

The Advocate

Official Publication of the Idaho State Bar

Volume 50, No. 10

October 2007



This issue of *The Advocate* is sponsored by
the Young Lawyers Section.



TENANT ADVISOR

COMMERCIAL REAL ESTATE

Current Market Surveys
Objective Counseling
Market Knowledge
Expert Negotiations
Experienced

While most landlords are well represented in a leasing transaction, many tenants are not. Bill Beck, SIOR, of Tenant Realty Advisors represents the interests of commercial **tenants and buyers**. Beck's experience representing over 750 clients enables him to bring a wealth of market knowledge and objective counseling which will help his clients find terms and locations favorable to their needs.

"It was so helpful to have an agent look out for our interests. The only thing I had previously experienced was a real estate agent who looked out for the landlord. I have handled real estate transactions but was unaware of the pitfalls in commercial leases. Your knowledge saved us money."

Carty & Dredge, PA Attorneys at Law



950 West Bannock Street, Suite 620
Boise, Idaho 83702
208-333-7050
www.tenrealad.com





ALPS is your Idaho State Bar endorsed professional liability insurer.

ALPS comprehensive professional liability program offers industry-leading guidance, financial stability and protection to you and your law firm.

SUPERIOR POLICY FEATURES AVAILABLE:

- **Defense Costs Paid in Addition to the Limits of Liability**
- Input on selection of mutually acceptable **defense representation**
- **No “Hammer Clause”** regarding the appropriateness of a settlement
- **First Dollar Defense:** Avoid paying deductible for defense costs
- **Directors and Officers Coverage** while serving select tax-exempt organizations
- **Extended Reporting Endorsement** for solo attorneys in the event of death, disability or full and permanent retirement if insured with ALPS for 5 continuous years
- **Innocent-Insured Coverage** for members of firm who did not commit the error
- Same defense to **non-lawyers, who refer** business to our insured firm
- **Coverage for services provided to family members**
- **Deductible:** pay no more than two in a policy year
- **Reduced Deductible** for claims resolved through formal mediation
- **Supplementary Payments:** Defendant’s Reimbursement Coverage and Grievance Defense
- **Claims/Incident Reporting** is available 24 hours per day, 365 days per year

IN ADDITION ALPS SERVICES INCLUDE:

- Providing you and your firm with the best coverage and assistance possible
- Highly-efficient claims management and procurement
- Industry-leading education and risk management programs

CALL ALPS TODAY FOR YOUR NO-OBLIGATION QUOTE: 1-800-FOR-ALPS

ALPS works diligently to promote the honor and dignity of the legal profession and provides resources to address issues affecting lawyers, law firms and bar associations. Examples include lawyer assistance programs, rookie camps, access-to-justice support and professionalism programs.

ALPS is the endorsed or affiliated lawyers professional liability carrier for more state bars (12) than any other insurance company and is **rated A- (Excellent) by A.M. Best Company.**

FEATURE ARTICLES

- 14 Welcome from the Young Lawyers Section**
Maureen G. Ryan
- 15 One Judge's Checklist**
Hon. Howard Smyser
Practice tips from the north side of the bench.
- 19 Having Your Day in Appellate Court**
Weston Meyring
An appellate Law Clerk's perspective about maximizing one's success on appeal.
- 22 How to Talk Good: Lessons Learned from Grandpa Max**
Matthew T. Christensen
A fictional letter-writing approach to practicing law from a grandfather attorney to his newly licensed grandson attorney.
- 25 Transcending Practice Areas: Insight and Advice for Idaho's Young Transactional and Trial Attorneys**
Hilary Bradbury and Jason Prince
Larry Prince and Walt Sinclair share their experience in the areas of litigation and business law with Hilary and Jason.
- 30 They were only small sips ...**
Anonymous
Idaho attorneys sometimes encounter difficulties along the way. This story deals with one attorney's struggle to practice law as she battled her addiction to alcohol.



In Idaho, more than 1,000 students participated in the Lawyers in the Classroom Project during the 2005-2006 school year.

Take Katelyn.

Katelyn and the other students in her fifth grade class worked with an Idaho volunteer attorney to learn important democratic principles and gain some important educational skills in the process. Employing a lesson plan she learned about in a **Law Related Education** sponsored workshop, the volunteer attorney told the children to pretend that aliens had invaded Earth. According to the lesson plan, the aliens told them they had to reach a unanimous decision to give up five of the 10 freedoms guaranteed by the Bill of Rights. The ensuing discussion taught the students the importance of critical thinking and compromise.

All children should understand the foundations of the United State's government and legal systems, and with the support of **Law Related Education's Lawyers in the Classroom Project** and the help of people like you, many more will.

Help young people like Katelyn become informed, participating citizens. Send your donation today.

A Foundation for Justice

FOUNDATION FOR JUSTICE CAMPAIGN
P.O. Box 895 | Boise, Idaho 83702

IDAHO LAW FOUNDATION



Helping the profession serve the public

COLUMNS

- 6 President's Message, *Andrew E. Hawes*
10 Executive Director's Report, *Diane K. Minnich*
42 ABA Annual Meeting Report, *Larry C. Hunter*

NEWS AND NOTICES

- 8 Discipline
13 Newsbriefs
33 Distinguished Lawyers 2007
36 2007 Annual Meeting pictures
39 Directory Updates
45 Idaho Law Foundation
45 Hawley Troxell Ennis & Hawley LLP Pro Bono
45 IVLP Special Thanks
45 Grapes of Wrath
46 Donors List for 2006-2007
50 Idaho Supreme Court Fall Terms
50 Idaho Supreme Court Oral Arguments
50 Idaho Court of Appeals Fall Terms
50 Idaho Court of Appeals Oral Argument
51 Cases Pending
54 USPS Statement of Ownership
55 Coming Events
56 Of Interest
58 Classifieds
60 Continuing Legal Education Information

ON THE COVER

"Red Tail Fair" was photographed by Assistant United States Attorney Monte Stiles. Monte is an avid photographer who specializes in wildlife and landscape photography. You can see view more of his pictures at www.mon-testilesphotography.com

SECTION SPONSOR

This issue of *The Advocate* is sponsored by the Young Lawyers Section of the Idaho State Bar.

The Advocate

Official Publication of the Idaho State Bar

MANAGING EDITOR

Jeanne S. Barker

EXECUTIVE DIRECTOR

Diane K. Minnich

EDITORIAL

ADVISORY BOARD

Lorna K. Jorgensen, *Chair*
Matthew T. Christensen
Samuel B. Laugheed
Kenneth J. Pedersen
Scott E. Randolph
Pamela J. Tarlow
Mitchell E. Toryanski
Hon. Mikel H. Williams
John N. Zarian
Brian P. Kane
Karin D. Jones
Andrew E. Hawes,
Commissioner Liaison

BOARD OF COMMISSIONERS

Andrew E. Hawes, *President*
Terrence R. White,
Commissioner
Dwight E. Baker,
Commissioner
B. Newal Squyres,
Commissioner
Douglas L. Mushlitz,
Commissioner

ADVOCATE STAFF

Jeanne S. Barker
Managing Editor
jbarker@isb.idaho.gov
Robert W. Strauser
Advertising Coordinator
Senior Production Editor
rstrauser@isb.idaho.gov
Amber R. B. Kenoyer
Communications Assistant



Copyright© 2007 The Idaho State Bar. The editorial contents of this publication are the opinions of the authors and do not necessarily represent or reflect the policies or opinions of the Idaho State Bar. *The*

Advocate has the authority to edit material submitted for publication. Appearance of an advertisement in *The Advocate* does not constitute a recommendation or endorsement by *The Advocate* or the Idaho State Bar of the goods or services offered therein. The Idaho State Bar Editorial Advisory Board reserves the right to reject advertising determined not to be in keeping with the publication's standards.

The Advocate (ISSN 05154987) is published monthly, September through June by the Idaho State Bar, 525 W. Jefferson Street, Boise, Idaho 83702. Subscriptions: Idaho State Bar members receive *The Advocate* as part of their annual dues payment. Nonmember subscriptions are \$45 per year. Periodicals postage paid at Boise, Idaho.

POSTMASTER: Send address changes to:
The Advocate
P.O. Box 895



PRESIDENT'S MESSAGE

Andrew E. Hawes

HOUSE COUNSEL



Historically, in-house (house counsel) lawyers struggled to address unauthorized practice of law issues. This was particularly true in the old days when many states, including Idaho, lacked

guidelines or rules governing house counsel lawyer activities. This left the house counsel to determine whether he or she should obtain a license in Idaho, and in each and every state his or her employer/client conducts or may conduct business. Eventually, Idaho and many other states recognized this dilemma and adopted rules providing that house counsel lawyers, under certain conditions, would be permitted to practice law in their employer/client state without having to pass the bar exam. And, like Idaho, some states adopted licensing requirements for house counsel lawyers.

If attorneys follow the Idaho rules relating to house counsel attorneys they don't have to sit for a bar exam. However, there are house counsel attorneys who refuse to follow the Idaho rules or similar rules in other states. Not obtaining a house counsel license could have disastrous consequences for the Idaho house counsel attorney and/or their employer. Plus, a house counsel lawyer obtaining a house counsel license in Idaho has the potential added benefit of gaining admittance into Idaho under Idaho's reciprocity rules.

Rule 5.5 (b)(2)(i) Idaho Rules of Professional Conduct (Permissive Conduct)

Idaho Rules of Professional Conduct (IRPC) 5.5(b)(2)(i) provides that a lawyer admitted to practice in another jurisdiction, but not in the state of Idaho, "does not engage in the unauthorized practice of law if he or she is a lawyer who is an employee of a client that acts on the client's behalf or, in connection with the client's matters, on behalf of the client's commonly owned

organizational affiliates."

In reviewing this Rule, it is important to note that the scope of the authorized practice is limited. While one is permitted to do work on behalf the client or its commonly owned organizational affiliates, the rule does not permit the same attorney to make or prepare appearances before the tribunal on behalf of the client or anyone else. (Comment [3])

Paragraph 2 of the commentary to Rule 5.5 does indicate it is permissible to establish an office or other permanent presence in the State of Idaho without being admitted to practice law in the state. However, paragraph 4 of the commentary makes it clear that this permissive conduct is "subject to registration or other requirements." In other words, although the conduct described in Rule 5.5(b)(2)(i) is permitted; one must still follow other rules of the Idaho State Bar. This would include, among other rules, the house counsel licensing requirements set forth in Idaho Bar Commission Rule 220.

Idaho Bar Commission Rule 220 (Licensing Requirement)

A house counsel attorney desiring to practice law in Idaho without having to take an Idaho Bar exam must obtain a House Counsel License as required under Idaho Bar Rule 220. In order to qualify for this limited license, an attorney must meet the following eligibility requirements under Rule 220(b)—Eligibility: A person for admission to the practice of law as house counsel in this state must show to the satisfaction of the Idaho State Bar Board of Commissioners that he or she:

- (1) maintains his or her office for the practice of law as house counsel within the state of Idaho on behalf of his or her corporate employer; and
- (2) is the age of majority; and
- (3) has received a juris doctorate or bachelor of laws degree, or an equivalent basic law degree from an approved law school as defined in Rule 200(a).
- (4) is a person of good moral character; and
- (5) is admitted to the practice of law before the highest court of a state or of the District of Columbia whose requirements therefore are commensurate with the State of Idaho, including passing a qualifying bar examination for such admission; and
- (6) is a full-time employee of a company, association, or corporation as house counsel, which business of his or her employer is not engaged in the selling or furnishing of legal advice or services to others; and
- (7) is not, and has not been, suspended or disbarred in any state in which he or she is admitted; and
- (8) has in full force and effect an exclusive service contract with the company, association, or corporation.

What does the application process for a House Counsel License entail?

The attorney must complete a house counsel license application (Rule 220 (c)) at least sixty (60) days prior to the applicant's assuming his or her duties as house counsel. The application is then processed in accordance with Rule 220(d). This includes an investigation of the applicant's background and any matter contained in the application. When the application is approved it is then sent to the Idaho Supreme Court to either issue or refuse to issue the House Counsel License.

What are the limits and restrictions of a House Counsel License?

Rule 220(c) also sets forth the limitations of the practice of law in the State of Idaho under a House Counsel License. Under this rule, an applicant to whom a house counsel license is issued shall limit his or her professional activities to internal counseling and practice limited to the business of his or her employer. He or she shall not:

- (1) appear before a court or adminis-

- trative tribunal as an attorney or counselor in the State of Idaho; or
- (2) offer legal services or advice to the public or hold himself or herself out to be so engaged or authorized.

Do other Idaho State Bar Rules Govern? Yes. Rule 220(f), like Rule 5.5 of the IRPC makes it clear that the house counsel licensee takes his or her license subject to the Bar Commission Rules governing conduct and discipline of attorneys. Any violation of this Rule shall constitute grounds for suspension or termination of the house counsel license. Further under 220(g), a house counsel must renew his or her license annually, in accordance with Rule 302(a) which relates to maintenance of membership following admission.

How can a House Counsel License be terminated? Rule 220(i) Cessation of Activity as House Counsel provides for a termination of a House Counsel License under the following scenarios:

- (1) upon termination of the exclusive services contract with the company, association or corporation certified to the Board under Rule 220(b)(8);
- (2) upon termination the maintenance of his or her office in the state of Idaho as provided in Rules 220(b)(1);
- (3) upon failure to meet annual licensing requirements as provided in Rule 302(a);
- (4) upon completion of any disciplinary proceedings which results in the suspension or termination of the house counsel license.

The above is a summary of Rule 220 and other rules and restrictions apply. You can review Rule 220 in its entirety in the Idaho State Bar *DeskBook Directory* or go to the Bar's website, www.idaho.gov/isb.

Recent Trends: House Counsel to the outhouse (or perhaps the big house)

Since 2002, 26 states have passed similar rules allowing for practice of law for inside counsel. Initially, the movement to adopt rules allowing an inside attorney to practice law without having to take a bar exam was welcomed by many. However, some inside attorneys now feel the application process is a hassle or too bureaucratic. In addition, some attorneys continue failing to see the potential risk to its employer-

client for failing to obtain a house counsel license.

Recently, however, there has been a trend to expose or crack down on general counsel who fails to obtain such a license. In addition, employers or employer's adversaries are using an attorney's failure to obtain a license as a sword to go after the house counsel lawyer. This has resulted in embarrassment and potential liability to the employer and/or the house counsel employee. Here are just a few examples.

- (1) This year, a Virginia based pork processing company fired its general counsel after the labor union pointed out he wasn't licensed to practice law in Virginia.
- (2) An owner of a real estate development company is pursuing a malpractice claim against a New York lawyer, who was the company's chief operating officer and part-time general counsel, for fraud and breach of fiduciary responsibility stemming from practicing law without a license in the state of New Jersey. The suit includes a claim that operating without a license allowed him to collect compensation he was not entitled to.
- (3) A recent article appearing in *National Law Journal* "ratted" eight general counsel from Fortune 250 firms for failing to obtain a license in the state where they were working. Other watchdog groups have engaged in "sting" operations to "bust" non-licensed general counsel.
- (4) A study "The Multi-Jurisdictional Nature of Corporate Law Practice" by John K. Villa concludes that a corporation employing an unlicensed in-house counsel in the state where he practices may risk that its communications with counsel will be unprotected by that state's attorney-client privilege law.

Getting your License, not only is it the law, but it could place you on a fast track to full membership through Idaho's reciprocity rules

It goes without saying that the house counsel lawyer should follow the Idaho State Bar rules requiring him or her to

obtain a House Counsel License in order to practice law in Idaho. Further, laziness is no excuse for not filling out the paperwork.

In addition to doing the "right thing" there may be an added benefit for pursuing a House Counsel License. Under certain circumstances, it may speed up the process for an attorney seeking reciprocal admission who does not currently qualify. How? Let's say for example, Bob is a licensed Washington attorney. He has practiced in Ellensburg, Washington for two years. He obtains a job in Boise as a house counsel for a local title company. Bob does not qualify for reciprocal admission in Idaho under Commission Rule 204A-Reciprocal Applicants, because in order to gain reciprocal admission an attorney must actively, substantially and continuously practice law (as defined by IBCR 200(j)) as his or her principal occupation for no less than three of the last five years immediately preceding his or her application for admission, in Idaho or another jurisdiction that qualifies for granting reciprocal admission. See IBCR 204A(a)(2). However, under IBCR 204A(b) Bob could get credit towards the three out of five year requirement for time he practices under his House Counsel License in Idaho. Thereafter, he could apply for reciprocal admission. This provides extra benefit for Bob, because after one year serving under a House Counsel License, he could obtain an active license via reciprocity in Idaho. He would then have the flexibility to expand the scope of his practice for the employer, or go into private practice in Idaho should his house counsel gig not work out.

Andrew E. Hawes, is an in-house attorney for *Western Pacific Timber, LLC* and *Yellowstone Club World, LLC*. He is serving a six-month term as President of the Idaho State Bar Board of Commissioners. He was elected as Commissioner to represent the Fourth Judicial District in 2005. He grew up in Boise, and is a graduate of Boise High School and the University of Denver. He obtained his law degree from the University of Idaho College of Law. He and his wife Gretchen live in Boise and have two daughters, Audrey and Greta.

DISCIPLINE

ROY L. EIGUREN (Public Censure)

The Professional Conduct Board (PCB) of the Idaho State Bar (ISB) has issued a Public Censure to Boise Attorney Roy L. Eiguren based upon his professional misconduct.

The PCB accepted a stipulated resolution of the ISB disciplinary proceeding in which Mr. Eiguren admitted that he violated Rule 1.7 [Conflict of Interest] and 1.10 [Imputation of Disqualification] by failing to adequately and timely consult with and explain to the University of Idaho Foundation (UIF) the implications and risks of his firm's representation of another client in a common transaction and to receive the Foundation's informed consent of such representation.

Mr. Eiguren's partner, L. Edward Miller, was retained by the University of Idaho Foundation (UIF) as special project counsel for a project initially known as the Boise Initiative and later called Idaho Place. At the time of his retention by UIF, Mr. Miller was acting as counsel to Civic Partners Idaho LLC, developer of the Courthouse Corridor urban renewal project in Boise, Idaho. At the same time and continuing through 2002, Mr. Eiguren was an officer and member of the board of directors of UIF.

In 2001, UIF and Civic entered into an agreement by which Civic would act as project manager for the development of property located on the south side of Front Street in Boise. Mr. Miller provided certain legal services to both UIF and Civic in the negotiation and drafting of a memorandum of understanding (MOU) detailing their business relationship. In connection with those legal services, Mr. Miller drafted a conflict consent and waiver letter signed by representatives of UIF and Civic which was dated January 1, 2001, although not actually signed until several months later.

Also in 2001, UIF and Civic extended their agreement to include land located on the north side of Front Street being developed by Civic as part of the "Courthouse Corridor" urban renewal project. As to the latter parcel, Civic was to be UIF's landlord and project manager as well as overall developer of the entire Courthouse Corridor project.

In the spring of 2002, the Idaho Legislature authorized the Idaho State Building Authority (ISBA) to issue bonds and proceed with construction of the Idaho Place project. The ISBA, in turn, announced that it did not intend to use Civic as project manager and, therefore, it became necessary for Civic and UIF to terminate their relationship. To that end, negotiations between Civic and UIF were held in June and July of 2002. During these negotiations Mr. Miller provided legal services to both Civic and UIF while he and his firm continued to act as counsel to Civic in regard to a variety of issues related to the Courthouse Corridor. As a volunteer member of the UIF Board, Mr. Eiguren actively participated in these negotiations as a member of the UIF negotiating team notwithstanding his firm's representation of Civic.

On July 17, 2002, Mr. Eiguren and his partner, L. Edward Miller, sent a letter to Civic and UIF which, while reference the fact that CIVIC and UIF were then in the process of terminating their business relationship, stated that their further participation

in negotiation of the Reconciliation Agreement would be conducted on the same terms and conditions as set forth in the January 1, 2001 "conflict waiver letter." The January 1, 2001 letter, however, referred to negotiations for the formation of a relationship between Civic and UIF while the Reconciliation Agreement negotiations involved the termination of such relationship and claims for substantial sums of money to be paid by UIF to Civic.

There was inadequate consultation between Mr. Eiguren and the UIF Board of Directors about the implications and risks involved in his participation in the Reconciliation Agreement negotiations in light of his firm's continued responsibilities to Civic. However adequate the January 1, 2001 "conflict waiver" letter and the disclosures preceding the signing of such letter may or may not have been that letter envisioned the formation, not the termination, of a relationship between the Civic and UIF.

The public censure does not limit Mr. Eiguren's eligibility to practice law.

L. EDWARD MILLER (Public Censure)

The Professional Conduct Board (PCB) of the Idaho State Bar (ISB) has issued a Public Censure to Boise Attorney L. Edward Miller based upon his professional misconduct.

The PCB accepted a stipulated resolution of the ISB disciplinary proceeding in which Mr. Miller admitted that he violated Rule 1.7 [Conflict of Interest] by failing to adequately and timely consult with and explain to the Board of Directors of his client, The University of Idaho Foundation (UIF) the implications and risks of his common representation of UIF and another client in the same transaction.

Mr. Miller was retained by UIF as special project counsel for a project initially known as the Boise Initiative and later called Idaho Place. At the time of his retention by UIF, Mr. Miller was acting as counsel to Civic Partners Idaho LLC, developer of the "Courthouse Corridor" urban renewal project in Boise, Idaho.

In 2001, UIF and Civic entered into an agreement by which Civic would act as project manager for the development of property located on the south side of Front Street in Boise. Mr. Miller provided certain legal services to both UIF and Civic in the negotiation and drafting of a memorandum of understanding (MOU) detailing their business relationship. In connection with those legal services, Mr. Miller drafted a conflict consent and waiver letter signed by representatives of UIF and Civic which was dated January 1, 2001, although not actually signed until several months later.

Also in 2001, UIF and Civic extended their agreement to include land located on the north side of Front Street being developed by Civic as part of the "Courthouse Corridor" urban renewal project. As to the latter parcel, Civic was to be UIF's landlord and project manager as well as overall developer of the entire Courthouse Corridor project.

In the spring of 2002, the Idaho Legislature authorized the Idaho State Building Authority (ISBA) to issue bonds and proceed with construction of the Idaho Place project. The ISBA, in

turn, announced that it did not intend to use Civic as project manager and, therefore, it became necessary for Civic and UIF to terminate their relationship. To that end, negotiations between Civic and UIF were held in June and July of 2002. During these negotiations Mr. Miller provided legal services to both Civic and UIF while he and his firm continued to act as counsel to Civic in regard to a variety of issues related to the Courthouse Corridor.

On July 17, 2002, Mr. Miller and his partner, Roy L. Eiguren, sent a letter to Civic and UIF which, while referencing the fact that Civic and UIF were then in the process of terminating their business relationship, stated that their further participation in negotiation of the Reconciliation Agreement would be conducted on the same terms and conditions as set forth in the January 1, 2001 "conflict waiver letter." The January 1, 2001 letter, howev-

er, referred to negotiations for the formation of a relationship between Civic and UIF while Reconciliation Agreement negotiations involved the termination of such relationship and claims for substantial sums of money to be paid by UIF to Civic.

Mr. Miller did not sufficiently explain or consult with a broader group of UIF Board Members and Officers regarding the implications and risks involved in his participation in the Reconciliation Agreement. However adequate the January 1, 2001 "conflict waiver" letter and the disclosures preceding the signing of such letter may or may not have been, that letter envisioned the formation, not the termination, of a relationship between Civic and UIF.

The public censure does not limit Mr. Miller's eligibility to practice law.

Dear Colleagues,

As many of you are aware, William J. Brauner passed away January, 2005. Pursuant to the request of the family, I have obtained the files of his law practice, including all of the original wills that he did over his forty-eight years of practice. Any inquiries about his files and/or wills are available at (208) 466-0050.

Respectfully,
Alan J. Coffel

COFFEL & ANTHON LAW OFFICES, P.C.
921 7th St. South, Nampa, ID 83651
Telephone: (208) 466-0050
Telecopier: (208) 465-9956
Email: coffellawoffices@quest.net



Your legal staffing resource for part-time and full-time employees.

We are accepting applications and resumes from experienced paralegals and other professional office staff.

Contact Merrily Munther
or Mary Lou Brewton-Belveal
at (208) 344-4566
info@idaholegalstaffing.com

IS YOUR CASE SET FOR TRIAL AND YOU NEED IMMEDIATE HELP?

Personal Injury, Medical Malpractice Cases: over 35 years of Trial Experience; Federal and State Courts, Statewide. Verdicts in Excess of One Million Dollars in Medical, Product Liability and Airline Case. Board Certified Trial Specialist: National Board of Trial Advocacy; American Board of Professional Liability Attorneys. Million Dollar Advocates Club; Pro hac vice in Oregon, Washington, Utah, Montana, California and Nevada. Board of Governors of ABPLA 2007; Special Competence Award, National Board of Trial Advocacy (ABA accredited) 2004.

"Mr. Schlender's teaching and assistance on a medical malpractice case provided both legal and tactical insights that were instrumental in a favorable verdict. I highly recommend his services to anyone."

- Connie Taylor, J.D. (Lewiston, ID)

"Lee's quick review and help has been invaluable."

- Ken Coleman, M.D./ J.D. (Spokane, WA)

"E. Lee pulled together for us a medical case of extreme complexity, resulting in an excellent settlement. I definitely will seek Lee's assistance with future cases."

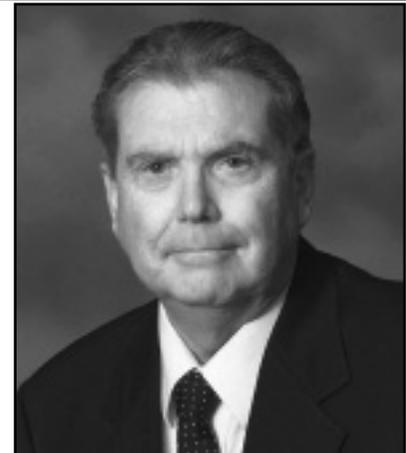
- Kevin Dinius, J.D. (Nampa, ID)

"Lee and I were classmates of the University of Idaho law school more years ago than I'd care to remember. Recently, I had the pleasure of working with Lee as co-counsel on a medical negligence case in Northern Idaho. I would strongly recommend him to anyone going to trial with a major case. His experience and knowledge of the trial practice is hard to match."

- Rick Fancher, J.D. (Spokane, WA)

"Mr. Schlender and I settled a major medical case in Salt Lake City last year. His experience was invaluable. "

- Cory Mattson, J.D. (Salt Lake City, UT)



E. Lee Schlender

Trial Lawyer and Consultant

Flat rate or fee arrangements available. Emphasizing trial and settlement assistance on short notice.

Call (208) 587-1999 or go to American Board of Professional Attorneys abpla.org, under State of Idaho; Schlender Profile.

ERVEN LEE SCHLENDER, J.D.
2700 Holly Lynn Drive
Mountain Home, ID 83647



Join us for the Resolution Meetings and Award Presentations



Join the Board of Commissioners, District Bar Officers and your colleagues for the Resolution Meeting in your district. In addition to the consideration of resolutions the meetings will include honoring

local attorneys receiving the professionalism and pro bono awards; a report from the University of Idaho College of Law on the future options being considered by the law school that were discussed in the August/September issue of The Advocate; and reports from Commissioners on issues facing the Bar.

Resolution packets containing specific dates and times for the meetings and resolutions for your consideration will be mailed to all active members and judges in mid-October.

DISTRICT BAR ASSOCIATION RESOLUTION MEETING CALENDAR

- 1st District, Coeur d'Alene Noon, Wednesday, November 7
2nd District, Lewiston Evening, Tuesday, November 6
3rd District, Nampa Evening, Thursday, November 1
4th District, Boise Noon, Thursday, November 1
5th District, Twin Falls Noon, Friday, November 2
6th District, Pocatello Noon, Thursday, November 15
7th District, Idaho Falls Noon, Friday, November 16

PROFESSIONALISM AWARDS

The Bar's Professionalism Awards are an expression of respect, commendation and appreciation from the recipient's peers. It is one of the highest honors an Idaho lawyer may receive during his or her career. Honorees are lawyers who have a reputation for civility, ability, diligence, integrity, courtesy and cooperation - epitomizing what it means to be an exceptional lawyer. These

lawyers have brought distinction to the legal profession through their conduct and service.

The 2007 Professionalism Awards will be given to the following lawyers at the resolution meetings in their districts.

FIRST DISTRICT

Jerry D. Mason, Coeur d'Alene. Jerry is with the firm Mason & Stricklin, LLP. He is a native of Illinois and graduated from Illinois College with honors with a B.S. in Economics and Business. He has a Masters in Administration in Government from Idaho State University, and received his J.D. with honors, in 1985 from the University of Idaho College of Law.

Jerry feels problem-solving is one of the best attributes of the legal profession. By making an effort to understand the policy foundation of the law, he believes attorneys can best serve the professional needs of their clients. Currently he serves as counsel to the Association of Idaho Cities and to the board of trustees of the Idaho Counties Risk Management Program (ICRMP). He often assists various Idaho state associations of cities and counties in matters of legislative concern.

Jerry is a member and former board member of Idaho Municipal Attorneys; presenter for Bar CLE programs, presenter in community leadership training programs, and volunteer mediator in local controversies at various locations around the state.

He is married to Penny Friedlander, magistrate judge in Coeur d'Alene. They have one daughter, Minna who attends school at the University of Puget Sound.

SECOND DISTRICT

Robert P. Brown, Lewiston is with Clements, Brown & McNichols, P.A. His areas of practice are banks and banking, business and commercial transactions, civil litigation, corporate law, education law, estate planning, probate, and healthcare and hospital law. He graduated from the University of Idaho with a B.A. in 1962, and received his LL.B. in 1964. He has been a member of the Bar for 43 years. He is a member of the Idaho State Bar's Commercial Law & Bankruptcy; and, Taxation, Probate & Trust Law Sections. He belongs to the American Bar Association and the American Health Lawyers Association.

