The Advocate

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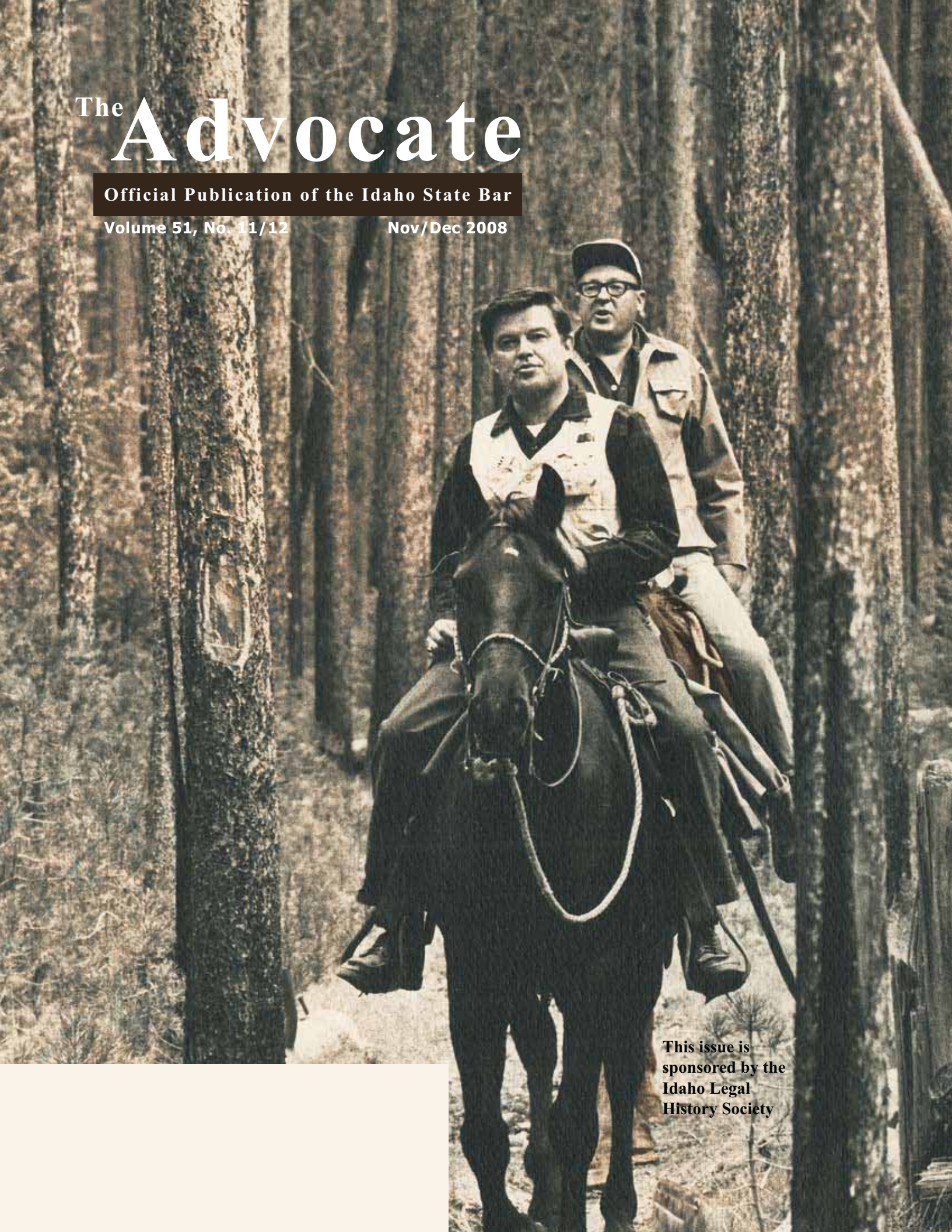

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On the Cover—

A young Carl P. Burke and his lifelong friend, Frank Church, horseback riding at the Robinson Bar Ranch, Idaho. Carl went on to manage all of Senator Church's congressional campaigns, and his bid for the presidency. (Photo from the private collection of Carl Burke.)

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This issue of *The Advocate* is sponsored by the Idaho Legal History Society.

In Idaho, 350 young people participate in the statewide Mock Trial competition each year.

For example, there's McKay.

Through his experience in this year's Mock Trial, McKay learned that you don't need to get first place to be a winner. Little did he know when he agreed to participate on Kimberly High's Mock Trial team that he would end up in state finals, trying his team's case at the Idaho Supreme Court. Although Kimberly didn't win that day, the judges agreed that they gave a spectacular performance. Thanks, in part, to McKay's contribution, Kimberly's second place finish earned them a place at the American Mock Trial Invitational.

Along the road to the national competition, McKay learned first hand about the judicial process and gained a greater understanding of the dedication it takes to be successful. As McKay shared, "I have learned to never underestimate my own potential."

All students deserve the opportunity to participate in activities that inspire them to greatness, and with the support of **Law Related Education** and the help of people like you, many more will.

Help young people like McKay continue to have the opportunity to participate in Mock Trial activities. Send your donation today.

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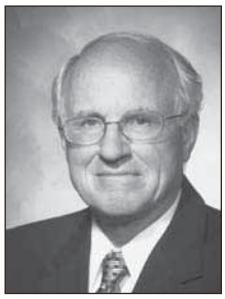
IDAHO STATE BAR

President's Message

The Rudders of Our Ships

Dwight E. Baker



This issue of *The Advocate* is sponsored by the Idaho Legal History Society, and includes articles of historical interest. An understanding of the history of the practice of law not only inspires us, but also helps to inform us as to why things are the way they are. Those of us who have been in practice for thirty or more years remember our first introduction to the practice of law. It wasn't our partners or clients, but often our very first assistant or secretary as they were called back then, who mentored us through the intricacies of our chosen profession.

You know the type—usually an older lady; stately, dignified, professional. Thirty-plus years on the job, and still going strong. Not unlike your senior English teacher in high school. Perhaps not quite as stern, but nevertheless requiring respect—by her obvious competence, by the way she carried herself, by the way she dressed, by her desk, by her glasses.

And she was friendly, not overly so, but nevertheless friendly and outgoing. And helpful to a brand new lawyer. Suggesting the formats we used for a probate, the form for a will, what was required for a deed or a contract that we didn't learn in law school, or providing an old file with similar factual or legal issues, so we could learn how it was supposed to be done. And carefully pointing out that we always read each metes and bounds description out loud to another staff member or lawyer, and then lightly initialed in the margin, by pencil, that we had done so; that we had done our job—completely, accurately, competently. Today we call it due diligence, but it has always been there for the people who really make our offices run, and unavoidably, for everyone in the office.

Rich Hall referred to this person when he spoke at Candy Wagahoff Dale's swearing in ceremony as a federal magistrate. All the lawyers present understood what Rich was saying, about how he valued and respected the judgment of the staff persons who make our profession go.

In smaller and mid-size firms, these people were, and are, the rudders of our ships, always stabilizing, always staying the course. They were always helpful, always critiquing, always evaluating, always improving our offices, always prepared to offer constructive criticism, if any of us were of a mind to solicit and then listen to the offered guidance.

They were the driving forces in our practices, acquainted with everyone in town. They knew the protocol of the day, when flowers were or were not appropriate, to whom a card of condolence or congratulation ought to be sent, who might need a little charitable financial assistance in time of need, always discrete and without a call for fanfare or a need for attention. They knew which clients we wanted to keep, and they knew the prospective clients with whom we wanted to establish a relationship. Today we might term that "marketing"; yesterday it arose out of a genuine concern for those in need, a concern probably best understood by those who survived the Great Depression with a modicum of pride and resilience. Often as not they came from modest backgrounds, not able to attend formal education for financial, health or family reasons. They may have worked days to be able to afford a semester or two of vocation school, mastering shorthand and typing, both supported by a solid foundation of English.

Formal communications between lawyers, or between lawyers and the courts or their clients, was typewritten, and then sent with a three-cent stamp. The typewriters were manual; the fonts either pica or elite, formal court and transactional documents legal size, and the copies on onionskin created with carbon paper. A really good typist could create eleven onionskin copies with a manual Remington typewriter. There were no copy machines, and duplicates were prepared exclusively through the onionskin/carbon sheath of documents, carefully aligned and rolled into place manually. Imagine preparing a detailed estate accounting utilizing eleven layers of onionskin/carbon paper. Typographical errors were dealt with one of three ways; ignore them, start over, or correct all eleven copies and original by manually removing the assembled sheets from the carriage, erasing or whiting out (on onionskin thick paper, correctly re-aligning the sheath of eleven pages and carbon paper, and re-positioning the paper so the corrected letter or number fell into place). Woe unto the young lawyer who needed to re-draft a letter more than once because of an un-anticipated but nevertheless foreseeable drafting problem. Older lawyers knew better. Imagine the impact the technology of the day had on real property conveyances (with abstracts rather than title insurance), on banking and other commercial transactions, and on the evidentiary foundation for authenticity and admissibility of documentary evidence; let alone the efficient preparation for or conduct of a trial (including jury instructions) without the voluminous copies of exchanged documents we now take for granted.

The IBM Selectric II typewriters were creations of the '60s with wonderful new features—no manual return, the space required for each digit or letter adjusting, and each line expanding or contracting to minimize hyphenation while maintaining appropriate margins. Next came the '70s

with IBM mag cards, and the introduction of forms which could be more or less efficiently utilized by the staff, if not the lawyers. Then Wang, one of the earliest of the long line of office computer hardware and software products. In spite of IBM's efforts to maintain a stranglehold on the development (and pricing) of office equipment during the '80s, an upstart Harvard dropout developed, implemented and marketed ideas which drove IBM shares to a small fraction of their original price by the early '90s. Bill Gates became the wealthiest person in the world, simply because of a technology sorely needed by the business world generally, and by our legal world specifically. Communications between a lawyer and his (or rarely her) secretary changed slowly from shorthand dictation to large, cumbersome dictation systems; and, then to smaller, user friendly electronic tapes, and now to communication systems input into our computer systems. Voice recognition software may soon become the system of choice.

Back then, instant communication was anything but instant. All phone calls were made through a switchboard manned by real people. Phone numbers were two or three digit numbers for each locale, i.e., "American Falls number 255." Phone calls outside of our immediate communities required long distance charges, driven by the need for operators at both ends of the calls. There were no conference calls, no facsimile transmissions, no e-mails, and no attachments to e-mails.

Today, formal training has developed for a variety of paralegals, with on-the-job specialization in the transaction, litigation and administrative law areas. We lawyers now convey the importance of and respect we have for our professional staffs through descriptive titles. Whether they are called paralegals, legal assistants, administrative assistants, office managers, or legal secretaries, we all recognize the critically important roles these people play in our professional world.

In spite of the technological limitations of the times, the lawyers of the Idaho State Bar developed a degree of competence and mutual respect which we attempt to preserve and continue to emulate. Each one of us should take the time to reflect on the importance of our staff personnel, to thank them, and to give them the credit they so richly deserve in the development of our profession. If nothing else, show them this article, and personally improve on this message to the extent you are able to do so.

Dwight E. Baker *has been engaged in private practice since 1971, and is a founding partner is the Blackfoot law firm of Baker and Harris. He is a 1963 graduate of the University of Wisconsin/ Madison, and a 1971 graduate of the law school at the University of Idaho. He represents the Sixth and Seventh Districts, and is currently serving a one-year term as President of the Idaho State Bar Board of Commissioners.*

Letter to the Editor

Dear Editor,

A heartfelt thank you to everyone who contributed to the success of the recent Bar Conference. In my judgment, the event was superb.

It was especially enjoyable to meet with members of the Bench and the Bar.

Sincerely,

Tim Spencer
Provo, Utah

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- development

NEWSBRIEFS

David W. Gratton was appointed by Governor C.L. "Butch" to a new seat on the Idaho Court of Appeals. The appointment will be effective January 1, 2009. The new seat on the bench was created by the Legislature last winter, expanding the appellate court from three to four members.

"Heavy caseload and the complexity and magnitude of cases being handled by our judiciary prompted the Legislature to add a judge to the Court of Appeals," Governor Otter said. "Dave Gratton's experience, temperament and perspective make him a solid choice for this important position."

Mr. Gratton, 48, is an Emmett native with a bachelor's degree from Boise State University and a law degree from the University of Idaho. He is a partner in the Boise law firm of Evans Keane LLP, and previously clerked for the late U.S. District Judge Hal Ryan.

Mr. Gratton and his wife, Robin, have two children and live in Boise.

Stephen S. Dunn was appointed by Governor C. L. "Butch" Otter to the Sixth District judgeship position that was vacated by Judge Ronald E. Bush, who assumed a federal magistrate's position for the U.S. District Court District of Idaho. The appointment is affective immediately. Previous to his appointment, Judge Dunn was a partner in the Pocatello law firm Merrill & Merrill, Chtd. He was a part time federal magistrate from 1990 to 1992. He has practiced law for 31 years. He is a Twin Falls native and Brigham Young University graduate. He lives in Chubbuck with his wife, Wanda and three daughters.

Adoption of IRCP 16(p), Informal Custody Trial—The Idaho Supreme Court has just adopted a new rule, IRCP 16(p), Informal Custody Trial, that allows parties to opt-in to an alternative trial process for resolving custody issues. The parties must execute a consent form and a form waiving the application of the Rules of Evidence. The order adopting this rule can be found on the court's website at http://www.isc.idaho.gov/rulesamd.htm and is effective immediately.

Preliminary Draft of Proposed Amendments to the Federal Rules of Practice and Procedure—The Judicial Conference of the U.S. Committee on Rules of Practice and Procedure has requested public comment on the preliminary draft of proposed amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure; and the Federal Rules of Evidence. The rules committees welcome all comments, favorable, adverse, or otherwise. In addition to comments they would like alternative suggestions. Comments will be considered carefully by the respective rules committees, which consist of experienced trial and appellate lawyers, scholars, and judges. You can view the text online www.uscourts.gov/rules, or you can call (202) 502-1820 for a copy. All comments can be mailed to Peter G. McCabe; Secretary Committee on Rules of Practice and Procedure of the Judicial Conference of the United States; Thurgood Marshall Federal Judiciary Building; Washington, D.C. 20544. They can also be sent electronically to <Rules_Comments@ao.uscourts.gov> are due by February 17, 2009.

The Idaho Supreme Court has adopted two new rules of evidence with an effective date of January 1, 2009.—New Rule 803(23) is an exception to the hearsay rule entitled "Medical or dental tests and test results for diagnostic or treatment purposes". New Rule 904 addresses authentication of items described in Rule 803(23). The full text of the rules as set out in the Supreme Court's order can be found on the court's website at http://www.isc.idaho.gov/rulesamd.htm.

DISCIPLINE

DAVID E. RAYBORN
(Transfer to Disability Inactive Status)

On September 18, 2008, the Idaho Supreme Court issued an Order transferring Pocatello attorney **David E. Rayborn** to disability inactive status pursuant to I.B.C.R. 516(b).

The Idaho Supreme Court's Order followed a Professional Conduct Board recommendation and stipulated resolution of an Idaho State Bar (ISB) disciplinary proceeding. On January 8, 2008, the ISB filed a formal disciplinary Complaint against Mr. Rayborn alleging professional misconduct. Mr. Rayborn had previously voluntarily placed himself on inactive status on September 12, 2006, because of "mental and physical illness."

By the terms of the Idaho Supreme Court's Order, in lieu of a formal sanction, Mr. Rayborn has been transferred to disability inactive status pursuant to I.B.C.R. 516(b)(1)(E) for a minimum period of five years, retroactive to September 12, 2006, the date on which Mr. Rayborn voluntarily changed his status from active to inactive. Mr. Rayborn may not resume active status until reinstated by order of the Court.

Inquiries about this matter may be referred to Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, ID 83701, (208) 334-4500.

NOTICE TO RAYMUNDO G. PEŃA OF CLIENT ASSISTANCE FUND CLAIM

Pursuant to I.B.C.R. 614(a), the Idaho State Bar hereby gives notice to **Raymundo G. Peńa** that a Client Assistance Fund claim has been filed against him by former client Larry Johnson in the amount of $2,975.58. Please be advised that service of this claim is deemed complete fourteen (14) days after the publication of this issue of *The Advocate*.

2009 Licensing Packets

The 2009 licensing packets will be mailed in mid-November. Be sure your packet reaches you by verifying and updating your address information before November 10. Visit the ISB website at www.idaho.gov/isb to check your records in the Attorney Directory. Use the online form or contact the Membership Department at (208) 334-4500 or astrauser@isb.idaho.gov to update your information.

2008 Service Award Recipients

Diane K. Minnich

At the Annual Conference last month in addition to the Distinguished lawyers (page 32), attorneys and non-attorneys that have donated their time, effort and resources to the Idaho State Bar and/or Idaho Law Foundation were honored. The Bar and Foundation could not accomplish its goals without the dedicated service of individuals like those that receive service awards each year. The 2008 recipients are:

Robert L. Aldridge, Robert L. Aldridge, Chtd., Boise. Bob has contributed his time and energy to the sections of the Idaho State Bar. He is the Chair of the Ethics and Professionalism Section, and past chair, as well as long-time legislative-monitoring committee chair, of the Taxation, Probate & Trust Section. He has co-authored the Forms books for both Probate and for Conservatorship-Guardianship. He has presented multiple CLEs on ethics, estate planning, medicaid, and related topics. He has written several articles for *The Advocate* on ethics issues. He represented the Bar on the pilot project for the new Supreme Court Conservatorship and Guardianship Committee. He was nominated by the Bar to the SW Idaho Workforce Investment Board, and served for five years, including as chairman. He has done pro bono legislative work in the areas of probate code and tax, Medical Directives, developmental disability, and the elderly. He also does pro bono work on church law at local and national levels; donates substantial pro bono time to protection of the elderly by serving on advisory committees; was the co-chair and, is currently a member of the Supreme Court Conservatorship and Guardianship Committee. Bob also received the AARP 2004 Idaho Andrus Award for community service for Idaho. He was awarded the 2007, 6.1 Challenge Award, the 2006 Spirit of Philanthropy Award from the SW Idaho Planned Giving Council. He is an Advisor Emeritus from Idaho for the National Trust for Historic Preservation, Past Chair of the Boise Art Museum, and President of two area Kiwanis Clubs. He feels there is immense satisfaction in making a difference in the lives of people, and helping and protecting those who cannot help themselves, especially the elderly and disabled. Bob graduated from Bonners Ferry High School as salutatorian. He received a B.A. from the University of Idaho, and his J.D. from Washington University, St. Louis, Missouri. Bob and, his wife, Kim have been married 40 years. They have three children and nine grandchildren.

Richard "Dick" G. Clifford, CA Financial Services, Lewiston. In 2002, Dick was asked to serve as a non-attorney on the Professional Conduct Board by ISB Commissioner and Past-President Eric Peterson. Eric felt Dick's experience as a legal specialist on a Judge Advocate General (JAG) International Law Team would be beneficial to service on the PCB. During his time in the JAG, the Hon. Mikel Williams, Hon. James Morfitt, and Michael Southcombe were his commanding officers. While serving on the PCB Dick has worked on more than 30 cases. He says he has spent many hours reading, studying, and thinking to reach a fair and impartial decision based on the facts as they relate to the Idaho Rules of Professional Conduct. In addition to his financial services company, Dick is a Deputy and search pilot for the Air Posse for the Nez Perce County Sheriff's Department. He is Regional Director for the Employer Support of the National Guard and Reserve; and does extensive volunteer work for local, state, and national insurance entities. He and, his wife, Vicki; have two sons, one three-month-old grandson, and twin grandsons due in November.

Jack B. Haycock, U.S. Attorney's Office, Pocatello. Jack is an Assistant United States Attorney (AUSA), and Branch Manager of the U.S. Attorney's Office in Pocatello. He recently served as the 6th District Bar President, during which time he worked to raise the community awareness for the Bar's public education program the Citizens Law Academy. His commitment to the 6th District Bar helped invigorate the local Bar and its members. He enjoyed becoming better acquainted with members of the 6th District Bar, and especially enjoyed working with the Board of Commissioners and Bar staff. He received his J.D. from Brigham Young University and has been a member of the Bar for 25 years. He and, his wife, Laura have four children.

