Listing the Canons of Construction

By Stephen Adams[1]

The first day of my first job out of law school, I was handed a stack of papers about eight inches tall, and was told to read over them. They included sample Complaints, Answers, discovery requests, a few sample motions, and some other things. While most of this was helpful (and admittedly, a bit overwhelming), there is one thing in that stack that I have used over and over again throughout the years: a list of statutory construction principles, along with case cites. I have not been able to figure out who created this list, but whoever created it deserves to be given great credit.

I don't know whether such checklists are common, but I thought it would be worthwhile to share the wealth. Below is a list of canons of construction based primarily on Idaho caselaw (based in part on the list I was given). This list is by no means exclusive or comprehensive. It is designed primarily to be a quick checklist for use by practitioners. The first few are general principles of statutory construction, followed by a number of specific canons. At the end are some canons that apply to specific areas of law.

1. "Where the language of a statute is plain and unambiguous, courts give effect to the statute as written, without engaging in statutory construction."[2]

This is the primary step in interpretation of any statute. It is not necessarily a canon of construction; instead it is the instruction of what to do when there is no need for interpretation. This rule has been stated a number of ways. "The literal words of the statute 'must be given their plain, usual, and ordinary meaning; ... [i]f the statute is not ambiguous, this Court does not construe it, but simply follows the law as written.'"[3] Alternately, "Where the language is unambiguous, there is no occasion for the application of rules of construction."[4]

The purpose for this rule, and the objective of statutory interpretation, "is to give effect to legislative intent."[5] If the statutory language is unambiguous there is no need to consult extrinsic evidence or legislative history to determine legislative intent.[6]

Though there is not supposed to be any construction of an unambiguous statute, certain canons of construction may still apply. For example, even when a statute is unambiguous, "The interpretation of a statute must begin with the literal words of the statute; those words must be given their plain, usual, and ordinary meaning; and the statute must be construed as a whole."[7] Thus, you have to look at the whole statute to determine the legislative intent, and not just the portion at issue.

2. "Only where the language is ambiguous will this Court look to rules of construction for guidance and consider the reasonableness of proposed interpretations."[8]

This rule essentially states that once a Court determines a statute is ambiguous, the Court can start trying to figure out what it means. Like an unambiguous statute, an ambiguous statute, "must be construed to mean what the legislature intended for it to mean."[9]

So how does a statute become ambiguous? "A statute is ambiguous where the language is capable of more than one reasonable construction."[10] Alternately, "a statute is ambiguous where reasonable minds might differ or be uncertain as to its meaning."[11] However, just because a clever person can come up with more than one interpretation does not make a statute ambiguous. "A statute is not ambiguous merely because an astute mind can devise more than one interpretation of it."[12] "[O]therwise, all statutes subject to litigation would be considered ambiguous."[13] Based on this, a statute is not just ambiguous if a clever argument can be made about a different meaning; instead, there must be, "more than one *reasonable* construction."[14] Interpretation of statutes is a question of law[15], and therefore for a statute to be ambiguous, a party essentially has to convince a Court that there is more than one reasonable interpretation.

3. Courts, "determine legislative intent by examining not only the literal words of the statute, but also the reasonableness of proposed constructions, the public policy behind the statute, and its legislative history."[16]

This rule is the basic rule of statutory construction. It allows the Court a wide range of factors to consider when determining what an ambiguous statute means. As always, the goal is to determine legislative intent, and that may mean ignoring the comments of one legislator, even if that person is the author of the bill. Further, though the goal may be to interpret legislative intent, certain specific canons of construction can be used to aid in that interpretation. A certain amount of implication or inference can be utilized to discover legislative intent.[17]

4. Legislative history can be a guide for statutory construction.

As stated above, legislative history can guide construction of a statute. "In performing this function, courts variously seek edification from the statute's legislative history, examine the statute's evolution through a number of amendments, and perhaps seek enlightenment in the decisions of sister courts which have resolved the same or similar issues."[18] However, there are limitations on what the Court may consider when engaging in statutory construction. For example, I once had a case involving the interpretation of an education statute. I chased down the legislator who authored the statute, and got an affidavit from him explaining what the statute meant. This, as I learned, is not allowed. "[T]he beliefs of one legislator do not establish that the legislature intended something other than its express declaration."[19] Though I did end up convincing the court that my argument was correct, it was ultimately based on the reasonableness of my proposed interpretation, and not on the affidavit of the bill's author. [20]

Bills passed often contain statements of legislative purpose. Legislative purpose can inform the construction of a statute.[21] "The legislative purpose in enacting a statute is also a factor to be considered in statutory construction."[22]

As indicated above, legislative history can go outside the realm of the legislative enactment of the most recent version of a statute. It can also go to past versions of the law.

> In attempting to arrive at legislative intent, the endeavor should be made, by tracing the history of legislation on the subject, to ascertain the uniform and

> consistent purpose of the legislature, or to discover how the policy of the legislature with reference to the subject matter has been changed or modified from time to time. With this purpose in view therefore it is proper to consider, not only acts passed at the same session of the legislature, but also acts passed at prior and subsequent sessions, and even those which have been repealed.[23]

In this vein, it is not uncommon to see the Supreme Court review and discuss every version of a law that has existed, back to territorial times.[24]

5. Extrinsic aids may be used to interpret an ambiguous statute.

Things outside of the text of the statute, such as the statute's title[25] and legislative hearing testimony[26] can be used to construe an ambiguous statute. However, "Although the title is part of the act, it may not be used as a means of creating an ambiguity when the body of the act itself is clear."[27] As the Court of Appeals has stated, "The clearly described alternative means of commission in the body of the statute control over its title. . ."[28] "The title need not be an index to the statute. All that is required is that the subject be expressed in the title and the contents be germane to the purposes recited in the title."[29]

6. "When the language of a statute is ambiguous, [Courts] must consider the social and economic results which would be effectuated by a decision on the meaning of the statute."[30]

This rule is an outgrowth of previous rules, and allows the Court to consider various societal and economic outcomes of different interpretations of a statute when determining the intent of the legislature.