THIRD DISTRICT

Andrew C. Thomas, Caldwell works for the Idaho Legal Aid Services Inc. He has worked for 32 years helping provide legal services to low income people. Andy has assisted the IVLP in setting up Custody Modification Workshops in Canyon County, and was a recipient of a Pro Bono Award in 1998. Andy feels it is an obligation and privilege to represent indigent clients in civil cases. Despite heavy caseloads and limited resources he feels Idaho Legal Aid provides high quality professional legal services to low-income clients. Respect and courtesy for judges and members of the Bar is essential to those services.

Andy's family lives in Boise. He enjoys reading and going to movies, and is an avid fan of Bob Dylan.

FOURTH DISTRICT

Stanley W. Welsh, Boise is with the firm Cosho Humphrey, LLP. He works with general law with an emphasis in family law. He received his B.A. from Gonzaga University and his J.D. from the University of Idaho College of Law in 1976. He has written several articles, and was a Notes Editor for the Idaho Law Review. Stan still writes on family law matters and is a CLE presenter for the Bar. He has taught family law at the University of Idaho College of Law; is a member of the American Bar Association Certified Fellow; and the American Academy of Matrimonial Lawyers. He is a Certified Fellow, American Academy of Matrimonial Lawyers and was an Adjunct Professor of Family Law at the University of Idaho in 1993.

Samuel R. "Dick" Rubin, Boise. Dick is the executive director of the Federal Defenders Service of Idaho, Inc. He is responsible for trial units in Boise and Pocatello, and for the Capital Habeas Unit in Moscow.

Dick received a B.A. in psychology from the University of Iowa and in 1969 was awarded his J.D. from the University of Iowa College of Law. He was in private practice from 1969-1994, before joining the Federal Defenders of Eastern Washington and Idaho in 1994. He has been a member of the Idaho State Bar since 1995 and a member of the Professional Conduct Board since 2000.

Dick feels it is important for attorneys to realize they are part of the system of justice and they must commit to accepting the responsibility for the proper function of our system of justice.

He is admitted to practice law in Idaho, Georgia, Colorado, and Iowa. He has been admitted to practice before the U.S. Supreme Court, the Fourth, Fifth, Ninth, and Eleventh Circuit Courts of Appeals, the U.S. District Courts of the Northern District of Georgia and the District of Idaho; the Supreme Courts of Iowa, Georgia, Colorado, and Idaho.

Dick and his wife Suzanne, a school-teacher, have two children. Amy is a lawyer and Daniel lives in London. They enjoy traveling together. Dick says, "I can't imagine another job where every day you wake up and know in your heart that you might be able to help someone, to make their life a little bit better or easier... That is what I want to do so long as I am able."

FIFTH DISTRICT

Richard D. Greenwood has a private practice in Twin Falls. Currently, he is serving as an advisor to the Judicial Education Committee of the Idaho Supreme Court on revisions to the Idaho Bench Guide and Clerk's Manual. Dick received his J.D. from the University of North Dakota. He has been a member of the Bar for 29 years.

As a young lawyer, Dick credits the entire 5th District Bar with mentoring him in the art of courtesy while continuing to advocate and represent your clients. An attorney's word was his bond and bad manners in the guise of "zealous advocacy for the client" were almost nonexistent. Dick feels it is the obligation of every lawyer to behave in a professional manner. It doesn't matter if they are in the office, in court, or in daily activities in their community. Unprofessional conduct brings immediate public disrepute to the legal profession, which in its turn denigrates the justice system.

Dick is active in Bar activities. He is a Board Member and past chair of the Board of Governors Commercial Law & Bankruptcy Section, CLE presenter, former member of the ISB Fee Arbitration Panel, and a 2004 recipient of a Pro Bono Award. He has taught adult education classes on wills and trusts at the College of Southern Idaho and at the Idaho Bankers' Association local chapter. He is a member of the American Inns of Court, 193; member of the ABA, and member of the Idaho Trial Lawyers Association and American Bankruptcy Institute.

Dick was born in Nebraska and raised on a cattle ranch in North Dakota. He and Jan have lived in Twin Falls since he graduated

from law school. They have three children and seven grandchildren. He likes to golf and fish, and says he enjoys politics as a spectator sport, finding C-Span more entertaining than movies.

SIXTH DISTRICT

Thomas F. Dial, Pocatello is the former owner of Dial, May, Rammel, Chtd; and is currently "of counsel" to the firm. He graduated from Idaho State University with a B.A., and received his J.D. from the University of Idaho College of Law in 1967.

When asked about past mentors, he said Judge Arthur Oliver helped him understand what it was like to feel like a lawyer and to be proud of being a lawyer. He admired intelligence, good lawyering, well-written briefs, and trial lawyers. His advice was that an attorney's dignity and honor is his most precious asset and that it should not be sold to the highest bidder.

He is a member and past president of the Sixth District Bar Association, member of the Idaho State Bar, member and officer of the Bar's Family Law section; member of the ABA; Idaho Trial Lawyers Association; Sixth District CASA; American Trial Lawyers; Inns of Court; Fellow, American Academy of Matrimonial Lawyers. He has written several articles on Family Law, Jury Selection, and Trial Lawyers. He was a criminal magistrate judge for the Sixth District Court from 1971-74; member of the Governors Council on Criminal Justice. He was on the Board of Directors for the Sixth District CASA. He is a past recipient of an ISB Pro Bono Award and a recipient of an ISB Service Award. He is currently a member of the Idaho Supreme Court Child Support Guidelines Committee.

Tom's wife Gail is a professor at Idaho State University. He has two children, Tami & Paul, Six grandfriends (3 boys, 3 girls) and two step-children, Beckie & Michael. Tom is an avid photographer and fly fisherman, and he also enjoys travel, wood working, skiing, and mountain biking.

SEVENTH DISTRICT

Douglas R. Nelson is with Anderson, Nelson, Hall, Smith, PA of Idaho Falls. He serves as general counsel to a state chartered regional bank and represents a number of other state and federally chartered lenders as outside counsel. Doug received his J.D. with high honors from the University of Utah College of Law. He served a clerkship with the Consumer and Securities Fraud Division, Utah Attorney General, and with the Nielsen Conder law office in Salt Lake City.

Doug feels attorneys must promote and sustain the legal process by educating the

public about their rights and responsibilities, and providing access to the legal process for all citizens. The founder of his law firm, W.J. Anderson was a WWII veteran and former POW. His strong opinions regarding the importance of the legal process in guaranteeing our personal freedoms shaped Doug's legal professional philosophy.

Doug is a member of the Idaho State Bar's Business & Corporate Law, Real Property, and Taxation Probate and Trust Law Sections. He is a CLE presenter for the Bar and for the Idaho Law Foundation. He is on the IVLP Committee, chairs the Law Day Committee for Seventh District, and has been on the Unauthorized Practice of Law Committee. He is a past president of the Eastern Idaho Estate Planning counsel; member of the National Association of School Law Attorneys, and a visiting lecturer at BYU-Idaho, School of Education.

Doug was raised in rural Idaho Falls and is a fourth generation Idahoan. He and his wife Billie have six children.

DENISE O'DONNELL DAY PRO BONO AWARDS

The pro bono awards are named for the late Idaho Volunteer Lawyers Program (IVLP) Director Denise O'Donnell Day who worked throughout her career to provide legal services to the poor and disadvantaged. Pro bono award recipients follow her example of providing freely of their professional abilities, time and service.

FIRST DISTRICT

Fred R. Palmer, Sandpoint. Recently Fred closed a pro bono custody case. The client was a young mother who had left a five-year relationship with the father of her two young sons when she found out he was using Meth. When the father retained an attorney the mother asked IVLP for help to obtain custody of her sons. Fred represented the mother in the Bonner County Court and was able to obtain permanent custody of the two boys for her.

SECOND DISTRICT

Trapper Stewart, Moscow. At oral argument of the State's Exceptions to Plaintiff's Failure to Post Bond, Calvin Murray (not his real name) raised the issue whether the bond requirement of Idaho Code Section 6-610(2) was constitutional. Second District Judge John Bradbury was sufficiently impressed with Mr. Murray's argument that he vacated the pending schedule and required additional briefing. Because Mr. Murray was an inmate and did not have counsel, Judge Bradbury contacted IVLP to see if a volunteer could be secured to brief this legal issue from Murray's

perspective. Trapper agreed to file a limited appearance for Mr. Murray and brief the court on this constitutional issue. Trapper not only prepared the requested briefing, but also secured a favorable order for Mr. Murray. Trapper's pro bono work served to clarify the law in an area where significant civil rights were implicated.

THIRD DISTRICT

William F. Lee, Emmett, was approached by a young mother asking for representation in a modification case concerning her two-year-old son. Bill sent the client to IVLP, saying he would represent her if she qualified for pro bono assistance under the program. As soon as he found out she was eligible he started working, spending over 50 hours on her case. Bill negotiated a settlement after the extensive litigation. He noted, "It was a mess, but we managed to get her taken care of."

FOURTH DISTRICT

Lora Rainey Breen, Boise. The immigration case Lora handled for IVLP took over 250 hours and 12 years to reach a successful outcome. In 1994, Benjamin Banfro called IVLP seeking assistance in his deportation hearing. Lora explained that the case required several Department of Justice appeals over many years. She said, "I am happy to report that Mr. Banfro finally received his green card a couple of months ago. It was a long awaited and rewarding outcome. In my opinion, it was a case where justice truly did prevail despite a very long, uphill battle."

Brian Fischenich, Boise, worked with Catholic Charities of Idaho and IVLP to provide pro bono assistance in getting legal visas under the federal "Violence against Women Act" (VAWA) to three victims of domestic violence. VAWA allows immigrant victims to obtain immigration relief without the cooperation or knowledge of their citizen (or "Green Card" holding) spouse or parent, when that person is an abuser.

But Brian's pro bono efforts did not end there. He also spent countless additional unpaid hours recruiting and training other attorneys from his law firm to serve as volunteer attorneys for more victims seeking immigration relief under VAWA.

Brooke A. O'Neil, Finch & Associates law Office, PA, Boise, was nominated by the Family Advocates 4th District CASA program. "Brooke has donated a great deal of her time advocating for abused and neglected children. She is a great asset to the program and we are extremely thankful for her efforts." She has been volunteering in CASA cases since 2000, and has logged more than 100 volunteer hours through IVLP, working

with volunteer Guardians ad Litem to ensure the best interest of victims of child abuse or neglect are met.

Sheryl Musgrove, Boise was nominated by the U.S. District Court for her work on federal civil rights violation cases and 8th amendment violations against the defendants. In 2005, she took on Gammett v. Idaho Department of Corrections as a pro bono case. The complaint raised violations including the defendant's repeatedly denied treatment for a gender identity disorder. Sheryl worked more than 500 hours on the case, opposite approximately nine attorneys on the defense side, before she was contacted by a second inmate with similar claims. The District Court had turned down his request for pro bono counsel after it could not find anyone willing to take his case.

Sheryl realized she was dealing with a situation far more factually and procedurally complex than any one pro bono attorney could possibly handle, much less one attorney in a small firm. She began contacting numerous national interest groups as well as major national law firms. Eventually, she recruited Morrison & Forrester and the National Center for Lesbian Rights to take over the first case pro bono and to file a new case for the second inmate. She continues to serve as local counsel on both cases. The parties are still in the midst of discovery now, nearly two years after the first case was filed.

FIFTH DISTRICT

Alan Goodman, Rupert. Mrs. Garcia (not her real name) tried to protect her three young grandchildren from their neglectful, substance-abusing parents by obtaining guardianship. While the children's mother was jailed on drug charges and their father absent from the state, Mrs. Garcia took her modest savings and hired an attorney. This attorney started the process and obtained a temporary order, but failed to complete the case (that attorney has now been disciplined by the Idaho State Bar). When the venue changed from Blaine to Cassia County, Alan graciously agreed to help.

At this point, the children's mother, who originally had no opposition to the guardianship, was on the road to recovery and decided to contest entry of a permanent order. While Mrs. Garcia was strongly opposed to the mother having custody, Alan was able to negotiate terms, including frequent drug testing and a gradually increasing visitation schedule, which protected the children and provided reasonable assurance that placing them back with their natural parent was in their best interests. Mrs. Garcia's objectives

were only partially realized but Alan's professionalism, pragmatism, and willingness to serve contributed to a successful resolution of this bitter family dispute.

SIXTH DISTRICT

Dennis Olley, Pocatello has been nominated by the 6th District CASA Program. During a recent hearing Dennis elicited from a mother that she was a practicing drug addict. Although the fathers of the children had already admitted their drug addictions interfered with their being able to parent their children, the mother had continued to deny she was an addict and to seek the help she needed. Dennis got the termination and the mother has since gone to jail. Vicky Hadley of CASA says, "Dennis is an attorney with well-honed skills. He uses those skills willingly to help the CASA Program achieve the goals of protecting children in Child Protection Actions."

Jonathan M. Volyn, Pocatello. Jon recently took on a case for a young mother who had approached him to rescind the guardianship of her son that had been granted to her mother. The client was low-income and Jon agreed to work on the case through IVLP. He worked diligently for his client. However, after almost 70 hours of volunteer work, he had no choice but to withdraw before the case was resolved due to the client's misconduct. This gives us all the more reason to admire the generosity and professionalism of someone like John. In John's closing letter he said, "Despite the difficulties of this particular case, I still support the IVLP and will continue to accept appointments and to otherwise 'help out'."

SEVENTH DISTRICT

Jason C. Stolworthy, Idaho Falls, expressed an interest in helping people with divorce in domestic violence situations. IVLP presented him with a case in which a 22-year-old woman needed a divorce. The couple had an 8-week-old child. The wife had obtained a 90-day protection order against her abusive husband, who immediately left his wife and baby for another woman. Jason spent 52 hours obtaining a divorce decree and providing for the safety and security for this young mother and her child.

Brian Tucker, Idaho Falls was nominated by the 7th District CASA program. Brian has been taking CASA cases for over 11 years and has served numerous children in Idaho Falls. "He is a great asset to the program, not only taking cases, but consistently recruiting new attorneys for the program." CASA said, "We commend him and thank him for what he has given to children."

NEWS BRIEFS

Supreme Court Appointment—4th District Judge Joel Horton, was appointed by Governor Butch Otter to fill the seat vacated by Justice Linda Copple Trout, who retired August 31. He will serve the remainder of her term, which expires in January 2009, and will stand for election in May 2008. After earning his J.D. from the University of Idaho College of Law, Judge Horton worked in private practice. He moved to Ada County in 1988 to serve as a deputy prosecuting attorney. In 1994, he was appointed as a magistrate in Ada County, and in 1996, was appointed by (then Governor Phil Batt) to the 4th District Court.

Justice Linda Copple Trout—Justice Trout will be honored for her years of service to the Idaho bench at the Judicial Conference in Sun Valley on Tuesday, October 2, 2007, 5:30 – 6:30 p.m. at the Sun Valley Inn Terrace. The annual Grapes of Wrath will also take a few moments to honor her at this event. It will be on Thursday, October 18, 2007 from 5:30 to 8:30 p.m. For the Grapes of Wrath cost of tickets and to RSVP please call (208) 384-0419.

Casemaker—They are currently conducting a beta-test for Casemaker 2.0. When accessing Casemaker you can use the original Casemaker or try the option to explore the beta 2.0 version. If you want to try the beta version it will help if you understand some of the modifications that were made. The word AND is required to do inclusion searches. Simply leaving a space between keywords will not yield the same results as in the older version. (e.g. on the older version to search for all case law that have both the words gun and knife, you would enter in gun knife

and then click on search. With the new system you would enter gun AND knife to generate the same results.) To locate one or more words in a multiple word search (OR search) type in the word OR between each of the key search terms. A comma between words will not produce an OR search as it does in the older version. (e.g. gun, knife needs to change to gun OR knife to generate the same results.) Additionally, by pressing the ENTER key on the keyboard, the search will be advanced to the next screen. Clicking the SUBMIT button on the screen will also advance the search. As part of the testing of the new system you will notice a FEEDBACK button at the bottom of the FIELD SEARCH page clicking on this link will create an email addressed to feedback20@lawwriter.net for your comments. Your comments will go directly to the site designer and will allow Casemaker to modify or otherwise enhance the site to suit your needs. The ISB will send out information in the Ebulletin and address it on their Website when Casemaker 2.0 is out of testing and ready to run.

Judicial Mentor Program—The ABA Judicial Division is initiating a Judicial Mentor Program to pair minority lawyers with judges in the areas of the judiciary they are interested in pursuing. The Mentor Program is open to all attorneys and judges regardless of ABA membership. To the extent possible and requested, the program will match participants according to race, ethnicity, gender, etc. Program information and registration can be found at <http://www.abanet.org/jd>. If you have questions about the program, please contact Gilda Fairley at (312) 988-5689 or fairleyg@staff.abanet.org.

ALTERNATIVE DISPUTE RESOLUTION

Merlyn W. Clark

Mr. Clark serves as a private hearing officer, federal court discovery master, neutral arbitrator and mediator. He has successfully conducted more than 500 mediations. He received the designation of Certified Professional Mediator from the Idaho Mediation Association in 1995. Mr. Clark is a fellow of the American College of Civil Trial mediators. He is a member of the National Roster of Commercial Arbitrators and Mediators of the American Arbitration Association and the National Panel of Arbitrators and Mediators for the National Arbitration Forum. Mr. Clark is also on the roster of mediators for the United States District Court of Idaho and all the Idaho State Courts.

Mr. Clark served as an Adjunct Instructor of Negotiation and Settlement Advocacy at the Straus Institute For Dispute Resolution, Pepperdine University School of Law in 2000. He served as an Adjunct Instructor at the University of Idaho College of Law on Trial Advocacy Skills, negotiation Skills, and Mediation Advocacy Skills. He has lectured on evidence law at the Magistrate Judges Institute, and the District Judges Institute annually since 1992.

- Arbitration
- Mediation
- Discovery Master
- Hearing Officer
- Facilitation
- Education Seminars
- Small Lawsuit Resolution Act

HTEH

HAWLEY TROXELL
ENNIS & HAWLEY LLP
ATTORNEYS AT LAW

Phone: 208.388.4836
Fax: 208.342.3829
mwc@hteh.com

877 Main Street · Suite 1000
Boise, ID 83702
www.hawleytroxell.com

WELCOME FROM THE YOUNG LAWYERS SECTION

Maureen G. Ryan
Holland & Hart LLP

The Young Lawyers Section is proud to sponsor the October issue of *The Advocate*. We chose to sponsor this particular month knowing that the October *Advocate* issue is the first issue received by many newly admitted members of the Idaho Bar. So if you just passed the Idaho bar exam and this is your first time reading *The Advocate*, congratulations! We hope you enjoy this and every issue of *The Advocate*.

We selected the articles for the October issue with the young lawyer in mind. The articles are written from either a young lawyers' perspective or are designed to advise a young lawyer in his or her first years of practice. *The Honorable Howard Smyser* from the Twin Falls County Magistrate Court provides readers with practice tips collected over his many years on the bench. *Weston Meyring* writes from an appellate law clerk's perspective about maximizing one's success on appeal. *Matthew Christensen* offers a fictional compilation of letters from a seasoned attorney counseling his young lawyer grandson on the practice of law. *Jason Prince* and *Hilary Bradbury* conducted interviews with a seasoned trial attorney (Walt Sinclair) and business attorney (Larry Prince), respectively, providing young lawyers with insight on how to become a "superstar" in different practice areas. Special thanks are in order for Jason Prince and Matthew Christensen for their efforts in authoring, compiling and editing articles, and to each of our authors for their contributions.

The Young Lawyers Section is one of the most active sections of the Bar. We host semi-annual receptions in May and September for newly admitted members of the Idaho Bar. We provide service opportunities to our members through our rela-

tionship with Boise State University's Pre-Law Society and our sponsorship of the annual Attorneys Against Hunger fundraiser to benefit the Idaho Foodbank. We promote authorship with our monthly *Advocate* columns and our goal of sponsoring one *Advocate* issue per year. And if you are a "young lawyer" (i.e., under the age of 37 and/or admitted to practice in Idaho for less than three years), you will soon be receiving our first annual Young Lawyers Section newsletter highlighting the Section's activities and opportunities for involvement.

If you are a young lawyer, we encourage you to become a member of our Section. The relationships you form with other Young Lawyers Section members will benefit you both professionally and personally throughout your career in Idaho.

ABOUT THE SECTION CHAIR

Maureen G. Ryan is the Chair of the Young Lawyers Section. She is an associate with Holland & Hart LLP in Boise, Idaho. Her practice focuses on commercial real estate transactions and development. Though not a native Idahoan, the time she has spent camping in North Idaho, and running and mountain biking in the Boise foothills has convinced her that Idaho is a great place to call "home."

YOUNG LAWYERS SECTION OFFICERS

CHAIR

Maureen G. Ryan
Holland & Hart, LLP
PO Box 2527
Boise, ID 83701
(208) 342-5000 Fax: (208) 343-8869
mgryan@hollandhart.com

CHAIR-ELECT

Jacob K. Becker
Office of the Attorney General
PO Box 83720
Boise, ID 83720-0050
(208) 334-0236 Fax: (208) 334-2297
kbecker@idl.state.id.us

SECRETARY/TREASURER

Hilary Bradbury
Holland & Hart, LLP
PO Box 2527
Boise, ID 83701-2527
(208) 342-5000 Fax: (208) 343-8869
hmbradbury@hollandhart.com

CLE CHAIR

Jason E. Prince
Stoel Rives, LLP
101 S. Capitol Blvd., Ste. 1900
Boise, ID 83702-7705
(208) 389-9000 Fax: (208) 389-9040
jeprince@stoel.com

PAST CHAIR

Matthew T. Christensen
Marshall & Stark, PLLC
660 E. Franklin Road, Ste. 220
Meridian, ID 83642
(208) 884-1995 Fax: (208) 460-1995
matt@marshallandstark.com

ONE JUDGE'S CHECKLIST

Hon. Howard D. Smyser
Fifth District Magistrate Court

Watch your thoughts, they become words.
Watch your words, they become actions.
Watch your actions, they become habits.
Watch your habits, they become character.
Watch your character, it becomes your destiny.
—Frank Outlaw

I'm that annoying type of person who stashes legal snippets in drawers so I can remember them down the road. After several years on the bench, I had a file filled with articles from the bar journals of other states, highlighted portions of photocopies and various other notes, all so disorganized that it was essentially useless. In preparing to speak at local ethics seminars, I compiled this information into written outlines for discussion and then tossed my underlying notes. Those outlines have been combined into this single checklist and fleshed out based upon my experiences in practicing law and my observations as a judge.

I immediately disclose that the proper cites and acknowledgements for this checklist are now lost. The better composed or more clever thoughts that follow certainly came from better minds than mine, sans the appropriate credit they deserve. Further, some very good lawyers would preach differently on some of my points. This article is simply one judge's checklist on how better to practice law.

GENERAL ADVICE

Ask For Help—New attorneys face the challenge of representing real clients in real lawsuits with little experience to draw on. Even experienced lawyers will often face something new to their practice. Never be embarrassed to seek advice from another attorney who knows the relevant law.

Defend The Judicial System—Lawyers hold the ear of the public. Whenever possible, the lawyer should act as an advocate for the American judicial system. At the community level, speak positively of the legal profession. When working with individual clients, urge them to respect the judge, opposing counsel and the process itself. (Experienced lawyers need to mentor beginning lawyers on these points.)

Continuing Education—A common trait of successful lawyers is their knowledge of the law. To maintain that type of professionalism, a lawyer must have meaningful continued learning. Seek out and attend continuing legal education classes offered in your field.

Civility—Good lawyers practice civility at all times. Acting civilly shows that a lawyer is motivated by respect for his opponent and the judicial system, and realizes the importance of his role in the administration of justice.

Practice Law with Honor—Practice law in such a way that you need few favors from opposing counsel, but when you do need an accommodation; opposing counsel will not refuse you.

Keeping Your Word—There will never be a client, there will never be a case, and there will never be a cause more important than your reputation for honesty and integrity. Never compromise your integrity by breaking your word or misleading the court or another attorney.

RELATIONSHIPS WITH OTHERS

Clients—Clients come to see you because they need your help. Treat each client with dignity and listen to everything the client tells you about his problem. Do not make the client feel rushed or convinced that you believe his problem to be unimportant. It is a financial burden for a client to retain your services and they deserve your attention and respect. Once you accept a client, you must act diligently in representing his claims. Maintain open lines of communication with your client by promptly responding to his inquiries. Further, give your client copies of all court documents filed by either side, as well as copies of all important correspondence sent out or received by your office.

Client Confidentiality—Clients should be safe in confiding to their counsel their most secret facts, without peril of publicity. Whether idle chatter or malicious gossip, a lawyer should never divulge a client's private comments. A lawyer's unauthorized disclosure of a client's confidences can cause adverse consequences for the client and discipline for the lawyer. (The lawyer's choice to delete names as he tells the story does not necessarily solve the problem.)

Billing Your Client—In today's world, most lawyers derive their income from billable hours. However, billable hours are subject to abuse and can easily become the breeding ground for attorney-client fee disputes. Fee disputes are the worst kind of disagreement a lawyer can have with his client. To protect yourself, remember that Rule 1.5(b) of the *Idaho Rules of Professional Conduct* requires that the "scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation." As quickly as possible, reduce the fee agreement with your client to writing. You should contemporaneously and accurately record the time you spend on a case and note what you did (even if you do not intend to bill your client or it is a contingent fee case). By doing so, a chronological record of each aspect of the case is created. Such a record is not only needed for billing purposes, but can be important in the event your client changes lawyers, the bar or your malpractice

carrier receives a complaint, or you later petition the court for an award of attorney fees. Make a choice to avoid fee disputes by taking pride in the quality of your work, not in the number of hours you have billed. Before you bill your client, review the billings judiciously and reduce them when the dollar figure is unreasonably high compared to the value derived by your client. Let your client know early on that if he has a question about a bill, you welcome his inquiry. When a client calls to question a charge or complain about a bill, hear him out and do not become annoyed or defensive. Don't be afraid to reduce a bill when appropriate.

Office Staff—Make your office a good place to work. Act professionally towards your staff and emphasize that they are critical team members necessary to achieve premier client services. Establish clear and honest communications and institute a fair delegation of responsibilities. Acknowledge your appreciation of each staff member's contribution to the success of your practice. Remember employee birthdays, anniversaries and so forth. When something does go wrong which requires an explanation to the court or your client, always accept personal responsibility and never blame your employees.

Court Staff—Be especially careful in your dealings with court employees. The attitude of many judges is that what you say to a court staff member is also said to the judge. Further, you may have to call on court staff to assist you in your practice and if you have not acted professionally towards them in the past, they may be less inclined to help you.

Opposing Counsel—In *The Taming of the Shrew*, Shakespeare wrote about legal adversaries, stating that they “strive mightily, but eat and drink as friends.”¹ Centuries ago, Shakespeare understood that when the law is practiced at its very best, the dispute is between the parties and not the lawyers. Treat opposing counsel in a civil and courteous manner, both in and out of the courtroom, and in all written or oral communications. Make it a practice to cooperate with opposing counsel in scheduling depositions, motions and in calling witnesses to testify at trial. If opposing counsel requests additional time to file responsive pleadings or discovery responses, grant it freely. There may be a time when you need the courtesy returned. Finally, realize that petty remarks or personal attacks on fellow lawyers only diminish your own credibility with the court.

Phone Calls—It is simply wrong not to return phone calls in a timely manner. Such a practice ignores an attorney's responsibilities to other counsel as described in the *Standards For Civility In Professional Conduct*, and it arguably violates the *Rules Of Professional Conduct* in three ways: 1) Rule 1.1 (competency); 2) Rule 3.2 (reasonable efforts to expedite litigation); and 3) Rule 8.4(d) (conduct prejudicial to the administration of justice). There is nothing which angers a client more than a lawyer who will not return telephone calls. Failure to return client calls is the single biggest source of ethical complaints to the Bar. A lawyer should return phone calls on the same day they are received. Whether the caller is your client or opposing counsel, it may be a phone call that requires an answer today and not tomorrow. Return calls yourself. Do not have your secretary initiate the call

and then keep the receiving party waiting for you to pick up on your own phone call. If you are unable to timely return the call, have a staff member do so and advise the caller when to expect a response personally from you.

LITIGATION REMINDERS

The Duty of Candor—Always remember that as an officer of the court, you serve as a caretaker of a system of justice that is as fair as humans can make it. Arguably your most important responsibility as an officer of the court is the duty of candor you hold toward the tribunal. Rule 3.3 of the *Rules of Professional Conduct* describes the candor required of counsel, stating that a lawyer shall not (1) make a false statement of fact; (2) fail to disclose controlling law; or (3) offer false evidence.

Negotiating Settlements—Disputes are best resolved by the parties themselves. A case should go to trial only if, after good faith negotiation, it remains in your client's best interest to try the case. The selling point of mediation is that it balances a known result against the uncertainty and expense of litigation, trial and appeal. A skilled mediator can only succeed if the parties are realistic in their expectations and the lawyers make reasonable recommendations to their clients. Whether a mediator is used or not, always negotiate in good faith as you discuss settlement. Notify the court immediately when a matter is resolved so the court can adjust its calendar accordingly.

Be Prepared—While the facts alone sometimes determine who wins, an ill-prepared lawyer can lose even a good case. Only by preparation do trial lawyers develop case themes, understand key documents and testimony, adequately prepare witnesses, conduct effective direct and cross-examination, and deliver persuasive arguments. Adequate preparation is not optional and has its roots firmly planted in professional ethics. Specifically, Rule 1.1(5) of the *Rules of Professional Conduct* requires of the lawyer (1) adequate preparation; (2) inquiry and analysis of the factual and legal elements of the problem; and (3) use of methods and procedures meeting the standards of competent practitioners. It is conventional wisdom that the better-prepared lawyer almost always wins. It states the obvious to say both judges and jurors are impressed when counsel is prepared and concise. Prepare your case in advance.