Russ Heller, Boise School District, Education Services Center, Boise. Russ has worked for many years to coordinate the Law Related Education (LRE) activities between the Idaho State Bar and the Boise School District faculties and students. He works with LRE Coordinator Carey Shoufler on developing presentations for the annual conference, Law Day events, Lawyers in the Classroom, and other law-related instructional events. He finds working as a judge during the Mock Trial finals a true pleasure; and, enjoys witnessing the talented, well-prepared students as they argue their cases. Russ is a board member for Junior Achievement of Idaho, Inc; Idaho Council on Economic Education and the Frank Church Institute. He is a Trustee and Executive Director for the Idaho Council for History Education; and the Idaho Coordinator of the Gilder Lehrman/Preserve America Program. He is the recipient of several academic

and teaching honors, including two Presidential Scholar awards. Russ and, his wife, Linda have one daughter Jordan, a 5th-generation Idahoan who practices law in San Francisco.

Rinda R. Just, Idaho Industrial Commission, Boise. Rinda has served as a bar exam grader since 1995. During her legal career she has been involved in many areas of the law. She has been an Industrial Commission Workers' Compensation Referee and a member of the Commission's Adjudication Division. Previous to that she was a deputy attorney general in the Contracts and Administrative Law Division and the Natural Resources Division. She has also been Assistant City Attorney for the City of Boise, an Ada County Prosecuting Attorney, and Secretary to the Associate Dean/Graduate Programs Coordinator at Boise State University. She was a member and Chair, of the Boise City Planning and Zoning Commission. Rinda is an Idaho native, who graduated from Boise State University and received her J.D. from the University of Washington Law School. She is a prize-winning needlework artist and avid gardener. She and her husband, of 31 years, have an eclectic group of mixed-breed dogs they have rescued from animal shelters from Boise to Montpelier.

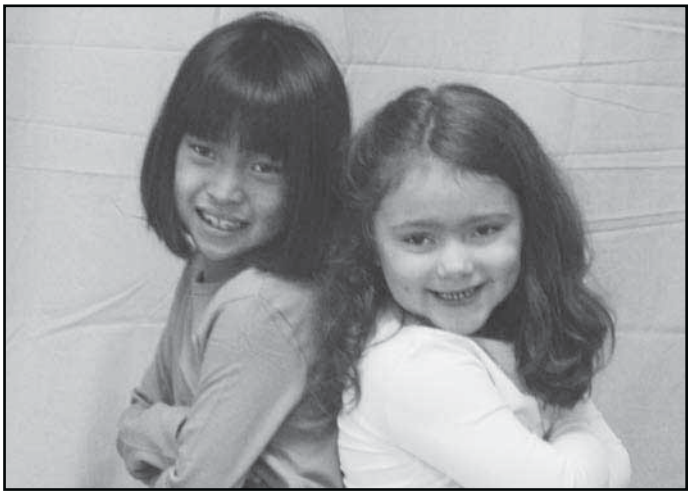
Derrick O'Neill, Trout Jones Gledhill Fuhrman, PA, Boise. An ex-client of a disbarred attorney had obtained a judgment against her attorney for unreturned fees. Those fees were also ordered to be paid in the disciplinary case, but the lawyer did not pay his client, who lived in Texas. Derrick responded to Bar Counsel's request for help and instituted collection proceedings. Derrick doggedly pursued collection and collected the entire debt, with interest, for the client. He not only donated his time and effort, but also covered all of the costs and expenses, assuring that was client completely reimbursed the fees she had paid to the disbarred attorney. Derrick is an Idaho native, a graduate of Boise High School and the University of Idaho. He received his J.D. from the University of Utah and returned to Boise in 1989 to practice law. His practice focus is on lending institutions and business in the areas of foreclosures, collections, evictions and bankruptcy. He received a Denise O'Donnell-Day pro bono award in 2001. He and, his wife, Patty have two children; and, are actively involved in their community through their work with Bishop Kelly High School, St. John's Cathedral and the Warm Springs Children's Home. He still runs at noon with Bar Counsel even though he knows he will be asked again in the future to help collect for clients involved in the disciplinary process.

Betty H. Richardson, Richardson & O'Leary, PLLC, Boise. Betty has made a tremendous contribution to the quality, vision and organization of the Idaho Law Foundation CLE program. She has been a member of the CLE committee since 2003, and has also served as the program attorney. Betty initiated the popular "Lessons from the Masters" CLE series where prominent, senior members of the Bar share important cases or legal experiences in a presentation at the Bar's Annual Meeting. In fact, Betty could easily be one of the Masters. She was the first woman to serve as the U.S. Attorney for Idaho, having been nominated by President Bill Clinton, and unanimously confirmed by the U.S. Senate. She was the first woman to serve as the Attorney Commissioner on the Idaho Industrial Commission. She was law clerk to Chief U.S. District Judge B. Lynn Winmill, District of Idaho, and law clerk for former Idaho Supreme Court Justice Robert C. Huntley, Jr. Currently, she is in private practice where her focus is on appellate law. She also serves as a hearing officer, mediator, and case consultant. Betty is very involved in her profession and community. She is an adjunct professor at Boise State University, a member of the Federal Bar Association, the Bar's ADR Section, Idaho Women Lawyers, Inc, Partners Against Domestic Violence, and the Idaho Legal Historical Society, on the Board of Directors of the Frank Church Institute, the Boise High School parents Organization, City Club of Boise, Idaho Democratic Party, and the West Boise YMCA, the Assistance League of Boise and a panelist for Idaho Reports on Idaho Public Television. She is a past recipient of the Bar's Pro Bono Award and a recipient of the Idaho Women Lawyer's Kate Felham Award. She was named a Tony Patino Fellow at Hastings College of Law where she received her J.D. in 1982, and named outstanding senior at the University of Idaho where she graduated *magna cum laude* with a B.A. in political science. Betty and her husband Pete have been married for 29 years, and are also law partners. They have two children, Jason, an attorney in San Francisco and Catherine who is a senior in high school. They are all involved in public service. As Betty's parents told her, and she has told her children, "... citizenship is not a spectator sport."

Hon. Jon J. Shindurling, Seventh Judicial District Court, Idaho Falls. Judge Shindurling is a native of Southeastern Idaho. He received his B.A. in English from Arizona State University and his J.D. from the University of Idaho College. He was editor of the Idaho Law Review and recipient of a Langroise Scholarship. Judge Shindurling has been a member of the Bar for 30 years and served on many Bar committees during that time. He was on the Bar Exam Preparation Committee from 1979-82, serving as member and chair; the Idaho Law Foundation CLE Committee, 1985-88; and has been on the Bar's Fee Disputes Resolution Committee, 1991-present. Judge Shindurling began his legal practice in Twin Falls, but moved to Idaho Falls in 1990. He was a shareholder in Wright Law offices before taking a position in the Bonneville County Prosecuting Attorney's Office in 1994. He then served as Chief Deputy for five years until 2000, when he was appointed as a district judge to the Seventh District Judicial Court. He has chambers in Bonneville, Bingham and Teton Counties. He also supervises a Felony Drug Court in Bingham County and the JoAnn Wood Pilot Project Court. He has served two terms from 1987-89 and 1996-present; and, is currently Chair, on the Idaho Supreme Court Civil Jury Instructions Committee. He is on the ISC's Criminal Sentencing Committee and is a member of the Eagle Rock Inns of Court. Judge Shindurling said, "Our system will not work without everyone contributing. With the isolation of being on the Bench, I appreciate the chance to work with the Bar. Grading is a great way of getting a feel for the Bar." Judge Shindurling and, his wife, Christine have four daughters and six grandchildren.

Thomas W. Whitney, Whitney &

Whitney, LLP, Moscow. Tom is serving his second term on the Professional Conduct Board. He feels it is a privilege to do the hands-on work of maintaining the public's trust in the legal profession. In addition to being on the PCB he has been very active as a volunteer in other Bar programs. He has graded the bar exam frequently since 1998, twice representing the Bar at the National Conference of Bar examiners conferences, served as both a mediator and arbitrator for the ISB Fee Arbitration Program, and participated in the Lawyers in the Classroom program. Tom has also lectured at the Citizens' Law Academy, judged moot court competition at the University of Idaho College of Law, is past-Chair of the Latah County Board of Community Guardians, and has done pro bono legal work for the local homeless shelter and also the humane society. Tom enjoys his volunteer work, and sees it as its own reward. He and his wife Diane both received their J.D. from the University of Idaho College of Law. They are law partners, and have lived in Moscow for 15 years with two Shetland Sheepdogs and a very tolerant cat.



P.S. Each year in the December issue, I include pictures of my daughters. We eliminated this year's December issue of *The Advocate* so here are the pictures, a little early. At this point our second grader, Samantha says she plans to be a veterinarian. Our first grader, Stephanie and her BFF (those of you with kids will know this one) McKenzie have determined they don't need to go to college because they are going to be cheerleaders??!! (First picture: *Samantha and Stephanie;* Second picture: *Stephanie and Samantha*)

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Welcome From the President of the Idaho Legal History Society

Deb Kristensen
Givens Pursley, LLP

As President of the Idaho Legal History Society (ILHS), it is my pleasure to welcome you to this month's issue of *The Advocate*. The ILHS is once again sponsoring an issue of *The Advocate* to highlight some of the good work the society has undertaken over the past year.

The ILHS was informally established in 2004, and more formally as a tax-exempt organization in 2006, by a number of judges, lawyers and historians interested in preserving Idaho's legal history. The ILHS has a five-part mission: (1) to foster and promote public knowledge of and interest in Idaho's legal history; (2) to promote and encourage research of Idaho's legal history; (3) to collect and preserve records, relics, oral histories and other things of interest to Idaho's legal history, and to make the same accessible for public examination; (4) to encourage interest in Idaho's legal history through meetings, presentations, lectures and other public forums; and (5) to promote and publish and distribute historical material for educational purposes, the proceeds of which, if any, are to be used exclusively for the express purposes of the ILHS. To that end, the ILHS has undertaken a variety of unique and interesting Idaho-history-based educational efforts. From commissioning an original play commemorating the 100th anniversary of the 1907 trial of "Big" Bill Haywood for the assassination of Governor Frank Steunenberg, dubbed Idaho's "Trial of the Century," and supporting former Idaho Supreme Court Justice Byron Johnson's efforts to produce a PBS documentary entitled "Assassination: Idaho's Trial of the Century," to sponsoring lectures on various Idaho legal history topics and developing a website to offer public access to the works of the society, the ILHS has been very active in its pursuit of preserving and encouraging interest in Idaho's legal history. Perhaps more than anything over the past year, however, members of the ILHS have worked to preserve the oral histories of some of the people that have shaped Idaho's justice system.

From the state's early territorial days until current times, Idaho has seen a number of colorful and extraordinarily talented people serve its justice system from the bench and bar. Great moments in Idaho's legal history deserve to be gathered and saved for the future, but are too often lost with the passage of time. The ILHS' Oral History Project, led by Rita Ryan and a dedicated cadre of volunteers, was formed to capture these memories and preserve them for further generations. To do so, the Oral History Project developed a comprehensive handbook to guide interviewers throughout the state in the process of taking an oral history, purchased high-quality video and audio equipment to conduct the interviews and, importantly, partnered with Idaho court reporters to transcribe the oral history interviews once conducted. And, through the work of Ken Pedersen and others, the Oral History Project developed releases for the final oral history product (*e.g.,* transcripts, pictures and background materials) to be used by the ILHS, in partnership with the Idaho State Historical Society (ISHS), to provide public access to these treasured memories.

This issue of *The Advocate* features a number of articles concerning ILHS' Oral History Project. In *Perspectives from the Past: Oral Histories of Idaho Lawyers and Judges*, I highlight ten of the oral histories conducted by the ILHS, including passages from the interview transcripts of Ninth Circuit Judge Thomas G. Nelson, former Idaho Supreme Court Justice Byron J. Johnson and the long-time Chief Judge of the District of Idaho, Judge Harold L. Ryan. Ken Pedersen's article *Getting Involved in the Idaho Legal History Society's Oral History Project* describes one person's decision to volunteer to conduct oral history interviews and the rewards he has received in doing so. And, in *Lynchpins*, Rita Ryan describes the central role that volunteer court reporters play in the process of taking oral histories and the very special partnership ILHS has developed with Idaho court reporters. Finally, Kathy Hodges, oral historian with the ISHS and member of the ILHS Oral History Project, describes the unique partnering between the ISHS and ILHS to gather oral histories of some of the state's most prominent legal figures and how the public can access them in her article *Accessing the Records of Idaho's Distinctive Legal Culture*.

The ILHS has identified a "Top 50" list of people throughout the state who are candidates to be interviewed for the Oral History Project, but our volunteer resources are limited. If you know of someone who would make a good candidate for this project or if you are interested in helping to preserve Idaho's legal history by conducting an oral history, please visit our website at: http://www.id.uscourts.gov/ilhs/index.htm and feel free to contact me or any of the Officers or Directors of the ILHS for more information.

On behalf of all the members of the ILHS, we hope you enjoy this issue of *The Advocate* and a view into the lives of some of Idaho's finest lawyers and judges.

About the Author

Deb Kristensen *is a partner with the Boise law firm of Givens Pursley LLP where she practices commercial litigation. She is former President of the Idaho State Bar and currently serves as a Lawyer Representative for Idaho to the Ninth Circuit Conference of U.S. Courts. Deb is also the author of* 1895-1975: The First 50 Women in Idaho Law*, a book chronicling the lives of Idaho's earliest women lawyers.*

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Perspectives from the Past: Oral Histories of Idaho Lawyers and Judges

Deb Kristensen
Givens Pursley, LLP

Donald Creighton once said, "History is the record of an encounter between character and circumstances." Nowhere is this statement illustrated better than in the oral histories of some of the finest lawyers and judges in Idaho.

Idaho's justice system has long been peopled with colorful characters who exhibit great intellect. The histories of these people—from their often humble beginnings to moments of great achievement—deserve to be gathered and saved for the future.

In 2004, a group of people interested in preserving Idaho's legal history banded together to form the Idaho Legal History Society ("ILHS"). One of the key missions of the ILHS is to preserve Idaho's legal history by conducting oral histories of significant figures in Idaho's legal history and making them available to the public. To that end, a dedicated group of volunteer lawyers, judges, court reporters and historians has endeavored to gather the oral histories of some of Idaho's most prominent legal figures. The task has not been easy—but all report it has been educational, interesting and wholly worthwhile.

I have had the pleasure of reviewing each of the oral histories completed by the ILHS thus far, including a few oral histories of Idaho judges conducted by the Ninth Circuit Historical Society. From Ninth Circuit Court of Appeals Judge Thomas G. Nelson's (unlikely) observation that the "most important factor" in his appointment to the federal bench was "luck," to Idaho State District Court Judge Gerald L. Weston's memory of the first time he saw a woman in court and the difficulty male counsel had in addressing her (the presiding judge finally instructed opposing counsel to simply refer to the female lawyer as "counselor"), to United States District Judge Marion Callister's reminiscing about winning the high school state basketball championship for Blackfoot High School and Idaho Supreme Court Justice Byron Johnson's recollection that the "proudest day of my life" was the day he pitched a shutout baseball game for Harvard against Yale, these histories provide a rich background of Idaho's justice system and the people who have influenced it over the years.

Some of you may not remember or have had the opportunity to know the people chronicled herein, but it is my hope that after reading this article and getting a small glimpse into the people they really are, you will not forget them.

Judge Thomas G. Nelson, Ninth Circuit Court of Appeals

Thomas G. Nelson was born in 1936, and is affectionately known to his friends and colleagues as "TG". He was admitted to the Idaho State Bar in 1962. He served in the Idaho Air National Guard and in the Judge Advocate General's Corps of the U.S. Army Reserve, before going to work in the Idaho Attorney General's office, first an as assistant attorney general and then as Chief Deputy Attorney General. From 1965 until 1990, Judge Nelson was in private practice in Twin Falls and during this time he served as Commissioner and President of the Idaho State Bar. In 1990, he was appointed as a Circuit Judge for the Ninth Circuit Court of Appeals, and currently sits as a Senior Circuit Judge.

Judge Nelson describes how he studied for the Idaho bar exam:

> **A**: I worked construction [at his dad's construction company] actually right up until I went in the Air National Guard, after I took the bar exam. … I made the command decision that I wouldn't study for the bar exam until a month before and then I'd just quit work and do nothing but study. Probably a good idea. So I worked and just had a great time; we were working ten hours a day, six days a week. … So I took off for Idaho Falls and studied for two days, and then my dad got burned in an accident and I had to go back up to run the job until one of his partners could get there, so I studied two days for the bar exam.
>
> **Q**: And passed?
>
> **A**: I passed. I figured I'd flunk. Tr. at 23-24.

Judge Nelson recalls his early oral arguments before the Idaho Supreme Court while working at the Idaho Attorney General's office:

> **A**: I used to argue two and three cases a day in the Idaho Supreme Court. They liked to set me at the end of the term because my arguments were usually short so they could get out of town.
>
> Now, this is the way I tell this story. The courthouse in Lewiston had a very noisy air conditioner, and usually they turned it off during oral argument. But when I argued, I spoke loudly enough that they turned it on so they could stay cool – now that's my story. You know, other people would say, well, they turned it on to drown me out, but that can't be true, I don't think. Tr. at 26.

Judge Nelson describes his significant – albeit unusual – role in having the Idaho Supreme Court decide to appoint counsel on habeas appeals:

> **A**:[T]here was a guy at the penitentiary—a great big guy . . . . He had killed his wife with a spud-digger … a metal rod that makes a conveyor on a spud combine and carries the potatoes up to a higher level … and was convicted of second-degree murder. … [H]e was really kind of a scary devil. The Idaho Supreme Court in those days would not appoint counsel on a prisoner habeas appeal. The prisoner came in and argued his own appeal, and they also insisted that the prisoner be unshackled during the argument. … [T]his guy appealed and [Lou] Clapp [former warden at the penitentiary] called me up and said, "Well, next time

you're out here, I want to talk to you about this prisoner," and he used his name. "Nelson," he said, "I just wanted to tell you that if the Supreme Court insists on having that guy loose in the courtroom, I'm not going to be there and none of my men are going to be there either, because we're not going to be around that guy when he's running loose and isn't shackled." He considered him extremely dangerous and it would take about three normal men to bring him down anyway.

Q: If they could.

A: Yes. The Clerk of the Supreme Court was a guy named Lou Bideganeta. … I went to see Lou and explained the problem. I said, "You know, the State isn't going to be represented there either because if the Warden and his guards aren't going to be there, you can bet your sweet bippy [I didn't say that] I'm not going to be there."

It was Thursday … and Lou just took me right in the conference—I didn't know where we were going and all of the sudden I'm in with all five of the Supreme Court justices, and he said, "Mr. Nelson's got a problem with …"

Q: Lou said that?

A:[Y]es, and so I had to explain that the Warden wasn't going to be there because he didn't want to have this guy unshackled in the courtroom, and that being the case, I wasn't going to be there either. So they appointed counsel for the guy, and the appointed counsel argued the case and he stayed out at the penitentiary. As far as I know, they've done it ever since.

Q: Good idea.

A: So that's how they started appointing counsel on habeas appeals in the Idaho Supreme Court. Tr. at 50-51.

The Idaho Supreme Court in those days would not appoint counsel on a prisoner habeas appeal. The prisoner came in and argues his own appeal, and they also insisted that the prisoner be unshackled during the argument.

Judge Nelson

Judge Nelson was very involved in the Idaho State Bar and often volunteered to grade the bar exam. But, as Judge Nelson tells the following story, it wasn't all work and no fun:

A: I've had a lot of fun over the years working on different bar functions. I always thought that the best bar function of the year way back was bar grading because there weren't many of us, because there weren't so many applicants. So we got together someplace and had a good time grading the bar exam and traded stories and jokes about the bar and the questions.

I remember one year when Hal Ryan was grading in Twin Falls, and I had a bet with him. All the applicants are graded by numbers so you have no clue who the applicants are. In those days there weren't very many women applying to take the bar, and we knew we had one woman, but we didn't of course know which one she was. I had a bet with Hal Ryan that I could pick her out by handwriting. He said, "No, you're absolutely wrong," so I bet him a buck that I could pick out the one woman applicant by handwriting. He said, "Well, we're not done with it, but" he said, "you lose." I asked why, and he said, "well, we just graded a question in which" – it was a divorce question and one of the applicants said, "in any divorce the wife should always get alimony." I said, "Okay, here is your dollar. You proved your case because no man would ever say that."