7. Statutes should be given a, "reasonable and practical interpretation, in accord with common sense."[31]

As stated another way, "enactments of the legislature are to be interpreted to accord with common sense and reason."[32] Related to this canon, "When construing the language contained in a statute, this Court will construe statutory terms according to their plain, obvious, and rational meanings."[33] Thus, a word is not necessarily ambiguous just because the statute as a whole is ambiguous. A word which has a plain, obvious, and rational meaning will be given such meaning despite the ambiguity of the statute as a whole.

8. *Stare decisis* applies to statutory construction.

"In resolving a matter turning on statutory construction, the court must first determine if binding authority exists construing the statute; if not, the court must then undertake its own effort to discover the statute's meaning."[34]

9. Grammatical rules apply to statutory construction.

Interpretation of an ambiguous statute usually requires a determination of reasonableness. However, the rules of grammar may dictate the preferred interpretation of the reasonable options.

"Although rules of sentence structure and grammar are a legitimate consideration in this endeavor, ultimately our task is to interpret the statute not as a professor of English grammar would parse it but as the legislature intended it."[35] That being said, grammar and sentence structure can be a significant factor in statutory construction. "To analyze the meaning of the statute we must look to the grammatical construction of the statute as the legislature intended the statute to be construed according to generally accepted principles of English grammar."[36] In *Ada Cty. Prosecuting Attorney v. 2007 Legendary Motorcycle*, the Idaho Supreme Court spent several paragraphs parsing the structure of a statute sentence in order to aid in construction.[37]

Another grammatical construction is set forth in *State v. Troughton*.

> [I]t is the rule of interpretation that relative and qualifying words and phrases are to be applied to the words or phrases immediately preceding and as not extending to or including other words, phrases, or clauses more remote, unless the extension or inclusion is clearly required by the intent and meaning of the context, or disclosed by an examination of the entire. Under this rule, known as the rule of the last antecedent clause, a referential or qualifying phrase refers solely to the last antecedent, absent a showing of contrary intent.[38]

Thus a reasonable interpretation may simply be based on the structure of the sentence or grammar used.

10. *Ejusdem Generis*: "Where general words follow the enumeration of particular class of persons or things, the general words will be construed as applying only to things of the nature enumerated."[39]

For the *ejusdem generis* rule to apply, "there must be an enumeration or list of specific items followed by general words."[40] Further, "The rule ejusdem generis must be considered in connection with the rule of construction that effect must be given to all the words of the statute if possible, so that none will be void, superfluous or redundant" (No. 13, below).[41] "Finally, ejusdem generis is merely a rule of statutory construction and does not justify a court in confining the operation of a statute within narrower limits than intended by the legislature."[42]

Related to this canon is the next:

11. *Noscitur a Sociis*: "[A] word is known by the company it keeps."[43]

As another way of saying this, "The meaning of a word depends on the context in which it is found."[44] "This method of statutory construction is often wisely applied where a word is capable of many meanings. Applying this method of construction, only those commonly understood meanings, which are consistent with the context given, are to be considered in determining the meaning of a term undefined by statute."[45]

12. "Constructions that would lead to absurd or unreasonably harsh results are disfavored."[46]

This canon goes along with the general canons of reasonableness and construction in favor of public policy. If the interpretation argued is absurd or harsh, such interpretation is not a reasonable interpretation of the legislature's intent. However, the Supreme Court has recently clarified this rule. "[W]e have never revised or voided an unambiguous statute on the ground that it is patently absurd or would produce absurd results when construed as written, and we do not have the authority to do so."[47] They explained further

> Indeed, the contention that we could revise an unambiguous statute because we believed it was absurd or would produce absurd results is itself illogical. . . . An unambiguous statute would have only one reasonable interpretation. An alternative interpretation that is unreasonable would not make it ambiguous. If the only reasonable interpretation were determined to have an absurd result, what other interpretation would be adopted? It would have to be an unreasonable one.[48]

Thus, the absurd result argument may not carry as much weight as it used to, because the statute will be construed at the outset to avoid an absurd result, and an apparent absurdity in the statute may not be sufficient to create an ambiguity.

13. "In determining the ordinary meaning of a statute effect must be given to all the words of the statute if possible, so that none will be void, superfluous, or redundant."[49]

This rule limits a court from ignoring parts of a statute in order to reach a reasonable construction. "It is a general rule of statutory construction that courts should not nullify a statute or deprive a law of potency or force unless such course is absolutely necessary."[50] In other words, "A statute should be construed so that effect is given to all its provisions, so that no part will be rendered superfluous or insignificant."[51] This is because, "it is not to be presumed that the legislature performed an idle act of enacting a superfluous statute."[52] Related to this canon is the next one:

14. Courts, "cannot insert into statutes terms or provisions which are obviously not there."[53]

As a general rule, Courts have been, "reluctant to second-guess the wisdom of a statute and [have] been unwilling to insert words into a statute that the Court believes the legislature left out, be it intentionally or inadvertently."[54]

15. Courts are generally unwilling to correct errors or unanticipated consequences of a given statute.

The rule is that the plain language of a statute will control, even if the language clearly has unintended consequences or results that are opposite of the intended result.[55] "If the statute as written is socially or otherwise unsound, the power to correct it is legislative, not judicial."[56]

A fantastic example of this principle happened with regard to Idaho Code § 12-117. In 2009, the Supreme Court, in *Rammell v. Idaho State Dep't of Agric.*,147 Idaho 415, 210 P.3d 523 (2009), changed its interpretation of § 12-117, disallowing a type of award of attorney fees which had

been previously allowed under the statute. Shortly thereafter, the legislature amended Idaho Code § 12-117 to attempt to correct this interpretation.[57] However, in two cases that quickly followed the amended language[58], the Idaho Supreme Court stated that the language utilized by the legislature did not achieve the result the legislature was trying to reach (despite the fact that the legislature's goal was pretty clear in the legislative history). Thus, the legislature had to amend Idaho Code § 12-117 again, using different language.[59] In other words, the Supreme Court would not go around the plain language of the statute to get the result the legislature intended.