Pattern Jury Instructions—Do not forget the value of pattern jury instructions. Whether civil or criminal, the pattern instructions are concise and accurate statements of law approved by the Idaho Supreme Court. As such, pattern jury instructions are excellent starting points for research, drafting pleadings or obtaining a statement of law to be included in a brief or an argument.

Don't Be Intimidated—Don't be intimidated by opposing counsel at the prospect of going to trial. When Ulysses S. Grant was anticipating a clash with the Confederates early in the Civil War, he was nervous as he crested the hill, fully expecting to see the enemy. To his relief, the Confederates had fled, leaving behind much of their equipment and supplies. The lesson he learned governed the way Grant fought the war thereafter — “I learned that the enemy is as scared of me as I am of him.”

Failure—Although lawyers universally dread failure, its occurrence is a reality in the practice of law. No matter how well you prepare, you can never remove all possibility of failure. And the only lawyers who do not lose cases at trial are those who seldom try them. Although you may have failed, never see yourself as a failure. They are two entirely different things. People who try, sometimes fail. Successful people keep trying. The key is to learn from your failure and try again.

Contemplate The Evidence You Need To Win—Put yourself in the position of the trier of fact and ponder what evidence will be needed to decide the case. Look at the controlling statutes, relevant case law and the pattern jury instructions as you decide the evidence you will present at trial.

Discovery—Legitimate discovery requests are encouraged by the rules. Abusing the discovery process by overwhelming and needless discovery is unprofessional.

Writing Legal Documents—The court, your client and opposing counsel form their first impression of you based upon your written work product. For that reason, make sure you give time and thought to everything that bears your signature. As a rule, never turn in your first draft of a legal document. To avoid falling into legalese, write in short and simple sentences. Finally, proof-read your final draft at least twice. Misspelled words, grammatical mistakes and improper citations distract from the quality of what a lawyer is trying to do. In writing, don't hide your point. Whether a complaint, motion or a brief, use meaningful headings as guideposts to focus the court. Try to express your thoughts with brevity, using summaries rather than narratives. Do legal research and cite specifically to those authorities that relate to a controlling legal or factual proposition. Nothing serves your case better than properly cited precedent.

Timely Filing of Documents—Make sure your paperwork is timely filed with the court. Never file your motion at the last minute or hand the judge your research as the hearing begins. Be cognizant of impending deadlines so you can do the work when you want to, not when you have to.

Be On Time—Don't be late for court. If you recognize that you will be unavoidably late, contact the court staff, explain your delay and ask that the judge be immediately informed. Apologize to the court and opposing counsel and thank them for the accommodation.

Dress Appropriately—A lawyer should always dress appropriately for court. The impression you leave with the trier of fact could make a difference to your client. For the same reason, make sure your clients come to court appropriately attired.

Pretrial Ruling—Always remember the importance of spending time and effort in persuading the judge on pretrial rulings. Through pretrial rulings, a judge makes the legal and evidentiary holdings that will invariably define the course of the litigation. (Note that I.R.C.P. 7(b)(1) requires that every motion filed with the court shall 1) state with particularity the grounds therefore, 2) cite the applicable rule relied upon for the motion, and 3) set forth the relief sought.)

Be in Control—Good lawyers control the courtroom. Seek to project your voice and maintain eye contact with the judge and/or jury. When away from counsel table, stand straight. When seated at counsel table, don't slouch, and try (for the psychological effect alone) to keep your paperwork organized and neat. Don't be sitting with a panicked look on your face, fidgeting nervously as the jury watches. Instead, project confidence!

Voir Dire—Take voir dire seriously – it is the jury panel's first impression of you. An organized and informative voir dire done in concise fashion impresses the jurors more than a rambling, long-winded, confusing inquisition. Remember that voir dire is your chance to educate the jury. Ask open-ended questions, being sure to speak to each juror at least once. Never embarrass a potential juror before his fellows by demeaning his answer to your question.

Equipment—Learn how to use your laptop, Elmo, PowerPoint or LCD projector before the trial begins. The jurors are unimpressed with a lawyer confused by the very technology he employs at trial. More importantly, understand that technology is a tool and not a replacement for courtroom advocacy.

Witnesses—Treat all witnesses with respect. Remember that until a witness does something to sour the jury against him, the jury probably likes the witness more than they like you.

Objections—A truth of courtroom practice is that an objection emphasizes to the trier of fact the very point you are trying to keep out of evidence. Further, objections which are too numerous may leave jurors thinking that the lawyer is afraid the truth will come out. Unless essential to the case, it is often wise to let an objection go. Never use objections simply to disrupt your opponent's presentation.

Exhibits—An exhibit will make a witness' testimony more easily understood, or the witness' testimony will help make sense of an otherwise confusing exhibit. Either way, immediately establish a foundation for the exhibit and get it admitted. After admission, publish the exhibit to the jurors. Adopt the practice of giving jurors their own copies of documentary or photographic exhibits (to be placed in the jurors' trial notebooks) before proceeding with the questions that concern the exhibits. This way the jurors can look at the exhibit as they listen to the testimony. Always be organized with your exhibits by having them pre-marked by the clerk and by making copies for the court and opposing counsel. (Remember, the witness' description of the exhibit may mean little to the judge if the judge is unable to use his own copy of the exhibit to follow and comprehend the witness' testimony.)

Cross-examination—Good cross-examination is not leafing through your notes trying to find questions. Interminable pauses by a lawyer seeking to find a lost thought are singularly ineffective. And a cross-examination which results in the adverse witness simply repeating (or worse, fleshing out) the testimony most harmful to your client often leads to the case being lost. Your task as a lawyer is to make your cross-examination count, which means you must prepare your questions in advance. Can the witness affirm one of the elements found in a pattern jury instruction? (In criminal cases, virtually every witness can affirm mate-

rial elements of the crime such as the venue, the date, and so forth.) In cross-examining, be careful not to open the door to evidence which is otherwise inadmissible.

Listen to the Judge—Listen to what the judge says in court as this may provide hints about the judge’s leanings or concerns. By listening to the judge’s comments, you can determine how to proceed in your evidence or argument. If the judge says he understands your point, move on to the next point.

Don’t Argue with the Judge—While there is nothing wrong with an intellectual exchange with a judge, never get offensive. Attempts to bully a judge into a favorable ruling usually produce just the opposite result. Further, choosing to argue with the judge over a ruling can disillusion the jurors as to the lawyer’s professionalism. Do not react to unfavorable rulings by grinning, rolling your eyes, shaking your head, burying your face in your hands or other exaggerated behavior.

Arguments—The best arguments come in the form of stories, with the trial evidence transformed into a coherent and persuasive narrative that offers a plausible explanation of the evidence in the light most favorable to the client. The worst arguments are confusing and disjointed dissertations repeated several times over by counsel. Structure your argument to the trier-of-fact. Never ramble or repeat yourself, and when you have said what you have to say, sit down.

Vulgarity—A significant portion of the population is offended by the least of profanities or any blasphemy. Never risk offending a judge or a jury by the use of vulgarities or blasphemies in the courtroom. If necessary to repeat a witness’ profanities given in testimony, prepare the jury for it in voir dire or express your regrets for the necessity of repeating graphic terms.

Expect The Unexpected—No matter how carefully you prepare, the unexpected will occur in court. If the point is important, adjust your game plan accordingly. If it proves insignificant, move on. An otherwise good case can be lost in trivia.

Appeals—Appeals constitute the intellectual practice of law in its purest form. A lawyer’s pleas for mercy or sympathy for his client mean nothing to an appellate court intent on properly applying the law. Instead, appellate counsel’s task is to identify the ruling that is being challenged, state the legal basis for the challenge, and explain why that legal basis applies to the facts of the case on appeal. (Be sure to comply with all the rules governing appeals.)

CONCLUSIONS

Give of Your Time—Remember Atticus Finch in Harper Lee’s novel, *To Kill a Mockingbird*? Atticus accepted an appointment to represent Tom Robinson, a poor man wrongly accused of raping a woman in rural Alabama in the 1930s. Atticus’ pro bono service was the right thing to do then, and it’s the right thing to do now. Do pro bono work. You, as a lawyer, will benefit as much as the client you represent.

Give of Your Money—The Idaho Law Foundation runs the Volunteer Lawyers Program; and, the Foundation’s Law Related Education Department provides statewide legal education programs (Mock Trial, Attorneys in the Classroom). Other programs

closely tied to the judicial system such as Idaho Legal Aid, CASA, CARES, mission homes and battered spouse’s shelters provide needed services throughout the state. All of these programs are seriously underfunded. Take a tax break and give charitable donations to law-related programs.

Be a Good Lawyer—Hippocrates, the father of medicine and author of the Hippocratic Oath, admonished physicians in the care of their patients “to help, or at least to do no harm.” However, as a lawyer, your task is more than simply doing no harm. Instead, accept challenges, be a champion of good causes and try each day to do one thing that will make you a better lawyer.

ABOUT THE AUTHOR

Hon. Howard Smyser was appointed as a magistrate in Twin Falls in November 2000. Before his appointment, he served as a deputy prosecuting attorney for Cassia County, and was formerly a partner in the law firm of Barrus, Bywater and Smyser. Judge Smyser received his undergraduate degree from the University of Montana and his J.D. from Washington & Lee School of Law in Lexington, Virginia. He is the fourth generation of his family to live in Idaho.

ENDNOTES

¹ William Shakespeare, *The Taming of the Shrew*, act 1, sc. 2.

IDAHO ASSOCIATION OF CRIMINAL DEFENSE LAWYERS
I A C D L
STANDING TALL FOR THE ACCUSED
IACDL
PRESENTS
DEFENSE OF CLIENTS WITH MENTAL HEALTH ISSUES
SPEAKERS WILL BE
DR. ROBERT WECHSLER, ROB LUCE AND DR. CRAIG BEAVER.
FRIDAY, OCTOBER 12, 2007
AT
THE AMERITEL INN IN POCATELLO.
FOR MORE INFORMATION:
CONTACT IACDL EXECUTIVE DIRECTOR DEBI PRESHER
(208) 343-1000 or dpresher@nbmlaw.com

HAVING YOUR DAY IN APPELLATE COURT

Weston Meyring
Meuleman and Mollerup LLP

Whether or not you clerked for an appellate judge, here are some key points to maximize your probability of success on appeal by the preparation of better briefs.

Chances are that your case will be assigned to the Court of Appeals, particularly if the appeal involves a criminal, post-conviction, or *habeas corpus* case. Eighty-three percent of all cases on appeal in Idaho are decided by the Court of Appeals.¹ A small number of these cases are taken up on further review by the Supreme Court, limited sometimes to select issues.

Now imagine six law clerks in a windowless room at the Court of Appeals, separated by thin cubicle walls spaced every ten feet. Their desks are spartan; manufactured by prison labor, as the story goes—a stark reminder of time passed perhaps while awaiting an appeal. These law clerks, fueled by caffeine from Boise's *Flying M Coffeehouse*, are part of your audience. They will be the first to digest your appellate brief. Your goal should be to leave them feeling satisfied, not hungry for additional law or facts.

Traditionally, law clerks are **F**resh **O**ut **O**f **L**aw **S**chool (*n.b.* acronym); seeking wise mentors and arriving with the energy and desire to do justice. They soon learn that the product of justice requires a team effort—with the appellant and respondent playing important roles to ensure a productive day in court.

As an appellate attorney, your brief writing should be guided by the principle that everyone has a right to a *day in court* and, accordingly, the court has a duty to fairly allocate its time. That's right, *your case is competing for the court's time*. The Court of Appeals is assigned approximately 220 cases each year, excluding cases challenging only a defendant's sentence.² On average, that amounts to less than two days per case.

You should therefore alert the law clerk if your case is more complex than usual. You accomplish this by your approach. For instance, if an attorney presents an argument in depth, the law clerk, at minimum, will consider the entire argument. On the other hand, if an attorney does not fully develop an argument, the law clerk, working within time limitations, will not necessarily discover that the argument should be further developed.³ Do not make the mistake of assuming the law clerk has already gained experience in a particular area of law. Instead, you can help set the stage for productive days by taking advantage in your brief of the following divisions mandated by Idaho Appellate Rule. 35 (a) and (b). By so doing, your client will receive her day in court.

TABLE OF CONTENTS - Rule 35(a)(1), (b)(1)

One of the most important and overlooked areas of the brief is the table of contents. Briefs able to tell their story and make an argument in the table of contents are rare indeed. Your goal should be to win on appeal by the strength of your table of contents alone. Pretend for a moment that you are not able to rely on the argument section of your brief. This will help you to organize and craft the flow of your argument in the table of contents

through the use of powerful and concise point headings. Needless to say, the court will read the text of your argument section; but, especially in a lengthy brief, it is critical to focus your reader by using point headings that are persuasive and non-repetitious.

Clerks and judges often read the entire table of contents in order to get an overview of the case. During my years at the Court of Appeals, I preferred to open the appellant's brief, respondent's brief, and reply brief to their respective tables of contents in order to read those pages back-to-back before reading any one brief in its entirety. Particularly, when faced by the typically unorganized *pro se* brief, law clerks are inclined to look to the other party's table of contents for some orientation and a restatement of the issues.

Furthermore, the clerk assigned to your case will be working on several other cases in various stages of production. Each draft opinion goes through multiple iterations as the judges add and subtract from the initial bench memorandum. Frequently, this means a law clerk must set aside your case to work on other case drafts. When the law clerk picks up your case again, a good table of contents quickly helps to remind the reader of your argument and pertinent portions of your brief.

Similarly, when a judge seeks to review substantive areas of a bench memorandum or draft opinion, a clear table of contents ensures that, on any particular issue, the judge will confront the heart of your argument. Thus, point headings "should summarize the essential factual and legal argument of the succeeding section *without being a 'copy-and-paste' of the issues presented*"⁴—a key to success that is usually overlooked.

TABLE OF AUTHORITIES - Rule 35(a)(2), (b)(2)

The requirement of a "Table of Authorities" in Idaho Appellate Rule 35 needs little explanation. If this article could be appealed, for example the following articles, published in *The Advocate*, which provide additional practice tips, would serve as authorities on appellate advocacy in Idaho:

1. Jonathan Byington, *How to Make Your Appellate Brief More "Readable"*, 48-JUL Advocate 17 (2005).
2. Cathy R. Silak and Lauri Thompson, *Lessons Learned Inside Chambers*, 44-FEB 2. Advocate 23 (2001).
3. T. Guy Hallam, et al., *Suggestions for Improving your Appellate Practice*, 42-AUG Advocate 16 (1999) (addressing the application of Idaho appellate rules).

STATEMENT OF THE CASE - Rule 35(a)(3), (b)(3)

As the saying goes, if you don't have the law on your side, argue the facts. By persuasively and accurately stating the facts, you may be able to influence the court to allocate more time to your case. If you can accurately convey a sense of injustice, without resorting to histrionics, you will pique the law clerk's interest and draw attention to the merits of your case.

Furthermore, well written facts and procedure, properly cited, help orient the law clerk to important parts of the clerk's record and reporter's transcript; thus freeing up valuable time for the court to concentrate on your substantive issues.

STANDARD OF REVIEW

Idaho Appellate Rule 35 does not mandate that the briefs contain a "Standard of Review" division. Justice Walters points out, however, that "it creates good discipline for the parties to make a statement of the proper standard of review and adhere to it throughout the argument portions of their briefs." Many years ago, he explains, the Court of Appeals introduced into its opinions a section identified as the "Standard of Review" to attune the bar to the standards applicable to the various issues raised on appeal. This caselaw provides guidance to the practitioner in formulating effective arguments on appeal, and should be set forth in the briefs.

ISSUES PRESENTED ON APPEAL - Rule 35(a)(4), (b)(4)

The mistake that many appellants make, especially *pro se* appellants, is to assume that the more issues raised, the greater the likelihood of success on appeal. If anything, the opposite is true. There may be an inverse correlation between appellate success and the number of issues raised. It is far better to fully develop a few meritorious issues than haphazardly to raise the whole kitchen sink. Again, keep in mind the guiding principle of a "day in court."

ARGUMENT - Rule 35(a)(6), (b)(6)

The first thing clerks often do is check to see how many pages are in the brief. This is the first impression you make. Trust me, law clerks are not impressed by long briefs, nor by those overly short. Sure, the Idaho Appellate Rules allow up to fifty pages, but only an unfocused attorney or *pro se* will dare take up that much space.

On the other hand, Idaho courts sometimes see appellant's and respondent's briefs that are only two or three pages long. While some attorneys may think this sends a message that the case is easy and the lower court was clearly wrong (or right), law clerks are not fooled by such displays of overconfidence— notwithstanding the fresh-out-of-law-school acronym. As Dara Labrum, law clerk for Judge Lansing, explains:

Don't make conclusory arguments. We heard it over and over in law school, and it's equally applicable here! For example, one of my recent cases questioned the constitutionality of an Idaho statute. The attorney breezily wrote that the statute violated a fundamental right, thus requiring strict judicial review, and then spent pages explaining why the statute didn't meet strict scrutiny. The problem was, it wasn't clear to me - or to the judge - that the statute actually implicated a fundamental right. I spent two days trying to untangle fifty years of twisted (and inconsistent) United States Supreme Court case law on the subject with very little argument from either party. Don't be conclusory on any point of the analysis, but be especially careful to develop the initial elements that are prerequisites to the main body of your argument.

Otherwise, you might find the entire case turning on an issue that you barely addressed.

As another example, when an appellate court publishes a new holding within 42 days after a lower court has adjudged a case according to the older rule of law, rarely will a few pages of briefing be sufficient to argue how the case should be decided on appeal under the new law. Although the courts recognize that deputy attorneys general, state appellate public defenders, and other attorneys also have choices in allocating time across many cases, to simply alert the appellate court about the new case law is a risky approach for winning on appeal.

Of course, the cardinal sin in brief writing is to bury contrary authority by citing to it for a different proposition such as the standard of review – or to leave it out of the brief altogether.⁵ A good law clerk, or even a mediocre one in the age of electronic research, will uncover the "bad" case. You do your client far greater service by bringing contrary authority immediately to the court's attention. Not only do you build credibility, which carries over to other issues argued, you have the opportunity to distinguish the precedent and not gamble on the court's ability to see the case your way.

CONCLUSION - Rule 35(a)(7), (b)(7)

The last section of the appellate brief is the conclusion. Idaho Appellate Rule 35 mandates a "short conclusion stating the precise relief sought." Your short conclusion should combine the key point headings from your table of contents. Some clerks prefer to obtain an overview of the case from the conclusion section of the brief, so do not worry about the table of contents and conclusion sections being somewhat redundant.

Many briefs, in violation of Rule 35, leave the reader wondering what the appellant is seeking to accomplish through the appeal. As Justice Walters advises, "[i]f the party keeps focused on the 'precise relief sought' while keeping in mind the correct standard of review applicable to the ruling challenged on the appeal, the briefs will be better and the likelihood of success much greater."

ENDNOTES

¹ Idaho Court of Appeals, internal statistics (1/01/05 - 12/13/05).

² For example, 504 cases were assigned to the Court of Appeals in 2004, including 258 sentence reviews. (Idaho Court of Appeals, internal statistics.)

³ If either argument or authority is lacking altogether, a party also risks waiving the unsupported issue under I.A.R. 35(a)(6), which is frequently invoked by our courts in civil and criminal appeals because otherwise lack of argument and authority in one appellate brief would force the court to take valuable time away from other issues and cases.

⁴ *How to Make Your Appellate Brief More "Readable"*, 48-Jul Advocate at 18 (emphasis added).

⁵ Besides, it is highly unethical and may lead to sanctions. See Idaho Code § 3-201 [Duties of attorneys] ("In addition to such rules as the Supreme Court may by rule prescribe, it is the duty of the attorney and counselor: . . . (4) To employ, for the purpose of maintaining the causes confided to him, *such means only as are consistent with truth, and never seek to mislead the judges by an artifice or false statement of fact or law.*") (emphasis added);

IDAHO RULES OF PROF'L CONDUCT R 3.3(a)(2): Candor Toward the Tribunal ("A lawyer shall not knowingly: . . . (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel.").

ABOUT THE AUTHOR

Weston Meyring clerked from 2005 to 2007 for the Honorable Sergio A. Gutierrez of the Idaho Court of Appeals. He is now an associate practicing real estate, construction, and business law at Meuleman Mollerup LLP. He wishes to thank Chief Judge Perry and Judges Gutierrez, Lansing, Schwartzman and Walters for generously sharing their experience and insights and commenting on this article. He received his J.D., magna cum laude, from Gonzaga University School of Law, and his A.B. from Brown University. He may be reached at meyring@lawidaho.com.



Computer Forensics



At Data Tracks, our mission is to provide our clients with a concise evaluation of their digital data, present the data in a meaningful way and provide expert testimony in support of our discovery as needed.

Our specialties	3313 W. Cherry Lane, #141 Meridian, Idaho 83642 (208) 884-4437
• Computer Forensics	
• E-discovery	
• Data Recovery	

Visit us on the web at
<http://www.datatracks.net>

Data Tracks, Inc. 

ELAM & BURKE

ATTORNEYS AT LAW

is pleased to announce that

Matthew C. Parks

and

Craig R. Yabui

have joined the firm.



Matthew C. Parks

Litigation, Insurance Defense, Workers Compensation

Mr. Parks joins the firm after completing a clerkship with the Honorable Ronald J. Wilper, District Judge, Fourth Judicial District. He earned his B.A. from Providence College and J.D. from the University of Mississippi Law School in 2006.

Craig R. Yabui

Litigation, Commercial Practice

Mr. Yabui joins the firm after participating in Elam & Burke's summer clerkship program. He earned his B.A. from the University of Montana and J.D. from the University of Idaho.



251 E. Front Street □ Suite 300 □ Boise, ID 83702
208.343.5454 □ www.elamburke.com

How to Talk Good: Lessons Learned from Grandpa Max

Matthew T. Christensen
Marshall & Stark PLLC

Dear Marty,

First of all, congratulations on graduating from law school! I never thought I'd see the day that my own grandson followed in my footsteps and became a lawyer. Now all you have to do is pass the bar exam. And you thought studying and finals were over!

I thought I'd take a moment now and give you some advice as you start your new career. A lot of this will make sense now that you're working at a firm and have a better understanding of what attorneys actually do all day. As you know, I've been a litigator now for almost 37 years. I've seen the good, the bad, and the downright ugly. Most of this advice is to make you strive to always be in the first of those groups. There are all types of litigators out there – you must work hard to be an effective advocate for your clients. However, there are good ways to advocate, and “less good” ways to advocate.

First of all, learn the rules of the court you're practicing in. Judges are particular, and if they have taken the time to set out standards for their courtroom, it means they care about those standards being followed. Take the time to look up the local rules, and never let yourself break those rules. Talk to the judge's clerk. Many times, a judge will have a certain way of doing things that may not have made it into the formal rules. You will be working with these clerks for years to come – make sure you stay on their good side. You can never underestimate the power of a court clerk – especially when you have done something to get on his bad side.

Learn the language of the courtroom. There have been books and articles written on this exact subject over the past 20 years, which will strive to teach you the language you should use in the courtroom. I commend those resources to you, and urge you to learn from them. There's nothing more embarrassing than forgetting to say “Your Honor”, or “May it Please the Court”, and having the judge remind you of that decorum – especially if your client is sitting right next to you in the courtroom. Learn the language of the courtroom.

Remember that, in trials, you yourself are on trial. The judge, jury, and spectators are watching you as you perform. Make sure that you are putting on the show that your client deserves. If, by your actions, you are not convincing enough, you are doing a disservice to your client. They deserve the very best representation they can get. Many times, that representation will be you. Take the time to learn their case, and make it your own. Then, convince the judge, jury and spectators that you are on the winning side. That is serving your client well.

Along with that, learn the acting skills you need to perform well. It may seem different to think you need to be an actor. However, any time you perform in front of a judge or jury, you are acting. Make sure you have the skills to do it convincingly. A recent *Litigation Journal* article taught this very subject.¹ As

you learn these skills, you gain the skills and ability to convince others that your story is true.

Learn to speak with your client. In a recent criminal law case, my client was originally represented by an overworked public defender who went three months without communicating with my client at all. As far as the client could tell, no work was being done on his case. Take the time to regularly communicate with your clients – keep them informed of the progress of their case, and let them know what work has been performed, what is left to do, and what direction their case is going. Not only will they appreciate the time spent keeping them informed, but you yourself may be avoiding potential malpractice litigation later.

Take the time to watch other attorneys perform in court. Learn which attorneys are good oral advocates, and find out when they will be arguing a motion or when they have a trial. Take a day off from the firm (I know – you'll have to make up the billable hours later – but it'll be worth it), and go the courthouse to watch these attorneys in action. You will learn a lot by simply observing other masters.

Take some of these attorneys to lunch. Attorneys like nothing better than to have a young lawyer tell them they admire their style and want to learn from it. Pay for the lunch and you'll gain a friend and mentor for life. Ask questions. Find out how those attorneys learned their skills. Most importantly, be eager to learn the skills you need from any source you can. You'll be amazed how many attorneys like to talk about themselves and share their life stories.

Lastly, find a mentor – or even a few. These are people who you admire, and who have the skills you are seeking to learn. Many resources exist on how to find a mentor, and what to do to develop a relationship with one. Seek out those senior attorneys who have the skills you wish to learn, and learn from them. You'll be amazed the relationships that will develop as you learn from your mentors.

I hope this advice gets you started towards a long career. Keep in touch, and feel free to express concerns and ask questions as you go along.

**Love,
Grandpa Max**

Dear Marty,

Well, it's been about 2 years since my last letter to you. In that time you've passed the bar exam (on the first try!), and continued working at your firm. In that time, I've seen you grow, as you learned some of the skills I wrote about earlier. I've seen the choices you've made, and the skills you're starting to develop. You've written me a couple of times about various attorneys you've observed, and some of the mentoring relationships you are starting to develop. You've also started to see some of the bad and downright ugly side of advocacy.

As you choose your mentors, I have but two words, taken from a famous Indiana Jones movie – “Choose wisely.” I’m sure you’ve noticed that there are attorneys out there who strive to be the best advocate for their client that they can. However, they do so at the expense of the judge, the courtroom, and the opposing party and counsel. This is not the type of attorney you should strive to be. In my early career, I had mentors at my own firm that taught me to stall and stonewall the opposing counsel during the discovery process. Answers to Interrogatories consisted almost exclusively of objections and deferrals to a later date to provide real answers. These actions taught me that the discovery process is used simply to harass the opposing party, not to search and discover the truth about a case.

On the other hand, a later attorney showed me the true purpose of discovery, and taught me that cooperation with opposing counsel more often got you better results than stonewalling them.

Additionally, in my early practice, I learned that making fun of opposing counsel during depositions, and even at trial (if you could get away with it), was a valid tactic in the war you were fighting. However, all those actions do is antagonize the opposing counsel (not to mention her client), and give the judge cause to dislike you. In a small legal community, you do not want other lawyers or judges speaking ill of you – which is exactly what happened to the attorney I learned these tactics from.

You have a responsibility to advocate for your client. You have a duty to them to provide zealous representation. However, there is a line when zealous representation becomes excessive representation. Always strive to stay on the correct side of that line. Zealous representation can always co-exist with cooperative representation.

As you learn to be an effective oral advocate, always remember the charge in the Preamble to the Model Rules of Professional Conduct: “A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials.”² A lawyer who crosses the line from zealous to excessive representation fails to demonstrate the required respect for our legal system. This is the type of lawyer I hope you do not become.

So, seek out the mentors and other attorneys to learn from that exhibit the skills you seek to develop. If those people do not exist in your present firm, seek them out and try to join them. In today’s law practice, there is no reason to obligate yourself to staying with one firm forever.

As you learn the skills of oral advocacy from your mentors, always remember that “while it is a lawyer’s duty, when necessary, to challenge [opposing counsel and the courts], it is also a lawyer’s duty to uphold [the] legal process.”³ Striving to learn the skills of oral advocacy does not mean forgetting about our duty to uphold the legal process, including those opposing us in that process.

**Love,
Grandpa Max**

Dear Marty,

I see you’ve made some significant changes in your practice since my last letter. In the past couple of years you have left the firm you were at, and are now running your own solo practice. I commend you for that. I’m sure you’ve learned to use your oral advocacy skills in the business side of running your own practice. I’m also glad to see you took my advice to heart, and realized the skills you were learning at the firm were not the type of advocacy skills you need to really succeed.

Now that you’ve had a few years of putting “Esq.” after your name, I’d like to compare you with some other famous people who also had that suffix. Lest you think the only people you can learn effective and civil oral advocacy from are living, I commend you to some of the great oral advocates of days past.

The first advocate I recommend to you is entirely fictional. As an attorney, I’m sure you’re familiar with “To Kill a Mockingbird”, by Harper Lee.⁵ This book is what made me, and a legion of others, want to be an attorney. Atticus Finch gets appointed by a local judge to defend Tom Robinson, a black man accused of raping and beating a young white woman named Mayella Ewell. Obviously, in the Deep South during the Depression, this is not a popular position. Yet, Atticus takes the appointment with gusto, defending Mr. Robinson both in the court, and on the jailhouse steps. Throughout the trial, Atticus masterfully defends Mr. Robinson, all the while respecting the opposing counsel, the judge, and the immense white crowd outside the courtroom. On the final day of the trial, the jury finds Mr. Robinson guilty. Atticus’ children had attended, and were seated with the black townfolk in the courtroom gallery. As their father left the courthouse, the following scene is described by his daughter:

Someone was punching me, but I was reluctant to take my eyes from the people below us, and from the image of Atticus’ lonely walk down the aisle. “Miss Jean Louise?” I looked around. They were standing. All around us and in the balcony on the opposite wall, the Negroes were getting to their feet. Reverend Sykes’ voice was as distant as Judge Taylor’s: “Miss Jean Louise, stand up. Your father’s passin’.”⁵

This moving show of respect for the attorney defending one of their own was a direct result of the professionalism and civility which Atticus brought to the defense of Mr. Robinson. I’m not saying you should always aim for a standing ovation when you advocate for your clients, but always striving to show the type of professionalism and civility exhibited by Atticus Finch is a worthy goal of any attorney.