Q: That's good. And was that correct?

A: Yes, he was right. Tr. at 61.

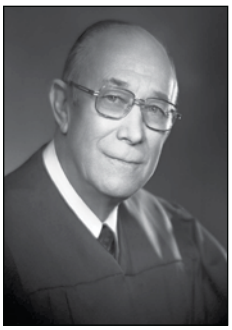
In very modest terms, Judge Nelson describes how he was appointed to the federal bench:

Q: What were the most important factors in your appointment to the federal bench – political/professional?

A: Luck.

Q: Luck?

A: It is a matter of luck. You know, you have to have the professional qualifications that the bar doesn't cloud up and rain all over you. But you have to have enough political presence that the people who make the appointment will put you on the list, and you have to be lucky enough that when all of those things come together there's an opening. So it's mostly luck. Tr. at 78.



Judge Frederick Monroe Taylor, District Court Judge for the District of Idaho

Frederick Monroe Taylor (1901-1988) was admitted to the Idaho State Bar in 1926 and worked as prosecuting attorney and in private practice in Valley County, as Boise City Attorney and as a State Senator representing Ada County in the Idaho legislature. He is perhaps best known for his long-time service as District Court Judge for the District of Idaho from 1954-1988.

Judge Taylor describes his unusual path from truck driver to law school:

Q: Did you consider going to any other college than the University (of Idaho)?

A: To tell you the truth, Governor [Robert E. Smylie], I didn't know what a university was. My folks never had any higher education and nobody ever talked to me about going on to college. I knew I wanted to do something about it and a fellow by the name of Strode, who was running a transfer company where I was working part time, said to me, when I was talking about trying to go to college, that Senator Borah told him that if he ever wanted anything to let him know. Without my knowing it, Bill Strode wrote to Senator Borah and Borah gave me an alternative appointment to West Point. However, the first appointee was at the University of Idaho and he went, so of course I couldn't. A friend of mine persuaded me to go to the University with him. I had a few dollars I had made in McCall driving truck and working in a mercantile store. Casey said—if you don't want to stay you don't have to, but you can go and look the place over. He had

been there before, so we went and that's how I happened to go to college. My friends were betting that I'd be back in six weeks, but I stayed for five years.

Q: Five years was the time it took to go through law school?

A: You could do it in four years then, but I took two years pre-legal because I wasn't sure what I wanted to do. Tr. at 4-5.

After many years on the bench, Judge Taylor reminisces about his life in private practice:

Q: Do you miss private practice? It's been 33 years.

A: Frankly I do. Most people won't believe it, but if I had had this job for, say 10 years, I'd like to have gone back into private practice. I always felt that I could do something for somebody in private practice. But in this business, all I do is something to somebody. Tr. at 21.

For many years, Idaho only had one federal district court judge. Judge Taylor talks about the move to add a second judgeship position to the District of Idaho and his unusual Senate "interview" for that position:

Q: What were the most important factors in your appointment to the Federal Bench?

A: I didn't expect to get the position. I knew there was a movement for a second judgeship, but after it got going and the bill was passed for a second judge, then it got a little questionable as to what was going to happen, even though I was told by my friend on the judiciary committee of the Senate who it was going to be. I was glad to be considered, but I certainly didn't anticipate that it would be me.

Q: Describe the appointment—the procedure, etc. It was a little less formal than it is now, I presume?

A: Not exactly, I don't think, but of course I don't know. I was recommended, of course, by one of the senators and one of the congressmen. It wasn't the senior senator, although he wasn't opposed to me but just against the second judgeship. I was told that he voted for it but didn't think they were going to need it. When the judgeship was created, my name was sent to the President by the Attorney General. I was up in Sun Valley at a Bar meeting when the press called me and said that I had been nominated by the President. That was the first I knew of it until Senator Herman Walker sent me a telegram. At that time, there was some conflict as to whether Idaho needed a second judge, even though there had been two committees of the Bar that had recommended it. The Bar was in session and some of the top people came to me and wanted to know what they should do. I said I didn't know. I assumed if the Bar wanted another judge, it could urge the confirmation as soon as possible. A resolution was passed at the meeting urging prompt confirmation.

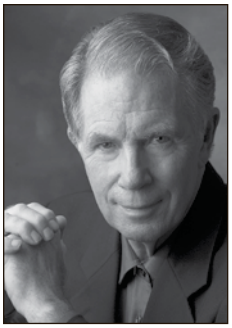
Q: That was at the meeting of the Idaho State Bar?

A: Yes. Then the next procedure was the appointment of a committee to interview the nominees in Washington. One day I was sitting in my office and a young man from the Attorney General's office called and wanted to know if I could come back to Washington to be interviewed. I said yes, if it was necessary, but I understood it might not be. He said no, that all judges had to be interviewed although other people might not. So I said – fine – but would you mind talking to Senator Walker about it and call me back. The committee that was appointed happened to be senators whom I had entertained out here at the Lincoln Day banquets. He called me back and said I didn't have to appear because the senators all knew me. I think I'm the only judge that was never interviewed by a Senate committee. Tr. at 22-23.

Judge Taylor reflecting on the course his life has taken:

Q: Did you ever think back there in those days in Nampa, when you were working after school, that it would come to all this?

A: Oh no. I thought I'd be a truck driver all my life. Everything that has happened to me, Bob, has been a matter of fate – like going to school, getting out, starting my practice and everything that has happened to me. It has not been designed, really. (Page 43)



Justice Byron J. Johnson, Idaho Supreme Court

Byron J. Johnson was born in 1938 and was admitted to the Idaho State Bar in 1962, worked in private practice and as a public defender in Boise and at the age of 34 ran for the Democratic nomination for the United States Senate, a seat later won by Sen. James McClure. In 1988, Justice Johnson joined the Idaho Supreme Court and held that position until 1999. He is an avid student of Idaho legal history and recently has been active in efforts to chronicle the 1907 trial of Big Bill Haywood, who was accused of assassinating Idaho Governor Frank Steunenberg.

Justice Johnson talks about playing baseball and describes "the proudest day of my life:"

A: [During college] I played baseball in the summer in the semi-pro league here in southwestern Idaho.

Q: What was the name of that semi-pro league? Do you recall?

> *I'd like to have gone back into private practice. I always felt that I could do something for somebody in private practice. But in this business, all I do is something* **to** *somebody.*
>
> Judge Taylor

A: Well, it was called the Border League in those days because we had teams in Oregon and teams in Idaho. But at an earlier time, when Walter John[son] played in the same league, they had a different name for it. I have forgotten what it was called in those days.

Q: And you also played on the varsity baseball team at Harvard, did you not?

A: Yes, I did. I was on the varsity team for two years, and my third year, I guess you would say I was the leading

pitcher. I had a record of 6 and 2 in my senior year and 4 and 1 in my junior year.

Q: And I won't ask you to boast, but I know personally that you pitched a no-hitter against Yale.

A: No, it was a shutout.

Q: Oh, a shutout. I'm sorry.

A: Some people would like to call it a no-hitter. It was actually a 5-hitter, but it was a shutout. It was probably the proudest day of my life because my parents, my grandparents, my sister, my wife-to-be, all were in the stands. So it was a great day.

Tr. at 9, ll. 8-10; at 19.

Justice Johnson talks about running for Congress at the ripe old age of 34:

Q: Now, in 1972, you were 34 years old, and you were one of four candidates for the Democratic nomination for the United States Senate, eventually won by the Republican, James McClure. … Any regrets about having run?

A: I have talked to Tony [Park, who also ran] about this. Neither one of us actually have any regrets because it was an open seat. … [T]he natural majority of Republicans in Idaho carried the day, plus the fact that Jim McClure was a pretty potent candidate to run against. So it probably saved both of us a lot of money because we would have probably dipped further into our private resources once we got into the general election campaign.

Q: Now, did that campaign personally hurt you financially?

A: I did not go in debt. I told my treasurer, "I don't care if you have to cancel the Gettysburg Address. If we don't have the money to pay for it, we don't do it." Tr. at 27, ll 3; at 29, ll. 19.

Justice Johnson recalls how he first became interested in criminal law:

Q:[Y]you were involved in right up until the time that you took the bench in '88 was again criminal defense. Why this continued interest in criminal defense? What was it that motivated you?

A: When I was a senior at Boise High School, I spent some of my noon hours in the Carnegie Public Library and reading books that I didn't have to read for my courses. I discovered one noon hour a book called *Prisoners at the Bar* by a man from Chicago. And he had written about what he considered to be the four outstanding criminal trials in the history of the country. The first one was the Haywood case. And the others were Sacco Vanzetti, Loeb/Leopold, and Bruno Haupman who was a kidnapper of the Lindberg baby. It's there I first learned about Clarence Darrow, and then I began to read about Darrow. I read Irving Stone's biography of him and many other things and studied his career while I was in college. I wrote my senior honors thesis in American history at Harvard College on the thought of Clarence Darrow, the study of an American Agnostic. So I was imbued with criminal defense. I used to go to the criminal trials there in Boston and observe. And when I went to law school, that's what I wanted to do. And after I graduated, I had to make a living, but I always did as much criminal defense as I could. And when I had my own shop, so to speak, as a solo, I just kept doing it. Tr. at 34, ll. 10; at 35, ll. 17.

Reflecting on his time on the Idaho Supreme Court, Justice Johnson describes how he worked for consensus on the Court:

Q: When you had a case that appeared to be coming out as a 3-to-2 decision by the court, would you do anything to try and convince your colleagues on the bench that perhaps they should change their vote?

A: Well, one of the things I always did was say to all the justices assembled around the table, whatever I had to say, not go and talk to them individually. But what I would propose is, if there were some point at issue, was there something in the opinion we could change that would not change the result but would change the rationale to satisfy somebody else? And I think it was through that mechanism that most of the consensus was formed; plus congeniality among us. You can be in disagreement and not be disagreeable. And I think Chief Justice McDevitt and I in particular spent an inordinate amount of time, when we traveled especially. Because as you know, we're a peripatetic court, and we sit in the North and we sit the East twice a year. And we would go to dinner together. We would so to speak, jolly it up with the local bar associations together. And, I think we formulated remarkable dynamics among the members of the Court that allowed us to reach that level of consensus, and I give Chief Justice McDevitt a lot of credit in helping with that. Tr. at 48, ll. 3-49, 6.

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Justice Johnson

Judge Harold L. Ryan, District Court Judge for the District of Idaho

Harold Lyman Ryan (1923-1995) was admitted to the Idaho State Bar in 1950 after serving in the U.S. Navy during World War II. He entered private practice in Weiser with his father, Frank D. Ryan, and later served in the Idaho State Senate as Washington County Senator from 1963 to 1966, as Commissioner and President of the Idaho State Bar, and as Campaign Director for U.S. Senator James McClure. He is perhaps best known for his service to the federal judiciary in Idaho as District Judge and Chief Judge of the District of Idaho from 1981 until his death in 1995.

Judge Ryan describes his student life and being involved in lots of extracurricular activities:

A: Well, I always thought it was part of becoming a good

citizen with doing a lot of extracurricular activities and when you got out in the world, you not only have an academic education, but you have a social education that you can put back into your community what you get out of it, and I had that figured out pretty young somewhere along the line. I don't know why, but—and I guess that's why the principal wasn't worried about me when my mother was worried. To me, life wasn't all straight As even if you were capable of doing it, and I'm not sure I was capable of doing it. I was never a straight A student. Tr. at 27.

> **A**. *I think I—if my dates are right, I got a call from President Reagan the 4th or 5th of December and my nomination was in place by him.*
> *Q. He called you in person?*
> **A**. *He called me personally—the President calls all judges.*
>
> Judge Ryan

Judge Ryan describes his decision to move back to his hometown of Weiser and practice with his father:

A: I told my dad in very simple terms, "I've got my law degree now, believe it or not, and I'd like to, if you would like me to, come in with you here for a year and see how it goes, with a thorough understanding that if I walk out of here in a year you'll understand that this isn't what I want to do, I may want to go do something else." That year just never ended, just went on and I got fascinated with the practice of law and with solving people's problems, and it just became the most interesting thing I ever did. Tr. at 29.

Judge Ryan reflects on his path to the federal bench:

Q: What were the most important factors in your appointment to the federal bench? Describe how it happened.

A: Oh, well—the only reason I became a federal judge is because Jim McClure asked me to do it. I didn't apply for the job. In fact, he asked me in 1976 when the job opened up if I would be interested in it, and I told him no. The main reason I wasn't interested in it then was our son … was probably in junior high school at that time and he had a great bunch of friends and peers, and I didn't want to take him away from that. I felt very strongly that probably the best thing a parent has going for him in raising a child is if they run him with good peers; the chances of the child developing were much better than if they weren't. So I declined it at that time.

Then in 1981, when Judge McNichols was taking senior status, I was home one morning … reading the paper on the patio in July, and the phone rang and it was Senator McClure. He asked me if I would be interested this time, and I said, "Well, I've been telling everybody no." He said, "Well, you would be doing me a great favor if you would consider taking it." And so I said, "Well, give me a chance to think about it. How long would you need before I give you an answer?" I think this was a Wednesday morning, and he said, "Well, I'd like to know by Friday."

So I hung up the phone, and my wife and I started talking about it. For several days before that, lawyers had been calling me around the state seeking my support to come on the bench, and I had told all of them that I had no intention of doing it, but now I was about to go backwards on what I had said there. My wife pointed out to me that in many respects she had noticed that I was getting kind of bored with some of the aspects of the practice of law, which I didn't realize, and I got to thinking that some of that was absolutely true. Parts of it I enjoyed, parts of it I didn't anymore. So then I called up my old friend, Ray McNichols. He and I had gone to law school together, and said I'd like to talk with him. And so my wife Ann and I came to Boise, and right here in these chambers, which was Judge McNichols' chambers at that time, sat down and had a long visit with him as to what this job was all about and what it entailed, and I kidded with Ray at the time, I said, "You know, Ray, since we got out of law school, I've never really had a job." And he caught the gist of it all right and he says, "Well, one thing about this job; you are your own boss." I said, "Well, it does make a big difference."

We visited awhile, and my wife and I talked about it all the way home. By Friday I made the call back to Senator McClure and said that if he wished to nominate me, I'd be happy to take it. So that came out in the paper about a day later, and by December I was being sworn in. I think I – if my dates are right, I got a call from President Reagan the 4th or 5th of December and my nomination was in place by him.

Q: He called you in person?

A: He called me personally—the President calls all judges. Tr. at 57-58.

Judge Ryan describes how he tries to "stay out of the way" of lawyers who appear before him:

A: I suppose the first thing you learn [when you become a judge] is that it takes a lot more patience than you ever dreamed it would take. For a while I had a little sign on the bench up there that has three times, "patience, patience, patience," and I'd look down at that and I think the guy that gets on the bench and has tried cases as long as I have tends to want to help the attorneys or something when they're not doing it the way I think they should and one thing and another. I just got to remember to sit there and let them try their cases; it's not something for me to be doing. Sometimes when I see that there's questions been asked and there's an obvious objection, I kind of look around and see if it's coming or it isn't coming and if it doesn't, I don't raise it *sua sponte* or anything. I just say, "Well, if he didn't object, it's his case. I'm not going to stand in the way of it." So I try to let the lawyers try their own case. I don't try to interfere anymore than I have to. Tr. at 68-69.

Judge Ryan's description of the best part of his job being a judge:

A: Being a judge is fun, and I think when I reach senior status and can get back into the civil side of it and run my court from that standpoint, it's going to be all fun and games from there on because I think that's the part of the law that I enjoy the most—to watch the good advocates work and do jobs for their clients, settle cases when they need to and that sort of thing. Tr. at 103-104.

Judge Marion J. Callister, District Court Judge for the District of Idaho

Marion J. Callister (1921-1997) was admitted to the Idaho State Bar in 1951 after serving in the Army during World War II and being wounded in action. He began his legal career as an Assistant U.S. Attorney for the District of Idaho, served in private practice in Boise, as a State District Court Judge and as United States Attorney for the District of Idaho until his appointment to the federal bench in 1976. Judge Callister served as Chief Judge of the District of Idaho from 1981-1988, and as District Judge until 1995.

Judge Callister describes growing up in Blackfoot, playing high school basketball and being a hometown hero:

A: [In my senior year] we won the district tournament. We went down to the state tournament in Pocatello. The first game we did very well and won that without any difficulty. … We won [the second game] game and went into the championship against Boise, which was the biggest school in the state and we were probably one of the smallest in the Class A because we only have 500 kids in the whole school. It was tight. It was [a] tight game the all the way. We were a small team. Our guards were only 5'8"—that was myself and my cousin—our center was 6' and we had one forward that was 5'9" and the other was 5'11". I was guarding a 6'4" man. It came right down to the last with a tie game. The first one to make a basket wins. Well, they got the ball and it was my man. He came down and I don't know whether it was because I was pushing him but he took a long shot and missed and we got the ball. We went down and set up our blocks in place and sent our forward in under the basket with a pretty good opportunity for an over-the-head shot. He missed and the ball came out. Our center caught that ball and made the shot. Well, we were heroes. That's the only time that Blackfoot has won the state championship. Monday they let out school in the morning to parade through downtown. … That was a big moment for us. Tr. at 11-12.

Judge Callister describes his family's commitment to higher education, even when there wasn't much money to spare:

Q: [After graduating from Blackfoot High School in 1939] did you go to college right away, or what was your plan?

A: Yes. You know that was interesting to me as I look back. Out in that little community I think there were only one or two people besides my sister who had ever gone to college. And you know, we didn't have the money for college. Sis worked her way through and then she helped others as she could, but Dad and Mother never talked about when we'd graduate from high school. They always talked about when we'd graduate from college. As a result of that we all went. Nobody finished in four years. I don't think anybody finished in less than six years because the money just wasn't there to keep going. The older brothers, I can remember, we'd go out and rent an extra 40 acres, and that we'd all help plant and care for it and then we'd use that money to help them through school. Usually there were two of them in school. One of them would stay off in the fall to help get the crops out, and then he'd go through the winter and spring quarters and the other would stay out. So we did that and seven out of the eight children got through college eventually. Tr. at 17.

Q. How has the Court responded to overloaded dockets and do you feel overloaded or overworked in this court?
A. I don't know anymore. I'm a senior judge.

Judge Callister

Judge Callister describes his decision to go into law so that "nobody can pull anything on me:"

A: You know, I've often wondered about that. I think the primary thing was when I was out on that farm every one in a while someone would pull up in a car and climb over the fence, and come out in a suit and tie to talk to us people out on that farm and try to sell us insurance or something. And I thought, well, we're not that dumb really but they think we are. I thought, I'm going to go to law school and learn enough that nobody can pull anything on me. I wasn't planning on practicing—I just planned on getting the knowledge, and I had a chance with the G.I. Bill, and so that's what I did. Tr. at 24.

Judge Callister describes a very high profile and controversial case he handled involving attempts to enact the Equal Rights Amendment ("ERA"):

A: The first matter was a question of disqualification. I've always had the feeling that you shouldn't allow either party to select a judge to try his case. It can lead to improper results. And I've always felt that a judge should not disqualify himself unless there was just cause. And I looked at their motion to disqualify. Well, their motion was based on religion and said that because of the Mormon Church's attitude toward women that they thought I was under the influence of the Mormon Church. Well, they don't understand the Mormon Church. There is a section in the Doctrine and Covenants which we accept as scripture which states that the Church should not try to influence government and the government should not try to influence the Church; that's the sum of it. And I looked at that and I said I had no obligation to the Church in this matter—whatever their viewpoint is, I have no obligation to it; I'm not bound by anything they say and nobody in the Church is going to try and tell me. Nobody in the Church ever tried that with me. So there was no

real reason. It was all in their minds. So I denied their motion and they took it up to the Circuit Court and the Circuit Court sustained me. …When the disqualification motions came up, I talked to both Judge Taylor and Judge McNichols. Both of them said the same thing: They said there isn't any ground for disqualification, but if I were you I would disqualify myself and just get out of it. I said, "No, it's my case and if there isn't ground for disqualification I'm not going to back off." So that's where we stood. It was kind of interesting as time went on. I was up in Moscow trying a case, sitting in my motel room one night after the day was done, watching TV and here came the scene by the Capitol Building, and they were hanging President Carter and Judge Callister in effigy on the White House lawn. The report came out that Mrs. Carter and President Carter had had a fight in the bedroom one night because she wanted him to disqualify me and kick me off the case and he had his counsel and he knew he couldn't do that. And then a month or so later at the Mormon Temple up in Seattle they hung the President of the Mormon Church and Judge Callister in effigy up there again, so they were after me. Tr. at 50-52.

