

# Ruling puts no-frills judge in hot seat Jurist's call on telemarketers stirs criticism

The Denver Post - October 7, 2003

*Author: Jim Hughes; Denver Post Staff Writer*

---

Over the past two weeks, people across the country have wondered, as have those who post their opinions online at Calpundit, a California Web log - just who is this Edward Nottingham?

"WHO IS EDWARD W. NOTTINGHAM? AND WHY DO 51 MILLION PEOPLE NOW HATE HIM? Judicial activism must be stopped!" was how the Nottingham thread opened on Calpundit.

Who is Edward Nottingham?

The Denver federal judge, who ruled for telemarketers and against 51 million Americans who are sick and tired of being interrupted at dinner, is said by those who know him to be a devoted follower of the law - wherever it leads.

A lifelong conservative Republican, and former campaign volunteer for the first President Bush, he has now halted - at least temporarily - one of the most popular political initiatives of the second President Bush.

In testament to the popularity of the national "do not call" registry, Nottingham's office phone has rung off the hook in the two weeks since he ruled that it is unconstitutional for the government to regulate telemarketers differently from other groups who call homes.

Nottingham, 55, who declined to be quoted for this story, took the bench after being nominated for the job by then-President George H.W. Bush in 1989. The Eagle County native quickly earned a reputation among lawyers in Denver for irascibility.

He ordered some attorneys to appear for motions hearings at 6:30 in the morning. Many still believe this was his way of punishing them for filing motions he considered frivolous.

Nottingham comes from the Eagle County sheep-ranching family that once owned most of the land that now is Avon and the adjacent ski-and-golf resort community of Beaver Creek. Hence Nottingham Lake and Nottingham Road in Avon.

Those who know Nottingham describe him as intelligent, meticulous, and yes, irascible, in the tradition of those old-school jurists whose patience traditionally failed the test of lawyers walking into court without having done their homework.

"That's the way he runs his courtroom," said Dan Smith, a Denver criminal-defense lawyer who once supervised Nottingham when they both worked as federal prosecutors in Denver. "And I commend him for it."

But while he may be a hard case in the courtroom, the charge of judicial activism on the no-call issue is unfair, people who know Nottingham said.

Larry Beckner, a Grand Junction attorney who went to high school with Nottingham and for a time in the 1980s was his law partner, said he has watched the public flagellation of his old friend with some amusement.

"Some of us who are old ski buddies of his have attempted to forward our telemarketing calls to him, but it hasn't worked," he said.

But Nottingham is not the kind of judge prone to judicial activism, he said.

"He doesn't have a social agenda," Beckner said. "Many judges have a social agenda, and they will write their opinions based on how they think society ought to be operating. I know he is not that type of judge. He's a conservative, politically, but he's not a right-wing radical, by any means."

Nottingham's political sensibility came early, Beckner said. As Young Republicans in high school during the 1960s, the two of them borrowed a friend's father's Cadillac to pick up Republican presidential candidate Barry Goldwater at the airport in Grand Junction and drive him to a campaign event.

In their high school clique, Nottingham was known as a brainy student. On weekend ski trips to Aspen, he would help friends with their Latin homework, Beckner said. When the Vail ski mountain opened for business in 1962, they were there to ski on the first day.

"We thought (Nottingham) was going to run for president," Beckner said.

Instead, he worked for one - as Western Slope coordinator for Bush's 1988 presidential campaign. But those ties didn't stop him from issuing a decision in conflict with the wishes of Bush's son, who supports the national no-call list.

Nottingham's impartiality has been questioned by some who have brought environmental issues into his courtroom, said Jeff Berman, executive director of the conservation group Colorado Wild.

Environmentalists failed to convince Nottingham to block the controversial "Category III" expansion of the Vail ski resort in 1998.

"If one of our cases goes to the federal district court in Denver, we pray it's not Judge Nottingham," Berman said from his office in Durango last week. "We have found that he is, unfortunately, hostile to environmental and populist concerns."

That said, this suspicion is not borne out by examinations of Nottingham's legal decisions, the liberal activist admitted.

"His decisions are very well-reasoned," Berman said.

Although some in the environmentalist community believed at the time that Nottingham's family history constituted a conflict of interest in the Vail case, they never requested that he recuse himself from the case, Berman said.

After the Nottingham family sold off its Eagle County holdings in the early 1970s, many in the family moved north, to Moffat County, said Nottingham's uncle, Mike Doll, who still lives in Avon.

He said he thought Nottingham probably knew how his decision on the no-call issue would be received, and made it anyway.

"I don't know much about what lawyers do, but I can be assured that he would never step into the courtroom unless he knew exactly what he was stepping into," Doll said. "I've been down to his court a couple of times, watching him operate. He's a very no-nonsense person."

***Edition: TUE***

***Section: DENVER AND WEST***

***Page: B-02***