That being said, a Court can correct certain errors to a statute:

> [O]bvious clerical errors or misprints in the statutes will be corrected, or words will be read into a statute or omitted therefrom, if the error is plainly indicated, and the true meaning is obvious, but there is limit to how far this Court can go in correcting legislative errors.[60]

16. "Expressio unius est exclusio alterius."[61]

This latin phrase means, "where a constitution or statute specifies certain things, the designation of such things excludes all others."[62] Thus, if a statute has a list or mentions certain things specifically, the list is exclusive. Unless it is not:

> Such doctrine is not an unimpeachable rule of law, but merely a logical statement that the court, in cases consistent with recognized rules of interpretation, will adhere to the literal language of a statute in determining the legislative intent. The applicability of the doctrine to any particular statute depends upon whether the legislative intent appears in clear terms in the statute.[63]

The doctrine of expression unius, "deserves lesser weight (as compared to greater weight), in the interpretation of statutes prescribing one method or course of action in affirmance of existing law, or by way of example, or to remove doubts."[64]

17. If terms are defined in a statute or act, that definition controls construction of those terms.

"It is a firmly established rule of statutory construction that definitions of terms included within the framework of a statute, control and dictate the meaning of those terms as used in the statute."[65] However, definitions in one statute do not apply across the spectrum. "It is a matter of common understanding that definitional provisions do not purport to prescribe what meanings shall attach to the defined terms for all purposes and in all contexts but generally only establish what they mean where they appear in that same act."[66] A recent example of this rule came into play in *Hennefer v. Blaine Cty. Sch. Dist.*, 158 Idaho 242, 346 P.3d 259, 265 – 66 (2015), reh'g denied (Apr. 23, 2015), where the Supreme Court was asked to review the meaning of the word, "reckless" in regard to Idaho Code § 6-1603. Though the Court did not specifically rely on this canon of construction, it did analyze multiple definitions of the word "reckless" and ultimately picked the meaning applicable to that case.

18. Words used in one place in a statute usually have the same meaning in every other place in the statute.

> Other portions of the same act or section may be resorted to as an aid to determine the sense in which a word, phrase, or clause is used, and such phrase, word, or clause, repeatedly used in a statute, will be presumed to bear the same meaning throughout the statute, unless there is something to show that there is a different meaning intended, such as a difference in subject-matter which might raise a different presumption. [67]

This language has several possible applications. It could refer to all language in a given chapter of the Idaho Code.[68] Alternately, it could refer to all language utilized in a specific enactment (or bill), regardless of whether such language is eventually codified in one chapter of the Idaho Code, or is spread throughout the Code.

19. The words "may" or "should" as used in a statute are permissive. The words "shall" and "must" are mandatory – except when they are not.

"The words 'must' and 'shall' are mandatory, and the word 'should' is not."[69] Additionally, "When used in a statute, the word 'may' is permissive."[70]

While this rule seems relatively straightforward, it is not. As the Supreme Court has stated, "While 'may' is sometimes given a mandatory meaning, it is a rare case indeed where 'shall' is construed to read as 'may.'"[71] In *Bonner Cty. v. Cunningham*, the Idaho Court of Appeals engaged in a fairly detailed discussion of when "shall" means "shall," discussing the differentiation between the directory and mandatory meanings of "shall."[72] Thus, "shall" and "must" are not always mandatory.

One example of a statute that may fall prey to this canon is Idaho Code § 44-2703, dealing with non-compete agreements. The statute reads:

> To the extent any such agreement or covenant is found to be unreasonable in any respect, a court shall limit or modify the agreement or covenant as it shall determine necessary to reflect the intent of the parties and render it reasonable in light of the circumstances in which it was made and specifically enforce the agreement or covenant as limited or modified.

The first "shall" arguably requires the court to take a specific action, while the second "shall" arguably limits the mandatory nature of the first "shall." There are many statutes where the use of the word "shall" becomes less than mandatory in a given context.[73] However, an ambiguity is required to invoke construction of a statute, and the use of the word "shall" is rarely going to create an ambiguity.

20. Singular includes plural and vice versa, male includes female and vice versa, etc.

"[I]n construing the words of a statute, we must construe the plural to mean the singular." [74] This language resulted from the guidance of a statute dealing with general statutory interpretation. We still have these statutes today, mainly located in Idaho Code Title 73, Chapter 1. These statutes contain important general interpretation rules, including:

> (1) Unless otherwise defined for purposes of a specific statute:
> (a) Words used in these compiled laws in the present tense, include the future as well as the present;
> (b) Words used in the masculine gender, include the feminine and neuter;
> (c) The singular number includes the plural and the plural the singular;
> (d) The word "person" includes a corporation as well as a natural person . . . [75]

This chapter contains numerous other statutory interpretation rules, and should be reviewed whenever statutory interpretation is undertaken.

21. The Legislature is presumed to have full knowledge of judicial decisions and existing caselaw.

"In discussing rules of statutory construction, this Court . . . recognized that some terms and phrases have developed specific meanings or subtexts resulting from years of consistent judicial interpretation and this Court assumes the Legislature has full knowledge of this existing judicial interpretation when it amends a statute."[76] Related to this canon of construction:

22. Courts, "presume the legislature was aware of those statutes previously enacted when passing new legislation."[77]

As the Supreme Court has stated, "It is also to be presumed that the legislature in enactment of a statute consulted earlier statutes on the same subject matter."[78]

23. Statutes adopted from other jurisdictions may be given the meaning adopted by the other jurisdiction.

A statute adopted from another jurisdiction, "is presumed to carry the construction given by the jurisdiction from which the statute was taken."[79] As the Supreme Court has stated, "There is a presumption that when the legislature adopted the statute of another jurisdiction, it also adopted the prior construction of that statute by courts of the other jurisdiction."[80] This rule of construction also applies to rules.[81]

Related to this, when other jurisdictions have resolved similar issues, the Court may look to such cases for guidance.