When asked about the effect, if any, on his handling the ERA case on his family:

A: It was a lot harder on the family than it was on me.
Q: The media gave them quite a bit of attention, or because of your attention?
A: No. It was just that they didn't like to see things that were being said when they knew they weren't true. Like my wife responded once with, "He has eleven daughters. Who do you think is more interested in women than he is?" Tr. at 54.

> *Picking a jury [in the 1960s] was a joke. You know, the judge would order the sheriff to go get a jury. So the sheriff would just go out with a handful of subpoenas, and he would just go out on the street and just grab people off the street and bring them in. They're the jury.*
>
> Judge Weston

In one of my favorite, informal comments in these oral histories, Judge Callister talks about how he has handled an increased workload at the federal courts:

Q: How has the Court responded to overloaded dockets and do you feel overloaded or overworked in this court?
A: I don't anymore. I'm a senior judge. Tr. at 60.

Finally, Judge Callister describes the "best part" of his job as a federal judge in Idaho:

A: Well, you know I sit here over the years and I have brought before me some of the best attorneys in the state of Idaho, and they bring in witnesses in their cases that are the experts in their field, sometimes the best on the national level, and they teach me things I never knew before. And it's a fascinating situation. A lot of them are routine and the same thing over and over, but you never know. . . . So you are constantly learning and learning interesting things. I think that has been one of my best experiences. Tr. at 72.

Judge Gerald L. Weston,[1] Idaho State District Court

Gerald L. Weston (1936-2008) was admitted to the Idaho State Bar in 1962 and went into private practice in Weiser and, later, for many years in Caldwell with his friend and mentor Dean Miller. During this time he served as Commissioner and President of the Idaho State Bar. In 1988, he was appointed District Court judge for the Fifth Judicial District in Idaho and served in that position until his retirement in 2001.

Judge Weston describes "his" decision to go to law school:

Q: What made you decide [to go to law school]?
A: My dad decided a long time before. When I was a kid, he always said—he would introduce me, "This will be the family lawyer." That's just what it was.
Q: Why was that?
A: Well, our family was into lawyers, the Martin family [my uncle, Frank Martin, was an Idaho attorney and President of the Bar at one time]. So that was kind of the reason for it, I'm sure. Tr. at 16, ll. 11-19.

In the 1960s and early 1970s, very few women practiced in Idaho. Judge Weston describes the first time he saw a female attorney in court in Caldwell:

A: The first woman I ever saw in court was after I had moved to Caldwell, and I had never seen a woman in court before, never seen a lady lawyer [Merilee Munther]. Frank Kibler was the attorney. I remember Frank Kibler. He was a courtly old gentleman, neat old guy. But he was just – he couldn't cope with how to deal with – he didn't know what to call her. So he called her "little lady," which just infuriated her. And he didn't know. And [Judge] Dunlap, luckily, could see that was happening, and finally he said, "Mr. Kibler, why don't you just refer to her as 'counselor'?" That solved it, and then she was fine. Tr. at 25, ll. 4-18.

Judge Weston describes the unique way a jury was picked during his early days in private practice:

Q: Was the procedure a lot different [when you were in private practice] than it is today?
A: Yes.
Q: How so?
A: Well, the entire court system was a whole lot different, so all the procedures were different. And as far as the trial, once the trial opened, no, it's not a whole lot different than it is right now.
Q: How about picking a jury?
A: Picking a jury was a joke. You know, the judge would order the sheriff to go get a jury. So the sheriff would just go out with a handful of subpoenas, and he would just go out on the street and just grab people off the street and bring them in. They're the jury. Tr. at 30, ll. 23; at 31, ll. 13.

Judge Weston describes the "circus" of trial setting during his early days in practice:

Q: How much time would elapse between the filing of the

complaint and the answer and then the trial?

A: I'm glad you mentioned that. You get a complaint and an answer filed. Now it is at issue. And so they would have terms of court, spring term of court, winter term of court, fall term of court. The district judges would come back from vacation in August. The district judges all took an August vacation, the whole month. And then in September they would have a term of court. And all the lawyers who had cases that were at issue were expected to be at the courtroom and the case was going to be set for trial. So every lawyer would show up. And the judge would call out the name of the case, and the two attorneys would come up. And he needed to know how many days of trial, and then they both give an estimate and so then he would set it for trial and that would be it. And other things would come up in the meantime. But it looked like a circus, like a fair. We would all come and laugh at each other's cases or jokes. I remember one time being in Boise. And I don't know if we were before Merlin Young or Durtschi, one of the two, and Allyn Dingel [who is known to stutter sometimes] and Dick Fields had a case against each other. And Dick got up and Durtschi or Young said, "Okay, how long will this case need to try?" And Fields, "Th-th-th-ree days." And of course Dingle said, "Tha-tha-tha-that's right." And the judge without looking up just said, "I'll set it for five." But it cracked everybody up. So you go to issue in September, and your case is going to be tried between September and December. That's it. Tr. at 18, ll. 7; at 49, ll. 18.

And I don't know if we were before Merlin Young or Durtschi, one of the two, and Allyn Dingel [who is known to stutter sometimes] and Dick Fields had a case against each other. And Dick got up and Durtschi or Young said, "Okay, how long will this case need to try?" And Fields, "Th-th-th-ree days." And of course Dingle said, "Tha-tha-tha-that's right." And the judge without looking up just said, "I'll set it for five."

Judge Weston

Judge Weston reflects on being a judge:

Q: So was being a judge everything you expected it to be, or did you have any surprises, something that was different than you had imagined?

A: I really hadn't thought about it that much. And when you see the judge from the one side of the bench, you really don't know what he is doing when you're not on the other side, you know, when he's not up there on the bench. So I didn't know what to expect. When I first went on the bench, I think it took probably six months for my metabolism to slow down. I was showing up at 7 o'clock in the morning and pouring through my cases, and the staff would come in at 9 o'clock. And the pace is different. Judges don't work at the same pace that lawyers work; never have, never will, and shouldn't, because the pace is different. Then you get time to do your research and to read stuff and to study what you're doing. So that was something I really hadn't thought about.

Q: Slower pace.

A: Slower pace. Tr. at 61, ll. 17; at 62, ll. 14.

Judge Larry M. Boyle, U.S. Chief Magistrate Judge for the District of Idaho

Larry M. Boyle was born in 1943, and was admitted to the Idaho State Bar in 1973 and clerked for Idaho Supreme Court Chief Justice Henry McQuade and Idaho Supreme Justice Robert Bakes. After his clerkship, Judge Boyle went into private practice in Idaho Falls for fourteen years. During this time he served as Commissioner and President of the Idaho State Bar. In 1986, he was appointed as a district judge in the Seventh Judicial District of Idaho and, in 1989, was appointed a Justice of the Idaho Supreme Court. In 1992, Judge Boyle was appointed as a United States Magistrate Judge for the District of Idaho, a position he has held ever since.

Judge Boyle describes how he knew at the early age that he should go to school:

A: I was working construction one summer on a road building crew and one of the great big road graders went by leveling the gravel and it popped off the top of a manhole. Now, these manholes can be sewer manholes or they can be utility manholes. Well, the youngest guy on the crew gets to go down in and shovel out the mess. And when you are down inside those manholes you can hear the toilet flushing and then you can see what is coming. Well, by the time I got down in there it had backed up. So I am up to the middle of my shins loading this mud up and the fellow on top is pulling it up on a rope. Well, you can imagine what is next. He pulled real hard, the bucket tipped and I was covered. And I climbed out of there and I said, "I am going to school." So I had many moments where I heard the voice, "Larry, you need to go to school." Tr. at 8-9.

Judge Boyle describes his decision not to work for his father-in-law Ray Rigby (a very accomplished lawyer in Rexburg) after law school:

A: When I became a lawyer, I had an opportunity to go to work with my father-in-law's law firm in Rexburg. And what made me decide not to is I was working that summer for his firm. I went over to the courthouse to have the district judge sign an order and this district judge scratched his head and he said, this is a quote, "Ain't you somebody's relative?" And I said, "Yes, I am Ray Rigby's son-in-law." He said, "Oh, that's right, you are somebody's relative." I thought, "Oh, I have got to do this on my own. I don't want to be somebody's boy in the eye of a judge." Tr. at 11.

Judge Boyle describes a funny story that highlights his reputation as a trial judge:

A: The funniest thing that ever happened was when I

was a [state district court] judge in criminal court. One morning a tall lanky fellow comes in standing there with his hair all matted and messed up. He had a pair of Jockey undershorts. That is all he had on, Jockey shorts. His lawyer was going on making his presentation. And finally at the end of the hearing I said, "I need to ask you, why are you here in your underwear?" And he said, "Well, sir, last night I fell asleep in the hot tub with my girlfriend and woke up and I knew I had to get here early. My lawyer said you are a real hard ass." I said, "well, that is about the most honest question I ever had answered. Thank you very much. Next time take the time to get some pants on." Tr. at 19.

In my law school class there were two women, and one of them was Darla Williamson who is the administrative judge for the Fourth District. ... I thought, "Why are there no more women here than this?"

Judge Boyle

Judge Boyle describes his decision to leave the Idaho Supreme Court to become a United States Magistrate Judge for the District of Idaho:

Q:[T]ell me about your transition from being a justice of the Idaho Supreme Court to being a magistrate judge for the Federal court, I would like to hear about that.

A: Okay, when that opportunity came up, I knew that if I left the Supreme Court I would feel badly because I enjoyed that great academic challenge and the requirement that you build consensus within a five-person court. I knew I would miss that, but I had to make a decision. I think I made the right decision because I enjoyed the trial courtroom so much.

There is a certain sense of isolation over at the Supreme Court that we don't have at the Federal court because every day we are in court with lawyers. I like lawyers. I love to see a good lawyer at work. And at the Supreme Court there were 30-minute hearings, very formal. And there was not the interaction with the public.

I bump into people on the elevator all the time at the Federal building. I see lawyers that I know and like, and I missed that. And I missed the spontaneity of the trial courtroom. I was a trial lawyer, I was a trial judge. I really enjoyed those three years on the Supreme Court, but I did, I have to be honest and candid, and say that I missed the action of a courtroom. This is why I made that move. Tr. at 24-25.

Judge Boyle's view of contentious lawyers:

A: I do not enjoy contentious lawyers. I will never embarrass a lawyer in a courtroom ever in front of their client or in front of a jury and I have never done that. When that happens, when I see a lawyer that isn't doing what he or she should do, I say, "Let's take a brief recess," and take counsel in chambers. And I will say, "What the hell are you doing in there? You are alienating that jury, you are annoying me, you are making the other lawyers squirm. What is going on?" That is about the extent of how I will confront lawyers. I will never do that in a forum where it might hurt their client or embarrass them personally. Those things I don't like to do. Tr. at 29.

Judge Boyle proudly remembers his father building a laundry business in Pocatello, a "labor town," and the lessons he learned in that process:

A: One night, I will never forget it, I am standing there while Dad is filling up this bucket and two men came in and said to my Dad down in the hole [of the floor he was tearing up] – now keep this in mind here is a man who has never raised his voice. … But he was down in the hole and these guys said, "Let's see your Union permit." My Dad looked up and said, "Don't have one." "We are going to shut you down." My Dad leans his arm on his shovel and said, "Listen, you two goons." That's what he called them was "goons." He said, "I have been to that Union hall every day for three weeks, and if I don't get this laundry finished, I am going to lose my shirt." The guy said, "Not our problem, pal. This is a Union town." My Dad said, "I am through talking to you. Now, I am going to finish this hole, but if you're still standing there when I climb up out of it, I am going to introduce you to the back side of my shovel," and he started to climb out and those two guys took off.

And my Dad said, "Remember, son, what Teddy Roosevelt said." And I said, "Who was Teddy Roosevelt?" I was a little five year old. He said, "Carry a big stick and speak softly." That is the greatest lesson I ever learned from my sweet old Dad. And I will never forget those guys hightailing it. Finished the laundry and … we would go up and do laundry and I learned how to work at an early, early age. Tr. at 33-34.

Judge Boyle talks about the election of judges and its impact on his decision to go to the federal bench:

A: Now elections I just believe, I know there are contrary views of it, but I believe that a judge going out and glad-handing, and shaking hands, and patting backs, and raising money, it just, it just is a step in the wrong direction for an independent judiciary. And that was one of the real motivating factors why I like the Federal court is I did not have to go out and test the water before I made a decision. Tr. at 38-39.

Judge Boyle reflects on the value of women in the law:

A: In my law school class there were two women and one of them was Darla Williamson who is the administrative judge for the Fourth District. … I thought, "Why are there no more women here than this?" because I live with a very intelligent woman who would have been an excellent lawyer [his wife, Beverly]. … I haven't tried to do this, I have just tried to hire the smartest, brightest, most capable person to be my law clerks, and about 60 percent of my law clerks over the years have been women. Right now I have two women, Kira and Katie and one man. And women and men think differently. It is just so interesting. I really like this balance of having men and women in the office. We will sit down and we will debate a point and it has always been interesting to me to

see that women think like Beverly. They think differently, they have a totally different perspective on things.

Q: I am kind of chuckling because being a woman, I know this.

A: Well, we men are slow learners. Tr. at 55-56.

Judge Alfred C. Hagan, Chief Bankruptcy Judge for the District of Idaho

Alfred C. "Bud" Hagan (1932-1999) was admitted to the Idaho State Bar in 1958. He served as deputy prosecuting attorney for Ada County and Assistant Attorney General for the State of Idaho. He also engaged in private practice in Boise and served as Commissioner and President of the Idaho State bar. In 1967, he was appointed a district court judge for the Fourth District of the State of Idaho, a position he held for ten years. In 1984, Judge Hagan was initially appointed a United States Magistrate Judge for the District of Idaho and then, in 1985, was appointed as a United States Bankruptcy Judge for the District of Idaho. Judge Hagan served as Chief Judge for the Bankruptcy Court from 1987 through 1993. In 1994, he was appointed to Bankruptcy Appellate Panel for the Ninth Circuit. Judge Hagan completed his term and retired as an active judge in 1998.

Judge Hagan describes his connection to the University of Idaho:

Q: Choice of law school and/or college?

A: Well, my grandfather literally started the—or helped start—the University [of Idaho]. He came to Moscow and helped build the first administration building which was the first building at the University of Idaho. It burned down but he was a very strong supporter of the institution. He served four terms in the Idaho Legislature in the '20s and worked very hard to get building and appropriations for the school.

My father graduated from the school and my mother went to school – yeah, she did graduate … and when you live in a college town, you just—natural progression you graduate from high school one day and next fall you go up and register at the university. Tr. at 17, ll. 13; at 25.

> *Your senior partners expected thorough devotion. I mean it was literally the old apprenticeship situation. You go in the room with a light bulb hanging from the ceiling with a line hanging down and you lived there and you looked at it and that's your—that's your number one reason for existing and it comes before everything else and you worked every night.*
>
> Judge Hagan

Judge Hagan, a longtime bankruptcy judge for Idaho, describes how he first started working in the bankruptcy area:

A:I got involved in bankruptcy right off the bat because Loren Wetzel … worked for John Bell. … John Bell ran the tile company and John was very active in governmental affairs and then the law. … He hired Loren … John really didn't have enough for him to do. … Paul [Boyd] and John Bell were good friends and Paul mentioned to John than he needed a trustee of bankruptcy. So John Bell told Loren, "You go over and take that job and start being a bankruptcy trustee for Paul Boyd," and he says, "Go out and get yourself a lawyer to represent you. That's the first thing you got to do. Find somebody to keep you out of trouble."

So Loren had gone to school with my partner, Robert W. Green … so he went out to see Bob and Bob says, "I got just the person for you," and ushered him right into my office. This was about 1961 and so I went to work for Loren and we did a tremendous amount of bankruptcy.

He was the only trustee in this part of the country. Loren did all of the bankruptcy work here except the Chapter 13 cases. It was just all Chapter 7, is all he heard but that—we had some big cases and some farms and over in Oregon because that was part of our territory too even back then. The referee—bankruptcy referee handled Malheur County.

Q: Did you get very much bankruptcy done in the '60s?

A: Sure . … [I]f I developed a specialty area, it was probably bankruptcy because I did more of that working for Loren as his lawyer while he was trustee than I did perhaps anything else even including the prosecuting of cases for the City. Tr. at 33, ll. 2; at 35, ll. 5.

Judge Hagan describes the grueling hours he put in as a lawyer in private practice:

Q: Describe your work habits.

A: Work habits. You had to have good work habits in those days because jobs were so scarce. You can imagine if there were only five jobs in the Idaho Attorney General's Office and you were expected to—as is true, you're expected to bring in – put down the billable hours, but I think it was a little bit more than that but perhaps not.

Your senior partners expected thorough devotion. I mean it was literally the old apprenticeship situation. You go in the room with a light bulb hanging from the ceiling with a line hanging down and you lived there and you looked at it and that's your—that's your number one reason for existing and it comes before everything else and you worked every night. You worked Saturdays. There was—we did go out for coffee on Saturday mornings … but you worked through the noon hour from 8:00 until noon every Saturday. You're expected to be down there at nights. I remember taking time off in those days from work. … I think it was March 14 then, the day before the income tax deadline. On March 14 at night, I would turn my attention away from the work in the office and attempt to get my income tax done before it would be March 15 because if you got them in before midnight, then you were all right. Tr. at 35, ll. 6; at 36, ll. 5.

Judge Hagan describes the unique circumstances within which he was appointed to the bankruptcy bench via a hurried appointment as a United States Magistrate Judge:

Q: Describe your appointment to the Federal Bench; notification, confirmation, hearing, et cetera.
A: Well, my first appointment actually was as a magistrate which was kind of unusual. Therein lies somewhat of an interesting story. My predecessor, Judge [Merlin] Young, the United States Bankruptcy Judge had advised the district judges that he would be retiring on I think it was June 30 of 1984.

In that period of time is when the Congress was trying to figure out the jurisdictional process of the bankruptcy system. And what they were operating on was an extension of pre-existing law. … [P]erhaps it was what they called an emergency order that they had promulgated to keep the bankruptcy system running in light of the *Marathon* decision.

And periodically, Congress would meet when it was about ready to expire and extend it another 30 days. So Judge Young left, and there was really no bankruptcy judge, and nobody knew at that point in time what a bankruptcy judge was. And there was even some consideration there was no such thing as a bankruptcy judge because Congress, before they recessed for their 4th of July recess, failed to extend this law for another month like they had been doing. And I—as I recall, the director of the Administrative Office actually announced the following morning that there was no such thing as a bankruptcy judge, and ordered all the judges not to hear cases.

Judge Young I know got that order whenever it happened—it must have happened before he retired sometime at the end of June—and walked off the bench. Ladora Hutchison or Ladora Butler went in and told him they had received word from the administrative office that there were no bankruptcy courts anymore; so, Judge Young just picked up his papers and walked off the bench.

Judge Young retired under those circumstances and nobody knew how to appoint a bankruptcy judge. So Judge [Marion] Callister was chief district judge and he said, "Well, what we'll do is we'll just make him a magistrate." So they convened the—a magistrate selection committee very hurriedly. And I told them that I wanted the job; and, I told Judge Callister that I was interested in the job. So they convened the magistrate selection committee and appointed me a magistrate because there was such a thing as a magistrate authorized and I started work.

I believe there was about a two-week period in there that there was nobody to perform the bankruptcy judge functions. … They had to follow the rules. So the quickest I could come to work was—I was sworn in on July 10, 1984 as a magistrate and went to work the same day signing ex-parte orders.

I went down—a place down on Eighth Street [in Boise], the old post office, the whole second floor, in every office there were files containing orders that needed to be signed and I spent one—over one whole day just signing my name getting those order out and started hearing cases the following Monday in Jerome. Tr. at 61, ll. 7; at 63, ll. 16.