The second advocate I commend you to learn from was one of the greatest lawyers and advocates of all time – Mr. Clarence Darrow. You may have heard of the Leopold and Loeb trial during the 1920’s. Leopold and Loeb were two highly-gifted individuals who attempted to commit the perfect crime. For awhile they succeeded in denying their involvement in the murder of a 14-year-old boy in the Chicago area. However, as various bits of evidence piled up against them, it soon became apparent that they had, in fact, committed the crime, and they confessed to

doing so. Mr. Darrow was called in to defend the boys in the criminal action against them. By this point in his career, Mr. Darrow was known for his defense of individuals charged with murder, and many expected him to use his formidable talents to fight for an acquittal for the boys. However, Mr. Darrow accurately determined that the evidence against the boys was essentially insurmountable. Because of this, he shocked the community by convincing the boys to plead guilty, and fight to receive life sentences instead of the death penalty.

This is the first lesson to learn from Mr. Darrow. There are typically several battles that may be fought for our clients. One of our roles as effective advocates is to help our clients decide which battles truly need to be fought, and which battles are worth conceding. In this case, Mr. Darrow recognized that a jury was likely to convict his clients and sentence them to death. His battle, therefore, was to keep the boys alive.

Mr. Darrow chose to do this after the guilty plea, largely through a closing argument which, today, would be considered entirely too long. However, in his closing argument, Mr. Darrow summarized the problems of the case, and the reasons for sentencing the boys to life imprisonment, as opposed to death. He closed his argument with a plea to the judge to recognize both the social and future implications of his decision:

If I should succeed in saving these boys' lives and do nothing for the progress of the law, I should feel sad, indeed. If I can succeed, my greatest reward and my greatest hope will be that I have done something for the tens of thousands of other boys, or the countless unfortunates who must tread the same road in blind childhood that these poor boys have trod, that I have done something to help human understanding, to temper justice with mercy, to overcome hate with love.⁶

Clarence Darrow recognized not only the path to take with his own clients, but also the impact his case could have on future individuals. This is a lesson you can learn. While most of your cases will focus on your individual clients, once in awhile you get a case that has the chance to impact many others besides your own client. At that point, you become an advocate for those other people as well.

As you continue to develop skills to advocate on behalf of your clients, learn from the current and past masters. The lessons you learn from each of these teachers will remain with you throughout your career and help you be an effective advocate for years to come.

**Love,
Grandpa Max**

Dear Marty,

As I've watched your career develop, I've been impressed with the skills you have developed. I'm glad you've taken my advice and learned from it. Now that you are a judge, many of those same skills can be used. Now, however, your client is not the individual litigating the case, but justice and the court system in general. Your job as a judge is to advocate on behalf of the legal system itself. Now you are in an even greater position of responsibility, and the skills you have learned in the past will be tested in ways you haven't yet imagined.

The professionalism and civility which you have developed over the past 15 years can be continued in your judicial position. Do not let the petty antics of opposing counsel draw you into their own turf battles. You, as the representative of justice and the legal system, have a duty to teach and instruct those advocates who appear before you to also develop the professionalism and civility which you yourself exhibit from the bench. Do not forget that you often set the example of the decorum and respect needed in a courtroom. Do not be afraid to call a recalcitrant attorney on his actions, and take the time to mold many of the attorneys who appear before you into the advocates they can and must become.

Take the time to participate in the advocacy courses taught by the local bar. The skills taught there will remain handy, especially as you discuss and argue cases with your fellow judges and your clerks. Initiate your clerks to the skills of advocacy. Teach them to watch the many excellent attorneys who appear before you, and help them start to develop their own skills. Remember, these law clerks are the future attorneys who will appear before you in court. The sooner you start teaching them the necessary advocacy skills, the quicker they will learn to be effective advocates for their own clients.

Above all else, use your position as a judge to fight for a better system. Attorneys will respect you and your opinions. Get actively involved in the bar association and other groups which teach advocacy skills, and help others to gain the skills you yourself have developed.

Lastly, thank you for giving me the chance to watch your progress from afar. As I mentioned before, it has been a pleasure to watch you follow in my footsteps and learn to be an effective advocate.

**With Love,
Grandpa Max**

ENDNOTES

¹ Kathleen B. Havener, *Method Acting for Lawyers*, LITIGATION, Summer 2005, at 48.

² MODEL RULES OF PROF'L CONDUCT Preamble (2003).

³ Paraphrased from the Preamble to the Model Rules of Professional Conduct (2003).

⁴ HARPER LEE, *TO KILL A MOCKINGBIRD* (Perennial Classics 2002) (1960).

⁵ *Id.* at 241.

⁶ Clarence Darrow, *Closing Argument: The State of Illinois v. Nathan Leopold & Richard Loeb*, in *LADIES AND GENTLEMEN OF THE JURY: GREATEST CLOSING ARGUMENTS IN MODERN LAW* 165 at 209 (Michael S. Lief, H. Mitchell Caldwell, and Ben Bycel, eds., 1998).

ABOUT THE AUTHOR

Matthew T. Christensen is a co-chairman of the Young Lawyers' Subcommittee of the ABA Section of Litigation's Trial Practice Committee and also serves as the ABA Young Lawyers' Division Liaison to the ABA's Center for Professional Responsibility.

TRANSCENDING PRACTICE AREAS: INSIGHT AND ADVICE FOR IDAHO'S YOUNG TRANSACTIONAL AND TRIAL ATTORNEYS

Interviews were conducted by
Hilary M. Bradbury, Holland & Hart LLP
Jason E. Prince, Stoel Rives LLP

The following interviews feature the insight and advice of two Idaho attorneys with over sixty years of combined legal practice: Larry E. Prince of Holland & Hart LLP and J. Walter Sinclair of Stoel Rives LLP. These interviews were conducted separately in Mr. Prince's and Mr. Sinclair's Boise offices. Although Mr. Prince's interview primarily addresses issues of interest to young transactional attorneys, and Mr. Sinclair's interview primarily addresses issues of interest to young trial attorneys, their comments transcend practice areas and speak to attorneys of all experience levels.



Larry Prince, Holland & Hart LLP and J. Walter Sinclair, Stoel Rives LLP.

LARRY PRINCE—BUSINESS TRANSACTIONS

Interviewed by Hilary M. Bradbury
Holland & Hart LLP

Larry Prince is the Managing Partner of Holland & Hart LLP, Boise office, where he specializes in bankruptcy, commercial and complex credit transactions and creditor's rights litigation, as well as real estate acquisition and development. Mr. Prince joined Langroise, Sullivan & Smylie in 1975 and became a Partner at Holland & Hart LLP when the two firms merged in 1984.



What was the biggest work-related mistake you made as a young lawyer and what steps did you take to rectify it or what did you learn from it?

The biggest mistake I made as a young lawyer was thinking I knew more about the practice of law than my secretary. When one comes

out of law school, you believe you know how to practice law and you quickly find out that while you may know a lot about the theory of law, you don't know a lot about the "practice of law." The actual practice of law is something entirely different.

I had the good fortune of having a secretary who had a number of years of experience (and who therefore knew a heck of a lot more about the practice of law than I did), but it took me a few months to realize that she understood the practical aspects of law that I didn't. Once I realized this, I started relying on her to help me and life got much better. Coming out of law school, you don't know that side of the practice, so you either learn through trial and error, or hopefully as was the case with me, you have people you can talk to and rely on to minimize your mistakes going forward.

Who were your greatest mentors as a young lawyer and what did you learn from them?

When I started out I did a lot of work with John Ward, who was a partner at the firm I started with. I worked with John more than with anyone else, and he was the one who assigned me proj-

ects and critiqued my work. I learned a great deal from him. It's just by happenstance that I ended up practicing in the area of law that I do now. When I started with Langroise Sullivan & Smylie, there was a need for another attorney to work with the bankruptcy trustee, a fellow by the name of Loren Wetzel. John had represented Loren for a long time and needed support with his bankruptcy work, so I was quickly thrust into the bankruptcy practice. It ended up being such a great learning experience because it allowed me to do things that I wouldn't have otherwise been able to do, like get into court immediately. I was given a lot of leeway as a young attorney to bring proceedings on behalf of the trustee and to learn how the process worked.

Someone else I would identify is Judge Young, the bankruptcy judge in Idaho at that time. Being a judge he wasn't a true mentor, but I viewed him as a mentor, especially in the bankruptcy practice, and I learned a lot practicing before him. Probably the most important thing I learned was to always be prepared when you go before him. It was a great learning experience because he understood that I was a young lawyer, but also expected a lot from me and set a pretty high bar when you were appearing before him. (This interview was conducted before Judge Merlin S. Young passed away on August 14, 2007.)

There are other folks of course, who were important along the way, that are not much older but from whom I learned a great deal—Walt Bithell for example. I've had the opportunity to try cases with him and have learned a lot from him.

What differences if any, have you seen between the lawyers of your generation and the lawyers who have graduated from law school within the last 5-10 years?

I don't know if there are differences between lawyers of different generations, but I think that there is a lot more pressure on those who enter the practice now than there was when I first started practicing. When I was just starting my practice, I had opportunities to interact with the other attorneys in my office, not only on a professional level, but also on a personal level, because I didn't have the same "billable hours" pressure as incoming attorneys do now. There was a lot more opportunity to just sit around the office and talk about things—talk about our cases, talk about sports, and talk about legal theories and legal issues in general. We could just sit down with the other attorneys and say, "Here's an interesting issue, let's talk about it." I think the billable hour pressure and the existence of higher billable-hour requirements mitigates those opportunities now.

Do you think young lawyers are forced to specialize earlier than they were when you started?

I think that they are, definitely in the larger firms. When I started at Langroise Sullivan, I was in 'general practice'—I did litigation, business transactional work, I worked for the bankruptcy trustee, I did divorces, I did adoptions, I did a little bit of everything. Frankly, I think it's good to have those opportunities starting out. Especially for a business lawyer, it's good to have some experience with litigation and know what happens when things go wrong. Conversely, it's also good for a litigator to understand how deals are put together. So, yes, I think there is a lot more pressure to specialize at an earlier time, which isn't always a good thing. I think there is much to be said for, and benefit to be had by, having a broad base in your earlier years that you can draw upon in your later years as you naturally specialize and gain expertise in a particular area of law.

What are the most important traits of a "superstar" young business attorney?

It's probably a combination of all of the things that one would typically identify for a good lawyer in general—strong intellect, the ability to communicate with others and a good work ethic. This of course takes hard work, but it also takes a personality that is willing to put yourself out there and take risks. I say this in a positive sense: you must be willing to fail in order to succeed. You must be able to put yourself on the line and be subject to criticism, then take the constructive criticism and channel it in a productive way back into your work.

And then, of course, there's the business development side of the practice. Some people develop business by doing good work, some people develop business by the sheer force of their personality, but a super business developer and business attorney combines both of those.

How do you think a young business lawyer can develop the skill set necessary to be a superstar business attorney?

Practice, practice, practice and some good mentoring, because most of what you need to know isn't learned in law school. It is to be learned on the job, it is to be developed in incremental steps with more responsibility being given to the junior attorney along the way. It is critically important for the junior attorney to take on additional responsibility. The most difficult transition for a junior attorney is going from being able to walk into somebody's office and say, "This is what I think, now

you make the decision and talk to the client," to being the attorney making the decision and explaining to the client what you think and what should be done. The maturation process requires accepting that type of responsibility, and is obviously very important in advising the client in business transactions. You need to learn how to advise the client of the both the legal and practical ramifications of a certain course of action.

Networking seems to be especially important for young business attorneys, there's a lot of pressure to go out and build a client base. What advice do you have for young business attorneys who are trying to choose among the available professional organizations? How should they go about maximizing the benefits they can get from those organizations?

Well, I guess the first thing is to find something that you enjoy doing, because if you're doing it solely to develop business, you are often doomed to failure. Unless you enjoy doing it, it will be very difficult to do it or to find time to do it. Just as importantly, if you're going to volunteer, then you'd better be willing to put in the hours to do a good job as a volunteer or it can become counter-productive. The last thing you want is to be a member of 20 organizations, but not doing anything of substance in any of those organizations—you will only be known as someone who shows up for the party and never does any of the work. But, if you can limit your involvement to a manageable number of organizations and something you enjoy doing, then you can do the work, do good work, get recognized for your work, and develop business relationships.

What's the best business development advice you ever received?

To do good work. As a young lawyer, you can develop business as a direct result of potential clients either observing you in a setting where you are adverse to them, or they are otherwise in a position to observe you in practice. So often, good clients follow good work.

Idaho's legal community has experienced significant growth during your career, especially over the past ten years. What changes—for better or for worse—accompanied this growth?

Well, I think the most significant one is just the fact that by virtue of numbers, we don't know the members of the Bar as well as the way we used to know them. Now I'm sounding like a dinosaur because I was told the same thing when I was a young lawyer! In fact, we used to have a picture in the office at Langroise Sullivan of the entire Bar of the state of Idaho back in the 1920s or 30s. The picture was about 3 X 2 feet and contained individual pictures of every member of the Idaho Bar, including every member of the judiciary. That's an extreme example, but I have seen the transition from the time when we knew the members of the Bar far better than we do now.

A lot of young lawyers are trying to figure out whether they want to go to a big firm, small firm, or even a firm at all. Having started out in a smaller Idaho-based firm and later working for a much larger, regional firm, what are some of the most notable differences you have seen between practicing in the two environments?

My comparison is dramatic because at Langroise Sullivan, there were only 6 or 7 of us. Now, of course Holland & Hart has more than 350 attorneys. There are obviously pluses and minuses that go with both practices. The big plus that goes with a smaller firm is that you know each of your partners, you knew each of the associates and each of the staff members, and you knew them very well. The trade off is that you don't necessarily have the depth of expertise in areas that may be somewhat unique when your client needs them. You don't have that resource to draw upon in a smaller firm—you can't pick up the phone and call someone or walk down the hall and talk to someone who is an expert in a very narrow area of the law.

To state the obvious, there is a much greater sense of financial stability at a larger firm than what I recall from a smaller firm. In a smaller firm, you are always conscious of having to pay the secretaries before you can pay yourself. I remember one particular time at Langroise Sullivan when we wanted to buy a new conference table. It was about a \$500 purchase, and all of the partners had to meet and debate whether we should buy the

table. So, that's obviously a difference—not necessarily good or bad—but it's a difference.

Any final advice for young business attorneys?

The practice of law is a great profession. We are given the opportunity to help others, be problem-solvers, and have fun and be paid while doing it. But, we must be mindful that this is a privilege, and not a right. Always be mindful that it takes a long time to build a good reputation, but only a short time to destroy it. Wow, pretty serious. How about ending by saying, 'Enjoy the ride because the practice of law is fun.'

ABOUT THE INTERVIEWER

Hilary M. Bradbury, an associate in the Real Estate and Business Entities & Transactions practice groups at Holland & Hart LLP, conducted the interview of Mr. Prince. Ms. Bradbury's practice focuses on a variety of business transactions including contracts and corporate organization, as well as mergers and acquisitions and commercial real estate.

J. WALTER SINCLAIR—LITIGATION

Interviewed by Jason E. Prince
Stoel Rives LLP

J. Walter Sinclair is a trial attorney at Stoel Rives LLP, where he has developed a business, corporate, and complex litigation practice associated with product, contract, mass tort, aviation, real estate, agricultural, and insurance issues. Between 1978 and 2001, Walt practiced in Twin Falls for Benoit, Alexander, Sinclair, Harwood & High, LLP. Since 2001, he has been a Partner in Stoel Rives' Boise office, where he currently serves as the Lead Litigation Attorney for the office's Litigation Practice Group.



What's the biggest work-related mistake you made as a young litigator, what steps did you take to rectify this mistake, and what did you learn from it?

The biggest work-related mistake I made as a young attorney was failing to recognize the significance and importance of utilizing the experience and skill of my law firm's staff. Some of the secretaries and paralegals at our firm were very experienced, and they were a huge resource in terms of showing a young attorney practical ways of approaching things, what works and what doesn't work, and how things should be done. As a young attorney, however, I initially felt that I needed to establish myself and demonstrate my ability. I figured I was the one with the law degree and shouldn't rely upon the resources of our staff because it somehow demeaned my value.

Once I did recognize the value of our staff—and I recognized it pretty quickly—my job became considerably easier. I began taking steps to reach out to our staff, to not only ask for their assistance, but also to make them an integral part of the team with which I worked on all the legal matters I handled on behalf of our clients.

Who were your greatest mentors when you were a young lawyer, and what did you learn from these people?

When I started practicing at Benoit, Alexander, there were two partners, Ed Benoit and Bob Alexander, both of whom were well respected and experienced in the legal community. Ed and Bob had different approaches and different suggestions on the best way to practice. Although I learned from both of them, Ed Benoit had the greatest impact on my career. Ed not only included me in his work, but also took me along with him to client meetings, depositions and trials. He provided me exposure to all kinds of professional settings, had me working as part of his team, and gave me a lot of responsibility. For example, before I had even graduated from law school, he let me second chair a trial. He also assigned me to a case to try by myself within my first nine months with the firm.

Additionally, when I came to Ed with a question, he would always challenge me as to whether I had already researched the issue by looking in the legal reporters or code. Before I went to him to obtain the answer, he wanted to make sure that I had looked for it myself. He wanted to ensure that I was learning from the experience and not just relying upon his expertise.

What differences, if any, do you see between litigators of your generation and the litigators who have graduated from law school within the last 5-10 years?

In response to that question, I should start by pointing out that the use of the term "litigators" is part of the answer. Law

schools these days seem to be producing “litigators”—people who know how to do discovery and use it extensively, people who know how to organize documents and develop a trial strategy.

In contrast, twenty or thirty years ago, we were more focused on “trial attorneys.” We learned a lot of what we did through actual trials, by our experience in the courtroom. That experience is irreplaceable. Trial attorneys respect the process and believe in the process and want to go to trial, although they always work for and recognize a good settlement.

A lot of attorneys now seem afraid of going to trial. You hear younger attorneys warn their clients that the worst thing they can do is put their dispute in the hands of a jury. This is very poor advice in my opinion and not historically accurate. Juries have historically come up with very good reasons to support their verdicts. Although we occasionally hear about exceptions to this rule, the trial is a great method of resolving disputes between parties. Trials should be believed in and relied upon.

I think the “litigator” versus “trial attorney” distinction is a big difference between attorneys coming out of law school today and attorneys of my generation. And I think it’s partly the education and partly the fact that it is harder and harder to get to court and harder and harder to get to trial. As the stakes get higher and the cost of litigation gets higher, parties tend to settle.

As you just suggested, today’s young litigators—especially those working in larger firms—seem to enjoy few opportunities to appear before a jury. Given this predicament, what steps can young trial attorneys take to acquire and hone the requisite advocacy skills?

It is challenging to get young trial attorneys into court. There are several things you can do to address that issue. One is to assume responsibility in some pro bono cases. Both the Idaho State Bar association and the federal judiciary have programs in which they need people to provide legal services to people who simply cannot afford to hire attorneys. While these pro bono services may not be directly related to the type of law you practice, it gives you a great opportunity to do depositions, get into the courtroom to argue motions, and potentially go to trial. I would encourage all attorneys—but especially young attorneys trying to get experience—to take on pro bono cases that would give them courtroom exposure.

Next, there are a number of educational programs for trial attorneys. I think that most attorneys are familiar with the National Institute for Trial Advocacy program that teaches various trial and deposition skills, and has a week-long and two-week-long trial program. There is also the International Association of Defense Counsel, which offers a civil trial program that lasts a week at Stanford University. These programs are excellent opportunities to try every aspect of a case, see what approaches other attorneys take, and get videotaped and critiqued on your techniques.

Third, look for a mentor—hopefully within your firm, but not necessarily. The Idaho State Bar has a mentor program. If you just ask for help, a lot of local attorneys will be willing to mentor you. Try to look for a mentor who is willing to get you exposure and experience. Go with them to court. Go with them to

depositions. Go with them to hearings. Try to observe as much as you can. Also, try to find an attorney who is willing to grant you as much authority and hands-on experience as possible. That’s a rare opportunity, but, as I said earlier, at Benoit, Alexander, I was trying a lawsuit in the first nine months that I was with the firm. It was a phenomenal opportunity for me, a huge learning experience that really jump-started my experience as a trial attorney.

What are the three most important traits of a “superstar” young litigator/trial attorney?

I would say the first thing is preparation. I think preparation is the most fundamental need for a trial attorney and for any attorney. You have to be well prepared. You have to have done the legal research, looked into the facts, and prepared the presentation.

Second, is professionalism. To be a superstar, you don’t have to fight every fight. Rather, you cooperate with opposing counsel whenever it would not disadvantage your client. In many cases, if you perform your legal services in a professional and courteous manner, it will result in a situation where the other side respects you, believes in you, and may even hire you later because you got a good result and were professional in the process.

The third aspect would be team work, not only the willingness to work on a team, but also the willingness to be truly part of a team. In my experience, good trial preparation and presentation requires people with lots of different skills and lots of different perspectives, and you need to be open to these different skills and perspectives. You can’t assume that whatever you think is right; instead, you have to remain open to other team members’ perspectives.

You have assumed leadership positions in various local, national and international professional organizations, including serving as the President of the International Association of Defense Counsel. What advice do you have for young litigators who are trying to choose among the myriad professional organizations they can join, and how can these young litigators maximize the benefits of their membership in such organizations?

There a large number of professional organizations that one can join, and I would encourage everyone to research their opportunities and options. Try to identify associations that are focused on the type of law you practice. There are associations for prosecutors. There are associations for defense trial attorneys. There are associates for plaintiff’s trial attorneys. There are associations for government attorneys.

Basically, get involved in organizations that focus on your practice area and include the best professionals in your area. You can then join the committees and participate in the networking opportunities. Go to the meetings. Get known by the other members and actively involved in the activities, because the people you meet and the opportunities you receive are the real values of these organizations. If you just join an organization to put it on your resume, you’re not getting the value of those associations. If you truly participate, these organizations will reap tremendous benefits in regards to learning opportunities and networking opportunities and the ability to truly increase your professionalism.

Idaho's legal community has experienced significant growth during your roughly thirty-year career. What changes—for better and for worse—have accompanied this growth, and what lessons can young litigators learn from the days when Idaho's legal community was much more closely knit?

First, the level of professionalism and the civility within the Bar has dropped significantly. I think many associations including the American Bar Association, American Inns of the Court, and American College of Trial Lawyers are really focusing on professionalism and really trying to reestablish it as fundamental to the practice of law. Professionalism was more common in Idaho thirty years ago because the Bar was smaller. We knew most of the practitioners, and we respected them as people as well as the professionals. You would see them in court all the time, so there was more of a connection, more of a relationship. The decline of professionalism is one of the changes for the worse, but it is gradually improving again.

As for changes for the better, there are tremendous technological opportunities that didn't exist thirty years ago. We used to go to the courthouse library to do research. It wasn't online. We didn't have the ability to do computer research. We had to use keywords and indexes in secondary sources. We didn't have document preservation software like Concordance that allowed us to store tremendous amounts of documents. We didn't have trial presentation software like Sanction or Trial Director. We didn't have trial organizational software like CaseMap or TimeMap. All of these tools provide wonderful opportunities to save time and truly organize all of the information we have in the cases that we handle these days. That's a great improvement. However, we need to be aware that trying a case is still an art. So you can't rely upon technological advancements alone; you just have to use them as a resource.

Having practiced in both Boise and Twin Falls, you have a unique perspective on the differences between working in legal markets of diverse sizes in Idaho. What are the biggest differences between practicing in a larger market versus a smaller market, and what were the biggest adjustments you had to make upon moving to Boise?

When I practiced in Twin Falls, I was in a small firm environment of approximately 10 attorneys. In smaller legal markets in Idaho, you generally have to be a bit more general in your practice. Interestingly, in Twin Falls, I used to handle a fairly large estate planning practice associated with my litigation practice, and I drafted and negotiated some contracts and real estate agreements as well. My clients often had me handling all of their legal work, almost like an in-house counsel but hired from outside. We were primarily involved in litigation, but we also had other areas of practice and it made for a more general type of legal practice.

One of the advantages that I had in moving to Boise was that I was able to focus strictly on litigation and truly hone that part of my practice. In Boise, with Stoel Rives, I only represent the litigation concerns of my clients. I represent their litigation and trial interests, and negotiate and mediate to try to resolve disputes. I have partners and associates who can address my clients' other legal needs. That's a big difference between working in a large market, where you are able to focus more, versus a smaller

market, where you have the opportunity to provide a broader scope of services.

As far as adjustment, in Twin Falls I practiced all over Idaho. In fact, I tried cases in courtrooms everywhere from Sandpoint and Rexburg to American Falls, Pocatello and Mountain Home. I went all over the State trying cases for various clients. In contrast, in Boise, most of my practice is in federal court and limited to the Treasure Valley. Probably seventy to eighty percent of my current practice is in federal court now, instead of the exact opposite in Twin Falls, where seventy to eighty percent of my practice was in state court.

Do you have any final words of advice for Idaho's young lawyers?

I already touched on what I think is a key thing for young professionals, especially young lawyers, and that is professionalism. The occupation of an attorney is a very honorable occupation. It carries tremendous responsibility and should receive tremendous respect. The way we present ourselves establishes how we are perceived in the legal community as well as the community in general. The art of trial advocacy requires the ability to evaluate, appreciate, empathize and respond to the human element—the jury and the judge—and this art is enhanced by truly professional conduct and professional civility. So the most important thing I can say to young trial attorneys, or attorneys in general, is to leave your ego at the door. Be open to participating with everybody in the process and respecting their opinions. Make a case for your client, but do so professionally and ethically and enjoy yourself. This is a great profession. It's a lot of fun. Everyday is a new experience with new opportunity. You have tremendous challenges as well as opportunities. You meet phenomenal people and it is an opportunity to truly make a difference in many people's lives. Treat others as you would want them to treat you and enjoy a great career.

ABOUT THE INTERVIEWER

Jason E. Prince, an associate in the *Litigation Practice Group at Stoel Rives LLP*, conducted the interview of Mr. Sinclair. Mr. Prince counsels and represents domestic and international business entities on legal matters spanning such substantive areas as contracts, sales of goods, intellectual property, land use, and economic development incentives.

Mediation and Arbitration Services

D. Duff McKee

Practice limited to alternative dispute resolution services

Post Office Box 941 Telephone: (208) 381-0060
Boise, Idaho 83701 Facsimile: (208) 381-0083

Email: ddmckee@idacomm.net

IDAHO LAWYERS ASSISTANCE PROGRAM

Occasionally The Advocate will feature an article or column written by an Idaho attorney who has encountered difficulties that impact their personal and professional lives. These columns will usually be anonymous and will run under the Lawyers Assistance Program Column heading.

THEY WERE ONLY SMALL SIPS ...

I am a lawyer, a woman and a recovering drunk. My search for sobriety is like many others. Had I not found Alcoholics Anonymous, I would not be alive to share my story with you.

Alcoholism is an equal opportunity destroyer. Whether it is genetic or environmental doesn't matter to me. My father was an alcoholic, and died from my disease, but no one ever held my arm behind my back and forced me to take a drink.

I started drinking with my father when I was two years old. He had been a bomber pilot in World War II and had a difficult time sleeping, so he didn't mind the company, even the small gurgling company of his only daughter. I loved being with my father and loved the small sips of beer. My drinking career continued until I was thirty-seven. I wasn't a big drinker in elementary school or junior high school, but I drank in high school. I drank more in college and a lot in law school.

The small sips of beer that I shared with my father led to large glasses of scotch, gallons of wine and buckets of vodka.

I was never fired from a job but they usually just left me off the schedule until I moved on. I took advantage of everyone that was kind to me. If you came between me and my next drink, I went over, around or through you. If you were buying, you were my best friend until you ran out of money. I have heard some people say, "Let's get drunk and be somebody!" My motto was "Let's get drunk and be somebody else!" I drank for twenty years to forget who I was. I went wherever alcohol told me to go and did whatever alcohol told me to do when I got there.

I managed to pass the bar and I tried to practice, but I was usually too drunk. I started drinking soon after waking up. I had to have alcohol to do the simplest things. I drank in the middle of the morning and at noon. Usually I was too drunk to go back to work after lunch. Those last three years were constant drinking. I became more withdrawn. I used most of my income for booze. When I had no money, I stole bottles, I ran tabs I couldn't pay, wrote rubber checks and begged money from anyone so I could get my next drink.

Any clients that I had quickly fled. I was arrested once but the case was dismissed. None of that mattered to me as long as I had a drink.

For two of those years, I met with a psychologist. Every week I went drunk. He was a patient person ... Every week he let me know that he could help me with my other problems, but I needed to stop drinking. He suggested I go to Alcoholics Anonymous. Every week I would agree and come back the next week, drunk.

I became even more withdrawn, staying at home with the blinds drawn, drinking all day. Then one week, I crawled into a corner and went numb. I was done with life. My psychologist gave me the choice of going to the psych ward at the hospital for three days, or drying out at a recovery center across the street. I

thought it was more romantic to be crazy, but I realized that I couldn't walk out of the hospital. The detox center had no locks.

On the second day, I attended my first AA meeting. Everyone was laughing; they seemed to be enjoying life. I knew they couldn't be as sick as me because there was nothing funny or enjoyable about my life. I don't remember much else about the meeting except that someone told me that I would never have to be alone again. While I didn't believe that I could stop drinking, I didn't want to be alone anymore.

I have now been sober for twenty-one years. Everything I have today I owe to Alcoholics Anonymous. I am sure there are other means to getting and staying sober; AA is just the one I chose. I have a husband that I met in AA, friends who care about me, not the drink I might buy. Love, acceptance and service to others are the paths to my continued sobriety. There are no problems in my life today that get better by pouring alcohol on them.

