

Hon. Robert Harlan Henry



Hon. Robert Harlan Henry was appointed to the United States Court of Appeals for the Tenth Circuit in 1994. Judge Henry served in that position for 16 years, the last two as Chief Judge. He has written over 750 decisions. In 2010 Chief Judge Henry stepped down from the bench to become President of Oklahoma City University, a position he held until 2018. Prior to his judicial service, he was Dean and Professor of Law at Oklahoma City University School of Law where he taught legislation and statutory construction. Before his academic work he was Attorney General of Oklahoma (re-elected without opposition) and was active in the National Association of Attorneys General where he chaired the Association's Committees on Agricultural Law and Civil Rights; he was also a member of the

Association's Supreme Court Advocacy Committee, which provided moot courts for all cases argued by Attorneys General before the Supreme Court of the United States. Before serving as Attorney General, he practiced in the law firm of Henry, West, Sill, and Combs in Shawnee, Oklahoma.

While on the bench, Judge Henry served as Chair of the Judicial Conference Committee on International Judicial Relations, and served on the Codes of Conduct Committee, both positions appointed by Chief Justice William H. Rehnquist. He is admitted to practice before the Supreme Court of the United States, the Tenth Circuit Court of Appeals, and the Western, Eastern, and Northern Districts of Oklahoma. He is a life member of the American Law Institute, the Uniform Law Commission (National Conference of Commissioners on Uniform State Laws), and the Tenth Circuit Historical Society. In 2017, the SCRIBES American Society of Legal Writers presented Judge Henry its Lifetime-Achievement Award for legal writing. Since leaving the bench, Judge Henry has conducted moot appellate court arguments, participated in mediations, and represented Indian Nations on various matters. He also serves on the board of Devon Energy.

Judge Henry's past law related activities include a number of years on The Council on Foreign Relations, the Board of the Vera Institute of Justice in New York, and the Board of the Oklahoma Medical Research Foundation. Judge Henry was the United States Representative to the Foundation for the Future, based in Amman, Jordan (succeeding Justice Sandra Day O'Connor). He served on the Advisory Board, Judicial Outreach Program of the American Society of International Law. He was the inaugural chair of the American Bar Association's Middle East and North Africa Council. He has written numerous law review articles and book chapters and has lectured at law schools around the country and abroad. Judge Henry holds four honorary doctorate degrees.

Judge Henry has received many awards over the years. He has been inducted into the Order of the Owl, which is the Hall of Fame for Oklahoma University College of Law; he received the Light, Leadership & Legacy Award from the Oklahoma Israel Exchange; he was recognized by the Oklahoma Supreme Court as “The Honored One” at the Oklahoma Sovereignty Symposium; he received a Certificate of Appreciation from the Department of State for his work in international judicial relations; he received a Certificate of Gratitude (for substantial contribution to the development of relations between American and Russian Judges) from the Council of Judges of the Russian Federation. Also, he received the Oklahoma Human Rights Award from the Oklahoma Human Rights Commission and the A. C. Hamlin Award from the National Black Caucus of State Legislators.

Areas of Expertise:

- APPELLATE
- ATTORNEY FEE
- CIVIL RIGHTS
- COMMERCIAL DISPUTES
- COMPLEX LITIGATION
- CONSTRUCTION
- CONTRACTS
- EMPLOYMENT
- ENERGY, OIL, GAS & WATER
- ENVIRONMENTAL/CERCLA
- INSURANCE/REINSURANCE
- INTERNATIONAL ARBITRATION
- NATIVE AMERICAN
- PRODUCT LIABILITY
- REAL ESTATE
- SPECIAL MASTER

Representative and Significant Cases:

- *Far West Capital, Inc. v. Towne*, 46 F.3d 1071 (10th Cir. 1995) (contract dispute between an oil and gas lessee and lessor dismissed for failure of personal jurisdiction.)
- *Coors Brewing Company v. Molson Breweries*, 51 F.3d 1511 (10th Cir. 1995) (suit involving the interaction of arbitration clause and Clayton and Sherman Act claims in international transaction.)
- *Cantrell v. International Brotherhood of Electrical Workers, AFL-CIO, Local 2021*, 69 F.3d 456 (10th Cir.1995) (on rehearing en banc, the court held that district court had discretion to award costs to union as prevailing party when members dismissed their case with prejudice before trial.)