Carl P. Burke

Carl Prosser Burke was born in 1924 and admitted to the Idaho State Bar in 1950. He clerked for United States District Court Judge Chase Clark, before joining his father, Carl A. Burke, and Laurel E. Elam in 1952. He worked at Elam & Burke in Boise for more than 50 years until 2005, and later served as Of Counsel to Greener Burke Shoemaker in Boise.

Carl Burke has been involved in politics for many years and has had the opportunity to meet numerous, high-profile politicians during his career. Here, Carl reflects on his interactions with Bobby Kennedy:

A: [T]he Idaho Bar Association had invited Bobby Kennedy to speak to them about his role and observations when the senate committee was investigating Hoffa, and he was the counsel, the lawyer for the committee. And he did address the bar association. Afterwards he had some hours left and didn't know what to do. And he came in just a suit. … [W]e rented a plane here in Boise, and we met him at the airport, my wife and myself, and we flew together in this one engine plane up to Sun Valley. The weather wasn't too good. … [H]e wanted to look around the area, but he couldn't do it in a suit. So we actually went out and helped him buy a pair of shorts. And I say helped him, he didn't bring a wallet. And so he got the shorts, and they got a change of shoes for him, and we went walking up Warm Springs Creek where it was a dirt road. … [W]e came around a corner, and up in a tree—all my life I've lived in Idaho I've never seen bear in a tree. … Around the corner, as we were there looking at this bear, came this car with some youngsters in it, young men, with .22 rifles. Out they came, and they were going to shoot that bear. Before I could do anything, Bob[by] ran over there, grabbed their guns and said, "You're not going to shoot that bear." And, of course, they did not shoot that bear.

I might say that at the president's inauguration in Washington in 1960, and my wife and I were there, and we're in this ballroom the day before the swearing in, and everybody is coming along, the Marine Band was playing Hail to the Chief, and here comes the Kennedy entourage. And Bobby looked at me and somehow he remembered my name and yelled out, "Burke, what happened to that bear?" and I thought, well, he remembered that incident. … [T]hey were a great bunch. Tr. at 3, ll. 15; at 5, ll. 14.

I still don't know what the devil happened. And Barber tells me out on the rotunda ... "You dumb, son-of-a-gun. 'ATM' means the automatic teller machine," or something like that.

M. Allyn Dingel, Jr.

Carl went to school with, and was a life-long friend of, Frank Church, who he later helped get elected to the United States Senate. Carl describes his friendship with Senator Church:

Q: Why do you think you became friends [beginning at Boise Junior High]?

A: Well, I don't know. We had met. We talked. We got to know each other. I even got my first and only glimpse of Franklin Delano Roosevelt on 13th Street here in Boise [with Frank]. … Standing out there watching a bunch of cars coming down [13th Street], and he [Roosevelt] … went by our junior high school in an open convertible, with very few —I couldn't see many secret service people … waving and nodding at people. So that was, you know, different.

I went home and told my parents about that, but my parents are good Republicans. We [Carl and Frank] became Democrats I think because of the Second World War, and we grew tired of these darn wars. He was in China, Indian, Burma; and, I was in France, Germany and Austria. But I was in combat infantry, and he was in military intelligence, and we wrote letters to each other during the War. Tr. at 6, ll. 23; at 7, ll. 18.

Carl is also a long time friend of Cecil Andrus, former Governor of Idaho and Secretary of the Interior. Carl describes how Secretary Andrus and Senator Church gave him the opportunity to have "the most fun that any man can ever have":

Q: And you also have a friendship with former Governor and former Secretary of the Interior, Cecil Andrus.

A: Yes, we're still close friends.

Q: And he appointed you—did he appoint you to some committees?

A: Well, he appointed me to the National Parks Board, which is the most fun that any man can ever have or any woman.

Q: That's when he was Secretary of the Interior?

A: Yeah, Secretary of the Interior. And he and Frank [Church] got together and said, now, what can we give old Burke? I didn't need a job, but this was just exquisite. We got [to see] National Parks all over the United States and [Gisela and] I just loved it. (Page 18:6-21)

Carl reflects on the cost of political campaigns:

A: The biggest problem in politics is the cost of elections to me is outrageous. Boy, when we started with Frank [Church], we were able to raise quite a bit of money. I vowed one thing that we'd never go into debt, and we never did. We paid all our bills all those years. Even when he ran for president we paid all our bills. And that sure made a lot of people mad because they want to spend money, but you can't satisfy the desires of people to spend money in a campaign. It might be better if you could afford it, but you better not do it if you can't afford it. So I think that at least Frank and Bethine didn't have to worry about paying out [for all the] bills. Tr. at 41, ll. 10-22.

Before I could do anything, Bob[by] ran over there, grabbed their guns and said, "You're not going to shoot that bear." And, of course, they did not shoot that bear.

Carl Prosser Burke

M. Allyn Dingel, Jr.

M. Allyn Dingel, Jr. was born in 1936 and was admitted to the Idaho State Bar in 1961. He worked for the Idaho Attorney General's office for three years and then joined his good friend, Carl Burke, at Elam & Burke in Boise, where he had a long, distinguished career spanning more than forty years. Allyn has provided more than 30 years of pro bono contributions to the Idaho judicial system and was, therefore, recognized recently by the judges of Fourth District when they dedicated Courtroom 400 at the Ada County Courthouse in his honor.

Allyn Dingel reflects on his decision to become a lawyer:

Q: What made you decide to become a lawyer?

A: I would like to tell you that I went into the law for the credo of our profession, the pursuit of justice and the rule of law. Rita, the real reason I went in, the Army had the draft. The United States Army, they were breathing down my back. I was 1A and I thought, "You know, I guess I can get a student deferment" and, "Where's my mother when I need her." Tr. at 6, ll. 19-25.

Allyn played baseball in high school and at college and is a life-long fan of the sport. Here, he describes his love of the game:

A: You maybe did not know, but I played college—high school and college baseball. I played third base and first base for the only institution in the whole world that means anything to me, the University of Idaho. I am a Vandal, pure and gold, and there's no forgiveness, no tomorrow. Carl [Burke] even saw the ballgame in '47 at Stanford when Idaho beat Stanford—

Mr. Burke: I was there.

Mr. Dingel:[F]or the first time in their life, and they've never played them since then. … I played third base for the Vandals, the University of Idaho, my freshman year, and I have played against Harmon Killebrew and eluded fear against Harmon Killebrew, playing third base, when the count is 2 and 0. Of all south Idaho athletes, I had a rifle for an arm. I could hit a long ball very slowly and [had] bad hands. Other than that—of course, it didn't bother Killebrew, because every ball he hit went out of the ball park. Tr. at 25, ll. 7-18.

A: I think that's probably—you always go back to your family, because in the long run that's what counts – plus baseball. Baseball is eternal. You can tell I'm a baseball nut. I mean, baseball is non-political. It's for eternity, and family.Tr. t 42, ll. 12-14.

For many years, Allyn served as lobbyist for the state judiciary at the Idaho Legislature on the issue of judicial pay raises:

A: I've been a lobbyist for 50 years, 45 years. I do better

as a pro bono lobbyist. If there is honor in this world and I'm happy about three things, if I can keep my wife, my parish priest and Carl Burke happy, that's fine—
Mr. Burke: That's the spirit. Mr. Dingel:[A]nd the third branch of government. I have been the pro bono legislative liaison, architect, lobbyist for the third branch of government for about 30 years on their annual pay increases in the legislature. … I will tell you this: We are very, very lucky in the quality of our federal judges and the quality of our state court judges. Our state court judges are about the second or third lowest paid in the United States and we still get them. Tr. at 27, ll. 1-16.

Allyn describes how a funny slip of terms in his presentation to the Idaho Legislature actually turned to his advantage:

A: Last year or year before in Idaho legislature, I was putting a helmet bill through the legislature, whether it's for cars or motorcycles or all-terrain vehicles. … I said, "Mr. Chairman and Senators, let me explain to you about what's involved with this bill. Supposing that you are driving an ATM"—now, remember, what I said, an "ATM" not "ATV"; you're driving an ATM—"and let's say your child is out there" and some way they [the Senate committee members] get laughing. Obviously, I've got automatic—I mean, the machine in the bank, ATMs, mixed up with ATVs. The committee knows I don't know that, and they get laughing. There's [Senator and Pro Tem Bob] Geddes and [Senator Brad] Little; they're laughing over there.

And I turned to Phil Barber and I said, "Mr. Chairman, may we stand at ease for 20 seconds?" I said, "Phil, what the hell is going on?" Usually the transportation committee hearings are about as exciting as watching paint dry—pretty important, but they're kind of dealing with weights and measures.

I said, "What happened? Why are they laughing?"

And he said, "Dingel, I'll tell you out in the rotunda. Keep going. I think you're turning some votes we didn't have."

So I keep on going. And I said, "In finality, Mr. Chairman, suppose that Senator Little's lovely daughter was out on an ATM and I was drunk on an ATM and I ran into her and she had a brain injury with no helmet on." On that, Little starts laughing, and he said, "Mr. Chairman, I was opposed to this bill, but the last thing I want to do is have Dingel drunk on an ATM, and I vote this bill—I move this bill comes out on the floor with a due pass recommendation."

I still don't know what the devil happened. And Barber tells me out on the rotunda … "You dumb, son-of-a-gun. 'ATM' means the automatic teller machine," or something like that. Tr. at 31, ll. 7; at 32, ll. 10.

Conclusion

The above summary is just the "tip of the iceberg" — the oral histories of these prominent lawyers and jurists give much more depth and meaning to the lives and accomplishments of these men. The ILHS would like to conduct many more interviews of prominent men and women[2] throughout the state. While we have developed procedures and training materials to guide an interviewer through the process of preparing for and taking an oral history, and have identified volunteer court reporters throughout the state to transcribe these interviews, our cadre of volunteer interviewers in limited. Thus, if you have an interest in helping with the ILHS Oral History Project – particularly if you know of a senior member of the bench or bar in your area that is a prime candidate for an oral history – please contact me or Rita Ryan, who heads the ILHS' Oral History Project. This is the only way we, collectively, will be able to preserve Idaho's rich legal history.

One final reflection from Judge Callister and his view of "the law":

A: To me the law is good sense and you learn what the law is, but if you don't know what the law is you do what makes good sense and you usually find out that's what the law was. Tr. at 45.

About the Author

Deb Kristensen *is a partner with the Boise law firm of Givens Pursley LLP where she practices commercial litigation. She is former President of the Idaho State Bar and currently serves as a Lawyer Representative for Idaho to the Ninth Circuit Conference of U.S. Courts. Deb is also the author of* 1895-1975: The First 50 Women in Idaho Law*, a book chronicling the lives of Idaho's earliest women lawyers.*

Endnotes

[1] During my research for this article, Judge Weston passed away (on August 20, 2008). Fortunately, Judge Ronald Wilper was able to interview Judge Weston before his passing and, thereby, preserve at least a portion of his legacy for future generations.

[2] The ILHS is working on gathering the oral histories of some of the most prominent women in Idaho's legal history, unfortunately none have been taken thus far. For a history of some of the earliest women lawyer's in the state, see my book *The First 50 Women in Idaho Law* available through the Idaho State Bar's website at: http://www2.state.id.us/isb/first50/event.htm.

Kim Saunders and her dad, Thomas Eason of Northwest Legal Videography in Boise, tape Rita Ryan interviewing Carl Burke.

Getting Involved in the Idaho Legal History Society's Oral History Project

Ken J. Pedersen
Pedersen & Company, PLLC

I went to engineering school for college and remember only six non-technical electives during ten semesters. Of these, only one elective was about history—U.S. Immigration shortly before and after 1900. But in Chicago, where I went to college, immigration was perhaps best studied by hopping on the bus and riding through the neighborhoods, older and newer. There, immigration history was intertwined with urban decay and renewal, and suburban development and sprawl.

So, I am no historian. Nonetheless, I responded positively when Ernie Hoidal asked me to help the Idaho Legal History Society (ILHS) with its Oral History Project (Project). The goal of the Project is to obtain and maintain transcribed and videotaped interviews, called "memoirs," of hundreds of Idaho lawyers from all over the state. The interviews are designed to describe the historical, yet personal, reflections of important figures in Idaho's legal history about their communities, families and practices.

At the outset, the Oral History Committee (Committee) needed some assistance with the intellectual property (IP) facets of its Oral History Agreement (Agreement). The Agreement was intended to provide the ILHS with ownership of the copyrights in the oral history memoirs, including transcripts and videotapes. With the feedback from the diverse members of the Committee, I assisted with this Agreement. I also assisted the ILHS with its agreement with the ISHS to provide that copies of the completed memoirs may be accessed by the public at ISHS's Public Archives and Research Library in Boise (see Kathy Hodge's article for more information about the ISHS).

So, from this IP connection I became acquainted with ILHS and the Committee. Today, the Committee consists of the following members:

Cameron Burke: Court Executive, U.S. District & Bankruptcy Court
Dianne Cromwell: Court Reporter, Tucker & Associates
Teri Harbacheck: Senior Instructor, Legal Administrative Assistant Program, Boise State University
Kathy Hodges: Oral Historian, Idaho State Historical Society
Ernest A. Hoidal: Attorney, Boise
Katherine Moriarty: Attorney, Idaho Falls
Ken J. Pedersen: Attorney, Boise
Scott Reed: Attorney, Coeur d'Alene
Rita Ryan: Former Communications Director, Idaho State Bar
Hon. Jesse Walters: Retired Justice, Idaho Supreme Court
Hon. Ronald J. Wilper: District Judge, Fourth Judicial District

What I noticed first about the Committee was the positive effect of the diversity and energy level of its members. Court executives, clerks and administrators, court reporters, educators, historians, Idaho State Bar executives, active and retired judges and lawyers are members of the Committee.

This diversity and energy reflects in the good, early work product of the committee in various ways.

First, several transcripts of interviews are already completed (see Deb Kristensen's article for excerpts from some of the completed transcripts).

Second, a *Handbook for Interviewers and Transcriptionists*, written and compiled by Rita Ryan, Chair of the Committee, and edited by Teri Harbacheck of the Committee, is already completed. The *Handbook* helps prepare interviewers with questions and suggestions for creating the memoirs, and has contacts and protocols for the court reporters transcribing them. The *Handbook* also contains a suggested Personal Data Record and the Agreement discussed above, including an explanation of how to prepare the subject of the interview, known as the "Narrator." Finally, the *Handbook* contains a description of the ISHS, its relationship with the ILHS, and procedures for storage of, and access to, the completed memoirs. A summary of the *Handbook*, and other information about the ILHS and the Oral History Project may be viewed at the ILHS website.[1] Further resources for interviewers, including *Oral History and the Law* by John A. Neuenschwander, are available from the Oral History Association at Dickinson College.[2]

Third, the Committee has a growing list of planned and prospective interview subjects from all parts of Idaho. I am sure there is room on this list for lawyers you know, including yourself.

Finally, the Committee also has a growing list of experienced interviewers and dedicated transcriptionists—all volunteers—from all parts of Idaho. There is room on this list for you too.

For me, referring back to engineering school, what has been rewarding, and different about the Oral History Project work has been the strong human element. Having reviewed several interview transcripts, helped with one and planned several other interviews, I am impressed that law and the practice of law, as projected from the memoirs, are mostly about the human element. The interview narrators I have seen have been good people from many different backgrounds, responding to and reaching out from the everyday influences and forces of life, like war, political campaigns, labor and management struggles, recessions, deficits and surpluses of public entities, education, etc. that we all see. Things like this are much more complex than the things I saw in school, like F=ma, i=V/R or PV=nRT. You may find the Oral History Project rewarding too, so check it out.

About the Author

Ken J. Pedersen *is a patent attorney from Boise, Idaho. He grew up mostly in Montana, and was educated as an engineer at the Illinois Institute of Technology, and as a lawyer at DePaul University, both in Chicago, Illinois.*

Endnotes

[1] *See* http://www.id.uscourts.gov/ilhs/index.htm (last visited September 29, 2008).
[2] *See* www.dickinson.edu/oha (last visited September 29, 2008).

Lynchpins

Rita Ryan
Idaho Legal History Society

Katherine Moriarty, Battelle Energy Alliance, LLC and Sandra Beebe, court reporter; interview Fred Hoopes, Hopkins Roden Crockett Hansen & Hoopes, PLLC in Idaho Falls.

Court reporters in Idaho are an integral part of the Idaho Legal History Society's ambitious Oral History Project. More than a dozen volunteer court reporters are now available to attend interviews and transcribe the histories of judges, lawyers and others persons connected with Idaho's legal system, helping to preserve and protect the rich history of the Bar and Bench in Idaho.

This volunteer effort, spearheaded by Dianne Cromwell, of Tucker and Associates in Boise, and court reporter for Judge Ronald Wilper, has proved to be a successful stimulus in moving the project forward. After presentations to the statewide court reporters association by Judge Wilper and Dianne, several court reporters quickly offered their time and expertise to ensure that the oral history interviews are transcribed in a timely manner and readied to be read and archived. Also, to ensure a coordinated effort, three court reporters help connect a reporter with an interviewer in different areas of the state.

In addition to the oral histories that had been completed and filed in years past in the federal courthouse in Boise, Judge Wilper has completed three new ones over the past year: Justice Byron Johnson; Judge Gerald Weston, and Bill Gigray, Sr. Dianne transcribed and filed the three interviews. According to Judge Wilper, "Dianne volunteers numerous hours, as well as her equipment and supplies, to ensure that our oral history interviews result in a verbatim transcript. The active involvement of our volunteer court reporters sets the Idaho Legal History Society's oral history project apart from similar projects. We owe Dianne and all the court reporters a debt of gratitude."

I have had the pleasure of working with three wonderful court reporters on separate interviews—thanks to Dianne's enthusiastic contact on the project's behalf.

Lisa Yant was the reporter/transcriptionist for an interview of Judge Larry Boyle, spending several interesting hours in the interview, and several more on drafts, checking spellings and details before submitting final transcripts. JoAnn Thomas attended nearly five hours of interviews with Allyn Dingel, and at least twice that with Dingel and me separately reviewing transcripts and checking names, spellings, and other details. Kim Saunders and her father Tom, just beginning a video business, recorded and transcribed an update interview with Carl Burke, who had been interviewed in years past. In Idaho Falls, Sandy Beebe "got her feet wet" by recently working with attorney Katherine Moriarty in an interview with Fred Hoopes.

What they all said, "I didn't know it was going to be fun!"

Lisa Yant, who works with Judge Edward J. Lodge, has been a court reporter for 27 years. After being contacted by Dianne, Lisa jumped aboard, saying, "I felt it was something I could do to benefit the Society using my reporting skills," and "It was very interesting to hear about the life and paths that led Federal Magistrate Larry Boyle to where he is today. I found myself caught up in the story both in the interview, and when I worked on the transcript." Lisa also provided valuable first-time input to Dianne and me as we began to serve as advisors to would-be interviewers and reporters. Would she offer to help again? "Definitely!"

Kim Saunders who works with Judge Thomas J. Ryan in the Third Judicial District, didn't know Carl Burke, didn't know me, and didn't know how the interview process worked, but she immediately said yes when Dianne contacted her. She had attended a presentation about the program's need for court reporters' assistance from Judge Wilper. She said "I saw this as an opportunity to give back to the legal community. It is what I do every day, preserve the record for future purposes. In the case of the legal history society, it is preserving the thoughts and memories of the great judges and attorneys of the state of Idaho."

Kim and her father were very surprised to hear Carl name friends and associates such as Wally Schirra, Bobby and Teddy Kennedy, Henry Kissinger, Cecil Andrus, and his best friend for life, Idaho Senator Frank Church, for whom Carl ran political campaigns from Church's run for senior class president at Boise High School, to his run for president in 1976. "It was a privilege to be asked to report the oral history of Carl Burke and eavesdrop into his thoughts and views over the years." Kim has been a court reporter for nine years, and is the current Secretary-Treasurer of the Idaho Court Reporters Association.

Allyn Dingel called me the "Mother Teresa of interviewers," but I don't know what he called freelance court reporter JoAnn Thomas, my teammate on Allyn's interviews, and definitely "A-Team" all the way. All I know is he sent me a plant after the first interview and he sent JoAnn a bouquet of flowers after the second!