> In construing a statute, this Court attempts to discern and implement the intent of the legislature. In performing this function, courts variously seek edification from the statute's legislative history, examine the statute's evolution through a number

> of amendments, and *perhaps seek enlightenment in the decisions of sister courts which have resolved the same or similar issues*.[82]

24. Modification of a statute indicates an intent to change the meaning of the statute.[83]

"It is the long standing rule in this state that when the legislature amends a statute it is deemed, absent an express indication to the contrary, to be indicative of changed legislative intent."[84] Thus, "When a statute is amended, it is presumed that the legislature intended it to have a meaning different from that accorded to it before the amendment."[85]

25. "The legislature is presumed not to intend to overturn long established principles of law unless an intention to do so plainly appears by express declaration or the language employed admits of no other reasonable construction."[86]

Related to this canon of construction:

26. Statutes should be reasonably construed to avoid implied repeal.

"Repeal by implication occurs when two statutes are inconsistent and irreconcilable."[87] "Courts disfavor repeal by implication and, therefore, attempt to interpret seemingly conflicting statutes in a manner that gives effect to both provisions."[88]

27. Statutes should be reasonably construed, if possible, to avoid a constitutional conflict.

> Whenever an act of the Legislature can be so construed and applied as to avoid conflict with the Constitution and give it the force of law, such construction will be adopted by the courts; and it is held by many courts that where there is room for two constructions of a statute, both equally obvious and equally reasonable, the court must, in deference to the Legislature of the state, assume that it did not overlook the provisions of the Constitution, and designed the act to take effect.[89]

28. If two statutes are irreconcilable, the later in date controls.

29. If two statutes address the same subject, the more specific statute controls over the general statute.

The two preceding rules of construction are related. "When statutes conflict, a later or more specific statute controls over an earlier or more general statute."[90] These rules, though, need not be joined and may work independently of each other. For example, "Where two statutes are in irreconcilable conflict, the one more recently adopted governs."[91] Similarly, "Where two statutes deal with the same subject matter, the more specific will prevail."[92]

The difficulty with these two rules is when there is a later, general statute. In such circumstances, which of these rules of construction governs? Further, what date do you use to determine the later statute? The original enactment date, or the date of the most recent amendment to the

statute? There is not necessarily a clear answer to these questions. In such circumstances, the best proposed interpretation will likely be the most reasonable interpretation.

30. Statutes are not retroactive unless there is a clear intent for them to be retroactive indicated by the legislature.

"[I]n Idaho, a statute is not applied retroactively unless there is clear legislative intent to that effect."[93] That being said, how does one determine whether a statute is retroactive? Statutes are passed as bills, which are then turned into session laws, which often contain many sections. Not every section necessarily modifies or creates a statute – some sections of the session law could indicate the effective date of the statute, or have other procedural effects. For example, one section of a bill could amend a statute, another section of the bill could indicate the retroactivity of the foregoing section, and a third could indicate when the bill becomes effective. However, when attorneys and courts look at a statute, they don't often look at the session law enacting the statute to determine whether it is retroactive.

Indeed, it is arguably improper to look outside the language of an unambiguous statute to determine whether it has retroactive effect, because that would be looking at an extraneous source. In contrast, when one is looking at the other sections of a session law to determine retroactive effect, they are not doing so to aid in interpretation of an ambiguous statute; they only do so to determine when the statute applies. Therefore the countervailing argument is that the court or an attorney may look at corresponding sections of a session law to determine whether the law applies or not, because it is not an aid to interpretation.

The Supreme Court has also provided generalized guidance for looking within the statute itself to determine retroactive effect:

> A statute should be applied retroactively only if the legislature has clearly expressed that intent or such intent is clearly implied by the language of the statute. The Legislature does not need to use the words, 'this statute is to be deemed retroactive,' however. It is sufficient if the enacting words are such that the intention to make the law retroactive is clear. In other words, if the language clearly refers to the past as well as to the future, then the intent to make the law retroactive is expressly declared within the meaning of [the statute].[94]

Further, "A retrospective or retroactive law is one which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability in respect to transactions or considerations already past."[95] However, in the absence of, "an express declaration of legislative intent," remedial statutes are generally not held to be retroactive.[96]

Related to this principal, though not directly addressing statutory construction, is the concept of retroactive caselaw.[97]

31. Statutes should be construed *in pari materia*.

"Statues that are in pari materia must be construed together to effect legislative intent. Statutes are in pari materia if they relate to the same subject."[98]

> The rule that statutes in pari materia are to be construed together means that each legislative act is to be interpreted with other acts relating to the same matter or subject. . . . Such statutes are taken together and construed as one system, and the object is to carry into effect the intention. It is to be inferred that a code of statutes relating to one subject was governed by one spirit and policy, and was intended to be consistent and harmonious in its several parts and provisions.[99]

"For the purpose of learning the intention, all statutes relating to the same subject are to be compared, and so far as still in force brought into harmony by interpretation."[100]

Related to this canon of construction:

32. When construing two separate statutes that deal with the same subject matter, the statutes should be construed harmoniously, if at all possible, so as to further the legislative intent.[101]

Thus, not only must related statutes be construed together, they must be construed together harmoniously, absent a conflict in the statutes.[102] Not only is this true among statutes, but is also true between sections of a statute. "The various sections of a statute must be construed as a harmonious whole."[103]

33. The Courts have the final say in construing statutes and determining legislative intent.

As all attorneys learn early in law school, the Supreme Court gets to decide what the law is. "It is fundamental that the judiciary has the ultimate responsibility to construe legislative language to determine the law."[104]

34. Agency interpretation of a statute may not conflict with legislative intent.

Idaho Courts give deference to agency interpretation of a statute.[105] However, the deference is not unbounded, and is subject to a four part test stated in *J.R. Simplot Co. v. Idaho State Tax Comm'n*, 120 Idaho 849, 862, 820 P.2d 1206, 1219 (1991).[106] Ultimately, though, no deference will be given to an agency interpretation that conflicts with legislative intent.[107]

35. "[S]tatutes granting privileges or relinquishing rights are to be strictly construed."[108]