I don't have to worry that a client will call the court and complain or that another attorney will say something about my drinking. Sobriety has given me the ability to get and keep the job I have always dreamed of having. Sobriety has given me the ability to get and keep the job I have always wanted. There is a real sense of freedom and serenity knowing that I can be the lawyer I want to be and gain the respect of my colleagues.

Not every day is rosy, but I have a new life of endless possibilities and I don't have to be alone. If you are still suffering from this disease, there is a way out. Please call the Lawyer's Assistance Program: (208) 323-9555, and let us help you find a life without alcohol.

IDAHO LAWYER ASSISTANCE PROGRAM

The Idaho Lawyer Assistance Program (LAP) helps and supports lawyers who are experiencing problems associated with alcohol, drug and/or mental health issues. The program also focuses on educating legal professionals and their families and friends about the causes, effects and treatment of alcohol and drug dependency, depression, and mental health problems.

For further information, please contact the LAP by phone (208) 323-9555, or email: LAP@southworthassociates.net

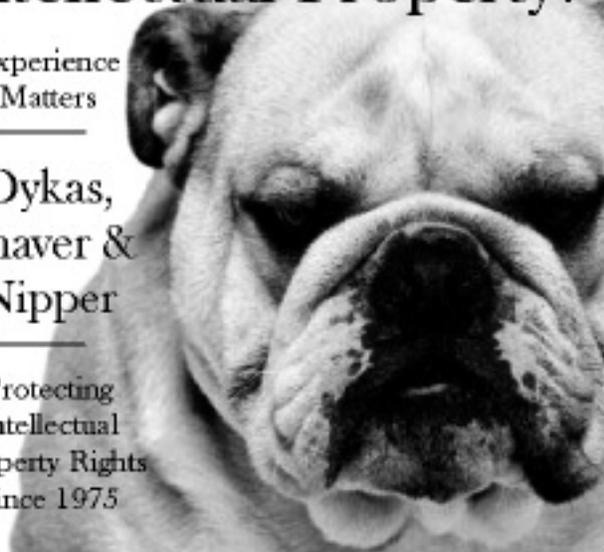
LAP Program Coordinator John Southworth, is available at (208) 891-4726.

Who's Guarding Your Clients' Intellectual Property?

Experience
Matters

Dykas,
Shaver &
Nipper

Protecting
Intellectual
Property Rights
Since 1975



208-345-1122 • 1403 W. Franklin St.
Boise, ID 83702 • www.dykaslaw.com

ETHICS and LAWYER DISCIPLINARY INVESTIGATION and PROCEEDINGS

Stephen C. Smith,
former Chairman of the
Washington State Bar Association
Disciplinary Board, is now
accepting referrals for attorney
disciplinary investigations
and proceedings in
Washington, Idaho, Hawaii, and Guam

HTEH HAWLEY TROXELL
ENNIS & HAWLEY, LLP
ATTORNEYS AT LAW

877 Main Street • Suite 1000
Boise, Idaho 83701
208-344-6000
ssmi@hteh.com

GETTING READY FOR TRIAL?

*"Studies show that jurors remember only 30%
of what they hear. But they remember 80% of
what they see and hear."*

William Maurer
Missouri State Court Judge

A FULL RANGE OF SERVICES

- Document imaging/coding/OCR-ing in a wide variety of formats
- Deposition video/text synchronization
- Powerpoint Presentations/Charts/Timetables
- Preparation of electronic presentations
- Database design
- Courtroom assistance, training and support for:
 - Trial Director
 - Summation
 - Binder
 - Sanction
 - Livenote
 - Video Synch

Laptop computers, Software available - Certified technician will assist
with courtroom presentation or training of staff



NEED CLE CREDITS!!

Our presentation qualifies you for credits
through the Idaho Law Foundation - Contact
Debby or Cary for more information

M & M COURT REPORTING SERVICE, dba AccuScan
208-345-9612 cary_s@accuscan.org www.m-m-service.com



Are you *still* using
a court reporting firm stuck
in the *1950s*?

Embrace the digital age with Naegeli Reporting, the firm with the most innovative litigation technology in the country. We offer cutting-edge court reporting, trial presentation, videography and videoconferencing services. Naegeli: Working hard to simplify your life and make your case successful.

The Technology Transcript™

- Hyperlinked Transcripts in Any Format
- Word-Searchable Exhibits
- Audio/Transcript Synchronization
- Video/Transcript Synchronization
- Digitized Video on CD or DVD
- Personal Audio CD
- E-transcript on CD

Naegeli
REPORTING
CORPORATION

Court Reporting Trial Presentation Legal Videography Videoconferencing

Serving all of Oregon, Washington, Idaho and the Nation • 24 hours a day – Every Day • www.NaegeliReporting.com

National
(800) 528-3335

Portland, OR
(503) 227-1544

Seattle, WA
(206) 622-3376

Spokane, WA
(509) 838-6000

Coeur d'Alene, ID
(208) 667-1163

Does your
structured settlement broker
play for both teams?



Make sure that your broker is plaintiff-only.

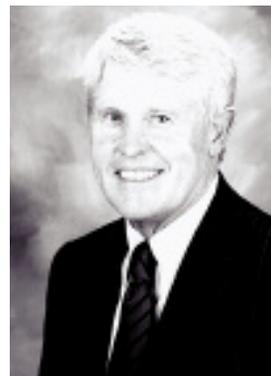
The James Street Group always has the plaintiff's best interest in mind, not the defense.

Our experts will: Attend Mediations & Maximize Your Settlement Offers
Ensure The Best Rates & Products For Your Clients • Reduce Your Malpractice Risk

Call us when you open a case... Our service is always free.

Audrey Kenney
akenney@tjsg.com
208-631-7298
www.tjsg.com

THE JamesStreet GROUP
Structured Settlements



R. Bruce Owens
Attorney at Law

of the Firm,



OWENS & CRANDALL, PLLC

Admitted ID and WA

Malpractice & Serious Injury Cases
(Fee split or association arrangements)

Martindale-Hubbell AV rated

Named "Best Lawyers in America" since 1993

Certified Civil Trial Specialist since 1995

208-667-8989

877-667-8989

1859 N. Lakewood Drive, Suite 104

Coeur d'Alene, ID 83814

Email: bruce@cdalawyer.com

2007

IDAHO STATE BAR
DISTINGUISHED LAWYERS

Each year, the Idaho State Bar presents an award to one or more of its member attorneys who have distinguished the profession through exemplary conduct and many years of dedicated service to the legal profession and to Idaho citizens. They fight for the legal rights of clients with intensity and enthusiasm; are relentless in pursuing justice; and exhibit an unwavering commitment to high ideals. Please join the Bar in congratulating Ken Howard, Coeur d'Alene and Ted Pike, Idaho Falls as the Bar's Distinguished Lawyers for 2007.

—2007 Distinguished Lawyer—
Kenneth “Ken” B. Howard



Kenneth “Ken” B. Howard, Jr., Coeur d’Alene was born in 1943. Having been raised in a family of engineers, law was not a profession he initially considered; following in familiar footsteps he automatically pursued an engineering degree. In 1967, he obtained a B.S. in Mechanical Engineering from the Kettering Institute in Flint, Michigan. He began his engineering employment with the

automotive industry working at General Motors, Ford, and Chrysler. During this time he considered moving “Out West,” but was unable to find any engineering opportunities. This lack of opportunity, combined with his concerns that engineering did not fit his personal needs, led to his decision to attend law school. Aware of the sacrifices his wife and children would have to make if he quit work to pursue a law degree, he continued working while he attended Wayne State University Law School in Detroit at night. During this time he found that the combination of engineering and law held the promise of a stimulating and interesting career for him. A prominent Detroit law firm, looking for an attorney with an engineering background, recruited Ken while he was still in law school. In 1971, after being admitted to the Michigan Bar he started work for Dice, Sweeney & Sullivan in Detroit. By 1977 though, the lure of the “West” was becoming increasingly difficult to ignore. Ken’s family was very supportive about a move to Idaho. In fact, he said his wife Barbara made the move one of the greatest experiences their young family ever had. In 1977, he moved his family to Boise where he practiced with Moffatt, Thomas, Barrett, and Blanton (currently, Moffatt, Thomas, Barrett, Rock & Fields, Chtd.) for a year before moving to Coeur d’Alene where he still maintains his practice.

As a new lawyer, Ken said he was very fortunate to have two of the principals in his Detroit Law firm mentor him. It was their mentoring, not simply in the practice of law, but in the importance of maintaining a reputation for honesty and integrity, while fulfilling the professional and ethical responsibilities of being a lawyer that shaped how he pursued his new career. Another early, although fictional, influence was Atticus Finch’s character in *To Kill a Mockingbird*. Ken said the movie and book forged his

view of being a lawyer into an image of having the responsibility and duty to use his skill and ability concerning the law as a meaningful vehicle for justice, regardless of the popularity or public perception of the cause.

Ken has argued before appellate courts in four different states and before the U.S. Supreme Court. His involvement in the Bar Commission and committees in both Idaho and Washington have added depth and perspective to his view of the legal profession. These experiences have fueled his interest in training and preparing lawyers for the ethical and professional demands they will confront during their careers.

Ken has enjoyed the challenge of helping people address their important problems. He has found during his career that building and maintaining a reputation for honesty, skill, ability, and integrity with your clients, your peers, and your community has proven a good equation for success. His philosophy is to concentrate on doing a thorough and principled job on each case, considering that each case is very important to the client and deserving of his full effort.

Ken feels that some of the disappointing changes over his thirty-five years in law are the emphasis on commercialization of the law and the economics of the practice of law. He feels advertising and the scramble to obtain business has moved the practice of law, in some undesirable ways, into the realm of marketing and sales promotion. Justice is becoming too expensive for many people, with the high costs compromising the potential benefit and value of the wrongs they seek to correct. Concerned about the loss of focus on the philosophical and social value of the rule and the process of law he said, “We have increasingly gravitated to using more and more rules and codes of conduct to define behavior that was historically matters of basic honesty, virtue, character, and integrity.”

In addition to holding licenses in Idaho and Washington (inactive in Michigan) Ken has been very active in the legal community. He was a Bar Commissioner from 1992-1995, President in 1995. He has served on many Bar and Foundation committees; Law Related Education, Lawyer Advertising Advisory, Legal Education Conclave, Long Range Planning, Financial Planning, and Bar Counsel Oversight. He has served on several Supreme Court committees: Civil Rules (twice), Equality in Courts, and Special Committee on Discover Rules. He was on the Idaho Judicial Council from 2005-2006 and the Idaho State Citizens

Committee on Legislative Compensation from 1998-2006. He has been a member of the American College of Trial Lawyers and has been a Fellow since 1996 serving as State Chairman from 1999 to 2002; a member of the Idaho Trial Lawyers Association serving at various times as member, president, board member, and officer. He belongs to the Association of Trial Lawyers of America serving on the Board of Governors 1988-1993; he has been an instructor and lecturer for the National College of Trial Advocacy and a member of the Trial Lawyers for Public Justice 1985-1995, serving as state chairman 1988-92. Ken was a founding member of the American Inns of Court – John P. Gray Chapter in Coeur d’Alene. He has been a youth soccer referee and was a founding member of the Coeur d’Alene Soccer Club, as well as its first president.

Ken has received several honors throughout his career. He received the Bar’s Professionalism Award in 1997 and a Pro Bono Award in 2001. He was a recipient of the Civil Rights Award from the Kootenai County Task Force on Human Relations for his representation of two people in a successful lawsuit against the Aryan Nations and its founder Richard Butler.

His wife, Barbara, and their four children play important roles in Ken’s life, not only in their relationship to him, but as teachers. He says, “Through their constant support (and constructive criticism), I have learned to pause and reflect upon the things I believe in, the things I have done, and the views I have held; and, to try to see myself as others see me.” Watching his children grow into principled and accomplished adults makes Ken very proud. When their children lived at home the Howards

hosted exchange students from Denmark, Germany, Russia, and Yugoslavia, counting those experiences as gaining connections to young people who continue to be part of their family. Their four children, Beth, Mike, Jamie, and Matt; their spouses, and ten grandchildren live in Boise or Coeur d’Alene.

Ken is an avid nonfiction reader, and enjoys reading about the Revolutionary and Civil War periods and the early 20th century labor movement. He loves to sail, and has sailed in the Puget Sound and Sea of Cortez in Mexico, though he is currently without a boat. Today he spends much of his spare time working on various projects on his small ranch outside of Coeur d’Alene.



Ken Howard, 2007 Distinguished Lawyer, with wife Barbara and son Mike, an attorney with Winston & Cashatt Lawyers, PS in Spokane.



The Idaho State Bar 2007 Distinguished Lawyers, Ken Howard, Coeur d’Alene and Ted Pike, Idaho Falls.



Ken Howard and Ted Pike discuss the day’s events after the Distinguished Lawyers Luncheon.

—2007 Distinguished Lawyer— Edward “Ted” W. Pike



Edward “Ted” W. Pike, Idaho Falls was born in Logan, Utah in 1924. His first year at Utah State University was interrupted when he was called for active duty in the Air Force. During World War II he was a navigator in the 15th Air Force, stationed at Cerignola, Italy. At the end of his tour he continued his education at the University of Utah, graduating in 1948 with a B.S. degree, before going on to attain his LL.B. (J.D.). While in

Utah he was active in the Phi Alpha Delta Legal Fraternity. He was admitted to the Utah State Bar in 1950 (he still maintains an active license), but was recalled to active duty during the Korean War. He served in the U.S. Air Force from 1950-1952 as a navigator, administrative officer, and legal officer.

It was at the end of his time serving during the Korean War that he decided against a military career and chose the “independence” of a profession. In 1952, he was admitted to the Idaho State Bar. He was a Prosecuting Attorney for Bonneville County from 1955-1959. His former law firms are Albaugh, Smith & Pike, Idaho Falls (1959-1987); Anderson, Pike & Bush, Idaho Falls (1987-1994); and Pike & Smith, (currently Pike & Associates) Idaho Falls (1994 to date). During those years he was also general counsel for Energy, Inc. and Idaho Nuclear, Inc. Since 1997, Ted has been an Idaho Supreme Court Certified Mediator and is general counsel for the Bank of Idaho.

As with many of the Bar’s Distinguished Lawyers, Ted is actively involved in many areas of his profession and his community, and has volunteered many hours of his time to help with committees and associations. He was president of the 7th District Bar Association, and served on several state and local bar committees. He is a former Chair of the Bonneville County Democratic Party, as well as state committeeman. He also belongs to the Eagle Rock Inns of Court, Idaho Falls Chapter, and has been a member of the ABA since 1955. He has provided pro bono services, assisted the CHC Foundation, and the Bar’s Citizens Law Academy. In 2001, he was the recipient of a Professionalism Award from the Idaho State Bar, and in 2002 was honored as a 50-year attorney. In 2003, he received a Professionalism Award from Eagle Rock Inns of Court.

Ted thinks the people who had the biggest influence on his career were judges and experienced practicing attorneys who set good examples and gave good advice. When addressing the topic of who had the biggest influence in his life Ted wrote, “Past tense! I am still open to suggestions.” Karl Shurtliff was working in the U.S. Attorneys Office when he first met Ted. They were on opposite sides of a case, but quickly became friendly adversaries. The next time they met Karl was the Hearing Examiner on a construction case and ruled against Ted. He said, “from there we became even better friendlier adversaries.” But, he really got to know Ted when he invited Karl to assist him with an INEL case.

They had a lot of fun and had good results, and continued working on several other cases together. Now they don’t see each other often, but still talk often and collaborate on cases. He said, “Ted is a fun guy to work with, and hard not to like. He’s a very very bright lawyer and a good lawyer who is very capable. He is what being a lawyer is all about, but he makes it look easy.”

Ted discussed the changes that have transpired since he started out as a law student. He feels the current law school requirements are more extensive and rigorous in nature. He thinks the practice of law is more demanding and difficult. He felt his biggest challenge in becoming a successful attorney was getting over the financial burden while starting a new practice and raising a family. Professionally, Ted likes the opportunities his career has given him to truly help his clients and the community when in need.

He leaves little doubt that his family life and wonderful friendships are what bring him the greatest pleasure. Between them, he and his wife Alice have nine children: Peggy, Kathryn, Jon, Tamara, Alexis, Shaine, Jennifer, Bethanie, and Andrew; and ten grandchildren. In his spare time he enjoys music, and was formerly a member of the American Federation Musicians Local 104, and has been a percussionist for the Idaho Falls Symphony. He didn’t say if he still flies, but he has had a private pilot’s license. Other hobbies include boating, golf, travel and time with family.



Ted Pike and his wife Alice stop to talk to Tim Hopkins after the Distinguished Lawyers Luncheon.

2007 ANNUAL MEETING PHOTOS



Mike Stoddard, Diane Minnich, Eva, Mark, and Jennifer Nye.



Dean Donald Burnett, Hon. Donald E. Swanstrom, and Justice Jesse E. Walters the first judges on the Idaho Court of Appeals.



Hon. Mike Oths, Boise, 4th District Magistrate.



Craig Pace, Eagle. Recipient of 2007 Service Award for his volunteer work with IVLP.



Justice Warren E. Jones, Boise at the Wednesday night reception.



Idaho State Bar Board of Commissioners with Bar Counsel and Executive Director. L to R - Andy Hawes, Jay Sturgell, Dwight Baker, Diane Minnich, Terry White, Julia Crossland, Tom Banducci, and Brad Andrews.



Attorney General Lawrence Wasden and Chief Justice Daniel Eismann share a laugh at the evening reception.

2007 ANNUAL MEETING PHOTOS



Sid Smith, Coeur d'Alene, a member of the Bar for 65 years, speaks a few words at the breakfast meeting.



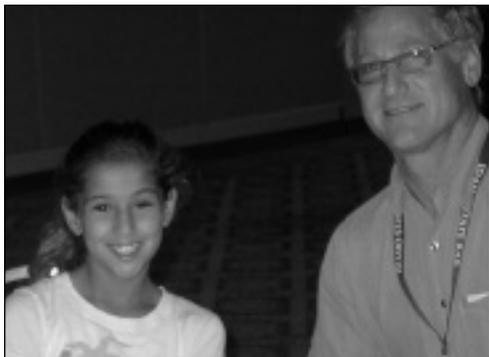
Ray Rigby, Rexburg with Fran and Allyn Dingel, Boise.



Dean Wullenwaber, Lewiston and Judge Tom Neville, 4th District Court, Boise.



Justice Linda Copple Trout and Patti Tobias, Boise.



Howard Belodorf and his daughter at the dinner for retiring Chief Justice Gerald Schroeder.



Fred Hoopes, Idaho Falls talks with friends at the Wednesday night reception.



Annual Meeting CLE speaker Robert Ambrogi talks to Walt Donovan, Boise and Don Chisholm, Burley.



Dick Fields and John Bush, Boise talk at Wednesday's reception.

ADR SERVICES
MEDIATION • ARBITRATION • EVALUATION

JOHN MAGEL



40 years' experience
Litigation & ADR

Member ISB ADR Governing Council

More than 550 Mediations through 2006
jm@elambuke.com

Elam & Burke

251 E. Front St., Ste. 300, P.O. Box 1539, Boise, ID 83701
Tel: 208-343-5454 • Fax: 208-384-5844
www.elamburke.com

SELF-DIRECTED RETIREMENT PLAN SERVICES

Purchase Real Estate, Trust Deeds, LLCs & More in Your IRA or Qualified Plan

For over 25 years, Entrust has assisted professionals just like you with our first-hand knowledge on managing self-directed investments. Benefit from our expertise and exceptional service, and let Entrust help you or your clients open a self-directed retirement account today.

6.25 credit hour CLE classes forming regularly.
Call for dates and times today.



Entrust
OF IDAHO
Your Source for Self-Directed IRAs

www.TheEntrustGroup.com

10096 W. Fairview Avenue
Suite 160
Boise, ID 83704

(208) 377-3311



a member of
Entrust Group
Self-Directed Retirement Plan Services

LEGAL PROFESSIONAL LIABILITY COVERAGE FOR AMERICA'S GREATEST LAW FIRMS

WE BRING ORDER

TO THE COURT

IS YOU?

Protecting America's law firms is the special expertise of Great American's Professional Liability Division. Insurance for attorneys by attorneys: we bring a thorough understanding of the law to all our business relationships. Our service is prompt, accurate, proficient.*

*Are you invincible?
Are you insured?*

Contact:
Carlin Edelman
800.299.4331

APPLY ON-LINE!

appsnap

GreatAmericanLawyer.com

GREATAMERICAN
INSURANCE GROUP

Professional Liability Division

*Rated "A" Excellent by A.M. Best, as of January 23, 2006

© 2006 Great American Insurance Company. All rights reserved.

DIRECTORY UPDATES
Includes Reciprocals
(9/1/07)

Jan N. Allred

1933 E. Holladay View Place
Holladay, UT 84117
jnh279@aol.com

Tessa J. Bennett

3049 N. Five Mile Road, #101
Boise, ID 83713
(208) 407-4111
tessajbennett@gmail.com

Lora Rainey Breen

Gardner Law Office
PO Box 2528
Boise, ID 83701
(208) 378-0881 Ext: 14
Fax: (208) 387-3501
lbreen@gardnerlaw.net

Janet Ann Briseno

Briseno Law Offices, PC
2005 Ironwood Parkway, Ste 115
CDA, ID 83814
(208) 665-7080
Fax: (208) 665-7667
brisenolawoffices@verizon.net

Amie L. Bruggeman

12550 N. Upper Ridge Place
Boise, ID 83714
(208) 891-8070
amie_b@adelphia.net

Ned A. Cannon

Smith, Cannon & Bond, PLLC
508 8th Street
Lewiston, ID 83501
(208) 743-9428
Fax: (208) 746-8421
ned@scblegal.com

Joshua Kyle Chandler

Melaleuca, Inc.
3910 S. Yellowstone Highway
Idaho Falls, ID 83402
(208) 522-0700
Fax: (208) 534-2063
jchandler@melaleuca.com

David Alan Christensen

Ada County Prosecutor's Office
200 W. Front Street, Rm 3191
Boise, ID 83702
(208) 287-7700
Fax: (208) 287-7709
dchristensen@adaweb.net

Eric Robert Clark

The Real Estate Law Group
PO Box 2504
Eagle, ID 83616
(208) 830-8084
Fax: (208) 939-7136
eclark101@hotmail.com

Tammy Lynn Crowley

Law Office of Tammy Crowley,
PLLC
1119 E. Sherman Avenue
Coeur d'Alene, ID 83814
(208) 765-0452
Fax: (208) 765-0492
crowleylawoffice@gmail.com

Jennifer Schrack Dempsey

206 S. Owyhee Street
Boise, ID 83705
j_schrack@hotmail.com

Todd R. Erikson

Todd R. Erikson, PA
3456 E. 17th Street, Ste. 280
Idaho Falls, ID 83406
(208) 522-3305
Fax: (208) 523-5840
todderikson@hotmail.com

Joseph Scott Escujuri

The Law Office of J. Scott Escujuri,
PLLC
708 1/2 W. Franklin
Boise, ID 83702
(208) 342-2933
Fax: (208) 345-2890
scott@boisejustice.com

Debra A. Everman

Everman Law Office
1501 Tyrell Lane
Boise, ID 83702

Jennifer Hughes Fegert

Quane Smith, LLP
PO Box 1758
CDA, ID 83816-1758
(208) 664-9281
Fax: (208) 664-5380
jhfeget@quanesmith.net

Irene Frances Gallagher

Holme Roberts & Owen, LLP
1700 Lincoln Street, Ste. 4100
Denver, CO 80203-4541
(303) 861-7000
Fax: (303) 866-0200
irene.gallagher@hro.com

Joshua Aaron Garner

The Law Office of Joshua A. Garner
330 Oaktrail Drive
Rexburg, ID 83440
garnerlawoffice@gmail.com

Shelby Christine George

219 Pebble Brook
Nashville, TN 37221
(615) 584-7009
Fax: (615) 741-9430
sc_harrell@yahoo.com

Mary Elizabeth Godwin

4349 Persimmon Drive
Saginaw, MI 48603
maryegodwin@yahoo.com

Daniel R. Goff

Xilinx, Inc.
2100 Logic Drive
San Jose, CA 95124
(408) 879-2781
Fax: (408) 879-6880
dan.goff@xilinx.com

Hon. Michael James Griffin

403 Oak Street
Grangeville, ID 83530
(208) 983-1385
Fax: (208) 983-2376
grif@mtida.net

Rusty Breck Hansen

Parrish Law Offices
5735 Sorrel
Chubbuck, ID 83202
(208) 221-2106 Ext: 1
Fax: (208) 234-1244
rhansen@idahopower.com

Jethelyn Kay H. Harrington

Kootenai County Administrative
Services
Dept. AS
PO Box 9000
CDA, ID 83816-9000
(208) 446-1620
Fax: (208) 446-1621
jharrington@kcgov.us

Paul Richard Harrington

Lukins & Annis, PS
250 Northwest Blvd., Ste. 102
CDA, ID 83814
(208) 667-0517
Fax: (208) 664-4125
pharrington@lunkins.com

Jeffrey Pat Heineman

Bauer & French
PO Box 2730
Boise, ID 83701
(208) 383-0090
Fax: (208) 383-0412
jheineman@bauerandfrench.com

Leonard Garnett Hill

220 Horizon Drive
Boise, ID 83702
(208) 342-4164

Curtis N. Holmes

14011 Floyd, Apt. 601
Overland Park, KS 66223
(913) 402-0597

C. Timothy Hopkins

Hopkins Roden Crockett Hansen &
Hoopes, PLLC
PO Box 51219
Idaho Falls, ID 83405-1219
(208) 523-4445
Fax: (208) 523-4474
timhopkins@hopkinsroden.com

Jathan William Janove

Ater Wynne, LLP
222 SW Columbia, Ste. 1800
Portland, OR 97201
(503) 226-8622
Fax: (503) 226-0079
jj@aterwynne.com

Teri Ann Kaptein

16344 N. Asbury
Nampa, ID 83651
tawhilden@nnu.edu

Hon. Thomas D. Kershaw Jr.

Twin Falls Magistrate Court
PO Box 126
Twin Falls, ID 83303-0126

Terri Lynn Laird

4607 E. 42nd Avenue
Spokane, WA 99223
(509) 868-5961
lairdsoftexas@yahoo.com

Cody Allan Long

Long Law Office, PLLC
420 W. Main Street, Ste. 206
Boise, ID 83702
(208) 287-3303
Fax: (208) 336-2088
cody.a.long@gmail.com

Jenna Victoria Mandraccia

12836 N. Pioneer Way
Oro Valley, AZ 85755
(307) 690-8496
Fax: (520) 742-0360
jmandraccia@hotmail.com

Steven Ray Matthews

1087 W. River Street, Ste. 230
Boise, ID 83702
(208) 344-6100
presdad203@aol.com

Mary M. McKnight

U.S. Department of Energy
1189 Grassland Drive
Idaho Falls, ID 83404-8292
(509) 539-2301
Fax: (509) 376-4590
mmmck783@bigfoot.com

Mark LeRoy Means

Means Law Office
PO Box 224
Caldwell, ID 83607
(208) 608-2315
mlmeans@meanslawoffice.com

Kristopher Dean Meek

Hopkins, Roden, Crockett, Hansen
& Hoopes
PO Box 51219
Idaho Falls, ID 83405
(208) 523-4445
Fax: (208) 523-4474
krismEEK@hopkinsroden.com

Weston B. Meyring

Meuleman Mollerup, LLP
755 W. Front Street, Ste. 200
Boise, ID 83702
(208) 342-6066
Fax: (208) 336-9712
meyring@lawidaho.com

Mark Jon Mimura

Mimura Law Offices, PLLC
2176 E. Franklin Road, Ste. 120
Meridian, ID 83642
(208) 288-0744
Fax: (208) 575-6217
mark@m2jlaw.com

Susan Lynn Mimura

Mimura Law Offices, PLLC
2176 E. Franklin Road, Ste. 120
Meridian, ID 83642
(208) 288-0744
Fax: (208) 575-6217
susan@m2jlaw.com

Hon. Brent John Moss

Seventh District Court
PO Box 389
Rexburg, ID 83440
(208) 356-6880
Fax: (208) 356-5425
bmoss@co.madison.id.us

Charles M. Murphy

Murphy Law Office, PLLC
847 E. Fairview Avenue
Meridian, ID 83642
(208) 345-8400
Fax: (208) 322-4486
bradylaw@bradylawoffice.com

Darwin Overson

2514 N. 21st Street
Boise, ID 83702
(208) 344-2706
overson@qwest.net

Hon. Patrick H. Owen

Fourth District Court
200 W. Front Street
Boise, ID 83702
(208) 287-7524
Fax: (208) 287-7529
dcowenph@adaweb.net

Matthew Christopher Parks

Elam & Burke, PA
PO Box 1539
Boise, ID 83701
(208) 343-5454
Fax: (208) 384-5844
mcp@elamburke.com

Hon. Jeff P. Payne

Idaho County Magistrate Court
320 W. Main
Grangeville, ID 83530
(208) 983-2776
Fax: (208) 983-2376
jeff_payne@qwest.net

Alexa Jean Perkins

Mimura Law Offices, PLLC
2176 E. Franklin Road, Ste. 120
Meridian, ID 83642
(208) 288-0744
Fax: (208) 575-6217
alexa@m2jlaw.com

Brittany Lee Pfister

Clearwater Analytics
950 W. Bannock, Ste. 1050
Boise, ID 83702
brittany@clearwateranalytics.com

Brian Robert Ragen

Brian Ragen, PS
205 N. 10th Street, Ste. 200
Boise, ID 83702
(208) 424-7602
Fax: (208) 331-8391

Jennifer Marie Reinhardt

Meuleman Mollerup, LLP
755 W. Front Street, Ste. 200
Boise, ID 83702
(208) 342-6066
Fax: (208) 336-9712
reinhardt@lawidaho.com

Ashley Ann Richards

Layman, Layman & Robinson,
PLLP
601 S. Division
Spokane, WA 99202
(509) 455-8883
Fax: (509) 624-2902
arichards@laymanlawfirm.com

Tracey K. Rolfsen

Office of the Attorney General
317 W. Main Street, 4th Floor
Boise, ID 83735
(208) 332-3570 Ext: 3432
Fax: (208) 334-6125
trolfsen@labor.idaho.gov

Benjamin A. Schwartzman

The Schwartzman Law Group, LLC
1004 W. Fort Street, Ste. 1000
Boise, ID 83702
(208) 947-0018
Fax: (208) 947-0014
bas@baslawgroup.com

Kenneth John Sheppard

Durham Johnes & Pinegar
192 East 200 North, 3rd Floor
St. George, UT 84770
(435) 674-0400
Fax: (435) 628-1610
ksheppard@dijplaw.com

David Joseph Smethers

Wiebe & Fouser
PO Box 606
Caldwell, ID 83606
(208) 454-2264 Ext: 3035
Fax: (208) 454-0136
dsmethers@wiebefouser.com

Hon. Richard Taylor St. Clair

2100 West 97th South
Idaho Falls, ID 83402
(208) 589-6575
rsaint55@gmail.com

James Marshal Stanford

SettlePou
134 3rd Ave. East
Twin Falls, ID 83301
(208) 933-0050
jstanford@settlepou.com

Nathan Richard Starnes

Moffatt, Thomas, Barrett, Rock &
Fields, Chtd.
PO Box 829
Boise, ID 83701-0829
(208) 345-2000
Fax: (208) 385-5384
nrs@moffatt.com

Bryan Scott Storer

Storer Injury Lawyers
4850 N. Rosepoint Way, Ste. 104
Boise, ID 83713
(208) 323-0024
Fax: (208) 323-9730
storerlaw@msn.com

James Clive Strong

U.S. Department of Justice
PO Box 7238
Washington, DC 20044
(202) 514-9953
james.c.strong@usdoj.gov

David Morrison Swank

McAnaney & Associates
1101 W. River Street, #100
Boise, ID 83702
(208) 344-7500
Fax: (208) 344-7501
dms@mctaxlaw.com

Jacob Aaron Sweeten

DBSI - Discovery Real Estate
Services
12426 W. Explorer Dr., Ste. 100
Boise, ID 83713
(208) 489-2597
Fax: (208) 489-2501
jsweeten@ddrs.net

Bryan Finley Taylor

Hamilton, Michaelson & Hilty, LLP
110 S. 5th Avenue
Caldwell, ID 83605
(208) 455-3116
Fax: (208) 455-2978
btaylor@ci.caldwell.id.us

Elizabeth Mahn Taylor

U.S. Courts, District of Idaho
550 W. Fort Street, MSC 040
Boise, ID 83724
(208) 334-9341
Fax: (208) 334-1334
beth_taylor@id.uscourts.gov

Kirsten L. Wallace

U.S. District Court
550 W. Fort Street
Boise, ID 83724
(208) 334-9330
Fax: (208) 334-9215
kirsten_wallace@id.uscourts.gov

Marc John Weinpel

The Children's Center
1675 Curlew Drive
Idaho Falls, ID 83406
(208) 529-4300 Ext: 5439
Fax: (208) 529-1627
squire4@hotmail.com

Jefferson Hunt West

The Law Office of Jefferson H.
West, PLLC
1020 W. Main Street, #220
Boise, ID 83702
(208) 331-9378
Fax: (208) 331-7712
lawoffice@jhwestlegal.com

Brad R. Wright

2033 Wrangler Way
Grand Junction, CO 81503
(970) 270-1213
bradwright6@bresnan.net

Kameron Michael Youngblood

PO Box 50495
Idaho Falls, ID 83405
(208) 525-3328
Fax: (208) 525-3330
youngbloodlaw@gmail.com

IDAHO ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

I A C D L

STANDING TALL FOR THE ACCUSED

IACDL

PRESENTS

FALL BOISE SEMINAR

INCLUDING ETHICS, CASE LAW UPDATES

AND

TRIAL PRACTICE TECHNIQUES

TO BE HELD AT

HOTEL 43

ON

FRIDAY, NOVEMBER 9, 2007.