JoAnn's skills, patience, topic search abilities, and editing abilities are the highest caliber, and she was fun to work with. JoAnn sandwiched the interviews and transcription work with Allyn after a more than week long deposition in Butte, Montana, and a rewarding rafting and kayaking trip with her family this summer. In between, she met with Allyn and me on different occasions, being determined to get everything right and produce a professional transcript. A court reporter for over 20 years, JoAnn is a self-employed freelance judicial reporter, licensed in Idaho, California, and Washington. Her father was a superior court judge, and she became fascinated with the courtroom at a very early age.

For the past few years, JoAnn has reported many plaintiffs' depositions in mesothelioma litigation. "In a few cases I've received thanks from plaintiffs' family members for providing an invaluable keepsake in the form of a transcript of their parent's/spouse's personal history, and it has made me wish I had recorded my own parents' oral histories before they passed on. The oral history program of the Idaho legal History Society has given me the opportunity to volunteer skills I possess to be used in a truly meaningful way," she said. "I enjoyed hearing the 'behind-the-scene' stories of Allyn Dingel's life and legal career, and I felt honored to have been included in the interview process."

In addition to her participation with Idaho Legal History Society's oral history program, JoAnn participates as a mentor to reporting students who are preparing to become certified. She also continues to transcribe tapes for the National Court Reporters Association Veterans History Project.

Sandy Beebe started reporting in 1974. She took and passed the first Certified Shorthand Reporter test ever given in the State of Idaho in January, 1975. She freelanced for Tucker and Associates in Boise from May, 1974 to April, 1975 and then on her own in Blackfoot for several years and then became an official with the State of Idaho. She has worked for Judge George Hargraves, Judge B. Lynn Winmill, Judge N. Randy Smith, Judge James C. Herndon, and currently Judge Darren B. Simpson.

Longtime friend Diane Cromwell first approached Sandy about participating in the reporting of interviews for the Idaho Legal Historical Society. "Since I've been reporting for many years and know a lot of the older attorneys, I thought it would be interesting to hear their stories." Sandy's first interview was with Fred Hoopes, and interviewed by attorney Katherine Moriarty. "I was fascinated to learn everything he had been involved with over his career. He's led an incredibly interesting life. As he was giving his interview, I found I was captivated with his stories. There were so many facts about Fred's life I never knew. I am glad it is now of record and available for others to enjoy." Volunteering her expertise is not new to Sandy. When Larry EchoHawk was the Attorney General of Idaho, he conducted public hearing throughout the state concerning victims' rights. He contacted reporters to report these hearings on a pro bono basis. Sandy participated in that process with Attorney General EchoHawk.

Thanks to the partnership of Judge Wilper and Dianne Cromwell as well as the work of others on the oral history committee, the Idaho Legal History Society has a process and a methodology for moving forward on the "list of 50" interviews that are important to be conducted over the next couple of years. "Because of Dianne's years of experience and mastery of technology, she understands that the job isn't finished until the paperwork is done … and indexed … and catalogued," Judge Wilper noted. "I can tell you that court reporters are the lynchpins of this project. Many historical societies and other organizations begin oral history projects, only to have them fail because the follow-through is not well organized."

About the Author

Rita Ryan *is the current chair of the Idaho Legal History Society's Oral History Committee. Previously, Mrs. Ryan worked at the Idaho State Bar/Idaho Law Foundation as the Communication Director.*

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Videographers in the Treasure Valley have recently volunteered to tape narrators during their oral history interviews: John Glen Hall and Thomas Eason have participated to date. Their professional support greatly enhances the quality and visual interest in the Oral History Project and is greatly appreciated.

Accessing the Records of Idaho's Distinctive Legal Culture

Kathryn Rubinow Hodges
Idaho State Historical Society

After reading other articles in this issue of *The Advocate*, you may be asking yourself, "How can I gain access to the oral histories mentioned here?" The Idaho Legal History Society ("ILHS") has worked out an agreement with the Idaho State Historical Society, to provide access for researchers. Copies of all oral history interviews conducted for the ILHS oral history project will be housed at the Idaho Historical Society's Public Archives and Research Library, at 2205 Old Penitentiary Road in Boise. The library is open to the general public 32 hours per week, from 9 a.m. to 5 p.m., Wednesday through Saturday.

Researchers will find a wealth of additional material related to the practice of law in this state. Because the Idaho Historical Society serves as the archives for the state of Idaho, readers can peruse county court records and Supreme Court records, including many full transcripts of trials. Reports submitted by the Pinkerton Detective Agency during the Haywood Trial have been preserved for a century. Idaho Session Laws, the complete set of House and Senate Journals, governors' papers from Territorial days up through the term of Jim Risch, and the records of the Idaho Attorney General's office are also available. Besides government records, the Public Archives and Research Library collects other materials related to the history of Idaho and the Pacific Northwest. It is possible to read the private papers of some notable Idaho attorneys, including documents related to the law practice of Richard Zina Johnson, 1862-1898, and the early office files of William Borah before he left Boise to take up his office in the United States Senate. The library also houses clipping files on courts, judges, and law enforcement. There are photographs of Idaho courthouses, courtrooms, attorneys and public officials. There are newspapers on microfilm covering the 1860s to the present. The library has a good assortment of books about Idaho's courts, lawyers, legal system, and famous trials (including my personal favorite, *Sagebrush Lawyer*, a colorful description of James Hawley and legal culture in Idaho in the early twentieth century).

Adding the newly-created ILHS interviews will make a convenient "one-stop shopping trip" for researchers. The interviews will join a substantial oral history collection, which already contains the voices of a number of judges and lawyers, as well as legislators and government officials. Former Supreme Court Justice Byron Johnson is the star: four interviews with him have been cataloged and are available to the public, and a fifth interview, conducted by Judge Ronald Wilper for the ILHS, is in the oral history office awaiting cataloging. In the 1990s, Johnson also played the role of interviewer, questioning seven other judges and a group of law clerks about their careers in Idaho. The human voice and face can bring history to life as researchers view videos, listen to tapes, and read transcripts.

Five video interviews have been conducted under the auspices of the ILHS and turned over to this office for cataloging, and more are on the way. The five interviews will be cataloged within the next few months. In the meantime, they can be accessed by inquiring directly at the Oral History office. Oral history staff members Kathy Hodges (state oral historian) and Ellen Haffner (oral history assistant) are in the office most of the time Monday through Friday, and can answer questions or provide access to not-yet-cataloged material.

The ILHS interviews received so far are:

- Carl Burke interviewed on June 11, 2008;
- M. Allyn Dingel, Jr., interviewed on April 11 and July 7, 2008;
- Hon. Larry M. Boyle, interviewed on November 29, 2007 and February 8, 2008;
- Hon. Gerald L. Weston, interviewed on October 13, 2007;
- Hon. Byron J. Johnson, interviewed on January 28, 2007; The Idaho State Historical Society's oral history collection also holds a group of video interviews donated by Judge Byron Johnson:
- Hon. Byron J. Johnson, interviewed on June 2, 1999
- Mary Ann Hurt, interviewed on October 27, 1998;
- Former Idaho Supreme Court law clerks, interviewed on June 13, 1998.
- Hon. Charles F. McDevitt, interviewed on August 13, 1997;
- Hon. Robert E. Bakes, interviewed on June 29, 1993;
- Hon. Robert C. Huntley Jr., interviewed on October 1, 1991;
- Hon. Henry F. McQuade, interviewed on August 16, 1991; and
- Hon. Joseph J. McFadden, interviewed on August 12, 1991.

A group of interviews conducted by Troy Reeves (then the oral historian) in 2006 focuses on the State Capitol, but of necessity includes judges and attorneys, as well as legislators, reporters, and state officials discussing various aspects of Idaho's legal system. Other interviews regarding the legal profession were collected one at a time, rather than being part of a particular project. All the interviews contain valuable insights into the practice of law in Idaho. Many people express themselves in a colorful and articulate way. In an interview conducted in 1986, Willis E. Sullivan III explained why he preferred legal research to being a trial lawyer: "I am basically an introvert and that didn't appeal to me. The uncertainty of juries annoyed me enormously. You'd think you had a good case and the jury would hold against you and you would inquire afterwards and you find out that the jury went off on some damn thing that nobody, including the judge, ever heard of, ridiculous deals and that discouraged me. I thought this was no way for a law system to work and I found it very distressing. [But] research is fun. You get a legal problem and you prowl through the books and read cases, sometimes lots of cases. I used to work a lot at night and weekends and read 100 or 150 different cases and tried to come up with support for my position. When I'd find a case that was about the point, why, God, it gave me a real thrill."

As the ILHS oral history project continues, many new ideas, descriptions and portraits of interesting personalities will come to light. Personally, I wonder whether every state and region has its own distinctive legal culture, complete with stories, traditions, and points of view. I suspect that Idaho will prove to be as unique and fascinating in this respect as it is in all other ways.

About the Author

Kathleen Hodges *has been oral historian with the Idaho State Historical Society since 2006. Before that she worked at the Reference Desk of the Society's Public Archives and Research Library. She has held various other positions within the Historical Society, and has also worked as a freelance researcher and writer. She holds an MA in history from Boise State University. Her main research interest for the past ten years has been the history of the Latino experience in Idaho.*

Idaho Supreme Court Justices (circa 1991)

Left to Right: Justice Stephen Bistline, Justice Byron J. Johnson, Justice Larry M. Boyle, Justice Charles F. McDevitt, and Chief Justice Robert E. Bakes. (circa 1991)

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2008 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 David Z. Nevin, Boise and William Olson, Pocatello as the Bar's Distinguished Lawyers for 2008.

— 2008 Distinguished Lawyer —
David Z. Nevin

David Z. Nevin was born in 1949 and raised in Shreveport, Louisiana. He graduated from Jesuit High School. He attended the University of Connecticut and the University of Iowa before graduating, in 1974, with a B.A. in English Literature from Colorado State University. After graduation, he spent a year teaching English at a language school in Germany. He had also spent enough time as a laborer working on road construction jobs to know that such work might be more enjoyable from the cab of a road grader, and he thought seriously about attending heavy equipment operating school. Fortunately, and not for the last time, a good friend seized him by the collar: "Are you kidding me? Go to law school, or go get a Ph.D. or something." Possibly recognizing law as the last refuge of the generalist, he applied to law school, and was accepted at the University of Idaho College of Law. He graduated cum laude in 1978, and after graduation served as an instructor of law at the University of Toledo College of Law in Toledo Ohio, and then as a law clerk for Justice Joseph J. McFadden of the Idaho Supreme Court. He served as a deputy Ada County Public Defender in Boise for three years before forming his own law firm, Nevin Benjamin McKay & Bartlett, LLP in 1983. Looking back, David said that he has been privileged to learn from many great attorneys.

David's career has landed him in many headlines over the years, beginning with serving in the longest federal trial in Idaho history as counsel for Ruby Ridge defendant Kevin Harris. A more recent case was the successful defense of Sami al-Hussayen, a former University of Idaho student accused of running a Web site to recruit terrorists and disseminate anti-U.S. rhetoric. Several months ago he was successful in the defense of Geoffrey Fleger in Detroit. Dave Metcalf, U.S. District Court, District of Idaho, says of David's success, "It is hard to succeed in federal criminal defense work. In a courtroom, David seizes attention without raising his voice. He quickly gains the trust of jurors with a professorial command of the case and a soft-spoken style that exudes credibility. At the same time, he conveys a fervent belief in the justice of his cause. He does all this before he even begins examining witnesses. Whatever happens next, the jurors look to see David's reaction. The witness drops a bombshell, the jurors look at David. The judge makes a ruling, the jurors look at David. A mysterious blonde with designer sunglasses enters the courtroom, the jurors look at David." David will tell you it was his father—a newspaper reporter, a staff writer for *Life Magazine,* and an author of historical fiction—who helped him see and appreciate the power of stories in his practice. David tells stories to the juries in such a way that they cross the barriers of languages, cultures, and prejudices. The jury listened to David's story during the Sami al-Hussayen case. And, even though the government threw tremendous resources behind their claims in their effort to convict al-Hussayen the jury reached a not guilty verdict.

David is on the Supreme Court Criminal Rules & Criminal Jury Instructions, and Capital Defense Committees; Governor's Incarceration Work Group; Adjunct Professor of Trial Practice at the University of Idaho College of Law (Trial Advocacy); Fellow, and immediate past Idaho State Chair, of the American College of Trial Lawyers; founder and past President of the Idaho Association of Criminal Defense Lawyers; Chair of Legal Committee Idaho Innocence Project; and Board of Directors for Advocates for the West. He has been a recipient, and is the namesake, of the Nevin Professionalism Award awarded annually by the Idaho Association of Criminal Defense Lawyers; President's Award, IACDL; Clarence Darrow Award, Idaho ACLU; Commencement speaker for University of Idaho College of Law.

David and, his wife, Kathie Brack met in Boise and have been married 25 years. They have two sons, Gabe and Ollie. David said it is Kathie who provided the most important life lessons of all—that if he wanted to be successful in both his professional and family life, it was important to get outside of his head and to realize it was not all about him. Even though it would have been easy for him to be consumed by his work, David avoided that trap. He made spending time with Kathie and the boys a priority. In fact, there were times he was "unavailable" professionally because he and his sons put their kayaks in the van and headed for some rapids.

It's been 30 years since David left the hallways of the University of Idaho Law School. The class of 1978 photo shows him with hippie-hair, sitting Buddha-style on the law school steps. The other students are arrayed in suits and combed hair, all formally posed. Times have changed in those 30 years says David, "Things are less collegial and more formal; the courthouses are fuller and things move faster. Yet, the more they change the more they stay the same … hard work, honesty, courage, integrity … all are as important as ever." David wouldn't stand out if that law school class photo were taken today, but he would still stand out in his resolve to make his client's stories understood, and his insistence that his client's accuser be held to their burden of proof.

-2008 Distinguished Lawyer-
William "Bill" D. Olson

William "Bill" D. Olson, was born in 1933, and raised in Mullan, Idaho. It was apparent, at an early age, to Bill's teachers that he was a leader. He was able to juggle jobs, school activities and his education to graduate as co-valedictorian in high school. He continued to Idaho State College where he was soon known by almost everyone on campus. Through the years he worked as a reporter, bartender, potato picker, grocery clerk, smoke-chaser for the U.S. Forest Service, newspaper carrier and hardware clerk. He was active as the editor of the school paper, vice-president of the Associated Men Students, vice-president of the ISC Press Club, and vice-president of the Rocky Mountain Intercollegiate Press Club, culminating in being elected to the position of Student Body President as a senior. Even with all of his other responsibilities he graduated with a 4.0. His diligence and hard work resulted in a scholarship to study law at Washington University Law at St. Louis, Missouri. While there he was a member of the Board of Editors for the Washington University Law Quarterly and was awarded his J.D. in 1959. As soon as he passed the Idaho Bar he was hired to work as a law clerk for U.S. District Court Judge Fred Taylor, District of Idaho. Bill says Judge Taylor was one of two people who had great influence in how he practiced in his chosen field. Judge Taylor not only hired Bill as his law clerk, but also made him his bailiff, as well as introduced him to many very good attorneys who practiced law in the Federal Court. In 1962, Bill joined Louis F. Racine in his practice in Pocatello. Assisting Lou as he tried lawsuits gave Bill a much greater understanding of the intricacies of the law. Bill considered both Judge Taylor and Lou lifelong friends. In 1963, Lou and Bill, along with Robert C. Huntley, Jr. formed the law firm of Racine, Huntley and Olson; now known as Racine, Olson, Nye, Bridge & Bailey. It has grown to be the largest law firm in Eastern Idaho with twenty-three attorneys in Pocatello and three in Boise.

Bill has been an active participant in the Bar and his community. He served as Sixth Judicial District Bar Association president, 1969-70; was a member of the State Bar Examination Grading Committee, 1969-73; and has been a long-standing member of the Character and Fitness Committee for many years. He has served on the civil Justice Reform Act Committee, the Federal Court Rules Committee, the Portneuf Inns of Court; the Idaho Association of Defense Counsel; U.S. Court of Appeals 9th Circuit, 1976; and U.S. Court of Appeals 10th Circuit, 1982. He was also president of the ISU Alumni Association 1963-65.

Bill and his wife Diana have been married for 48 years. They married while he was a law clerk, and because she was able to teach for the Boise School District during that year they were able to have immediate financial stability for their young family. The years passed quickly. He and Diana raised three wonderful children. All of the kids attended school as scholar/athletes receiving degrees from Duke, Stanford, and Seattle University. William is an electrical engineer and works as a national accounts manager for Cross Communication. Wendy works in the U.S. Attorney's office in Boise, and Zoe works with Idaho Legal Aid Service, Inc., in Boise. Bill has found retirement gives him time to enjoy their seven grandchildren and to spend more time fishing, hunting, golfing, and travelling.

At the end of 2006, Bill retired from the practice of law. During his career he served as an example and inspiration to his partners, his peers, and his children. He never sacrificed his family for his career, and has always been active in the lives of his children and grandchildren. The stories and praise other attorneys use describing Bill all point to great admiration for his legal skills and ethical practices. Bill says receiving a Sixth District Professionalism Award in 1997, and now being a recipient of The Distinguished Lawyer Award in 2008 has been humbling. The awards have given him a great sense of satisfaction knowing the manner in which he practiced law is appreciated and that he is respected by his fellow lawyers and the courts.

David Nevin and wife, Kathie Brack with David's law partners; Scott McKay (left) and Dennis Benjamin (right).

Bill Olson, with his wife, Diana (left) and Lucille Oslund, his sister, (center) at the Distinguished Lawyer dinner.