This language comes from a United States Supreme Court case, which holds in more detail, "to express the rule more directly, that such grants must be construed favorably to the government and that nothing passes but what is conveyed in clear and explicit language-inferences being resolved not against but for the government."[109] Recent Idaho caselaw cites this language with

approval, stating, "such statutes are construed to pass nothing 'but what is conveyed in clear and explicit language.'"[110]

36. Worker's compensation statutes are construed in favor of the employee.

Courts should, "liberally construe the provisions of the workers' compensation law in favor of the employee, in order to serve the humane purpose for which the law was promulgated. The purpose of the workers' compensation law is to provide sure and certain relief for injured workmen and their families and dependents."[111] "The purposes served by the Act leave no room for narrow technical constructions."[112]

37. Courts can consider consequences and effects when construing criminal statutes.

"In construing criminal statutes, courts are free to consider effect and consequence of differing and available constructions of a statute."[113] This principle arises out of (or is related to) the related canon of construction holding, "Constructions of a statute that would yield an absurd result are disfavored."[114]

In conclusion, the general rule appears to be that the most reasonable interpretation of a statute is the one that will likely be adopted by the Court, as it is the likeliest intent of the legislature. These canons are in place simply to help determine what is reasonable under the circumstances.

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[1] Stephen Adams is a staff attorney for Judge Lynn Norton in Ada County. He is extraordinarily proud of his wife (who graduated from law school and passed the bar in 2015) and three daughters. He also did not make any food references in this article because they tend to make him hungry, and he needs to lose weight.

[2] *In re Adoption of Doe*, 156 Idaho 345, 349, 326 P.3d 347, 351 (2014). *See also In re Winton Lumber Co.*, 57 Idaho 131, 63 P.2d 664, 666 (1936) ("Other rules of construction are equally potent, especially the primary rule which suggests that the intent of the Legislature is to be found in the ordinary meaning of the words of the statute. The sense in which general words, or any words, are intended to be used, furnishes the rule of interpretation, and that is to be collected from the context; and a narrower or more extended meaning will be given, according as the intention is thus indicated.").

[3] *In re Adoption of Doe*, 156 Idaho 345, 349, 326 P.3d 347, 351 (2014) (quoting *City of Sandpoint v. Sandpoint Indep. Highway Dist.*, 139 Idaho 65, 69, 72 P.3d 905, 909 (2003)). *See also* Idaho Code § 73-113(1).

[4] *Sweeney v. Otter*, 119 Idaho 135, 138, 804 P.2d 308, 311 (1990)

[5] *State v. Olivas*, 158 Idaho 375, 347 P.3d 1189, 1193 (2015).

[6] *Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 893, 265 P.3d 502, 506 (2011).

[7] *Id.* at 893, 265 P.3d at 506 (internal quotation marks omitted).

[8] *Stonebrook Const., LLC v. Chase Home Fin., LLC*, 152 Idaho 927, 931, 277 P.3d 374, 378 (2012).

[9] *State v. Olivas*, 158 Idaho 375, 347 P.3d 1189, 1193 (2015).

[10] *Porter v. Bd. of Trustees, Preston Sch. Dist. No. 201*, 141 Idaho 11, 14, 105 P.3d 671, 674 (2004).

[11] *In re Adoption of Doe*, 156 Idaho 345, 349, 326 P.3d 347, 351 (2014).

[12] *Bonner Cty. v. Cunningham*, 156 Idaho 291, 295, 323 P.3d 1252, 1256 (Ct. App. 2014).

[13] *Hamilton ex rel. Hamilton v. Reeder Flying Serv.*, 135 Idaho 568, 572, 21 P.3d 890, 894 (2001).

[14] *Bonner Cty. v. Cunningham*, 156 Idaho 291, 295, 323 P.3d 1252, 1256 (Ct. App. 2014) (emphasis in the original).

[15] *Id.* at 294, 323 P.3d at 1255.

[16] *State v. Olivas*, 158 Idaho 375, 347 P.3d 1189, 1193 (2015). *See also Lopez v. State*, 136 Idaho 174, 178, 30 P.3d 952, 956 (2001); *State v. Quick Transp., Inc.*, 134 Idaho 240, 244, 999 P.2d 895, 899 (2000).

[17] *See State v. Hickman*, 146 Idaho 178, 184, 191 P.3d 1098, 1104 (2008) ("The goal is to give effect to the purpose of the statute and the legislative intent in enacting it, which may be implied from the language used or

inferred on grounds of policy or reasonableness."); *The Senator, Inc. v. Ada Cty., Bd. of Equalization*, 138 Idaho 566, 570, 67 P.3d 45, 49 (2003).

[18] *Leliefeld v. Johnson*, 104 Idaho 357, 367, 659 P.2d 111, 121 (1983).

[19] *Gillihan v. Gump*, 140 Idaho 264, 268, 92 P.3d 514, 518 (2004) *abrogated on other grounds by Gonzalez v. Thacker*, 148 Idaho 879, 231 P.3d 524 (2009).

[20] *Peterson v. Bonneville Joint Sch. Dist. No. 93*, 832 F. Supp. 2d 1217 (D. Idaho 2011).

[21] *Leliefeld*, 104 Idaho at 367, 659 P.2d at 121("Another method, we have employed is to examine the purposes of the act and its structure as a whole in an attempt to discern the legislative intent behind the statute.").

[22] *Mix v. Gem Inv'rs, Inc.*, 103 Idaho 355, 357, 647 P.2d 811, 813 (Ct. App. 1982).

[23] *Meyers v. City of Idaho Falls*, 52 Idaho 81, 11 P.2d 626, 629 (1932).

[24] *See, e.g., In re Verified Petition for Writ of Mandamus*, No. 43169, 2015 WL 7421342, at *20 (Idaho Nov. 20, 2015) (Eismann, J., concurring).

[25] *State v. Moore*, 111 Idaho 854, 856, 727 P.2d 1282, 1284 (Ct. App. 1986).

[26] *Local 1494 of Int'l Ass'n of Firefighters v. City of Coeur d'Alene*, 99 Idaho 630, 640-41, 586 P.2d 1346, 1356-57 (1978).