- In re Amdura Corporation, 75 F.3d 1447 (10th Cir 1996) (bankruptcy appeal resolving the ownership of funds deposited by a subsidiary into a parent corporation's cash management bank account.)
- Tonkovich v. Kansas Bd. of Regents, 159 F.3d 504 (10th Cir. 1998) (claim of law professor terminated for cause dismissed for failure to meet burden on qualified immunity.)
- Case v. Unified School Dist. No. 233, Johnson County, 157 F.3d 1243 (10th Cir. 1998) (resolution of attorney fees, expenses, and costs in Section 1983 action concerning removal of books from the school library; the opinion dealt with how and when hours can be counted; resolution of expenses incurred prior to recruiting plaintiffs; and recovery for faxes, computerized research, and copying costs.)
- Rosette Inc. v. U.S., 141 F.3d 1394 (10th Cir. 1998) (action involving geothermal resources held to be governed by the Quiet Title Act, and statute of limitations was not tolled by Geothermal Steam Act.)
- Rascon v. U S West Communications, Inc., 143 F.3d 1324 (10th Cir 1998) (action under Americans with Disabilities Act resolving issues of judicial estoppel, post-traumatic stress disorder, and reasonable accommodations.)
- Jefferson Sch. Dist. R-1 v. Moody's Investor's, (school district sued bond rating service asserting various tort claims; court held that article in question did not imply false assertions of fact, that claims for intentional interference with contract were barred by First Amendment, and that the article in question could not, alone, support a monopolization claim.)
- Osage Tribal Council v. U.S. Dept. of Labor, 187 F.3d 1174 (10th Cir. 1999) (resolution of tribal sovereignty issue with respect to the Safe Drinking Water Act and federal governments trust responsibility to the Tribe.)
- U.S. v. Burlington Northern R. Co., 200 F.3d 679 (10th Cir. 1999) (Health and environment case involving the appropriate amount of deference to be given to the Environmental Protection Agency under CERCLA and administrative law; resolving the costs of remediation and former owner's liability as reduced by EPA settlement with other potentially responsible parties.)
- Worrell v. Henry, 219 F.3d 1197 (10th Cir. 2000) (Labor and employment case involving First Amendment retaliation claims, establishing what has been called the Worrell test, as seen in Knopf v. Williams, 884 F.3d 939, 945 n.4 (10th Cir. 2018))
- Hampton v. Dillard Dept. Stores, Inc., 247 F.3d 1091 (10th Circuit 2001) (African-American department store customer and her niece brought suit against store and security guard for civil rights violation and violations of state law for false imprisonment.)
- Selenke v. Med. Imaging of Colo., 248 F.3d 1249 (10th Cir. 2001) (labor and employment case involving claims under the Americans with Disabilities Act) (cited over 1200 times, including six other Courts of Appeals, First, Third, Fifth, Sixth, Ninth, and DC)

- *Prairie Band of Potawatomi Indians v. Pierce*, 253 F.3d 1234 (10th Cir. 2001) (preliminary injunction granted by district court which prevented the state from enforcing state motor vehicle registration and titling laws with respect to an Indian tribe and its members affirmed.)
- *Eck v. Parke, Davis & Co.*, 256 F.3d 1013 (10th Cir. 2001) (products liability action seeking damages for liver failure resulting from the interaction of an anti-convulsant drug and a drug containing acetaminophen.)
- *Garcia v. Pueblo Country Club*, 299 F.3d 1233 (10th Cir. 2002) (reversal of summary judgment in labor and employment case involving claims under the Age Discrimination in Employment Act)
- *Hollander v. Sandoz Pharm. Corp.*, 289 F.3d 1193 (10th Cir. 2002) (products liability case with Daubert challenge to expert witness.)
- *Proctor and Gamble Co. v. Haugen*, 317 F.3d 1121 (10th Cir. 2003) (manufacture of household products sued competitor and competitor's distributors under Lanham Act and Utah tort law, alleging dissemination of rumor to effect that manufacture was an agent of Satan. After remand, district court ruled for the competitor under the Lanham Act.)
- *Seneca-Cayuga Tribe v. National Indian Gaming*, 327 F.3d 1019 (10th Cir. 2003) (case involving the interaction of the Johnson Act, 15 U.S.C. Secs. 1171-1178, and the Indian Gaming Regulatory Act (IGRA).)
- *Benton v. Cameco Corporation*, 375 F.3d 1070 (10th Cir. 2004) (international contract dispute involving uranium trading activities and specific, personal, and general jurisdiction principles.)
- *Society of Lloyd's v. Reinhart*, 402 F.3d 982 (10th Cir. 2005) (action to enforce foreign judgments against defendants in Utah and New Mexico. It involves constitutional claims, insurance disputes, breach of contract, and issues arising out of the Uniform Foreign Money-Judgment Recognition Act.)
- *U.S. ex rel Bahrani v. Conagra, Inc.* 465 F.3d 1189 (10th Cir. 2006) (qui tam action against exporter of meat and animal products under False Claims Act's reverse false claims provision.)
- *Miller v. Monumental Life Insurance Co.*, 503 F.3d 1245 (10th Cir. 2007) (holding that the Employment Retirement Income Security Act (ERISA) preempts state rules of contract interpretation, and applying doctrine of contra proferentem to ambiguous ERISA plan.)
- *Thompson v. Weyerhaeuser Company*, 582 F.3d 1125 (10th Cir. 2009) (holding that the Age Discrimination in Employment Act authorizes a court to apply the pattern-or-practice burden shifting framework.)