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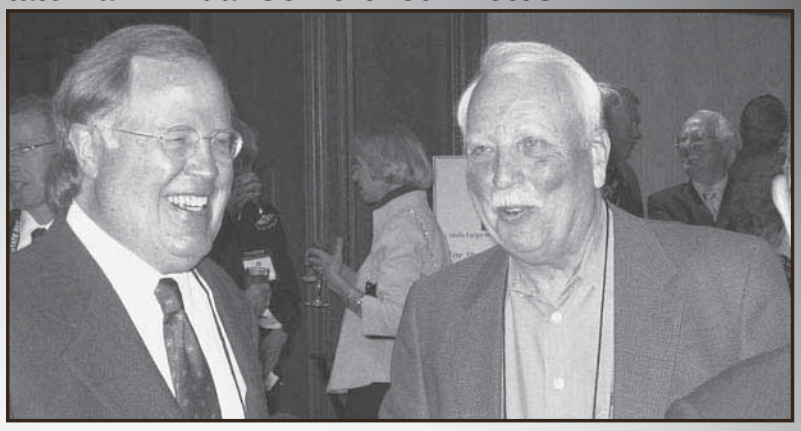

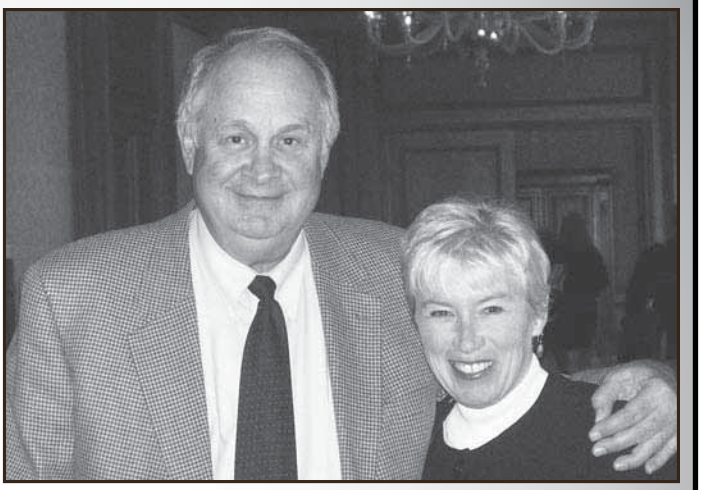

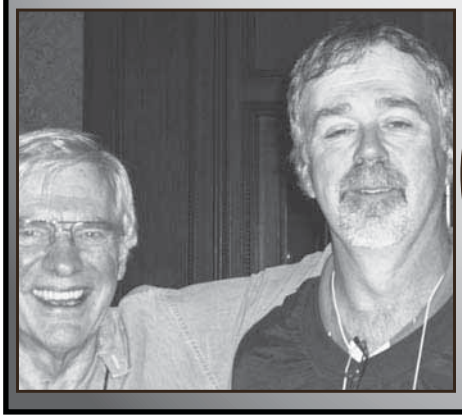

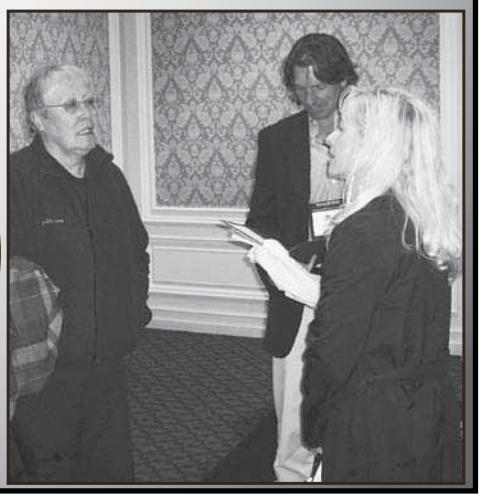

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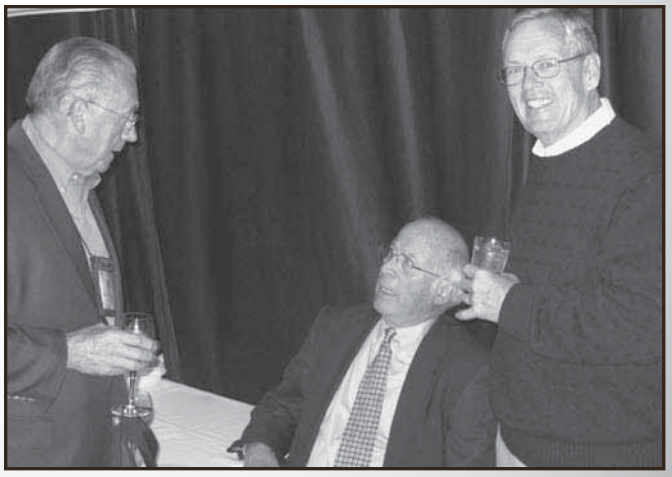

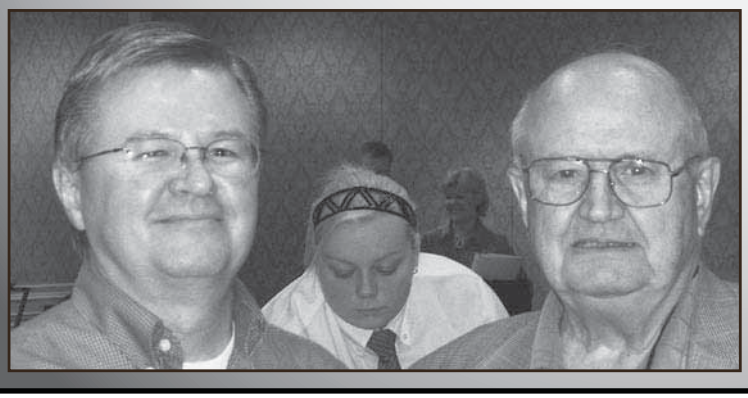

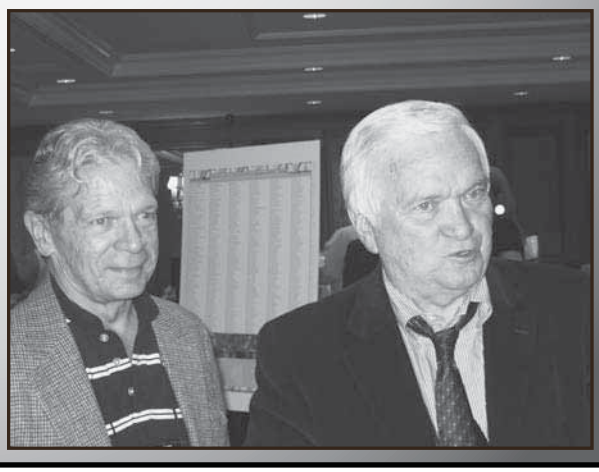

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Newly admitted Idaho attorney Adam Kimball with Carol McDonald, who is his aunt, and parents John and Luci McDonald.

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ELAM & BURKE
ATTORNEYS AT LAW
is pleased to announce that
Michael J. Hanby II
has joined the firm.

Mr. Hanby joins the firm after completing a clerkship with the Honorable Larry M. Boyle, U.S. District Court. He graduated cum laude from Boise State University in 2003 and earned his J.D. from the University of Idaho College of Law in 2008.

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We are pleased to announce that

JULIANNE SLAYTON HALL

has joined the firm as an associate

Ms. Hall's practice will emphasize civil litigation in the defense of insurance, employment and medical malpractice cases

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Regina Elizabeth Hovet, in her Native American attire during the admission ceremony. She is a member of the Duck Valley Shoshone-Piaute Tribe of Idaho/Nevada and joins the Idaho State Bar as a reciprocal from Washington.

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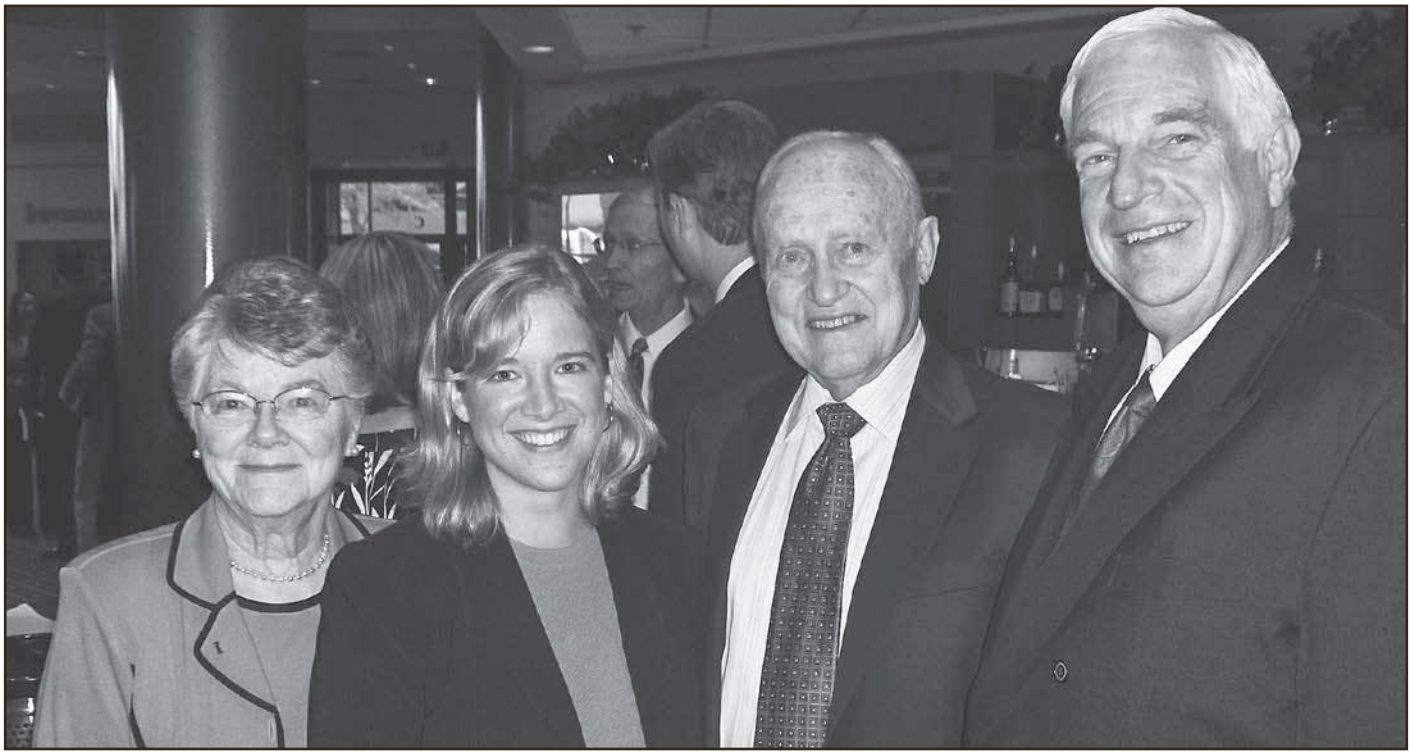

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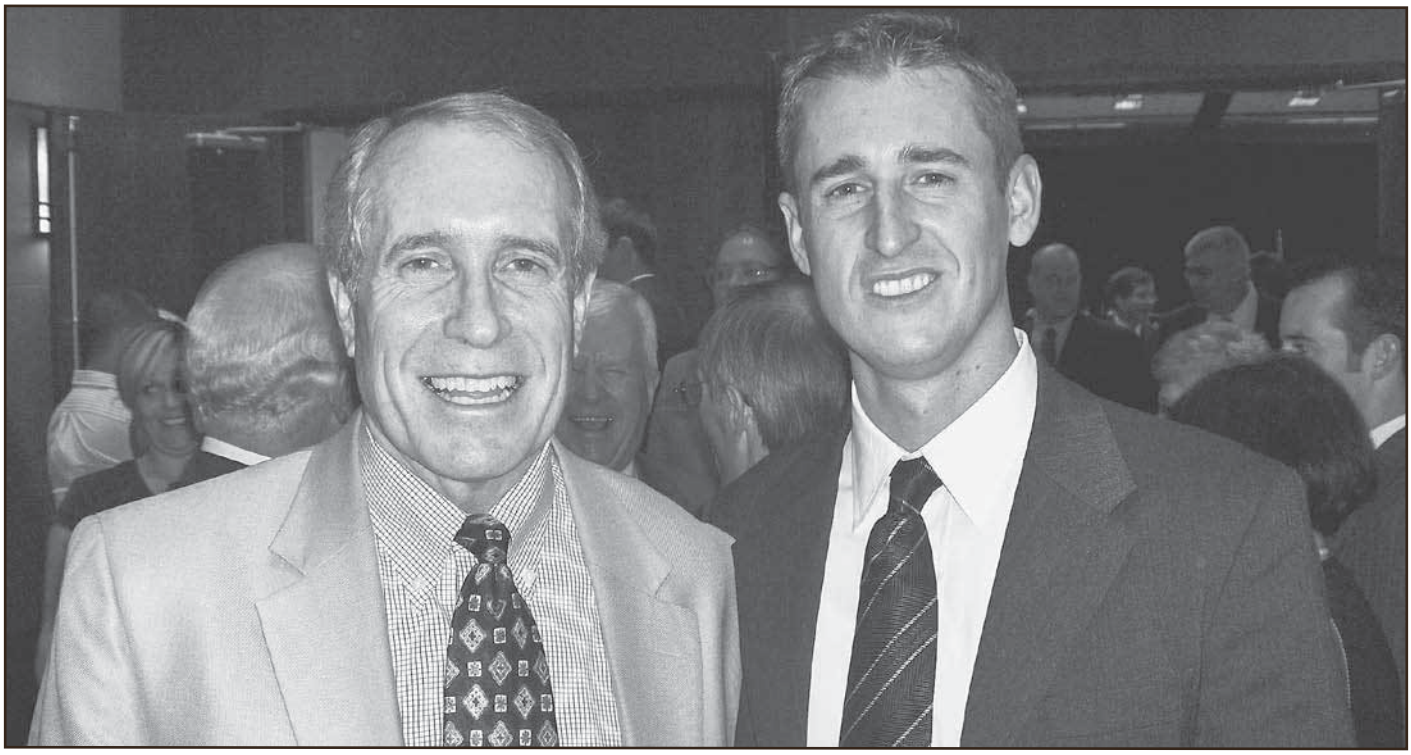

Hon. B. Lynn Winmill with son, and newly admitted Idaho attorney, Jeffery Winmill.

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There is only good rewriting.
Justice Brandeis

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Chief Justice
Daniel T. Eismann

Justices
Roger S. Burdick
Jim Jones
Warren E. Jones
Joel D. Horton

2nd AMENDED Regular Fall Terms for 2008

Twin Falls. . . . . November 6 and 7
Boise. . . . . November 10, 12, and 14
Boise . . . . . December 1, 3, 5, 8, and 10

Regular Spring Terms for 2009

Boise . . . . . January 12, 14, 16, 21 and 23

Boise . . . . . February 9, 11, 13, 18 and 20

Northern Idaho . . . . April 6, 7, 8, 9 and 10

Eastern Idaho . . . . . .May 4, 6, 8, 12 and 13

Twin Falls . . . . . .June 8, 10, 12, 15 and 17

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of setting of the year 2009 Spring 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 16, 2008

November 6, 2008 – TWIN FALLS

8:50 a.m.	Farrell v. Whiteman	#34383
10:00 a.m.	Grover v. Wadsworth	#34810
11:10 a.m.	Griffith v. Clear Lakes Trout Co.	#34430

Friday, November 7, 2008 – TWIN FALLS

8:50 a.m.	Saddlehorn Ranch v. Dyer	#34605
10:00 a.m.	Bauchman-Kingston Partnership v. Haroldsen	#34551
11:10 a.m.	PHH Mortgage Services v. Perreira	#34764

Monday, November 10, 2008 – BOISE

8:50 a.m.	Thomson v. Olsen	#34185
10:00 a.m.	Borah v. McCandless	#34756
11:10 a.m.	Taylor v. Maile	#33781

Wednesday, November 12, 2008 – BOISE

8:50 a.m.	Gonzalez v. Thacker	#34534
10:00 a.m.	Olsen v. Vencor, Inc.	#34561
11:10 a.m.	Derushe v. State (Petition for Review)	#35116

Friday, November 14, 2008 – BOISE

OFFICIAL NOTICE
COURT OF APPEALS OF IDAHO

Chief Judge
Sergio A. Gutierrez

Judges
Karen L. Lansing
Darrel R. Perry

2nd AMENDED Regular Fall Terms for 2008

Boise. . . . . November 6 and 7

Boise. . . . . December 2, 4, 9, and 11

Regular Spring Terms for 2009

Boise. . . . . January 13, 15, 20 and 22

Boise. . . . . .February 10, 12, 17 and 19

Eastern Idaho. . . . . March 9, 10, 11, 12 and 13

Northern Idaho (Moscow) . . . . . .April 13, 14, 15, 16 and 17

Boise . . . . . May 14, 15, 19 and 21

Boise. . . . . .June 16, 18, 23 and 25

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Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of setting of the year 2009 Spring 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 October 10, 2008

Thursday, November 6, 2008 – BOISE

9:00 a.m.	Morgan v. Sexual Offender Classification Board	#34851
10:30 a.m.	State v. McNabb	#33576
1:30 p.m.	State v. Huntsman, Sr.	#33213/33243

Friday, November 7, 2008 – BOISE

9:00 a.m.	State v. Cobler	#34308
10:30 a.m.	State v. LaPine	#34256
1:30 p.m.	Silene v. State	#33847

New Rules of Evidence

The Idaho Supreme Court has adopted two new rules of evidence with an effective date of January 1, 2009—New Rule 803(23) is an exception to the hearsay rule entitled "Medical or dental tests and test results for diagnostic or treatment purposes". New Rule 904 addresses authentication of items described in Rule 803(23). The full text of the rules as set out in the Supreme Court's order can be found on the court's website at http://www.isc.idaho.gov/rulesamd.htm.

Idaho Supreme Court and Court of Appeals
NEW CASES ON APPEAL PENDING DECISION
(Update 10/01/08)

CIVIL APPEALS

ATTORNEY FEES AND COSTS

1. Whether the court erred in its award of attorney fees by failing to consider the factors set out in I.R.C.P. 54(e) (3).

Zenner v. Holcomb
S.Ct. No. 35034
Supreme Court

DIVORCE, CUSTODY, AND SUPPORT

1. Did the district court err in setting aside the magistrate's finding that the Lightning Creek property was community property?

Kraly v. Kraly
S.Ct. No. 34947
Supreme Court

EVIDENCE

1. Was the Department's Hearing Officer's decision as to Bennett's driving privileges supported by substantial evidence?

Bennett v. Department of Transportation
S.Ct. No. 35150
Court of Appeals

INSURANCE

1. Whether the court erred in its legal conclusion that the community's interest in the policy lapsed when the premiums were paid by a third party for two years.

Mark Wallace Dixson Irrevocable Trust v. Dixson
S.Ct. No. 34873
Supreme Court

LAND USE

1. Whether the County's determination that Rollins' property was within the Mountain Overlay District is supported by substantial and competent evidence in the record.

Blaine County Board of Commissioners v. Rollins
S.Ct. No. 33658
Supreme Court

MEDICAL INDIGENCE CLAIMS

1. Whether the district court erred in finding St. Alphonsus Regional Medical Center lacked standing to seek judicial review of the final determination of the Ada County Board of Commissioners.

St. Alphonsus Regional Medical Center v. Ada County Board of Commissioners
S.Ct. No. 35158
Supreme Court

POST-CONVICTION RELIEF

1. Did Silene raise a genuine question of material fact as to whether counsel was ineffective for not filing a motion to suppress such that the court erred in summarily dismissing his petition for post-conviction relief?

Silene v. State
S.Ct. No. 33847
Court of Appeals

2. Did the district court err when it denied Strickland his petition for post-conviction relief in which he raised claims of ineffective assistance of counsel?

Strickland v. State
S.Ct. No. 34563
Court of Appeals

3. Whether, under the settled Idaho three-part test for determining the extent to which a new court decision retroactively applies, *Ring v. Arizona* must be applied in petitioner's case.

Stuart v. State
S.Ct. Nos. 34198/34199
Supreme Court

4. Did the court err in summarily dismissing three of Olsen's claims of ineffective assistance of counsel?

Olsen v. State
S.Ct. No. 33570
Court of Appeals

5. Did the court abuse its discretion when it denied Sagiao's motion to amend his post-conviction petition during the evidentiary hearing to reflect evidence presented regarding trial counsel's failure to file a notice of appeal?

Sagiao v. State
S.Ct. No. 34427
Court of Appeals

PROCEDURE

1. Did the court abuse its discretion when it refused to set aside the clerk's default?

Bach v. Harris
S.Ct. No. 31716
Supreme Court

PROPERTY

1. Did the court err in entering a judgment and order quieting in Sapp a life estate in the cabin and five acres on which the cabin sits and the road providing access?

Caldwell v. Sapp
S.Ct. No. 33952
Supreme Court

SUMMARY JUDGMENT

1. Did the court err by failing to find an issue of fact as to whether the Tri-Way Parties agreed to pay Gray 50% of net profits, before taxes, from the Arizona Division of Tri-Way?

Gray v. Tri-Way Construction Services
S.Ct. No. 34666
Supreme Court

2. Whether the district court erred in granting Sage Health Care's motion for summary judgment.

Bushi v. Sage Health Care Services, PLLC
S.Ct. No. 34827
Supreme Court

3. Did the court err in granting summary judgment to Dr. Binnion on the issue of causation?

Harrison v. Binnion
S.Ct. No. 34731
Supreme Court

CRIMINAL APPEALS

DUE PROCESS

1. Did the court err by imposing Clark's stipulated sentence without waiting two days or allowing Clark an opportunity to allocate and, if so, was such error harmless?

State v. Clark
S.Ct. No. 34537
Court of Appeals

2. Did the prosecutor commit misconduct by disparaging the defense, misstating the evidence, and misstating the law, in essence shifting the burden to the defense, resulting in the denial of Gisel's right to a fair trial?

State v. Gisel
S.Ct. No. 34602
Court of Appeals

EVIDENCE

1. Did the magistrate err by allowing Davila's wife to testify she was living in a "shelter home" at the time Davila battered her?

State v. Davila
S.Ct. No. 34946
Court of Appeals

PLEAS

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

State v. Cockerum
S.Ct. No. 33597
Court of Appeals

PROBATION REVOCATION

1. Did the court violate Penaloza's right to due process and abuse its discretion when it revoked Penaloza's probation and executed his sentence?

State v. Penaloza
S.Ct. No. 34212
Court of Appeals

SEARCH AND SEIZURE – SUPPRESSION OF EVIDENCE

1. Did the district court err when it refused to have a hearing on Ruperd's timely filed motion to suppress after Ruperd failed to appear at the time scheduled for the hearing?

State v. Ruperd
S.Ct. No. 32761
Court of Appeals

2. Did the court err in determining that the detective observed marijuana in Munoz's car in plain view without entering the vehicle?