[27] *State v. Peterson*, 141 Idaho 473, 476, 111 P.3d 158, 161 (Ct. App. 2004).

[28] *State v. Williston*, 159 Idaho 215, 358 P.3d 776, 780 (Ct. App. 2015), review denied (Nov. 2, 2015).

[29] *Lyons v. Bottolfsen*, 61 Idaho 281, 101 P.2d 1, 4 (1940).

[30] *Smith v. Dep't of Employment*, 100 Idaho 520, 522, 602 P.2d 18, 20 (1979).

[31] *Idaho Press Club, Inc. v. State Legislature of the State*, 142 Idaho 640, 646, 132 P.3d 397, 403 (2006).

[32] *Smith*, 100 Idaho at 522, 602 P.2d at 20.

[33] *Sweitzer v. Dean*, 118 Idaho 568, 572, 798 P.2d 27, 31 (1990).

[34] *State v. Climer*, 127 Idaho 20, 22, 896 P.2d 346, 348 (Ct. App. 1995). *See also Sopatyk v. Lemhi Cty.*, 151 Idaho 809, 819, 264 P.3d 916, 926 (2011).

[35] *State v. Paciorek*, 137 Idaho 629, 632, 51 P.3d 443, 446 (Ct. App. 2002) (internal citations omitted).

[36] *Ada Cty. Prosecuting Attorney v. 2007 Legendary Motorcycle*, 154 Idaho 351, 354, 298 P.3d 245, 248 (2013).

[37] *Id.* at 354-55, 298 P.3d at 248-49.

[38] *State v. Troughton*, 126 Idaho 406, 411, 884 P.2d 419, 424 (Ct. App. 1994).

[39] *In re Winton Lumber Co.*, 57 Idaho 131, 63 P.2d 664, 666 (1936). *See also Turner v. City of Lapwai*, 157 Idaho 659, 664, 339 P.3d 544, 549 (2014); *Sanchez v. State, Dep't of Correction*, 143 Idaho 239, 244, 141 P.3d 1108, 1113 (2006); *State ex rel. Wasden v. Daicel Chem. Indus., Ltd.*, 141 Idaho 102, 109, 106 P.3d 428, 435 (2005); *State v. Kavajecz*, 139 Idaho 482, 486, 80 P.3d 1083, 1087 (2003); *State v. Hart*, 135 Idaho 827, 831, 25 P.3d 850, 854 (2001).

[40] *State v. Hart*, 135 Idaho 827, 831, 25 P.3d 850, 854 (2001).

[41] *Id.*

[42] *Id. See also In re Winton Lumber Co.*, 57 Idaho 131, 63 P.2d 664, 666 (1936) ("[T]he rule can be used only as an aid in ascertaining the legislative intent, and not for the purpose of controlling the intention or of confining the operation of a statute within narrower limits than was intended by the lawmakers.").

[43] *State v. Hammersley*, 134 Idaho 816, 821, 10 P.3d 1285, 1290 (2000) *overruled on other grounds by State v. Poe*, 139 Idaho 885, 88 P.3d 704 (2004).

[44] *Idaho Press Club, Inc. v. State Legislature of the State*, 142 Idaho 640, 654, 132 P.3d 397, 411 (2006).

[45] *State v. Hammersley*, 134 Idaho 816, 821, 10 P.3d 1285, 1290 (2000) *overruled on other grounds by State v. Poe*, 139 Idaho 885, 88 P.3d 704 (2004).

[46] *Friends of Farm to Mkt. v. Valley Cty.*, 137 Idaho 192, 197, 46 P.3d 9, 14 (2002). *See also Stonebrook Const., LLC v. Chase Home Fin., LLC*, 152 Idaho 927, 932, 277 P.3d 374, 379 (2012); *State v. Yager*, 139 Idaho 680, 690, 85 P.3d 656, 666 (2004).

[47] *Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 896, 265 P.3d 502, 509 (2011).

[48] *Id.* (internal citations omitted).

[49] *Hillside Landscape Const., Inc. v. City of Lewiston*, 151 Idaho 749, 753, 264 P.3d 388, 392 (2011). *See also Wernecke v. St. Maries Joint Sch. Dist. No. 401*, 147 Idaho 277, 282, 207 P.3d 1008, 1013 (2009).

[50] *Maguire v. Yanke*, 99 Idaho 829, 836, 590 P.2d 85, 92 (1978). *See also Sampson v. Layton*, 86 Idaho 453, 457, 387 P.2d 883, 885 (1963).

[51] *Brown v. Caldwell Sch. Dist. No. 132*, 127 Idaho 112, 117, 898 P.2d 43, 48 (1995).

[52] *Sweitzer v. Dean*, 118 Idaho 568, 572, 798 P.2d 27, 31 (1990).