- *Narotzky v. Natrona Cty. Mem’l Hosp. Bd. of Trustees*, 610 F.3d 558 (10th Cir. 2010) (labor and employment case involving constructive discharge case and Fourth Amendment claims.)
- *Abdulhaseeb v. Calbone*, 600 F.3d 1301 (10th Cir. 2010) (Religious Land Use and Institutionalized Persons Act (RLUIPA) case involving a claim of discrimination in prison setting by failing to make Halal food available for Muslim prisoners.)
- *S.E.C. v. Vescor Capital Corp.*, 599 F.3d 1189 (10th Cir 2010) (resolving motion to lift stay of actions in connection with massive Securities and Exchange Commission securities fraud investigation.)

Select Publications:

- Henry, R.H., (2013) *Living Our Traditions*, Ch.10 in *THE EMBATTLED CONSTITUTION*. New York University Press.
- Henry, R.H., & LeFrancois, A.G., (2002). *Liberalism, the Constitution, and the Supreme Court*, Ch. 14 in *THE REHNQUIST COURT: A RETROSPECTIVE*. Oxford Press.
- Henry, R.H., “The Players and the Play,” (1998). Ch. 3 in *THE BURGER COURT: COUNTER-REVOLUTION OR CONFIRMATION?* Oxford Press.
- Henry, R.H. (2011) *Living Our Traditions*, 86 N.Y.U. L. REV. 673.
- Henry, R.H. (2009). *A Decent Respect to the Opinions of Mankind Sometimes Requires a Second Look*, 62 S.M.U. L. REV. 1865.
- Henry, R.H. (2008-2009). *Overcoming Advocacy*, 58 U. KAN. L. REV. 161 (2009); *Do Judges Think?* 58 DUKE L.J. 1703.
- Henry, R.H. (Summer, 2003). *It’s a Long Way to Certiorari: Sandra Day O’Connor & Her Lazy B*, 6 GREEN BAG 2D 425.
- Henry, R.H. (Fall, 2001) *The Value(s) of Oliver Wendell Holmes, Jr.: Through a Magic Mirror Darkly*, 5 GREEN BAG 2D 105.
- Henry, R.H. (1998). *Anastaplo’s Bible as Legal Literature: A Guide to the Perplexed, or a Perplexing Guide?* 23 OKLA. CITY U. L. REV. 501.
- Henry, R.H. (Summer/Fall 1998). *Deliberations About Democracy: Revolutions, Republicanism, and Reform*, 34 WILLAMETTE L. REV. 533.
- Henry, R.H. (1997). *Catching the Jurisprudential Wave: Bernard Schwartz’s: Main Currents in American Legal Thought*, 33 TULSA L.J. 385.
- Henry, R.H. (1996). *An Independent Judiciary*, SWALL BULL., Vol. 28, No. 1-2.
- Henry, R.H. (1995). *Forward into the Past: Observations Regarding George Anastaplo’s “Lectures for Student of Law,”* 20 OKLA. CITY U. L. REV. 1.

- Henry, R.H. (1992). The Oklahoma Constitutional Revision Commission: A Call to Arms or the Sounding of Retreat? 17 OKLA. CITY U. L. REV. 177.
- Henry, R.H. (May-June 1988). A Black Hat for the Lone Ranger? The Attorney General as Defender of Tort Claims, 61 J. of ST. GOV'T 112.
- Henry, R.H., Rarick, J., (1979). The Oklahoma Powers of Appointment Act of 1977, 32 OKLA. L. REV. 787.
- Henry, R.H. (2014). Foreword to Cheryl Elizabeth Brown Wattley, A Step Toward Brown v. Board of Education: Ada Lois Sipuel Fisher and Her Fight to End Segregation. University of Oklahoma Press.
- Henry, R.H. (2014). Foreword to Art of the Oklahoma Judicial Center. 2014 Supreme Court of Oklahoma.
- Henry, R.H. (2001). Foreword to Howard K. Berry, He Made it Safe to Murder, Oklahoma Heritage Association.
- Henry, R.H. (1996). Foreword to Ada Lois Sipuel Fisher, A Matter of Black and White: The Autobiography of Ada Lois Sipuel Fisher, University of Oklahoma Press.
- Arrow, D.W., & Henry, R.H., (1994). Preface to Native American Legal Resource Center, Oklahoma City University School of Law, Oklahoma Tribal Court Reports.
- Henry, R.H. (1992). Preface to Henry Bellmon & Pat Bellmon, The Life and Times of Henry Bellmon. Council Oak Pub. Co., Inc.
- Henry, R.H. (1991). Foreword to David R. Morgan, et al, Oklahoma Politics and Policies: Governing the Sooner State, University of Nebraska Press.

Education:

- Oklahoma State University, Doctor of Laws Degree, Honoris causa (2018)
- University of Oklahoma, Doctor of Humane Letters Degree, Honoris causa (2017)
- University of Tulsa, Doctor of Humane Letters Degree, Honoris causa (2006)
- Oklahoma City University, Doctor of Laws Degree, Honoris causa (2000)
- University of Oklahoma College of Law, J.D. (1977)
- University of Oklahoma, B.A., with high honors (1974)