FOR MORE INFORMATION:

CONTACT IACDL EXECUTIVE DIRECTOR

DEBI PRESHER

(208) 343-1000 or dpresher@nbmlaw.com

Certified Business Valuation Services

ARTHUR BERRY & COMPANY

Professional Business Brokerage and Commercial Real Estate Company Since 1951



Over 1,600 Accredited Business Valuations and Sales Completed
Nine Licensed Professionals with Access to Comparable Sales Data
Expert Witness Testimony and Master Services

Call for a Confidential, No Obligation Consultation
208-336-8000
www.arthurberry.com

FORENSIC DOCUMENT EXAMINER

Full service laboratory to resolve handwriting issues, obliterations, alterations, ink comparisons, etc. The only examiner in ID and the N/W Certified by the American Board of Forensic Document Examiners. Government trained.

James A. Green

(888) 485-0832

PO Box 5379 · Eugene OR · 97405

Mediator/Arbitrator

W. Anthony (Tony) Park

·36 years, civil litigator

·Former Idaho Attorney General

·Practice limited exclusively to ADR

P.O. Box 2188
Boise, ID 83701

Phone: (208) 345-7800
Fax: (208) 345-7894

E-Mail: wap@huntleypark.com



Land Records Research Company

Carol Tice Davis

President

Phone: 208.376.7686
Fax: 208.376.3054

www.landrecordsresearch.com

Property History
Mineral, Timber, Water Rights
Easements and Rights of Way
Asset location for
conservatorship.estates

IDAHO VALUATIONS, INC.

Residential Real Estate Appraisal

- Divorce Settlements
- Estate Settlement
- Bankruptcy Valuation
- Pre/Postnuptial Agreements
- Expert Witness Experience

Julianna Comstock-Niehans, CRA-66
Brent Niehans, CRA-114

208.853.2728

208.859.0180

www.idaval.com

Service • Experience • Quality

ABA ANNUAL MEETING WELCOMES MEMBERS OF HIGH COURT

Larry Hunter, Idaho State Bar Delegate
Moffatt, Thomas, Barrett, Rock and Fields, Chtd.

Mark Twain is reported to have said “the coldest winter I ever spent was a summer in San Francisco.” Of course like many of Twain’s social commentaries there is much hyperbole in what he says (I personally do not forgive him for calling golf “a good walk spoiled.”); but having lived for two years in the Bay Area many years ago and having worn my winter coat (an Idaho winter coat at that) to a baseball game at Candlestick Park, I know of what he speaks. In early August the ABA held its annual meeting in San Francisco which it is wont to do every three years or so, and frankly the 75° temperatures felt very good after Idaho’s hot July and early August. While the House of Delegates had no overriding issue or issues to discuss the meeting was interesting, informative and will have effects into the future. I would like to discuss four aspects of the meeting: 1) New leadership, 2) Presidential Initiatives; 3) Two particular resolutions involving employment; and 4) Supreme Court Justice visits.

NEW LEADERSHIP

The new President of the ABA is William Neukom of Seattle. Bill is a part-time resident of Idaho and has always been inclusive of Idaho in caucuses and other endeavors. He recognized Idaho Falls attorney Tim Hopkins by appointing him as Chairman of the ABA Standing Committee on the Judiciary. This committee reviews nominees for the Federal Court system and gives a rating of qualified or not qualified to each such nominee. Tim has been a member of the committee, but as Chairman he carries additional responsibility and recognition. It is a compliment to Tim and his hard work that President Neukom recognized him with this appointment, one of the most significant in the organization. Tommy Wells of Alabama became President-Elect and will become President in August of 2008.

PRESIDENTIAL INITIATIVES

As each President begins his or her one-year term, he or she has developed some

ideas from their years of practice and service in the ABA with regard to a program or programs they would like to see developed. Since the President has been President-elect for a year many times these programs are well-developed when the new year starts in August. And often these programs are continued after the term is complete. Outgoing President Karen Mathis talked of a number of her projects. One of those was called “A Second Season of Service” and a commission was formed to encourage this program. The idea behind it is that there are a number of baby boomer attorneys who will soon be reaching retirement age. Rather than allowing that talent and experience to go un-utilized after retirement, President Mathis encouraged attorneys from across the country to volunteer in their community. To facilitate that service the Second Season of Service commission has established a web-site that lists volunteer opportunities in each state. Whether you use that resource or your own, the concept of Second Season of Service is great way for the members of the profession to continue to give back to the community.

President Neukom’s principal program is called the World Justice Program through which he would like to build a multi-disciplinary movement to advance the rule of law in the U.S. and abroad through multi-disciplinary meetings in all U.S. states as well as other countries. Such a meeting will be held here in Idaho sometime in the next year and will involve a confluence of representatives of many disciplines including the law to discuss how the rule of law helps in other professions and to enlist the aid of other professions in the advancement of the rule of law.

If you would like to be involved in that project please let the undersigned or the bar office know about it.

RECOMMENDATIONS

There were two particular recommendations that related to employment in one

way or another that were the most debated and resulted in the closest votes at the meeting of the House of Delegates. The first was sponsored by the New York State Bar delegation and it recommended mandatory age-based law firm retirement policies be discontinued and that law firms evaluate senior partners individually, consistent with the firm’s performance criteria. Those favoring the recommendation pointed out that we as lawyers, counsel our clients not to have discriminatory practices. The opponents pointed out that the ABA should not become involved in the management of law firms and that each partnership had the right to determine how they were to handle the firm’s governance. The recommendation passed by a 2 to 1 margin.

The second recommendation urged Congress to amend Title VII of the Civil Rights Act of 1964 and federal age and disability employment discrimination laws to ensure that in claims involving discrimination on compensation the statute of limitation runs from each payment reflecting the claimed unlawful disparity, rather than from the first such payment. The recommendation passed after an active debate.

Of the more than 50 recommendations made and considered by the House, these two generated the most discussion. However, many were of importance to practitioners in many areas of the law. Since these are recommendations, there is no guarantee that any action will be taken. Therefore, about what had happened with three prior recommendations and how they had affected policy was very informative.

The House had the opportunity to hear a number of fine speeches from a variety of sources. Three that were particularly good were that of Fernando Pombo, the President of the International Bar Association who emphasized the joint working relationship that the IBA has with the ABA, whose members were instrumental in the founding of the IBA.

SUPREME COURT JUSTICE VISITS

Two different members of the United States Supreme Court addressed the meeting—Associate Justice Breyer and Associate Justice Kennedy. Justice Kennedy received the ABA Medal which is given annually to one person who has served the ideals of the practice of law in the American system. He was recognized for his efforts to promote civility in the legal profession, civics education, sentencing reform and the rule of law. Justice Kennedy was very gracious in his acceptance speech, emphasizing that we have much work to do to assure the work of freedom goes forward. He stated, “We cannot go to a foreign country and just hand them a scroll with a ribbon on it and say ‘Here is the Rule of Law.’ Our legal structure cannot be easily reproduced in

the third world. Nonetheless, it is incumbent upon us to do our part to move the work forward.”

Justice Breyer was the keynote speaker at the opening ceremonies for the annual meeting. His remarks were probing and thought-provoking. He reflected on his thoughts over the summer after certain decisions that he had participated in the previous term had not gone as he would have wanted. He wrote one dissent of 72 pages and felt dissatisfied, but as he thought about it he realized that one of the strong points of this country is that everyone is entitled to his opinion and that one’s opinion will not always be the majority opinion, but no one will remove the right to have that opinion from him. It was a poignant insight and a great way to commence the annual meeting.



Larry Hunter was appointed as the Idaho State Bar Delegate to the American Bar Association House of Delegates effective August 2004. Mr. Hunter is a partner with Moffatt, Thomas, Barrett, Rock and Fields in Boise. His practice includes general and commercial litigation, administrative law, and alternative dispute resolution. Larry is a past president of the Idaho State Bar. He received his J.D. from Northwestern University School of Law. He has an A.B. from Harvard University (cum laude). Contact information for Larry is: (208) 345-2000, or lch@moffatt.com.

The Other Trust Bank...
Fiduciary Solutions offered uniquely through a trusted community bank.

Serving Idaho, Washington, and Oregon

- Trustee Appointments
- Estate Settlements
- Investment Management
- Retirement Accounts

CONTACT US AT: 208-415-5705 OR 800-795-6512

Panhandle State Bank
Intermountain Community Bank
Magic Valley Bank



...exactly like no other.

NOT A DEPOSIT	NOT FDIC INSURED	NOT GUARANTEED BY THE BANK
NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY.		MAY LOSE VALUE.

MOONLIGHTING SOFTWARE
Innovative Custom Software

Home of the best Child Support Program

PO Box 44930 (208) 376-7728
Boise, ID 83711 www.idchildsupport.com

Mediation/Arbitration

John C. Lynn

33 years experience

3503 West Grover Court Phone: (208) 860-5258
Boise, ID 83705

Email: johnlynn@fiberpipe.net

CHASAN



WALTON

ATTORNEYS AT LAW

PROFOUND INJURY CASES

FEE SPLIT ARRANGEMENTS

ANDREW M. CHASAN

*Martindale-Hubbell AV Rated
Past President, Idaho Trial Lawyers Association*

TIMOTHY C. WALTON

*Martindale-Hubbell AV Rated
Past President, Idaho Trial Lawyers Association*

208.345.3760

800.553.3760



1459 Tyrell Lane • PO Box 1069 • Boise, Idaho 83701

www.chasanwalton.com

andrew.chasan@chasanwalton.com • tim.walton@chasanwalton.com



LAW FIRM'S GENEROUS PRO BONO PLEDGE SERVES IDAHO FAMILIES

Every lawyer has a professional responsibility to provide legal services to those unable to pay. —Idaho Rule of Professional Conduct 6.1

One of Idaho's largest and most historic law firms, **Hawley Troxell Ennis & Hawley LLP (HTEH)**, is partnering with the Idaho Volunteer Lawyers Program (IVLP) to address some of the needs of Idaho's most vulnerable residents. Like many large firm practitioners, the attorneys at HTEH do not ordinarily work with family law or domestic violence cases, but this did not deter the firm from recognizing a need and finding a way to be of service.

Spearheaded by associate **Ryan McFarland**, HTEH first agreed to staff one of IVLP's monthly family law clinics. In addition to Ryan, HTEH attorneys **Craig Meadows** and **John Ashby**, volunteered to help during one of the evening clinics to help *pro se* parties in family cases prepare pleadings for their use in seeking judicial assistance in divorce, modification, and child custody matters.

Following that experience, Ryan notified IVLP that attorneys **Adam King, Will Wardwell, Nick Taylor, Michelle Points, Kristin Bjorkman, John McGown, Russell Case, Joe McCollum** and **Loren Messerly** would each volunteer to represent a victim of domestic violence under the Violence Against Women Act (VAWA) or to assist a grandparent in obtaining guardianship of a grandchild in an unsafe home.

HTEH's commitment is significant. VAWA allows immigrant victims of domestic violence to obtain immigration relief without their abuser's cooperation or knowledge. Such relief protects victims and helps them provide a safer, more stable environment for their children. To take advantage of VAWA's protections, however, most victims require legal assistance and few are able to pay. Idaho Catholic Charities estimates each VAWA case requires between 25 and 40 *pro bono* attorney hours.

Providing *pro bono* legal services to grandparents in guardianship cases similarly helps provide stability and safety

for families. Children of parents debilitated by methamphetamine addiction (or any number of other mental or legal issues) frequently end up living with grandparents who are usually the only alternative to foster care. These grandparents often lack the legal authority to make decisions for the child and may encounter difficulties enrolling children in school, obtaining medical care, or filing for public assistance benefits for grandchildren. Guardianship gives grandparents the legal tools they need to provide a stable environment for their grandchildren.

The HTEH attorneys are well on their way to meeting—and exceeding—the aspirational goal of 50 hours of *pro bono publico* service per year under Idaho Rule of Professional Conduct 6.1. They are also reaping significant intangible rewards. As **Pat Collins**, the firm's managing partner, noted: "our participation in IVLP is just one of the ways Hawley Troxell can give back to the community. It also presents a wonderful opportunity for some of our lawyers to gain experience in areas of the law in which they might not normally practice. We are very proud of our lawyers who are participating in the program and commend them for their commitment to the clients this Program serves."

Even with the generous commitment of HTEH however, many other Idaho families face crises without adequate legal assistance. If you would like more information as to how you could help with VAWA, guardianship or other family law cases, or if you can help with clinics, legal advice, or other support please contact Mary Hobson at the Idaho Volunteer Lawyers Program, email: mhobson@isb.idaho.gov.

IVLP SPECIAL THANKS

Beginning with the Class of 2009, all law students at the University of Idaho College of Law are required to perform at least 40 hours of *pro bono publico* service prior to graduation. IVLP's special thanks this month goes out to two U of I law students who choose to do their 40 hours of service with the Idaho Volunteer Lawyers Program (IVLP) this summer.

Kirk Kimber and **Jake McGrady** are second-year law students and both members of the U of I class of 2009. They each spent one week working with IVLP, helping low-income people complete form pleadings required for their *pro se* appearances in family law cases and completing legal research projects for use by volunteer attorneys in their *pro bono* work. Both students willingly tackled every assigned project and made a significant contribution to IVLP, its patrons and its volunteers.

Idaho Partners Against Domestic Violence
and
the Fourth District Bar
Grapes Against Wrath

A wine tasting and silent auction to
benefit victims of domestic violence
assisted by
Family Advocacy Cent & Education services
(FACES)
Idaho Coalition Against Sexual & Domestic Violence
Idaho Legal Aid Service
Idaho Volunteer Lawyers Program

Thursday, October 18th
5:30 to 8:30
At the Boise Depot
Tickets \$40 per person
R.S.V.P. (208) 384-0419

Justice Linda Copple Trout
will be honored as part of the reception.



IDAHO LAW FOUNDATION DONORS 2006-2007

The Board of Directors and staff of the Idaho Law Foundation would like to thank our donors. While we have taken care to ensure the accuracy of the names listed, should you find an error or omission, please accept our apologies and let us know so we can acknowledge your contribution in a future issue of The Advocate.

BENEFACTOR (\$5000+)

Hawley Troxell Ennis & Hawley
Idaho Partners against Domestic
Violence

FOUNDER (\$1000 TO \$2499)

Ada County
Albertsons Community Partners
John S. Chapman
Fourth District Bar Association
Idaho Association of Defense
Counsel
Idaho Magistrates Association
Charles Craig Just
Moffatt, Thomas, Barrett, Rock
& Fields
Racine, Olson, Nye, Budge &
Bailey
Paula Brown Sinclair
Hon. Howard D. Smyser

SUSTAINER (\$500 TO \$999)

John Arthur Bush
Comstock & Bush
Hon. John & Mrs. Linda Butler
Fred & Pearl Hahn
Charles Allen Homer
Holden, Kidwell, Hahn & Crapo
Hon. James & Mrs. Linda Judd
LexisNexis
William Jefferson Litster
Brent Fraser Lloyd
Edward C. Lockwood
Diane Minnich & Mike
Stoddard
Oppenheimer Companies
Cathy Lynn Naugle
Lauren Ilene Scholnick

CONTRIBUTOR (\$250 TO \$499)

Sheldon & Jeanne Barker
William M. Berg
Blue Cross of Idaho
Richard Charles Boardman
Donald Lee Burnett Jr.
Andrea L. Cardon
Dennis Milan Davis
Stephen Grant Hanks
Keith Edward Hutchinson
Edwin Lee Litteneker
David Richard Lombardi
William Lloyd Mauk
John Joseph McMahon
Joseph F. Moore Jr.
Alan L. Morton
Kenneth James Pedersen
Steven Dean Peterson

Eugene A. Ritti & Claire L.
Dwyer
R. Keith Roark
John & Karen Rosholt
John L. Runft
Carey A. Shoufler
Jack Wheten Smith

SPONSOR (\$100 TO \$249)

Robert L. Aldridge
Barbara Anderson
Rob & Terry Anderson
Kaaren L. Barr
John Wesley Barrett
Brian Joseph Barsotti
Thomas Patterson Baskin III
Tom & Nancy Baskins
Charles Berg Bauer
Paul M. Beeks
Beeman & Associates
Frederick F. Belzer
Shane Orin Bengoechea
Benoit, Alexander, Harwood,
High & Butler
Christian Lee Jones Berglund
James Alexander Bevis
Robert Bilow
William L. Bishop Jr.
Allan Auro Bonney
William F. Boyd
M. Sean Breen
Gary Brookover & Linda Jensen
Robert P. Brown
Barry L. Bunshoft
Mrs. Eugene L. Bush
JoAnn Camille Butler
Stuart Waller Carty
Sandra Lee Umbel Clapp
Jay Phillip Clark
John R. Coleman
Gary Lee Cooper
Patrick Daniel Costello
Carol Craighill & Brent
Marchbanks
Theodore O. Creason
Harriet Ann Anderson Crosby
James Julian Davis
Charles Milton Dodson
Kevin Egan Donohoe
Walter John Donovan Jr.
William James Douglas
Hon. Larry Robert Duff
Max A. Eiden Jr.
J. Ford Elsaesser
Robert Irving Fallowfield
Charles Winton Fawcett
Alycia Truax Feindel

Martin Alvin Flannes
Fletcher Law Office
William Alex Fuhrman
Ruth J. Fullwiler
Myron Dan Gabbert Jr.
Louis Garbrecht
Al Gill
Jerry Joseph Goicoechea
Larry Lee Goins
John & Jan Goodell
Bradford Dahle Goodsell
David D. Goss
John F. Greenfield
Larry Bruce Grimes
Mark James Guerry
James V. Hawkins
Barbara A. Hawley
Timothy J. Helfrich
Don & Mary Hobson
Ernest Allen Hoidal
C. Timothy Hopkins
Lindsey Harris Hughes
Mary Shea Huneycutt
Larry C. Hunter
Idaho Health Facilities
Authority
Hon. Jim Jones
Thomas Stephen Joyce
John Crawford Judge
Robert Krueger
Robert Earl Kyte
Dara Labrum
Ronald Jay Landeck
Edward Albert Lawson
Roger Darwin Ling
Donald Walter Lojek
Thomas Harry Lopez
John Magel
Manweiler, Breen, Ball &
Hancock
Douglas B. Marks
James L. Martin
Albert Matsuura
Tom P. May
David Pope McAnaney
Michael R. McBride
Hon. Dan Campbell McDougall
John J. & Peggy McMahon
Michael E. McNichols
Craig L. Meadows
James Chris Meservy
Hon. John Thomas Mitchell
Christopher J. Moore
Michael C. Moore
Katherine Steele Moriarty
Hugh Vaughan Mossman

Merrily K. Munther
Terri L. Muse
Hon. Robert C. Naftz
Gary Lance Nalder
Hon. Thomas George Nelson
Sonyalee Roxann Nutsch
Phillip Stephen Oberrecht
Thomas Fredric Panebianco
W. Anthony Park
William Alfred Parsons
George C. Patterson
David & Cristy Penny
Eric Karl Peterson
James Wendell Phillips Jr.
Daniel Lynn Poole
Lauren Maiers Reynoldson
Betty Hansen Richardson
Steven Vaun Richert
Eugene A. Ritti
Steven Victor Rizzo
John Eva Robertson
Thomas M. Robertson
William Craig Roden
Scott Rudeen
Michael Louis Schindele
James Edward Siebe
Cathy Roxanne Silak
Bruce David Skaug
Franklin N. Smith Jr.
Harold Barroner Smith
James Richard Smith
Randy & Ladean Smith
Richard Fred Smith
Richard King Smith
Sidney Earl Smith
Mark & Pamela Salon
Jane Eidemiller Spencer
Michael Thomas Spink
Hon. John R. Stegner
Dale W. Storer
Tanya & Philip Storti
Adrienne K. Stromberg
Bentley Guy Stromberg
Marvin Rodney Stucki
Jay Q. Sturgell
Roger Swanstrom
Robert Walter Talbo
R. John Taylor
Bruce L. Thomas
Jeffrey A. Thomson
David Albert Thorner
Hon. Linda Gail Tompkins
James Anthony Tompkins
Robert Kyle Treadway
Jean R. Uranga
Uranga & Uranga

IDAHO LAW FOUNDATION DONORS 2006-2007

Reese E. Verner
 Lucinda Weiss
 Paul Larry Westberg
 Dennis E. Wheeler
 Terrence R. White
 Robert E. Williams III
 Nancy A. Wolff
 Weldon S. Wood
 Wells Fargo Foundation
 William (Bud) F. Yost III
 Wilson & McColl

DONOR (\$25 TO \$99)
 Willard R. Abbott
 Gregory Marshall Adams
 Darrel William Aherin
 Richard Lawrence Alban
 John Robert Alexander
 John Durwood Alkire
 Stephanie Anne Altig
 Kenneth Larry Anderson
 Anthony Christopher Anegon
 Ryan Peter Armbruster
 John Michael Avondet
 Bryan William Aydelotte
 Stephen Mclean Ayers
 James Keith Ball
 Katherine Cecilia Ball
 Nicholas Mark Baran
 Robert D. Barclay
 William Kenneth Barquin
 Jon Marinus Bauman
 Winston Victor Beard
 Josephine Pickford Beeman
 Randall D Benson
 Sandra Louise Berenter
 Emil R. Berg
 Larry Clyel Berry
 Heidi M. Berven
 Carl F. Bianchi
 Valencia J. Bilyeu
 Dawn C. Blancaflor
 Theodore A. Blank
 Stephen Blaser
 Erik John Bolinder
 Katherine Jill Bolton
 Hon. Henry Rust Boomer III
 Joseph Walden Borton
 Jo-Ann Leigh Bowen
 John D. Bowers
 Haydon Ramstad Brandow
 Carol Lynn Brassey
 Vernon & Isabel Brassey
 Kimberlee Sue Bratcher
 Lora Rainey Breen
 George William Breitsameter
 Catherine King Broad
 Charles Alan Brown
 David L. Brown
 Kelly Nolan Brown
 R. Romer Brown

Ronald D. Bruce
 Charles Palmer Brumbach
 Jeffrey Donald Brunson
 Melvin Dean Buffington
 Howard D. Burnett
 Phillip Owen Burns
 Gregory Clarence Calder
 Alan Donald Cameron II
 Kari Marie Campos
 Heather Marie Carlson
 Charles Edward Cather III
 Michael G. Cavanagh
 Frank Elgin Chalfant Jr.
 Greg & Trish Charlton
 Kay Moore Christensen
 Christensen & Doman
 Thomas Warren Clark
 Hon. Roger Edward Cockerille
 David A. Coleman
 John Xavier Combo
 George David Conrad
 Ronald Fred Cooper
 Charles Linten Albert Cox
 Robert P. Crandall
 John Milton Cross Jr.
 Paul Tibbitts Curtis
 Val Dean Dalling Jr.
 Paul Ernest D'Amours
 Darin A. De Angeli
 Mary K. Denton
 Allen Richard Derr
 Pamela J. DeRusha
 James Theodore Diehl
 M. Allyn Dingel Jr.
 Thomas Brian Dominick
 Michael Jim Doolittle
 Ann Maxson Dougherty
 William George Dryden
 David Roger Ducharme
 Margaret Mary Dunbar
 Larry Michael Dunn
 Stephen S. Dunn
 Billy G. DuPree Jr.
 Sarah Catherine Cunningham
 Duranske
 Anne Zier Dwelle
 Michael A. Ealy
 W. Brent Eames
 Dylan Alexander Eaton
 Elaine Frieda Louise Eberharter-Maki
 Kathy Joan Edwards
 Michael Joseph Elia
 Brian E. Elkins
 Richard Alan Eppink
 Jonathan Stone Epstein
 Peter Charles Erbland
 Todd R. Erikson
 S. Magnus Eriksson
 Joshua S. Evett
 John Falk

Deborah A. Ferguson
 Richard C. Fields
 Vaughn W. Fisher Jr.
 Deanna Sue Solomon Flammia
 Timothy Lane Fleming
 William W. Fletcher II
 James A. Ford
 Richard A. Forney, MD
 William Rudolph Forsberg Jr.
 Byron Vincent Foster
 Trudy Hanson Fouser
 Jay R. Friedly
 M. Laurie Litster Frost
 Anne-Marie Fulfer
 Steven Ray Fuller
 Wayne Paul Fuller
 David Gordon Gadda
 Michael Dean Gaffney
 Dave Robert Gallafent
 Sylvia M. Geddes
 Dennis Gibala
 Michael Stephen Gilmore
 Ralph Junior Gines
 David Allan Gittins
 James Earl Glarborg
 Karen E. Gowland
 Alison S. Graham
 Larry Lewis Grant
 Trent A. Grant
 Joseph Holbrook Groberg
 Jonathan R. Grover
 Rob & Becky Grover
 Jenny Crane Grunke
 Jennifer L. K. Haemmerle
 Laura Jo Hamblin
 Jarin O. Hammer
 Seth Reed Hansen
 Roseanne Rene Hardin
 Pauline Loeb Harf
 Edwin Arthur Harnden
 Colleen Anne Harrington
 Alan Rexford Harrison
 Lois Weston Hart
 Robert M. Harwood
 Kent Lee Hawkins
 Richard D. Heaton
 Alan Herzfeld
 Hon. James C. Herndon
 Suzanne J. Hickok
 Mark Leroy Hiedeman
 David William Higer
 Kent Arthur Higgins
 David Griffith High
 Thomas Bernard High
 Michael Howard Hinman
 Craig Delwin Hobdey
 Dana Lieberman Hofstetter
 Romney Jerel Hogaboam
 Brian Dennis Holmberg
 John L. Horgan
 Henry Ernest Houst Jr.