[53] *Matter of Adoption of Chaney*, 126 Idaho 554, 558, 887 P.2d 1061, 1065 (1995).
[54] *Saint Alphonsus Reg'l Med. Ctr. v. Gooding Cty.*, 159 Idaho 84, 356 P.3d 377, 382 (2015).
[55] Though it is not Idaho caselaw, other states and sources have great language on this subject. *See* 73 Am. Jur. 2d Statutes § 112 ("Generally, courts will not undertake correction of legislative mistakes in statutes notwithstanding the fact that the court may be convinced by extraneous circumstances that the legislature intended to enact something very different from that which it did enact."); *Michigan v. Bay Mills Indian Cmty.*, 134 S. Ct. 2024, 2034, 188 L. Ed. 2d 1071 (2014) ("This Court has no roving license, in even ordinary cases of statutory interpretation, to disregard clear language simply on the view that . . . Congress 'must have intended' something broader.").
[56] *Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 893, 265 P.3d 502, 506 (2011).
[57] 2010 Idaho Laws Ch. 29, § 1.
[58] *See Smith v. Washington Cty. Idaho*, 150 Idaho 388, 391, 247 P.3d 615, 618 (2010); *Sopatyk v. Lemhi Cty.*, 151 Idaho 809, 818-19, 264 P.3d 916, 925-26 (2011).
[59] 2012 Idaho Laws Ch. 149, § 1.
[60] *Worthen v. State*, 96 Idaho 175, 180, 525 P.2d 957, 962 (1974). *See also State v. Witzel*, 79 Idaho 211, 217, 312 P.2d 1044, 1048 (1957); *State ex rel. Brassey v. Hanson*, 81 Idaho 403, 409, 342 P.2d 706, 709 (1959); *Roos v. Belcher*, 79 Idaho 473, 481, 321 P.2d 210, 214 (1958).
[61] *Saint Alphonsus Reg'l Med. Ctr. v. Gooding Cty.*, 159 Idaho 84, 356 P.3d 377, 380 (2015).
[62] *Local 1494 of Int'l Ass'n of Firefighters v. City of Coeur d'Alene*, 99 Idaho 630, 639, 586 P.2d 1346, 1355 (1978).
[63] *Noble v. Glenns Ferry Bank, Ltd.*, 91 Idaho 364, 367, 421 P.2d 444, 447 (1966).
[64] *Id.*
[65] *Cameron v. Lakeland Class A Sch. Dist. No. 272, Kootenai Cty.*, 82 Idaho 375, 381, 353 P.2d 652, 655 (1960). *See also White v. Mock*, 140 Idaho 882, 890, 104 P.3d 356, 364 (2004); *Roe v. Hopper*, 90 Idaho 22, 27, 408 P.2d 161, 164 (1965).
[66] *Maguire v. Yanke*, 99 Idaho 829, 836, 590 P.2d 85, 92 (1978).
[67] *St. Luke's Magic Valley Reg'l Med. Ctr., Ltd. v. Bd. of Cty. Comm'rs of Gooding Cty.*, 149 Idaho 584, 589, 237 P.3d 1210, 1215 (2010). *See also Kerley v. Wetherell*, 61 Idaho 31, 96 P.2d 503, 508 (1939); *Sprouse v. Magee*, 46 Idaho 622, 269 P. 993, 996 (1928).
[68] *St. Luke's Magic Valley Reg'l Med. Ctr., Ltd. v. Bd. of Cty. Comm'rs of Gooding Cty.*, 149 Idaho 584, 589, 237 P.3d 1210, 1215 (2010).
[69] *Twin Falls Cty. v. Idaho Comm'n on Redistricting*, 152 Idaho 346, 349, 271 P.3d 1202, 1205 (2012) (internal citations omitted).
[70] *Rife v. Long*, 127 Idaho 841, 848, 908 P.2d 143, 150 (1995).
[71] *State, Dep't of Law Enf't v. One 1955 Willys Jeep, V.I.N. 573481691*, 100 Idaho 150, 159, 595 P.2d 299, 308 (1979) *abrogated by Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 265 P.3d 502 (2011).
[72] *Bonner Cty. v. Cunningham*, 156 Idaho 291, 297-98, 323 P.3d 1252, 1258-59 (Ct. App. 2014).
[73] *See, e.g., Peterson v. Bonneville Joint Sch. Dist. No. 93*, 832 F. Supp. 2d 1217, 1221 (D. Idaho 2011).
[74] *State v. Holder*, 49 Idaho 514, 290 P. 387, 389 (1930).
[75] Idaho Code § 73-114(1).
[76] *St. Luke's Reg'l Med. Ctr., Ltd. v. Bd. of Comm'rs of Ada Cty.*, 146 Idaho 753, 758, 203 P.3d 683, 688 (2009) (internal citations and quotation marks omitted). *See also Robison v. Bateman-Hall, Inc.*, 139 Idaho 207, 212, 76 P.3d 951, 956 (2003); *State v. Martinez*, 126 Idaho 801, 803, 891 P.2d 1061, 1063 (Ct. App. 1995); *City of Sandpoint v. Sandpoint Indep. Highway Dist.*, 126 Idaho 145, 150, 879 P.2d 1078, 1083 (1994).
[77] *State v. Betterton*, 127 Idaho 562, 563, 903 P.2d 151, 152 (Ct. App. 1995). *See also State v. Perkins*, 135 Idaho 17, 21, 13 P.3d 344, 348 (Ct. App. 2000).
[78] *State v. Long*, 91 Idaho 436, 441, 423 P.2d 858, 863 (1967).
[79] *Sun Valley Land & Minerals, Inc. v. Burt*, 123 Idaho 862, 868, 853 P.2d 607, 613 (Ct. App. 1993).
[80] *Doe v. Durtschi*, 110 Idaho 466, 473, 716 P.2d 1238, 1245 (1986) (fn. 2). *See, e.g. Intermountain Bus. Forms, Inc. v. Shepard Bus. Forms Co.*, 96 Idaho 538, 541, 531 P.2d 1183, 1186 (1975) ("Idaho's statute is modeled after the Illinois 'long arm' statute. Thus, we may look to the decisions of the Illinois court on point for persuasive guidance.").
[81] *Chacon v. Sperry Corp.*, 111 Idaho 270, 273, 723 P.2d 814, 817 (1986) (adopting federal interpretation of the federal rules for the Idaho Rules of Civil Procedure).
[82] *Leliefeld v. Johnson*, 104 Idaho 357, 367, 659 P.2d 111, 121 (1983) (emphasis added).

[83] *See Dohl v. PSF Indus., Inc.*, 127 Idaho 232, 237, 899 P.2d 445, 450 (1995).

[84] *Saint Alphonsus Reg'l Med. Ctr. v. Gooding Cty.*, 159 Idaho 84, 356 P.3d 377, 382 (2015) (quoting *Nebeker v. Piper Aircraft Corp.*, 113 Idaho 609, 614, 747 P.2d 18, 23 (1987)).

[85] *Lincoln Cty. v. Fid. & Deposit Co. of Maryland*, 102 Idaho 489, 491, 632 P.2d 678, 680 (1981).

