis of past precedents and future impacts and to cover all angles in a written decision for him is the essence of being a judge. One case that gave Judge Holmes great pleasure and satisfaction was *Nugent v. Pro-Football*, decided in 1983. Who would imagine workers' compensation laws applying to professional football players who are paid very good money to do violence to each other? Such, however, is the case. Danny Nugent, hired by then coach George Allen as part of the "over-the-hill gang" for the Washington Redskins, was cut from the team when Joe Gibbs took over and installed a "jumbo" line nicknamed the "Hogs." Nugent then filed for workers' compensation benefits based on an injury he received while playing prior to his cut.

As a case of "first impression," much was at stake for both sides. Taking a somewhat more activist role than is his usual procedure, Judge Holmes guided the proceedings in such a way that left both sides confident that he would creatively fashion a fair, thorough decision, addressing the unique issues raised. In fact, the resulting decision issued by Judge Holmes in the case continues to serve as a road map for litigants and judges to follow in "football" cases. As rarely happens, both parties to the dispute were pleased with the outcome. The precedents set have, to Judge Holmes' delight, been consistently and fa-

vorably quoted by both parties in subsequent Redskins injury cases, and the decision and his analysis has been featured in several sports law textbooks.

Judge Holmes notes that "Judging has its drawbacks, including limited financial rewards and the loneliness and sometimes frustration associated with deciding cases knowing that at least one party will be dissatisfied." Moreover, because the regulations require DOL judges to travel to the claimants' locations, judge Holmes has faced conditions similar to those facing the wild west traveling judges. He has heard cases in over 170 cities and towns. He has driven through blinding snowstorms, followed coal trucks at five miles per hour through the winding hills of Kentucky, run through airports large and small with luggage and briefcases and stayed in hotels and motels, some reminiscent of the bygone era of "Route 66." On the other hand, Judge Holmes has fond memories of a delightful summer in San Francisco, where his family traveled across the country and stayed with him while he heard cases on a temporary duty basis. "I appreciated the opportunity to meet with and get to know the other judges in the San Francisco office, as well as revel in the travel afforded, despite working doubly hard to justify the excellent opportunity." Despite some minor drawbacks and aggravations, Judge Holmes recognizes that "no other job has as its main purpose the administration of fairness and justice in the resolution of disputes." He appreciates the opportunity to "guard the integrity of the judicial process by respecting and furthering the rule of law."

Judge Holmes is particularly proud of his experiences with his attorney law clerks with whom he has worked through the years. He describes the relationship as a two-way street: the law clerk assisting him in accomplishing his work effort, and in turn Judge Holmes tutoring and serving as mentor to the clerk, providing an important and valuable career foundation. Judge Holmes always reminds the law clerks that as federal government employees they are servants of the people and not master, and should act accordingly. Most of Judge Holmes' law clerks have remained in touch with him over the years, a reflection of their respect and admiration.

Despite his rigorous ALJ schedule, Judge Holmes has always been dedicated to the legal community as a whole. He served as a member of the ABA's prestigious Administrative Law and Regulatory Reform Section's Council, where he labored diligently and successfully to ameliorate the animosity then prevalent between the ALJ community and the practitioners and academics. He also promoted the installation of a permanent seat for the administrative judiciary on the council to ensure continued harmony and understanding within that organization. Judge Holmes has also served for eight years and as chair of the Legislative Committee of the FBA's Judiciary Division, where he has most recently instituted a successful cooperative enterprise with the Central and Eastern European Law Institute of the ABA, welcoming foreign judges and introducing



them through seminars to the role of the judiciary in the United States, emphasizing administrative law. He has also served as director of the Federal Administrative Law Judge Conference, furthering the Speaker's Program of that organization and chairing four annual banquets at which award recipients have included Supreme Court Justices Scalia and Stevens. He also has had numerous articles published by various legal journals including 15 book reviews for *The Federal Lawyer*.

Judge Holmes has been active in community, civic and, prior to government service, political activities, including serving as chair for the Arlington County Community Relations Committee, and presiding over the Arlington Optimists, service which won him a Distinguished Service Award in 1984. Judge Holmes has also taught a legal methods course at both American and George Mason University law schools and Constitutional Government at Northern Virginia Community College.

Although a lifelong sports enthusiast, over the last few years judge Holmes has focused on golf particularly, and to a lesser degree, tennis and skiing. He also competes in the annual softball game between the DOL judges and the

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judges turn to local federal bar leaders when, for example, appointing attorneys for nominating magistrate judges, as chairs of federal rules and local disciplinary committees, to speak at various federal functions, and to provide leadership in prestigious and ambitious projects related to the Civil Justice Reform Act.

Best of all, being savvy within the federal bar is cost-effective, both in time and money. By far, this organization's dues are the least expensive for the vast array of services it offers when compared to other bar associations. The national office is user-friendly, and there are no long waits with this organization. The national administrative group is lean and well-trained to be responsive.

I'd like to issue you a personal invitation to contact me or my office for more facts, statistics, and data on any of the issues discussed above. I really do have immediate access to those facts and statistics, or the ability to direct you to someone who does. They're so voluminous, I couldn't fit them into my first column file, which still remains in my car. You can reach me at law@lynncole.com or call during any business hours, (813) 223-7009. I'll be making contact with many of you individually throughout the year. Beware, I'll likely challenge you to make a difference in the organization; but only because you *can* make that difference. The payoff for you will be both professional and personally satisfying.

Are you ready? ■

*Lynn Cole*

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*The author is the new national Membership Committee chair for the FBA. She is a private practitioner in Tampa, Fla.*

law clerks. The judges take great pride in their winning record over the generally more physically agile and youthful law clerks. Judge Holmes has run numerous 10Ks, has twice hiked to the bottom of Grand Canyon and scaled various mountains throughout the United States, Canada, and Europe. Judge Holmes and his wife, Terry, are also skillful at bridge, winning many tournaments. They have also traveled nearly all of Europe, adventured on African Safaris, cruised South America and around the Cape, and visited their eldest of two sons in Panama.

Judge Holmes is well liked and respected by all who know him. He is always quick to smile and strikes up conversations with ease, even with people he has only just met. He is modest and easy going. Judge Holmes is the consummate example

of dedication to duty and to country. The citizens are fortunate to have such a dedicated servant, and I consider myself fortunate to have had Judge Holmes as a mentor and a friend. ■

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