Richard Charles Hunt
 David W. Hyde
 Michael & Kay Ingram
 Robert John Insinger
 Loren C. Ipsen
 Mark Richard Iverson
 Shaina Justine Jensen
 Dennis L. Johnson
 Ian Christopher Johnson
 Luvern Charles Johnson III
 Joseph Kent Jolley
 Gregory G. Jones
 L. Lamont Jones
 Michael Robert Jones
 Hon. James F. Judd
 Linda Judd
 Rick Del Kallas
 Emily Davis Kane
 Gregory Michael Kane
 Kara Patrice Keating-Stuart
 Shad Raymond Kidd
 William Michael Killen
 Dona Pike King
 John Lyman King
 James Walter Kiser
 David R. Kress
 Russell Gene Kvanvig
 Christopher Robert La Rosa
 Stratton P. Laggis
 Harry Morris Lane Jr.
 Esther Larsen
 Michael Larsen
 A. Bruce Larson
 James Donald LaRue
 Glenn McQuiston Lee
 Royce Brian Lee
 Blaine & Dixie Lenon
 David Henry Leroy
 Carmel Ann McCurdy Lewis
 Mary Margaret Lezamaz
 Richard Kent Lierz
 Barry Jerome Luboviski
 Nancy Connell Luebbert
 James Bernard Lynch
 James F. Lyons
 Marc Andrew Lyons
 Thomas Jason Lyons
 Patrick Eugene Mahoney
 Mahoney Law Offices
 Erika Eaton Malmen
 Jolene C. Maloney
 Raymond N. Malouf Jr.
 Kipp Lee Manwaring
 Mark Howard Manweiler
 Mary Fran Marakami & Dusty
 & John Moller
 Douglas Scott Marfice
 Michael Donovan Mason
 Pamela Beth Massey
 Ellison Marler Matthews
 Gabriel Justin McCarthy

IDAHO LAW FOUNDATION DONORS 2006-2007

William Allan McCurdy	Dean & Linda Pierce	Gary Wayne Tanner	Richard B. Eismann
Eileen Ann McDevitt	Joseph N. Pirtle	Diane Marie Tappen	Michael Hoyt Felton
Carol McDonald	Kelley Ann Porter	Pamela Jane Tarlow	Richard C. Fields
Mary L. McDougal	James Alan Racon	Tim Alan Tarter	Neil Edward Franklin
Richard Lawrence McFadden	Brian Robert Ragen	Brendon C. Taylor	Richard Norman Garipey
Michael Burton McFarland	Michael Edward Ramsden	Eugene Clifford Thomas	Thomas H. Gonsler
Neil Douglas McFeeley	Mack Andy Redford	Evelyn Bethel Thomas	David D. Goss
Nancy Wells McGee	Louise Regelin	Frances Hoene Thompson	Frederick J. Hahn
Earl Leon McGeoghegan	Robert William Rembert	Kristen Ruth Thompson	Clarence James Hamilton*
Mary K. McIntyre	John C. (Jack) Riddlemoser Jr.	Kevin Francis Trainor	Janice O. Hamilton*
D. Duff McKee	Larry Dale Ripley	Marie T. Tyler	Jess Bradford Hawley*
Michael J. McMahan	John Stephen Ritchie	Julia Garrett Tyson	John Clifford Hepworth
James Michael McMillan	Heather Christine Rowe	James S. Underwood Jr.	F. Morton Hiller*
J. Pat & Lisa McMurray	Jay D. Rubenstein	Glen Howard Utzman	William S. Holden*
Harlow Joseph McNamara	Cheri Joan Ruch	Anthony Michael Valdez	Alden Hull*
Robert Morrison Meek	Sheri L. Russell	John Wilkinson Varin	Rory Rolland Jones
John Meienhofer	William James Russell III	Thomas Michael Vasseur	Linda Judd
Sandra A. Meikle	Terence Michael Ryan	Bridget Anne Vaughan	R. Vern Kidwell*
Stephen Allen Meikle	Thomas Robert Saldin	Craig Kent Vernon	Robert J. Koontz*
John David Merris	G. Lance Salladay	Matthew Lloyd Walters	William Langroise*
Lisa Jones Mesler	Kevin Dewayne Satterlee	Shane Kody Warner	Joseph D. McCollum, Jr.
Loren Keith Messerly	David William Savage	Alan Michael Wasserman	William Allan McCurdy
David Lewis Metcalf	Ronald Dale Schilling	Russell Earl Webb III	Hon. Michael R. McLaughlin
Celeste Kim Miller	Kristina Marie Schindele	Larry Francis Weeks	Michael E. McNichols
Wallace Wilson Mills	Michael Gregory Schmidt	Susan Patricia Weeks	Wesley Fielding Merrill*
Taylor Lynn Mossman	John Thomas Schroeder	The Weitz Family	Dean J. Miller*
Joseph Shear Munson	William Alan Schroeder	Bernard Joseph Welch Jr.	Eugene L. Miller
Lori A. Nakaoka	Fred Allan Schwartz	Jefferson Hunt West	John Thomas Mitchell
Ramona Schwehr Neal	Wesley Landon Scrivner	Martha Gregg Wharry	Thomas Anthony Mitchell
David Lawrence Negri	Sandra Lynn Shaw	Michael Bowman White	Alan L. Morton
Andrea Nelson	Betty Sheils	Todd Jennings Wilcox	Merrily Kay Munther
Deborah Elizabeth Nelson	Linda S. Sherrill	Candace Michelle Wilkerson	Hon. Thomas G. Nelson
Jed Keller Nixon	Jamie Christine Shropshire	Jennifer Paige Wilkins	W. Marcus W. Nye
William Warren Nixon	Edward Simon	Daniel Everett Williams	Gerald W. Olson
Julie Northrop	Mark Stanley Skaggs	Ronald L. Williams	Kaye Louise O'Riordan
Audrey L. Numbers	David Rupert Skinner	Susan Ray Wilson	Eric Karl Peterson
David Charles Nye	Richard A. Skinner	Everett T. Wohlers	Philip E. Peterson*
Lance E. Olsen	Wayne Benjamin Slaughter III	Colette Farley Wolf	Louis F. Racine, Jr.*
Nathan Miles Olsen	E. Brent Small	Leeland Zeller	Stephen C. Rice
Edward C. Olson	Clay Riggs Smith	Keith Arthur Zollinger	Joy Elaine Richards
Gerald W. Olson	Gregory Alan Smith	LIFETIME FELLOWS, 1975 – 2000	Larry Dale Ripley
John Kraig Olson	Stephen Smith	<i>The Idaho Law Foundation commemorates those inaugural donors to the Idaho Law Foundation who contributed a gift of \$1,000 during the first 20 years to help make the Foundation a reality.</i>	Thomas Macon Robertson
Wendy Jo Olson	Janice L. Smith-Hill	William James Batt	John A. Rosholt
Mark James Orler	Frederick Hamilton Snook	Hon. John H. Bengtson	Hon. Harold L. Ryan*
Clinton I. Overall	Sharon E. Anne Solomon	Edward Louis Benoit*	E. Lee Schlender
Thomas William Packer	Robert Michael Southcombe	Leslie Michael Bock	Fredric Victor Shoemaker
Paige Alan Parker	Herman Larry Spilker	John Arthur Bush	M. Karl Shurtliff
Ward Parkinson	John G. St. Clair	Donald J. Chisholm	Jerald Vickers Smith
Tina Sholeh Patrick	Daniel Lee Steckel	John E. Clute	Robert W. Stahman
Alec Thomas Pechota	Carolyn Seneca Steele	Louis Harrison Cosho*	Gilbert C. St. Clair*
A. Denise Penton	Tony Joseph Steenkolk	Samuel H. Crossland	Charles S. Stout*
Shan Butcher Perry	Trapper Stewart	Fredrick D. Decker	Hon. Fred M. Taylor*
George Clarence Petersen Jr.	Bradley J. Stoddard	M. Allyn Dingel, Jr.	Frances Hoene Thompson
Richard D. Petersen	Julie Stomper		William W. Thompson, Jr.
Boyd J. Peterson	Laird Bruce Stone		Jeffrey M. Wilson
Charles Franklin Peterson Jr.	Bryan Scott Storer		Arthur D. Zierold*
Jacob Wayne Peterson	Robert Charles Strom		
John C. Peterson	Meghan Elizabeth Sullivan		
Kira Dale Pfisterer	H. Dean Summers Insurance Agency		
Cameron Lee Phillips	Ronald Lynn Swafford		
Derek Anthony Pica			

*Deceased



Preserving the Civil
Justice System

Guarding
Individual Rights

Statewide Networking
Idaho's Best Seminars
Legislative Representation
Amicus Curiae
Members-Only Listserv
Nationwide Research Access
Trial Mentoring
Daily Legal News Briefs
Practice Forms

ITLA Road Show
October 11 -- Lewiston
October 12 -- Coeur d'Alene
October 26 -- Pocatello
November 2 -- Boise

www.itla.org — itla@itla.org — (208) 345-1890

Do you have clients with
TAX PROBLEMS?

MARTELLE LAW OFFICE, P.A.
represents clients with
Federal and State tax problems

- OFFERS IN COMPROMISE
- APPEALS
- BANKRUPTCY DISCHARGE
- INNOCENT SPOUSE
- INSTALLMENT PLANS
- PENALTY ABATEMENT
- TAX COURT REPRESENTATION
- TAX RETURN PREPARATION

MARTELLE LAW OFFICE, P.A.
208-938-8500
82 E. State Street, Suite F
Eagle, ID 83616
E-mail:attorney@martellelaw.com
www.martellelaw.com

THE ADVOCATE REMEMBERING 50 YEARS

REPORTED IN 1957 ISSUES

A local lawyer was overheard discussing historical errors of fact with a member of his staff. After trying to explain something about the presidents he said with great exasperation,

“Did you ever hear of Harding?”

“No.”

“Hoover?”

“No.”

“Lincoln?”

“Is his last name Nebraska?”

DUES FOR 1958

The annual Third District Bar dues are no due and payable, for the fiscal year ending June 30, 1958. The sum of \$5.00 was not a typographical error. The bar dues have been raised to that figure by unanimous vote of the members present at the June meeting. By way of justification, the officers have pointed out that the cost of bar activities last year ran far ahead of the total amount collected in dues, and this is a balance-the-budget program.

UNIFORM ANTI-SOLICITATION ACT

The ABA recently announced that the uniform state anti-solicitation act, recommended by a special ABA study committee as an essential step to curb “ambulance chasing,” will be drafted for consideration of the National Conference of Commissioners on Uniform State Laws by a drafting com-

mittee. It will be considered at their next meeting in August 1958.

1957 ANNUAL MEETING

The Idaho State Bar held its third Annual Fall Institute at Moscow, November 15 and 16. Approximately 80 bar members and university law students attended. Law classes were cancelled to enable students to take in Institute lectures and meet members of the Bar.

BAR GEMS —found throughout the issues

1. The question of what is ethical and what the Rules of Professional Conduct allow are often two different things.
2. A baseball hat is not official police attire—even in Idaho.
3. [Referring to employer indemnification against an employee named ‘Gofer’]—Joe, in turn, can try to squeeze blood out of a Gofer.
4. Her biting the policeman is another indication that she did not want to be arrested.
5. An attorney should never influence the court.
7. These General Water Law Rules apply first in time, first in right and use it or lose it. . . .
8. The double filing has no effect and is more of a CYA.
9. I think it is improper to use blackmail in the course of one’s professional practice.

COURT INFORMATION

OFFICIAL NOTICE SUPREME COURT OF IDAHO

Chief Justice
Daniel T. Eismann

Justices
Roger S. Burdick
Jim Jones
Warren E. Jones

1st Amended – Regular Fall Terms for 2007

Coeur d’Alene September 5 and 6
Boise September 10, 11 and 12
Idaho Falls October 3 and 4
Pocatello October 5
Boise October 11 and 12
Boise November 2 and 5
Twin Falls November 7, 8 and 9
Boise December 3, 5, 7, 10 and 12

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of setting of the year 2007 Fall Terms of the Idaho Supreme Court, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

IDAHO SUPREME COURT ORAL ARGUMENT DATES As of September 18, 2007

Wednesday, October 3, 2007 – IDAHO FALLS

2:45 p.m.	Arreguin v. Farmers Insurance Co.	#33305
4:00 p.m.	Horkley v. Horkley	#32885

Thursday, October 4, 2007 – IDAHO FALLS

8:50 a.m.	Esser Electric v. Lost River Ballistics	#33232
10:00 a.m.	BMC West Corporation v. Horkley	#33140
11:10 a.m.	Foster v. Traul	#33537

Friday, October 5, 2007 – POCATELLO

8:50 a.m.	Steed v. Grand Teton Council	#33272
10:00 a.m.	Swanson v. Beco Construction Co.	#32827
11:10 a.m.	Youngblood v. Higbee	#33588/34259

Wednesday, October 11, 2007 – BOISE

8:50 a.m.	State v. Yakovac (Petition for Review)	#34171
10:00 a.m.	State v. Parkinson	#33333
11:10 a.m.	Hauschulz v. State (Petition for Review)	#33796

Friday, October 12, 2007 – BOISE

8:50 a.m.	State v. John Doe (Petition for Review)	#34170
10:00 a.m.	Highlands Development v. City of Boise	#33174
11:10 a.m.	Navarro v. Yonkers	#34118

OFFICIAL NOTICE COURT OF APPEALS OF IDAHO

Chief Judge
Darrel R. Perry
Judges
Karen L. Lansing
Sergio A. Gutierrez

3rd AMENDED – Regular Fall Terms for 2007

Boise August 14
Lewiston (Northern Idaho term) .. September 11
Boise October 11
Boise October 25
Boise November 6, 8, 13, and 15
Boise December 11 and 13

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of setting of the year 2007 Fall Terms of the Court of Appeals, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

IDAHO COURT OF APPEALS ORAL ARGUMENT DATES As of September 18, 2007

Thursday, October 11, 2007 – BOISE

9:00 a.m.	White v. White	#33698
10:30 a.m.	State v. Shepperd	#33655
1:30 p.m.	Anderson v. State	#32398
3:00 p.m.	State v. Hopovac	#33475

Thursday, October 25, 2007 – BOISE

9:00 a.m.	State v. Lippert	#33028
10:30 a.m.	State v. Laramore	#33041
1:30 p.m.	Aitchison v. Lawrence	#33425

The following events will include honoring retiring Justice Linda Copple Trout.

October 2, 2007

Judicial Conference in Sun Valley
5:30 - 6:30 p.m.
Sun Valley Inn Terrace

October 18, 2007

Grapes of Wrath
5:30 - 8:30 p.m.
RSVP and for cost of tickets for
Grapes (208) 384-0419

Idaho Supreme Court and Court of Appeals
NEW CASES ON APPEAL PENDING DECISION
(Update 09/01/07)

CIVIL APPEALS

EASEMENTS

1. Do the Martensens and D.L. White Construction have an easement by implication across the Akers' property?

*Akers v.
Mortensen and D.L. White Construction*
S.Ct. No. 33587/33694
Supreme Court

ATTORNEY FEES AND COSTS

1. Did the magistrate court abuse its discretion in awarding only \$200 in attorney fees?

Medical Recovery Services v. Jones
S.Ct. No. 33965
Court of Appeals

SUMMARY JUDGMENT

1. Is the CVB acting outside its statutory authority as an auditorium district when it expends tax revenues to market a geographical area rather than to market its owned or leased auditorium?

*AmeriTel Inns, Inc. v.
Pocatello-Chubbuck Auditorium*
S.Ct. No. 33448
Supreme Court

2. Did the court err in granting summary judgment to the defendants on the basis the action was barred by the two year statute of limitations?

Moeller v. Morgan
S.Ct. No. 33968
Court of Appeals

**WRONGFUL TERMINATION AND
WAGE CLAIMS**

1. Did the court err in granting summary judgment in favor of Four Rivers on Mackay's claim for breach of the employment contract and for workplace discrimination on the basis of a perceived disability?

Mackay v. Four Rivers Packing Co.
S.Ct. No. 33829
Supreme Court

POST-CONVICTION RELIEF

1. Did the court err in summarily dismissing Drennon's successive petition as untimely?

Drennon v. State
S.Ct. No. 32814
Court of Appeals

2. Did the court err in summarily dismissing Derushe's petition because he asserted a genuine issue of fact requiring an evidentiary hearing as to whether he was denied effective assistance of counsel when his attorney denied him his constitutional right to testify?

Derusche v. State
S.Ct. No. 33469
Court of Appeals

3. Did the court err in finding Smith's original petition failed to raise an issue of material fact as to ineffective assistance of counsel and in summarily dismissing the petition?

Smith v. State
S.Ct. No. 32801
Court of Appeals

4. Did Daniels raise a genuine issue of material fact as to whether counsel was ineffective for failing to call a certain witness, and as to whether Daniels' right to testify was violated?

Daniels v. State
S.Ct. No. 33339
Court of Appeals

SUBSTANTIVE

1. Did the court appropriately perceive a disparity between the judgment of the jury and the judgment of the court such that it shocked the conscience when the district court would have awarded the same amount in damages?

*Harger v.
Teton Springs Golf and Casting, Inc.*
S.Ct. No. 33532
Supreme Court

2. Whether the IDHW was correct in excluding the value of the Stafford house at assessment.

*Stafford v.
Idaho Department of Health & Welfare*
S.Ct. No. 33242
Supreme Court

PROCEDURE

1. Whether the court properly denied a defendant's motion for a hearing to determine the extent of defendant's liability pursuant to I.R.C.P. 5(b).

Kendall v. Johnson
S.Ct. No. 33561
Court of Appeals

HABEAS CORPUS

1. Is the administrative remedy procedure available to Drennon adequate, such that the court acted appropriately in dismissing Drennon's complaint?

Drennon v. IDOC
S.Ct. No. 33719
Court of Appeals

CRIMINAL APPEALS

PLEAS

1. Did the court abuse its discretion in denying Stoor's post-judgment motion to withdraw his guilty plea?

State v. Stoor
S.Ct. No. 31466
Court of Appeals

SUPPRESSION OF EVIDENCE

1. Did the court err when it denied Saputski's motion to suppress because the officer lacked reasonable suspicion to conduct the stop due to the fact that the speed limit was actually 35 m.p.h. rather than 15 m.p.h.?

State v. Saputski
S.Ct. No. 33383
Court of Appeals

2. Did the court err in failing to recognize the officer's statement to Buell that he was legally obligated to submit to field tests was a mistake of law which rendered the officer's detention of Buell *per se* unreasonable?

State v. Buell
S.Ct. No. 33435
Court of Appeals

3. Did the court err in finding the stop of Gable's vehicle was reasonable and in denying Gable's motion to suppress evidence found in the vehicle?

State v. Gable
S.Ct. No. 32446
Court of Appeals

4. Did the magistrate court correctly deny Miller's motion to suppress because the officers were justified in conducting a limited frisk of Miller for weapons?

State v. Miller
S.Ct. No. 33986
Court of Appeals

SUBSTANTIVE LAW

1. Did the court err when it failed to modify or vacate Castro's no contact order as the order does not define a specific date upon which it will expire as required by I.C.R. 46.2?

State v. Castro
S.Ct. No. 33452
Supreme Court

2. Whether Weaver's waiver of trial counsel was valid.

State v. Weaver
S.Ct. No. 32215
Court of Appeals

3. Did the court abuse its discretion in denying a motion for mistrial after the court inadvertently advised the jury pool Gervasi had been charged with felony DUI?

State v. Gervasi
S.Ct. No. 31661
Court of Appeals

4. Did the magistrate court err at the preliminary hearing when it required the state to prove the inapplicability of self defense to the charge of aggravated assault?

State v. Loomis
S.Ct. No. 33978
Court of Appeals

SENTENCE REVIEW

1. Did the court err in adding an additional term in the written sentencing order that was not pronounced on the record at the time of sentencing?

State v. Barclay
S.Ct. No. 33602
Court of Appeals

2. Did the trial court err and violate Allen's double jeopardy rights by entering a corrected order commuting a prison sentence, after Allen had already started serving the original sentence, which effectively increased Allen's sentence by 144 days?

State v. Allen
S.Ct. No. 33677
Court of Appeals

EVIDENCE

1. Did the court abuse its discretion in excluding evidence of the guilty plea of Hansell's co-defendant?

State v. Hansell
S.Ct. No. 33352
Court of Appeals

2. Did the trial court abuse its discretion in allowing the detective to render expert testimony that screen names are unique to one individual?

State v. Glass
S.Ct. No. 31422
Court of Appeals

3. Did the court abuse its discretion by allowing a police officer to testify that his observations of the victim were consistent with someone being under the influence of a controlled substance when no evidence was presented the victim was under the influence of any controlled substance?

State v. Henry
S.Ct. No. 33116
Court of Appeals

INSTRUCTIONS

1. Did the court err in its instruction on proof of intent?

State v. Lorenzana
S.Ct. No. 32562
Court of Appeals

Summarized by:
Cathy Derden
Idaho Supreme Court Staff Attorney
(208) 334-3867



Mediator / Arbitrator

Richard H. Greener

30+ years as an experienced civil litigator; available for ADR

- Mediator on the Supreme Court and Federal Court Civil Case Mediators Rosters
- Certified by Institute for Conflict Management's Mediation training/seminar
- Completed 40 hours of basic civil mediation training at University of Idaho, including 40 hours of IMA core training

Professional Activities and Association

- Best Lawyers in America, 1999 – Present
- Fellow, American College of Trial Lawyers
- American Board of Trial Advocates
- Lawdragon, leading 500 Trial Lawyers in America
- Mountain States Super Lawyers, 2007
- Chambers USA American Leading Business Lawyers (Litigation) 2003 – Present

Dispute Resolution Services

Greener, Banducci & Shoemaker, P.A.

dgreener@greenerlaw.com

950 W. Bannock Street, Suite 900 Boise, ID 83702

Phone: (208) 319-2600; Facsimile: (208) 319-2601

For more information see website: www.greenerlaw.com

The **Advocate**
Official Publication of the Idaho State Bar

Reserve your 2008 ad space today!

Contact

Robert W. Strauser

The Advocate Advertising Coordinator

525 West Jefferson Boise, ID 83702

Email: rstrauser@isb.idaho.gov

Phone: (208) 334-4500

Fax: (208) 334-4515

MULTI-FACETED
EXPERIENCE:
IMPARTIAL AND INSIGHTFUL
DISPUTE RESOLUTION



Larry C. Hunter
Mediation, Arbitration, Evaluations,
Administrative Hearings
(208) 345-2000
lch@moffatt.com

**DO YOU REALLY WANT TO TRY THAT
CUSTODY CASE?**

Some custody cases have to be tried.
Most can be resolved through mediation.

CHRISTOPHER S. NYE

CHILD CUSTODY AND CIVIL MEDIATION
25 years litigation experience, 17 years family law

WHITE PETERSON, P.A.

Canyon Park at the Idaho Center
5700 E. Franklin Road, Suite 200 Nampa, Idaho 83687
Tel. (208) 466-9272 Fax (208) 466-4405
csn@whitepeterson.com

CONTRACT LITIGATION ATTORNEY

MARTHA G. WHARRY, ESQ.

Services Provided at a Reasonable Rate:

Hearing and Deposition Coverage
Large Document Case Management
Trial Preparation Assistance
Litigation Support
Preparation of Briefs and Memoranda
Legal and Factual Research
Discovery Preparation and Analysis
Licensed: Idaho, 1995; Oregon, 1994



NORTHWEST ATTORNEY SERVICES, LLC

222 N. 13th St., Ste. 250
Boise, Idaho 83702

(208) 869-0137
mgw@nwasllc.com

HAVE BRIEF



WILL TRAVEL

San Francisco, California

Of counsel and counsel of record representation in California for
multi-jurisdictional matters, minimum contacts, forum non-conveniens

Jerome J. Ghigliotti, Jr., APC

870 Market Street, Suite 540

415.773.1272 Fax: 415.773.1274

Chigliottitlaw@sbcglobal.net

©2007

USPS STATEMENT OF OWNERSHIP

UNITED STATES POSTAL SERVICE Statement of Ownership, Management, and Circulation
POSTAL SERVICE (All Periodicals Publications Except Requester Publications)

1. Publication Title: **The Advocate**

2. Issue Date: **September 14, 2007**

3. Issue Frequency: **Monthly September - June**

4. Number of Issues Published Annually: **10**

5. Annual Subscription Price: **\$65.00**

6. Complete Mailing Address of Known Office of Publication (Not printer):
525 N. Jefferson St. Boise, Ada County, ID 83702
 Telephone (include area code): **(208) 336-4500**

7. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer):
P.O. Box 895 Boise, ID 83701-0895

8. Full Name and Complete Mailing Address of Publisher, Editor, and Managing Editor:
Idaho State Bar P.O. Box 895 Boise, ID 83701-0895

9. Full Name and Complete Mailing Address of Owner:
S/A

10. Full Name and Complete Mailing Address of Known Bondholder, Mortgagee, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box:
 None

11. Tax Status:
 For-profit organization
 Not-for-profit corporation
 Other (specify):

12. Publication Title: **The Advocate**

13. Complete Mailing Address:
P.O. Box 895 Boise, ID 83701-0895

14. Issue Date: **September 14, 2007**

15. Issue Frequency: **Monthly September - June**

16. Number of Issues Published Annually: **10**

17. Annual Subscription Price: **\$65.00**

18. Complete Mailing Address of Known Office of Publication (Not printer):
525 N. Jefferson St. Boise, Ada County, ID 83702
 Telephone (include area code): **(208) 336-4500**

19. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer):
P.O. Box 895 Boise, ID 83701-0895

20. Full Name and Complete Mailing Address of Publisher, Editor, and Managing Editor:
Idaho State Bar P.O. Box 895 Boise, ID 83701-0895

21. Full Name and Complete Mailing Address of Owner:
S/A

22. Tax Status:
 For-profit organization
 Not-for-profit corporation
 Other (specify):

23. Publication Title: **The Advocate**

24. Complete Mailing Address:
P.O. Box 895 Boise, ID 83701-0895

25. Issue Date: **September 14, 2007**

26. Issue Frequency: **Monthly September - June**

27. Number of Issues Published Annually: **10**

28. Annual Subscription Price: **\$65.00**

29. Complete Mailing Address of Known Office of Publication (Not printer):
525 N. Jefferson St. Boise, Ada County, ID 83702
 Telephone (include area code): **(208) 336-4500**

30. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer):
P.O. Box 895 Boise, ID 83701-0895

31. Full Name and Complete Mailing Address of Publisher, Editor, and Managing Editor:
Idaho State Bar P.O. Box 895 Boise, ID 83701-0895

32. Full Name and Complete Mailing Address of Owner:
S/A

33. Tax Status:
 For-profit organization
 Not-for-profit corporation
 Other (specify):

1. Publication Title: **The Advocate**

2. Issue Date: **August/September 2007**

3. Issue Frequency: **Monthly September - June**

4. Number of Issues Published Annually: **10**

5. Annual Subscription Price: **\$65.00**

6. Complete Mailing Address of Known Office of Publication (Not printer):
525 N. Jefferson St. Boise, Ada County, ID 83702
 Telephone (include area code): **(208) 336-4500**

7. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer):
P.O. Box 895 Boise, ID 83701-0895

8. Full Name and Complete Mailing Address of Publisher, Editor, and Managing Editor:
Idaho State Bar P.O. Box 895 Boise, ID 83701-0895

9. Full Name and Complete Mailing Address of Owner:
S/A

10. Tax Status:
 For-profit organization
 Not-for-profit corporation
 Other (specify):

11. Publication Title: **The Advocate**

12. Complete Mailing Address:
P.O. Box 895 Boise, ID 83701-0895

13. Issue Date: **September 14, 2007**

14. Issue Frequency: **Monthly September - June**

15. Number of Issues Published Annually: **10**

16. Annual Subscription Price: **\$65.00**

17. Complete Mailing Address of Known Office of Publication (Not printer):
525 N. Jefferson St. Boise, Ada County, ID 83702
 Telephone (include area code): **(208) 336-4500**

18. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer):
P.O. Box 895 Boise, ID 83701-0895

19. Full Name and Complete Mailing Address of Publisher, Editor, and Managing Editor:
Idaho State Bar P.O. Box 895 Boise, ID 83701-0895

20. Full Name and Complete Mailing Address of Owner:
S/A

21. Tax Status:
 For-profit organization
 Not-for-profit corporation
 Other (specify):

Criminal Case Consultant From Analysis to Trial Preparation

Thomas J. McCabe

**Certified Criminal Trial Specialist
25 years as Criminal Defense Attorney
Founding President of IACDL**

**Consulting in all aspects of DUI
and
Criminal Defense**

Criminal Case Mediation

**(208) 867-3186
P.O. Box 2836
Boise, Idaho 83701**

DIVORCE & CHILD CUSTODY MEDIATION

Jill S. Jurries, Esq.



**623 West Hays Street
Boise, Idaho 83702**

**(208) 336-7010
jilljurries@yahoo.com**

**Trained in Family Mediation at the
Northwest Institute for Dispute Resolution**

COMING EVENTS

10/01/07 - 11/30/07

These dates include Bar and Foundation meetings, seminars, and other important dates. All meetings will be at the Law Center in Boise unless otherwise indicated. Dates might change or programs may be cancelled. The ISB website (www.idaho.gov/isb) contains current information on CLEs. If you don't have access to the Internet please call (208) 334-4500 for current information.