[86] *George W. Watkins Family v. Messenger*, 118 Idaho 537, 540, 797 P.2d 1385, 1388 (1990) *abrogated on other grounds by Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 265 P.3d 502 (2011). *See also State v. Owens*, 158 Idaho 1, 343 P.3d 30, 39 (2015); *Burns Holdings, LLC v. Madison Cty. Bd. of Cty. Comm'rs*, 147 Idaho 660, 666, 214 P.3d 646, 652 (2009); *Doolittle v. Morley*, 77 Idaho 366, 372, 292 P.2d 476, 481 (1956).

[87] *Seiniger Law Offices, P.A. v. State ex rel. Indus. Comm'n*, 154 Idaho 461, 465, 299 P.3d 773, 777 (2013).

[88] *Callies v. O'Neal*, 147 Idaho 841, 847, 216 P.3d 130, 136 (2009). *See also Tetzlaff v. Brooks*, 130 Idaho 903, 904, 950 P.2d 1242, 1243 (1997).

[89] *State v. Olivas*, 158 Idaho 375, 380, 347 P.3d 1189, 1194 (2015) (quoting *Grice v. Clearwater Timber Co.*, 20 Idaho 70, 117 P. 112, 114 (1911)). *See also Idaho State AFL-CIO v. Leroy*, 110 Idaho 691, 698, 718 P.2d 1129, 1136 (1986). *See also* Idaho Code § 73-101.

[90] *Beehler v. Fremont Cty.*, 145 Idaho 656, 658, 182 P.3d 713, 715 (Ct. App. 2008). *See also Arthur v. Shoshone Cty.*, 133 Idaho 854, 861, 993 P.2d 617, 624 (Ct. App. 2000); *Roe v. Harris*, 128 Idaho 569, 572, 917 P.2d 403, 406 (1996) *abrogated on other grounds by Rincover v. State, Dep't of Fin., Sec. Bureau*, 132 Idaho 547, 976 P.2d 473 (1999); *Tomich v. City of Pocatello*, 127 Idaho 394, 400, 901 P.2d 501, 507 (1995).

[91] *State v. Gamino*, 148 Idaho 827, 829, 230 P.3d 437, 439 (Ct. App. 2010).

[92] *State v. Betterton*, 127 Idaho 562, 564, 903 P.2d 151, 153 (Ct. App. 1995).

[93] *Gailey v. Jerome Cty.*, 113 Idaho 430, 432, 745 P.2d 1051, 1053 (1987).

[94] *Guzman v. Piercy*, 155 Idaho 928, 938, 318 P.3d 918, 928 (2014) (citations and quotes omitted).

[95] *Wheeler v. Idaho Dep't of Health & Welfare*, 147 Idaho 257, 262, 207 P.3d 988, 993 (2009).

[96] *Id.*

[97] *See State v. Owens*, 158 Idaho 1, 6, 343 P.3d 30, 35 (2015); *Sanders v. Bd. of Trustees of Mountain Home Sch. Dist. No. 193*, 156 Idaho 269, 273, 322 P.3d 1002, 1006 (2014).

[98] *City of Sandpoint v. Sandpoint Indep. Highway Dist.*, 139 Idaho 65, 69, 72 P.3d 905, 909 (2003) (citations omitted).

[99] *Saint Alphonsus Reg'l Med. Ctr. v. Elmore Cty.*, 158 Idaho 648, 653, 350 P.3d 1025, 1030 (2015) (quoting *Grand Canyon Dories v. Idaho State Tax Comm'n*, 124 Idaho 1, 4, 855 P.2d 462, 465 (1993)).

[100] *Meyers v. City of Idaho Falls*, 52 Idaho 81, 11 P.2d 626, 629 (1932).

[101] *State v. Seamons*, 126 Idaho 809, 811-12, 892 P.2d 484, 486-87 (Ct. App. 1995).

[102] *See State v. Thiel*, 158 Idaho 103, 110, 343 P.3d 1110, 1117 (2015); *State v. Doe*, 147 Idaho 326, 329, 208 P.3d 730, 733 (2009); *State v. Callaghan*, 143 Idaho 856, 858, 153 P.3d 1202, 1204 (Ct. App. 2006); *Edwards v. Indus. Comm'n of State*, 130 Idaho 457, 461, 943 P.2d 47, 51 (1997).

[103] *Kaseburg v. State, Bd. of Land Comm'rs*, 154 Idaho 570, 577, 300 P.3d 1058, 1065 (2013).

[104] *J.R. Simplot Co. v. Idaho State Tax Comm'n*, 120 Idaho 849, 853, 820 P.2d 1206, 1210 (1991) (citing *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177, 2 L.Ed. 60, 73 (1803)). *See also Mulder v. Liberty Nw. Ins. Co.*, 135 Idaho 52, 57, 14 P.3d 372, 377 (2000).

[105] *See J.R. Simplot Co.* 120 Idaho at 861-62, 820 P.2d at 1218-19.

[106] *A & B Irr. Dist. v. Idaho Dep't of Water Res.*, 154 Idaho 652, 653-54, 301 P.3d 1270, 1271-72 (2012).

[107] *See, e.g., Hood v. Idaho Dep't of Health & Welfare*, 125 Idaho 151, 154, 868 P.2d 479, 482 (1994).

[108] *Caldwell v. United States*, 250 U.S. 14, 20, 39 S. Ct. 397, 398, 63 L. Ed. 816 (1919).

[109] *Caldwell v. United States*, 250 U.S. 14, 20, 39 S. Ct. 397, 398, 63 L. Ed. 816 (1919).

[110] *Pocatello v. State*, 145 Idaho 497, 501, 180 P.3d 1048, 1052 (2008).

[111] *Davaz v. Priest River Glass Co.*, 125 Idaho 333, 337, 870 P.2d 1292, 1296 (1994) (citations omitted).

[112] *Wernecke v. St. Maries Joint Sch. Dist. No. 401*, 147 Idaho 277, 282, 207 P.3d 1008, 1013 (2009).

[113] *State v. Yager*, 139 Idaho 680, 690, 85 P.3d 656, 666 (2004). *See also State v. Webb*, 76 Idaho 162, 167, 279 P.2d 634, 636-37 (1955).

[114] *State v. Herrera*, 152 Idaho 24, 28, 266 P.3d 499, 503 (Ct. App. 2011).