(DATES MAY CHANGE OR PROGRAMS MAY BE CANCELLED)

October 2007

- 1 *The Advocate* deadline
- 2 Judicial Conference, retirement reception for the Justice Linda Copple Trout
- 5 **CLE: Family Law Update: Owyhee Plaza Hotel, Boise**
- 5 Idaho State Bar Board of Commissioners Meeting
- 8 **Columbus Day, Law Center Closed**
- 12 **CLE: Family Law Update: University of Idaho, Moscow**
- 17 **CLE: The Michael Vick Case:
Federal or State Jurisdiction and the Status of dog Fighting Law in Idaho**
- 17 *The Advocate* Editorial Advisory Board Meeting
- 18 Public Information Committee Meeting
- 18 Grapes Against Wrath, Boise Depot includes honoring Justice Linda Copple Trout's retirement
- 19 **CLE: Family Law Update Red Lion Hotel, Pocatello**
- 19 Idaho Law Foundation Board of Directors Meeting
- 25 – 26 **CLE: Parenting Coordination: Working with High Conflict Parents, Coeur d'Alene**

November 2007

- 1 *The Advocate* deadline
- 1 **4th District Bar Association Resolution Meeting, Boise**
- 1 **3rd District Bar Association Resolution Meeting, Nampa**
- 2 **5th District Bar Association Resolution Meeting, Twin Falls**
- 6 **2nd District Bar Association Resolution Meeting, Lewiston**
- 7 **1st District Bar Association Resolution Meeting, Coeur d'Alene**
- 14 *The Advocate* Editorial Advisory Board Meeting
- 14 **CLE: Idaho Ethics Update**
- 15 **6th District Bar Association Resolution Meeting, Pocatello**
- 16 Idaho State Bar Board of Commissioners Meeting
- 16 **7th District Bar Association Resolution Meeting, Idaho Falls**
- 16 **CLE: The Law and Mental Health**
- 20 **CLE: Lunch and a Movie: Video Replay**
- 22 **Thanksgiving Day, Law Center Closed**
- 23 **Thanksgiving Day Holiday, Law Center Closed**
- 27 **CLE: Lunch and a Movie: Video Replay**
- 30 **CLE: Headline New Year in Review, Coeur d'Alene**
- 30 Bar Exam Second Applicant Deadline

IN MEMORIAM

**HON. ARNOLD TAYLOR BEEBE
1921 - 2007**

The Honorable Arnold Taylor Beebe, retired 7th District judge, passed away August 12, 2007 in St. George, Utah. Judge Beebe was born July 20, 1921 in Blackfoot, Idaho to C. S. and Ellen Taylor Beebe. He spent his childhood in Salt Lake City, Utah and Nampa, Idaho. Arnold married Merle (Del) Beebe on January 25, 1942. They were high school sweethearts and married for 65 years.

Judge Beebe was a World War II U.S. Army Veteran who served his country in the South Pacific. He attended Boise Junior College and the University of Illinois before he earned his Juris Doctorate from the University of Idaho in 1950. He practiced in Canyon County before moving to Blackfoot, Idaho and forming the law firm of Furchner, Anderson and Beebe in 1955. He practiced until 1968, when the Governor of Idaho appointed him to serve as a District Judge in the 7th Judicial District. Judge Beebe remained in that position until his retirement in 1986, holding court in Blackfoot, Arco, Challis and Salmon, Idaho where he presided over interesting trials. He was widely admired by lawyers and litigants alike as an incisive legal scholar and for his belief in justice under the rule of law, without fear or favor.

Judge Beebe was an active sportsman and accomplished golfer who won many amateur tournaments and maintained a single digit handicap throughout his life. He was instrumental in the development of the Blackfoot Municipal Golf Course.

Judge Beebe is survived by his wife Del of Blackfoot and St. George, Utah; Stephen A. Beebe (Debra) of La Quinta, California; Judge Mark A. Beebe (Laurie) of American Falls; Wynn R. Beebe (Sandi) of Blackfoot; and Joan K. Caywood of Nampa. He has nine grandchildren and nine great grandchildren.

Donations in lieu of flowers may be made to CASA, a volunteer organization representing abused and neglected children in court proceedings. Send to: CASA, c/o Vicky Hadley, Director, 836 Center Street, Pocatello, Idaho, 83201.

**HON. MERLIN S. YOUNG
1918 - 2007**

The Hon. Merlin S. Young, who served as a judge in state and federal courts in Idaho for almost three decades, died on August 14, 2007, at his home in Boise. Judge Young was born in Eden, Idaho on December 5, 1918, the son of Earl and Lela (Hamilton) Young. When he was a boy, his family moved to Boise, where he attended school, graduating from Boise High School in 1936. He then attended Whitman College in Walla Walla, Washington, graduating in 1940. In 1942, Merlin married Lois F. Clark, daughter of former Idaho governor Barzilla Clark and Ethel (Peck) Clark. After completing two years at the University of Michigan Law School, Merlin served as a U. S. Naval officer in the Pacific during World War II. He completed his legal education at the University of Southern California in 1946. He was admitted to the Idaho State Bar in 1946, and engaged that same year in the private practice of law as a partner in the firm of his cousin, Willis Moffatt. In 1950, he was elected

Ada County Prosecutor. In 1952, he was elected to the Idaho legislature from Ada County, serving one term in the House of Representatives. In 1954, he was elected district judge for what was then the Third Judicial District, Ada County. He served in that capacity until 1969 when he was appointed by the District Court for the District of Idaho as Referee under the Bankruptcy Act. He served in that capacity until being appointed as the first United States Bankruptcy Judge for the District of Idaho in December of 1979. Judge Young served in that capacity with distinction until his retirement in 1984. His daughter Patricia is a retired Magistrate Judge, and her husband Byron Johnson is a retired Justice of the Idaho Supreme Court.

Judge Young was awarded a Doctor of Laws Degree (Honorary) from Whitman in 1956, and in the 1950s was an early recipient of the "Distinguished Citizen" designation by the Idaho Statesman.

Judge Young is survived by his wife of 64 years, Lois; their five children: Barzilla ("Barzy") Young (Joanne Springer), Patricia Young (Byron Johnson), and Elizabeth ("Liz") Young, all of Boise, Mary Allington (Wally) of Newnan, Georgia, and Kathleen ("Kate") Sullivan (Tim) of Walla Walla, Washington. Judge Young and Lois have five grandchildren: Christi (Allington) Phillips (Stephen), Heather Allington, Ben Allington (Sara), all of Georgia, Chelsea Young of Boise, and Nathan Young of Arcata, Calif. They have a new great-grandson, Sidney Phillips, of Georgia; and Sara (Moffatt) McCarty and many other loving cousins.

—RECOGNITION—

Timothy Hopkins of the law firm Hopkins, Roden Crockett Hansen & Hoopes PLLC, Idaho Falls, has been appointed Chair of the American Bar Association Standing Committee on the Federal Judiciary, by ABA President Bill Neukom. This committee consists of 15 members—two members from the Ninth Circuit, one member from each of the other 12 federal judicial circuits and the chair.

The committee has been evaluating the professional qualifications of all persons nominated for appointment to the federal bench, including the Supreme Court of the United States, the U.S. Circuit Courts of Appeal, the U.S. District Courts and the four territorial courts, for more than 50 years. The Standing Committee's evaluation of nominees is unique and the only non-partisan, non-ideological peer review of the professional qualifications of prospective federal judges. The committee evaluates only a nominee's integrity, professional competence and judicial temperament; and, considers neither ideology nor politics. Once an evaluation is completed, the committee sends its report to both the Senate Judiciary Committee and to the administration. Tim is a graduate of George Washington University Law School, cum laude, and of Stanford University. He is admitted to practice law in both Idaho and California, and is a former President of the Idaho State Bar, a former member of the ABA House of Delegates and is a Fellow of the American Bar Foundation and the American Academy Appellate Lawyers, and is listed in the Best Lawyers in America.

—ON THE MOVE—

Paul Harrington has joined the firm of **Lukins & Annis, P.S.**, Coeur d'Alene as an associate attorney. Paul received his B.A. in Political Science and Environmental Sciences from the University of Colorado, Boulder. Paul was awarded his J.D. from the University of Idaho College of Law in 2006. He then clerked for Justice Jim Jones at the Idaho Supreme Court. Paul will focus on real estate law and litigation, zoning and land use matters, and civil litigation.

Brent Wilson has joined the law firm **Evans Keane LLP**, Boise as an associate attorney. His practice at Evans Keane will focus on all aspects of corporate law, business and commercial transactions and employment law matters. Prior to joining Evans Keane, he practiced in the areas of commercial, employment and general litigation, and was a law clerk for the Honorable Wayne L. Kidwell at the Idaho Supreme Court. Brent earned his law degree from the Willamette University College of Law in Salem, Oregon in 2002 where he was a Trustee Scholarship recipient and was a member and Note and Comment Editor of the Willamette Law Review. He graduated from Utah State University, cum laude, with a degree in Human Development in 1997. Brent can be reached at Evans Keane LLP, 1405 West Main Street, P.O. Box 959, Boise, Idaho 83701-0959, 208-384-1800.

Holland and Hart, LLP is pleased to announce four new associates, Kelly Barbour, William Batt, Cecelia Gassner, and Erik Stidham have joined their Boise office.

Kelly Barbour will focus his practice emphasis in real estate. He has represented regional commercial developers in drafting and negotiating documents related to land acquisitions, lot sales, and obtaining entitlements. He has also assisted clients in the drafting and negotiation of development agreements, commercial declarations, common maintenance agreements and leases. He received his J.D. from the University of Virginia School of Law and his B.A. magna cum laude from Albertson College of Idaho.

William Batt represents business clients of all sizes, from entrepreneurs to Fortune 500 companies, in all aspects of business law. His practice includes corporate law, company counseling, mergers and acquisitions, finance and venture capital, securities, insurance regulation, public utility law, legislation, and governmental relations. Prior to joining Holland & Hart, he founded Batt & Fisher LLP, a Boise-based corporate and business law boutique, and served as its managing partner. He received his J.D. cum laude from the University of Idaho College of Law and his B.S. magna cum laude from Albertson College of Idaho.

Cecelia Gassner, previously served as a deputy attorney general for the State of Idaho, and will focus her practice on intellectual property, technology transfer, information security, and business transactions. She has conducted intellectual property due diligence on mergers and acquisitions totaling more than \$3 billion in assets. She works with life science and technology companies in the negotiations of all transactions related to their

key clinical trials and research, as well as the protection of their intellectual property assets. She also assists companies in creating privacy and information security policies and compliance with data security laws. As a deputy attorney general, she advised and represented the Idaho Public Utilities Commission and other state officials on matters of telecommunications, gas, water, and energy. She received her J.D. from Boston University School of Law, where she was an editor of the American Journal of Law and Medicine, and received her B.S.E. in biomedical engineering from Duke University.

Erik Stidham is a trial attorney who represents plaintiffs and defendants in complex litigation. He has a national practice, having served as lead trial counsel in lawsuits in more than 20 states. He focuses on business disputes, construction litigation, product liability claims, and civil fraud claims. Prior to joining Holland & Hart, Stidham was a partner in a large, regional law firm and an Idaho-based litigation boutique. He earned his J.D. from the University of Virginia School of Law and his B.A. summa cum laude from Arizona State University.

THE ADVOCATE REMEMBERING 50 YEARS

BAR GEMS - FOUND THROUGHOUT THE ISSUES.

1. This was a monogamous marriage because they slept in separate bedrooms.
2. I'd hit Andy with aggravated assault (is there such a thing?).
3. With regard to this question, there appears to be a major issue in each paragraph.
4. Attorney did good on this fee agreement.
5. Plaintiff was contributorily negligent for driving solar powered car at night.
6. If the husband and wife make approximately the same (unlikely in Idaho)... .
7. The passenger's spontaneous statement regarding the girl was both totally voluntary and volunteered.
8. An attorney generally does not have a duty to inform the opposing counsel of a defense that he is not aware.

CLASSIFIEDS

EXPERT WITNESSES

FORENSIC ENGINEERING- EXPERT WITNESS

JEFFREY D. BLOCK, P.E. &
ASSOCIATES, INC.

Civil, Structural, and Construction
Management Consultants. 112 East Hazel
Ave. Coeur d'Alene, ID 83814
Telephone: 208-765-5592
Email: jdblock@imbris.net
Licensed in Idaho, Washington,
California.

MEDICAL/LEGAL CONSULTANT GASTROENTEROLOGY

THEODORE W. BOHLMAN, M.D.
Licensed, Board Certified Internal
Medicine & Gastroenterology Record
Review and medical expert testimony. To
contact call telephone: (208) 888-6136,
Cell: (208) 863-1128, or by Email:
tbohlman@mindspring.com.

INSURANCE AND CLAIMS HANDLING

Consultations or testimony in cases
involving insurance or bad faith issues.
Adjunct Professor Insurance Law; 25
years experience as attorney in cases for
and against insurance companies; devel-
oped claims procedures for major insur-
ance carriers. IRVING "BUDDY" PAUL,
Telephone: (208) 667-7990 or Email:
bpaul@ewinganderson.com.

EXPERT WEATHER TESTIMONY

Weather and climate data research and
analysis. 20+ years meteorological expert-
ise - AMS certified - extensive weather
database-a variety of case experience spe-
cializing in ice, snow, wind and atmos-
pheric lighting. METEOROLOGIST SCOTT
DORVAL, phone: (208) 890-1771.

SERVICES

LUMP SUMS CASH PAID

For Seller-Financed Real Estate Notes &
Contracts, Divorce Notes, Business Notes,
Structured Settlements, Lottery Winnings.
Since 1992. CASCADE FUNDING, INC.
Telephone: 1 (800) 476-9644 or visit our
website at: www.cascadefunding.com

SERVICES

MEXICAN LEGAL SERVICES

TIMOTHY ACKER & DIEGO GARCIA
Guadalajara, Mexico

US Telephone (360) 434 3262
Mexican Probate, Real Estate,
Tax, Investments, Trusts, Business and
General Civil Law

CASH FOR CONTRACTS

We purchase "Owner-Carry" real-estate
secured contracts for a lump sum cash
payment. Call 208-407-5667 or visit
ContractFunders.com for a free quote.

LEGAL ETHICS

~ LEGAL ETHICS ~

Ethics-conflicts advice, disciplinary
defense, disqualification and sanctions
motions, law firm related litigation, attor-
ney-client privilege. Idaho, Oregon &
Washington. MARK FUCILE: Telephone
(503) 224-4895 Fucile & Reising LLP
Mark@frllp.com

PROCESS SERVERS

POWERSERVE OF IDAHO

Process Serving for Southwest Idaho
Telephone: (208) 342-0012 P.O. Box 5368
Boise, ID 83705-036. Visit our website at
www.powerserveofidaho.com.

OFFICE SPACE

OFFICE SPACE AVAILABLE

300 W. Main Street-8 office suite-2015 sq. ft.
We would be willing to rent out the office
individually. Fun downtown atmosphere-
1 block from Courthouse. Shower and
locker room available to tenants. Full-
service building. Contact Cindy at (208)
947-7097 or you are welcome to stop by,
located in same building in Suite 111.

C.W. MOORE PLAZA

5TH & FRONT STREETS

Downtown office with excellent view of
the foothills. 2,600 - 8,900 SF available.
\$18.50 - \$23.50 per SF. Cafeteria on 9th
floor penthouse. 2 large conference rooms
in basement. Contact GROVE HUMMERT at
208.947.0804.

OFFICE SPACE

MERIDIAN OFFICE SPACE

Office share with several other attorneys.
Large office in new building, reception
area, conference room, break room, and
easy freeway access for clients. Includes
utilities, Internet and many opportunities
for referrals. \$750 month to month. Call
884-1995 or paul@marshallandstark.com

BEAUTIFUL CLASS A BUILDING

Located on the greenbelt. Easy access to
the connector. 2359 sq. ft. divisible to
1000 square feet. Generous Tenant
Improvement allowance. For additional
information please call Debbie Martin,
SIOR (208) 955-1014 or e-mail
debbie@dkcommercial.com.

OFFICE FOR SIX MONTH NOTICE LEASE

All tenants are lawyers. Common area, use
of copier, postage meter and free fax.
Located at 7th and Franklin downtown
Boise with a \$450 per month lease pay-
ment plus 25% of electric bill, security
alarm and cleaning service. Call Jerri at
345-3045 for more details and to arrange a
visit.

PRIME PARK CENTER OFFICE SPACE

Two offices near Greenbelt for reasonable
rent includes use of conference room,
copy machine, postage, fax machine and
kitchen - \$395.00. High Speed Internet
and additional space and furniture for a
secretary are available at additional
charge. This convenient office is ideal for
a solo practitioner or a local branch office
for out of town firm. Call 424-8332.

OFFICE SHARE

I have practiced law in CDA, Idaho for 36
years and am now emphasizing estate
planning and asset protection law. I am
looking to lower my overhead by sharing
my current office space and legal assis-
tant. Call 208-292-2691 or email
rich@wallacelegal.com

OFFICE SPACE

BOISE-DOWNTOWN BANNER BANK BUILDING

Fully furnished offices
available today.

Short – or long-term options.
Ideal for any size business.

CALL 800-OFFICES
or visit regus.com

VACATION RENTAL

BEAUTIFUL PALM DESERT

2 bed and bath condo for short term,
long term or vacation rental by owner.
Condo with pools and tennis courts and
is close to El Paseo the heart of the
shopping district, the mountains, golf
and recreation. 208-424-8332 or e-mail
shane@soblawyers.com.

LEGAL OFFICE SOFTWARE

GCS Law Office

Legal Office
Management Software

\$119 15 Day
Free trial!

Download Now!

www.gatecitysoftware.com



Gate City Software

POSITIONS



Rocky Mountain Power is a dynamic, leading electric utility headquartered in Salt Lake City, Utah, serving approximately 957,000 customers in Utah, Idaho and Wyoming.

Positions Available in Salt Lake City, UT:

- **SR. REGULATORY ATTORNEY**
- **LEGAL ASSISTANT**

Senior Counsel: Responsibilities include: Representing the company and reporting to the general counsel on state regulatory matters in Utah, Wyoming, and Idaho; developing legal opinions on regulatory issues; appearing on behalf of the company in state administrative proceedings; and providing a broad range of legal advice on federal, state and local laws and regulations.

Requirements include: 7 years of relevant law firm or state/federal agency experience with a Juris Doctorate degree from an accredited law school; successful completion of the Bar exam in either Utah, Wyoming or Idaho; and energy industry experience and a general understanding of utility ratemaking principles.

Legal Assistant: Responsibilities include: Assisting with paralegal duties and providing administrative support for regulatory lawyers; preparing and reviewing legal pleadings; assisting counsel at various regulatory proceedings; performing legal research; managing voluminous files; and performing miscellaneous administrative tasks.

Requirements include: High School Diploma or GED plus college or trade school, particularly paralegal training; four years minimum paralegal experience; knowledge of legal practices and terminology; and a high level of proficiency with Westlaw and data base applications. Paralegal certificate preferred.

For a complete listing of responsibilities and requirements, and to apply, please visit: www.pacificorp.com.

University of Idaho

College of Law

For more information contact:

CAREER DEVELOPMENT

Phone: (208) 885-2742

Fax: (208) 885-5709

and/or

www.law.uidaho.edu/careers

Employment announcements may be posted at :

careers@law.uidaho.edu

P.O. Box 442321

Moscow, ID 83844-2321

Equal Opportunity Employer

EMPLOYER SERVICES

- Job Postings:
- Full-Time / Part Time Students, Laterals and Contract
- Confidential "Blind" Ads Accepted
- Resume Collection
- Interview Facilities Provided
- Recruitment Planning

October/November CLE Courses

October 2007

Family Law Seminar

Sponsored by the Family Law Section
October 5, 2007—Boise
October 12, 2007—Moscow
October 19, 2007—Pocatello
(RAC Approved)

The Michael Vick Case- State vs. Federal Jurisdiction and the Status of Dog Fighting Laws in Idaho

Sponsored by the Idaho Law Foundation
October 17, 2007
8:30 a.m. – 10:30 a.m.
Law Center, Boise
(RAC Approved)
Live and Live Webcast

November 2007

Idaho Ethics Update

Sponsored by the Idaho Law Foundation
November 14, 2007
Law Center, Boise
1.0 CLE Credits of which 1.0 is Ethics Credit

The Law and Mental Health

Sponsored by the Idaho Law Foundation
November 16, 2007
Hampton Inn, Downtown Boise
5 CLE Credits of which 1.0 are Ethics (pending)

November – December

Lunch and a Movie: Video Replay

Sponsored by the Idaho Law Foundation
November 20, 27 and December 4, 2007
Law Center, Boise
Noon
CLE Credits pending (program TBA)

Headline News Year in Review

Sponsored by the Idaho Law Foundation
November 30, 2007—Coeur d'Alene
December 7, 2007—Pocatello
December 14, 2007—Boise
(RAC Approved)



*knowledge
justice access
community
democracy
expertise*

DID YOU KNOW?
Last year the **Idaho Law Foundation** sponsored 66 hours of continuing legal education attended by 700 attorneys across the state of Idaho.

IDAHO LAW FOUNDATION:
providing programs and services that enhance the competency of members of the Bar.

IDAHO LAW FOUNDATION



Helping the profession serve the public

The Law Center

525 West Jefferson Street
Boise, Idaho 83702
Telephone: (208) 334-4500
Fax: 334-4515 or (208) 334-2764
Office Hours:
8:00 a.m. - 5:00 p.m. Mountain Time
Monday - Friday except for state holidays

WE'RE THERE FOR YOU AND WE'RE HERE FOR YOU...

Grubb & Ellis|Idaho Commercial Group is here to align your real estate needs with your business goals. We offer one of the most complete selections of commercial properties for sale or lease that you'll find anywhere. We are proud to feature the Riverwalk Building.

WE'VE GOT YOU COVERED.



Suite 200 offers 4,500 SF along with the following amenities:

- Large private offices with river views
- Private deck overlooking the river with access doors from 5 offices
- Multiple conference rooms
- Building includes a shower for Greenbelt runners
- Close to downtown and the Greenbelt
- Space designed as a law office



To learn what our transaction, sales, leasing and investment professionals can do for you, call us today.

GRUBB & ELLIS|IDAHO COMMERCIAL GROUP

533 E. Riverside Drive, Suite 100
Eagle, Idaho
208.287.9500
Independently Owned and Operated



RIZZO MATTINGLY BOSWORTH PC

The name Steven V. Rizzo, P.C., Attorneys at Law, has been retired. The firm is now known as **Rizzo Mattingly Bosworth, P.C.** We are pleased to announce that Claude Bosworth and J. Michael Mattingly have become Shareholders and that Jason Daywitt has returned as a Senior Associate.

The firm's main practice areas are Products Liability, Professional Malpractice, Maritime, Insurance, Consumer and Appellate Law. The firm is licensed to practice in Oregon, Washington, Idaho and California.

Si animus infirmus est, non poterit bonam fortunam tolerare – Publius Syrus

RIZZO MATTINGLY BOSWORTH, P.C.

Lincoln Place, Suite 350
1620 SW Taylor Street
Portland, OR 97205
503-229-1819
503-229-0630 (Fax)
www.rizzopc.com

The facts don't add up

Overwhelmed by inconsistencies between case facts and your client's story? Are you spinning your wheels as time runs out?

Your solution

We conduct confidential forensic interviews and provide you with a clear picture of the facts. Call today for a free case consultation.



Idaho
POLYGRAPH
Associates

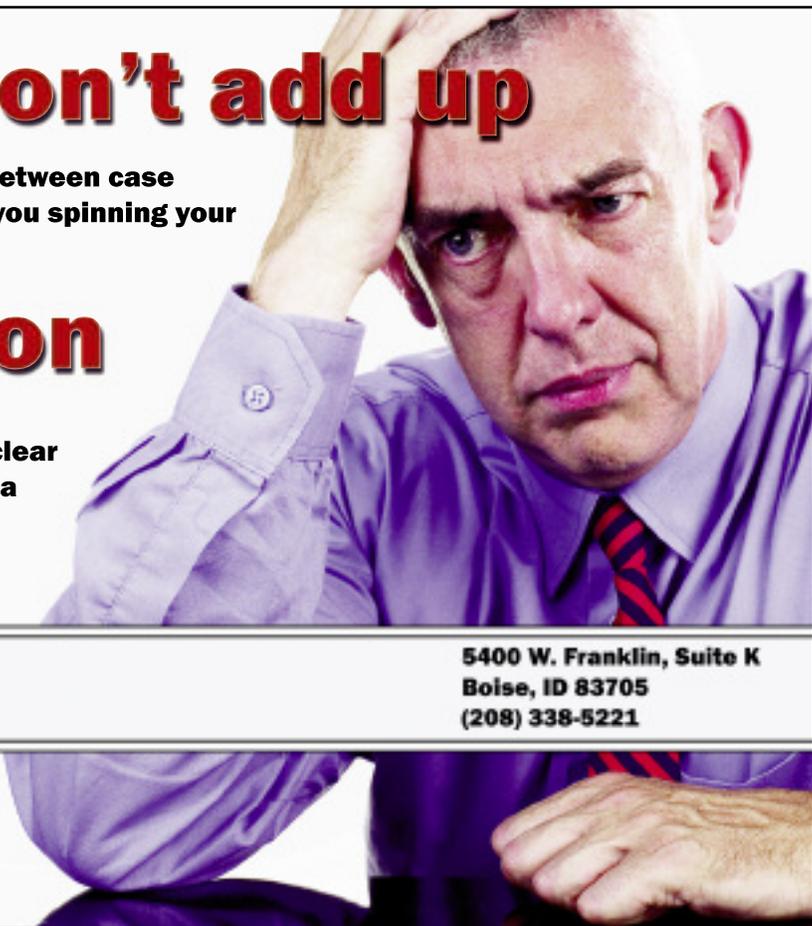
5400 W. Franklin, Suite K
Boise, ID 83705
(208) 338-5221



James Page



Chip Morgan



● ● ● What if coverage benefits exceeded your expectations?

Contact Moreton today!
208-321-9300
800-341-6789
www.moreton.com

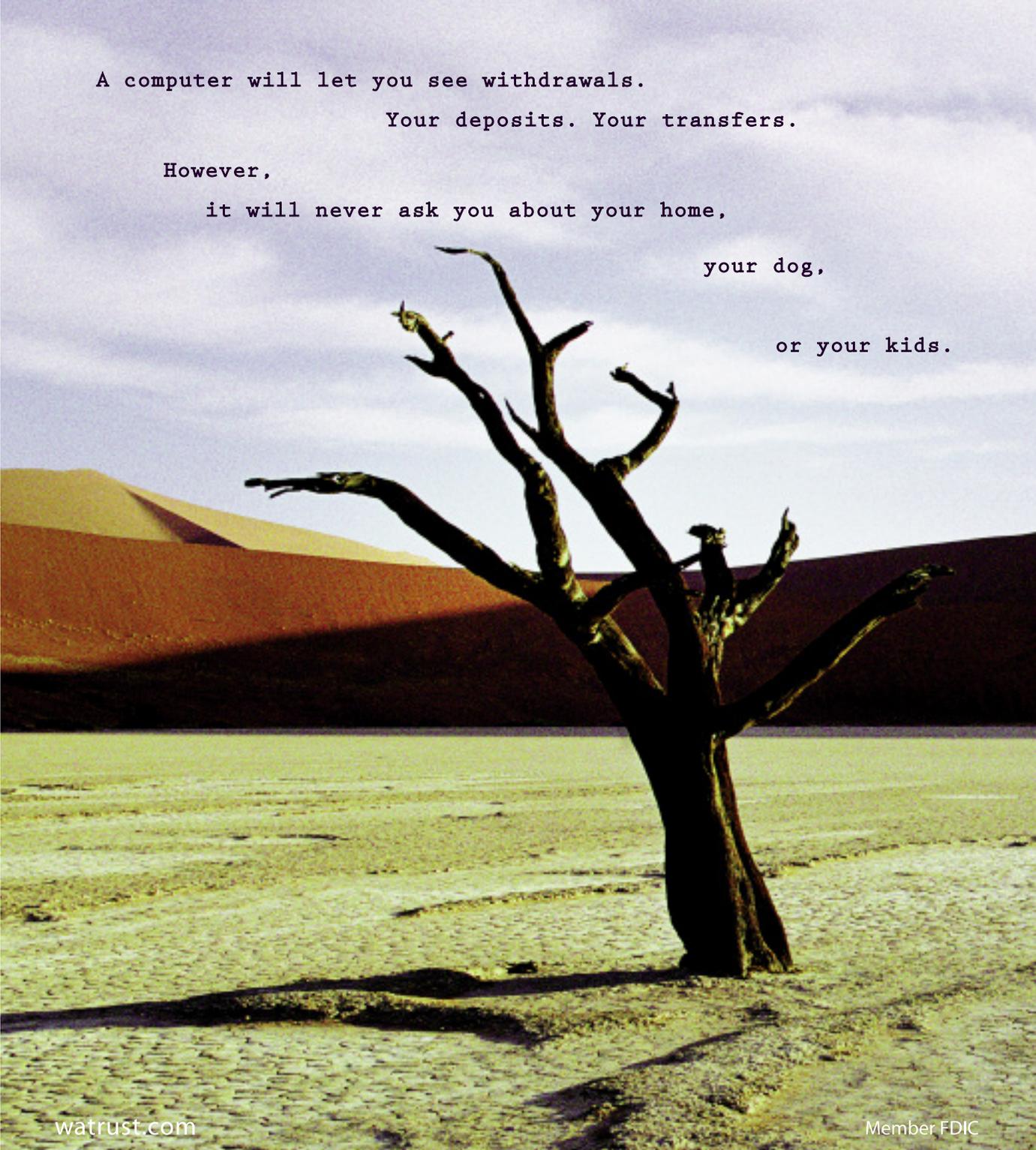
Since 1910
Moreton & Company
an Avatrix Global Partner
Beyond what you'd expect

We offer free services to supplement your lawyers' malpractice coverage.

With lawyers' professional liability coverage from Zurich, you gain peace of mind with free access to VersusLaw™ for online research, a loss prevention hotline manned by Hinshaw & Culbertson for free consultation and the ability to report claims 24/7, toll-free. It all adds convenience and cost savings to your coverage benefits. For greater value.

Because change happenz.™


ZURICH®



A computer will let you see withdrawals.

Your deposits. Your transfers.

However,

it will never ask you about your home,

your dog,

or your kids.

watrust.com

Member FDIC

But we will. Because we still believe that great things happen when people get together, face to face.

 **Washington Trust Bank**

BEYOND MONEY



Let her know she's not

a l o n e .

Idaho Partners Against Domestic Violence
(208) 384-0419

The Idaho Partners Against Domestic Violence needs your help in its mission to prevent violence through community awareness and provide volunteer attorneys to represent victims of domestic violence.

To offer your time or financial support, please contact:

Kelly Miller, Legal Director
Idaho Coalition against Sexual & Domestic Violence

(208) 384-0419 kmiller@idvsa.org

This message donated by

SEINIGER
LAW OFFICES

(208) 345-1000