State v. Munoz
S.Ct. No. 34149
Court of Appeals

3. Did the court correctly conclude the stop of the vehicle in which Bordeaux was a passenger was supported by a reasonable and articulable suspicion the vehicle contained illegal aliens?

State v. Bordeaux
S.Ct. No. 33998
Court of Appeals

SENTENCE REVIEW

1. Did the Commission of Pardons and Parole's decision to forfeit the time Bermea spent on parole render his sentence illegal?

State v. Bermea
S.Ct. No. 34837
Court of Appeals

SUBSTANTIVE LAW

1. Was the court correct in denying Conforti's motion to dismiss because Conforti was required to register as a sex offender during the time period for which he was charged with failing to register?

State v. Conforti
S.Ct. No. 34514
Court of Appeals

2. Did the district court err in striking identifying information, namely parts of the defendant's date of birth and social security number, from the state's pleadings?

State v. Eckroth-Croft
S.Ct. No. 34686
Court of Appeals

3. Did the court abuse its discretion when it failed to reduce Neal's charge to a misdemeanor pursuant to I.C. § 19-2604(2)?

State v. Neal
S.Ct. No. 34770
Court of Appeals

Summarized by:
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- *Do the plan fiduciaries recognize their responsibilities, associated potential risks and steps to ameliorate same?*
- *Is the plan working the way you want it to work (or instead the way you were told it must work)? Is it understood?*
- *Will the plan without sanction withstand an IRS audit, DOL examination or participant lawsuit?*
- *Have all appropriate solutions and techniques been considered (for example, regarding disparate levels of contribution or in mergers and acquisitions)?*
- *Is the plan operating under presumptions that while seemingly logical, may be completely wrong (for example, regarding government plan approval)?*

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Federal Court Corner
Annual District Conference/ Federal Practice Program

Tom Murawski
United States District and Bankruptcy Courts

Ronald E. Bush Becomes Newest U.S. Magistrate Judge

The public investiture ceremony for new U. S. Magistrate Judge Ronald E. Bush took place on October 3rd in Boise. Judge Bush is a fifth-generation native Idahoan whose ancestors first settled in the Idaho Territory in the 1860's. He graduated from high school in Idaho Falls then received his Bachelor of Arts Degree, with honors, from the University of Idaho in 1979, and was awarded a Juris Doctorate from George Washington University School of Law in 1983. Judge Bush most recently served as an Idaho State District Judge in the Sixth Judicial District in Pocatello. Prior to his appointment in 2003, he had been a partner in both the Boise and Pocatello offices of Hawley Troxell Ennis & Hawley.

Judge Bush has participated in numerous professional and community organizations and is the past president of the Idaho Legal History Society. During his practice, he was a member of the Idaho State Bar Association, American Bar Association and Shoshone Bannock Tribal Bar Association. He was one of the organizers and the first president of American Inn of Court #130 in Boise. He has also served as a lawyer representative to the U.S. District Court of Idaho and the U.S. Ninth Circuit Court of Appeals Judicial Conference from 1999 to 2001.

New U.S. Courthouse in Coeur d'Alene Nearing Completion

Construction of the new three-story Federal Courthouse in Coeur d'Alene, located in a forest-like setting off Highway #95 and Mineral Drive adjacent to the Hecla Mining Building is rapidly nearing completion. It is anticipated that the grand opening will be held sometime in early January, 2009. The structure contains two full-size courtrooms and judge's chambers, a Grand Jury Room, Clerk's Office and ancillary space. U. S. Probation & Pretrial Services, the U.S. Marshall Service and the U. S. Attorney's Office will also be housed there.

Pocatello Courthouse Project

The remodeling project at the U.S. Courthouse in Pocatello to construct chambers for Ninth Circuit Court of Appeals Judge Randy Smith and chambers space for Bankruptcy Judge Jim Pappas should be completed in the summer of 2009.

Judge Boyle Appointed to Judicial Fairness Committee

United States Magistrate Judge Larry M. Boyle has been appointed to a three-year term on the Idaho State Bar's *Judicial Fairness Committee*. The Committee, chaired by Boise attorney Craig Meadows, will study judicial elections in Idaho state courts and issues related to maintaining an independent judiciary. Judge Boyle has a long history of service to the practicing Bar, the State of Idaho Judiciary and the Federal Judiciary, including service on a national committee on the appointment of United States Supreme Court Chief Justice William Rehnquist. Judge Boyle served an unprecedented eight years on that prominent United States Judicial Conference Committee from 1998 to 2006.

U.S. Magistrate Judge Candy W. Dale Appointed as Chief Magistrate Judge

Effective October 1, 2008, U.S. Magistrate Judge Candy W. Dale became Chief Magistrate Judge for the District of Idaho, succeeding Judge Larry M. Boyle in that position. Judge Dale presently serves as a representative of the District of Idaho on the Magistrate Judges Executive Board for the Ninth Circuit and on the Idaho Pro Bono Commission. Among her other duties as Magistrate Judge, she is a team member of the District's Pilot Re-entry Program START (Success Through Assisted Recovery and Treatment), spearheaded by Magistrate Judge Mikel H. Williams, which began in Boise in September, 2008.

New Federal Rule of Evidence Enacted to Facilitate Discovery and Cost

New **Federal Rule of Evidence 502** became effective September 19, 2008. The new rule limits waivers of attorney-client privilege and work-product protection in an attempt to facilitate discovery and its cost. The new rule applies in all proceedings commenced after the date of enactment and, insofar as is just and practicable, in all proceedings pending on such date.

New "Means Testing" Data effective October 1, 2008

There is new "Means Testing" data (Census Bureau, IRS Data and Administrative Expense Multipliers) for Bankruptcy cases filed on or after October 1, 2008. For specifics, please see: http://www.usdoj.gov/ust/eo/bapcpa/20081001/meanstesting.htm.

New Federal Rules effective December 1, 2008

The amendments to the following Rules will become effective on December 1, 2008. With respect to the Bankruptcy Rules amendments, most of them are based on the Interim Bankruptcy Rules which were adopted by most Districts (including Idaho) in August 2005 to implement the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). For a brief summary of all the amendments to the Rules listed below check the Court website at www.id.uscourts.gov.

Rules of Bankruptcy Procedure: Rules 1005, 1006, 1007, 1009, 1010, 1011, 1015, 1017, 1019, 1020, 2002, 2003, 2007.1, 2015, 3002, 3003, 3016, 3017.1, 3019, 4002, 4003, 4004, 4006, 4007, 4008, 5001, 5003, 6004, 7012, 7022, 7023.1, 8001, 8003, 9006, 9009, and 9024, and new Rules 1021, 2007.2, 2015.1, 2015.2, 2015.3, 5008, and 6011.

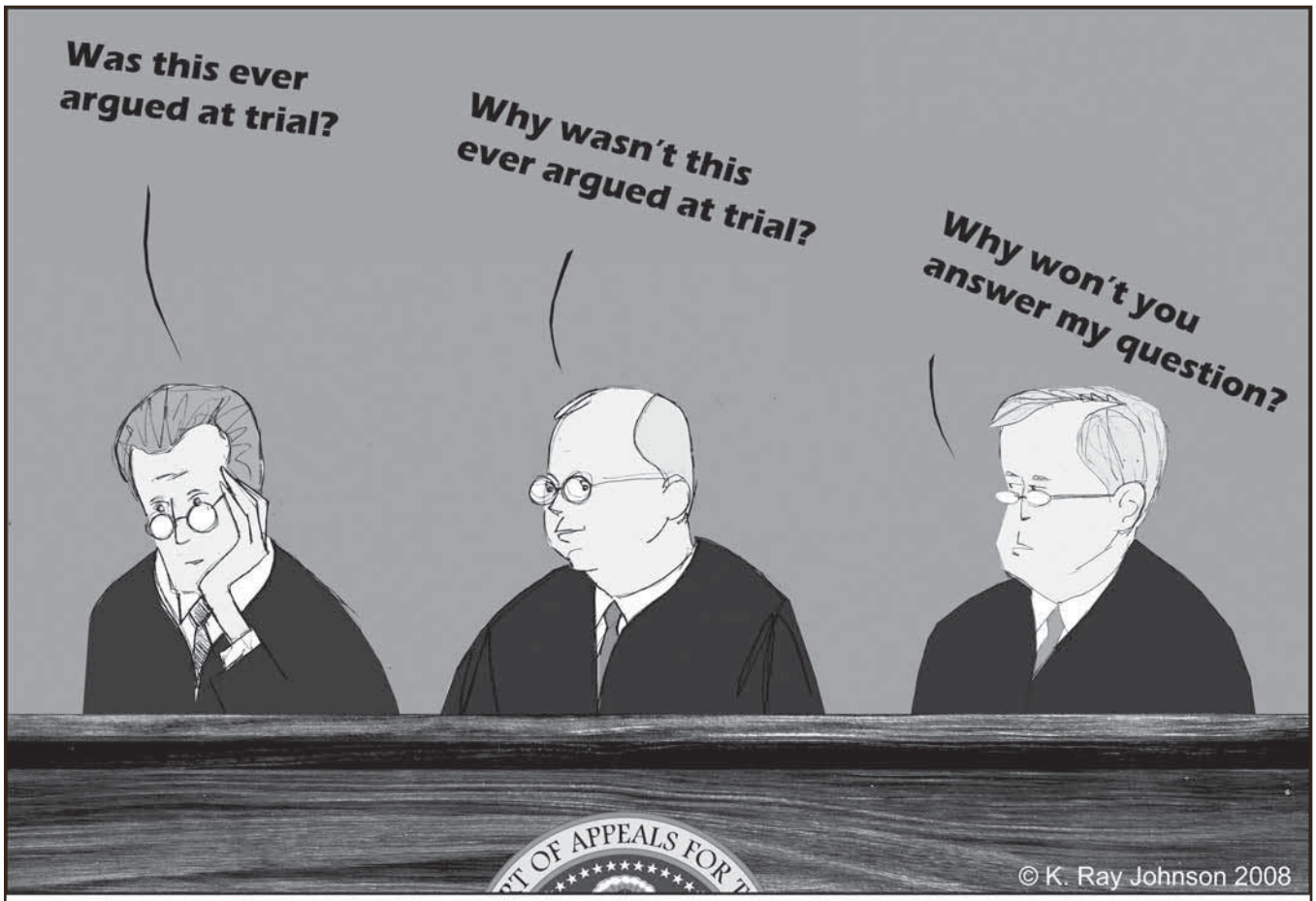
Rules of Criminal Procedure: Rules 1, 12.1, 17, 18, 32, 41, 45, 60, and new Rule 61.

Rules of Civil Procedure: Rule C of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

New & Amended Official Bankruptcy Forms effective December 1, 2008

The amended official forms include: **B1 Exhibit D** (Debtor's Compliance with Credit Counseling Requirement); **B8** (Chapter 7 Debtor's Statement of Intention), **B9F** (Notice of Chapter 11), **B10** (Proof of Claim), and **B23** (Debtor's Certification of Completion of Postpetition Instructional Course concerning Personal Financial Management). The new official forms, **B25A, B25B, B25C**, and **B26**, all implement various sections of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 in connection with small business Chapter 11s.

Tom Murawski *is an Administrative Analyst with the United States District and Bankruptcy Courts. He has a J.D. and Master of Judicial Administration.*



Unfortunately for Counsel, the oral argument was going downhill fast.

Cartoon contributed by K. Ray Johnson. Ray was born and raised in Utah, graduated from Utah State University in Psychology, and is currently a 2L at U of I College of Law.

Licensing and MCLE Compliance

Annette Strauser
Idaho State Bar Membership Administrator

Licensing

The 2009 licensing packets will be mailed in mid November. To avoid delays in receiving your packet, please check your address information on our website (www.idaho.gov/isb) and submit any updates to the Membership Department at (208) 334-4500 or astrauser@isb.idaho.gov before November 10.

The licensing deadline is February 2, 2009. (In 2009, the normal first of the month deadlines are Sundays.) Your payment and paperwork must be received in our office by that date. Postmarked is not enough. If it is not received by February 2, you must also pay the appropriate late fee - $50 for active and house counsel members and $25 for affiliate and emeritus members. The final licensing deadline is March 2, 2008. All licensing fees and paperwork must be received by that date. If your licensing is not complete by March 2, your name will be given to the Idaho Supreme Court for transfer to inactive status.

Paying Online

We are currently in the process of creating an online license renewal portal. Once the portal is available, attorneys will be able to complete their licensing paperwork and pay their fees online. (There will be an additional, minimal fee for paying online.) We hope to have the portal ready for the 2009 licensing and, if we make it, information on how to access the portal will be included in the licensing packets and will be emailed to the membership. Initially, online licensing will only be available to individual attorneys who are not changing status. In the future, we plan to add additional user friendly options like payments by firm, status change options, etc.

MCLE Compliance

If it is your year to report your mandatory continuing legal education (MCLE) credits, you received a reminder letter in May and you will receive a MCLE certificate of compliance in your licensing packet. The deadline for obtaining the required MCLE credits is December 31, 2008. However, the certificate of compliance does not have to be submitted until the February 2 licensing deadline.

You need to have at least thirty Idaho approved MCLE credits (of which at least two must be approved ethics credits) by the end of your reporting period. Check your attendance records on our website at www.idaho.gov/isb. If you attended courses that are not on your attendance records, contact the Membership Department to make sure they have been approved for Idaho MCLE credit. Only Idaho MCLE approved courses can be used to meet the MCLE requirements. Approved courses will appear in your attendance records if we received verification from the sponsor that you attended the course. It is not necessary for your name to be in our attendance records for you to count the course toward meeting your requirements. As long as the course has been approved for Idaho MCLE credit, simply add it to your certificate of compliance before signing it. Most certificates of compliance will have written additions and corrections.

There will be many courses offered in November and December. We post a list of upcoming approved courses on our website. We also have a library of DVDs, CDs and video/audio tapes available for rent and we have online courses available. Information about the rental programs and online courses is on our website. If you are considering renting a DVD, CD or tape, order it now. The programs available for rent (especially ethics programs) will be scarce during November, December and January. If you wait, you may not be able to rent the program you want before the December 31 deadline.

Online courses are a great way to avoid the hassle of ordering and returning rented programs. They are video and audio streaming versions of our courses that are available at your convenience 24 hours a day. They are an easy way to get MCLE credits when you want them. Visit our website and to see the available courses.

Remember, the limit for self-study credits is fifteen per reporting period. If you take an online course, it will be considered self-study. Watching a DVD or videotape is self-study if you watch it on your own. If you can get at least one other Idaho attorney to watch a DVD or videotape with you, it is not considered self-study. Getting together with another member of the Bar is a good way to avoid self-study credit and, if you are lucky, split the rental cost.

If, despite your best efforts, you do not think you will be able to complete the MCLE requirements by the December 31 deadline, you can request an extension until March 2, 2009. To get the extension, send a written request and pay $50. Credits earned during the extension period will be counted toward your reporting period that ended in 2008. Your certificate of compliance should not be submitted until the requirements have been met. However, the rest of your licensing must be submitted by the February 2 deadline to avoid the late fee. The final deadline for submitting your completed certificate of compliance is March 2, 2009. If you have not completed the MCLE requirements by March 2, your name will be given to the Idaho Supreme Court for transfer to inactive status.

Questions

We want to make the licensing process as easy and trouble free as possible. If you have questions or need more information, please contact us at (208) 334-4500.

For licensing and MCLE information, contact Annette Strauser (astrauser@isb.idaho.gov) or Jenay Hunt (jhunt@isb.idaho.gov) in the Membership Department.

For an update on the status of the online licensing renewal portal, contact Annette Strauser at the phone number or email address above.

If you are interested in renting a DVD, CD or video/audio tape, contact Eric White (ewhite@isb.idaho.gov) in the Legal Education Department.

For more information on licensing, MCLE, the list of upcoming courses, the list of rental programs and online courses, etc. – visit our website at www.idaho.gov/isb.

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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.

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About Stand Down 2008

The streets of our cities are crowded with homeless people in search of shelter, food, and employment. While the number of women and families on the street is increasing, the number of homeless military veterans ranges from 34-45 percent on any given night across America. **Stand Down** is a national program for homeless veterans, which is predicated on the notion that a successful program for veterans can potentially impact all homeless people in a given community. **Stand Down** provides a host of services for homeless people including showers, haircuts, clothing, eyeglasses, and referrals for employment etc. But, it is the members of the **Idaho State Bar** who serve a critical need by providing free legal advice and counsel concerning housing, public benefits, family law, legal issues for seniors, civil rights, criminal defense, employment law, and consumer law issues.

More Volunteers Needed

Although the September 27, 2008, **Stand Down 2008** was a success, Idaho homeless veterans and other homeless people need more access to legal advice than can be provided at an annual session in Boise. Therefore, the Idaho Volunteer Lawyers Program (IVLP) and Idaho Legal Aid Services (ILAS) are seeking volunteers to expand the legal services part of the Stand Down concept in two important ways:

First, veterans groups and homeless advocates are scheduling **Stand Down** events in other Idaho Communities. Volunteers are needed in those communities to provide advice and counsel to homeless participants;

Second, in the Fourth Judicial District, ILAS and IVLP hope to schedule shorter advice and counsel sessions throughout the year.

If you would like more information or it you are interested in volunteering to provide advice to homeless veterans and others, please contact Mary S. Hobson, IVLP Legal Director at 208-334-4510.

IVLP Special Thanks

On Saturday, September 27, at **Stand Down 2008 i**n Boise, the following attorneys from the Fourth Judicial District donated their time to provide advice and counsel in their areas of expertise to the local homeless population. Special thanks are offered to:

- **Zoe Ann Olson,** Idaho Legal Aid Services Inc.
- **Brenda Quick,** Hall, Farley, Oberrecht & Blanton, PA
- **Robert A. Wallace;** Hall, Farley, Oberrecht & Blanton, PA
- **Sally Reynolds,** Hall, Farley, Oberrecht & Blanton, PA
- **Patrick Geile,** Foley Freeman, PLLC
- **Charlene Quade,** C. K. Quade Law, LLC
- **Michael Lojek,** Ada County Public Defender's Office
- **Sunrise Ayers,** Idaho Legal Aid Services Inc.
- **Steve Scanlin,** Scanlin Law Offices, PLLC
- **Josh Sears,** Foley Freeman, PLLC
- **Howard Belodoff,** Idaho Legal Aid Services Inc.
- **Richard Eppink,** Idaho Legal Aid Services, Inc.
- **Ben Slaughter,** Idaho Mutual Trust
- **Kimberly Simmons,** Ada County Public Defender's Office
- **Jacob Bernhardt,** Irish, Cardon & Bernhardt, LLP

and to non-lawyer assistants,

- **Cathy Sherman** and **Iris Grimaldo**

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In Memoriam

Raymond D. Givens
1917 - 2008

Raymond D. Givens, 91**,** passed away peacefully at home in Boise, Idaho on October 14, 2008. Ray was born to Raymond L. Givens and Margaret O'Donnell Givens on May 7, 1917, in Boise, Idaho. He grew up in Boise with his younger brothers; Jim and John. He attended Boise public school, received his undergraduate degree from the University of Idaho in Moscow, and attended Law School at the University of Idaho and Georgetown University in Washington D.C.

While at the University of Idaho, he met and fell in love with Allee Conway of Blackfoot. They were married in 1941 in Arlington Virginia and the marriage lasted over 60 years, until she passed away in 2003. Ray joined the Navy in 1942. He served in the Mediterranean and Pacific Theaters on the USS Monrovia, an attack transport, and was honorably discharged in 1945 as a First Lieutenant.

After the War, Ray returned to Boise where he began the practice of law. He practiced law for over 50 years, forming numerous firms with prominent Boise lawyers, including the firm that still bears his name, Givens Pursley.

Ray's practice, and his quiet community involvement, led to numerous projects which continue to benefit Boise and the region today. These include initiating the Boise Greenbelt in the late 1950s as a member of the Planning Commission, shepherding the construction of the present St. Alphonsus Medical Center to replace the antiquated hospital where he had been born, and securing the rights to hydroelectric generation at Lucky Peak Dam for the benefit of farmers and ranchers in numerous irrigation districts throughout Southwestern Idaho.

In the tradition of his ancestral homeland of County Donegal, Ireland, Ray's great passion was golf. He started playing before he could go to school, on oiled sand "greens" at a long abandoned course where Boise Hills Village now sits. Though never a great golfer, he regularly played 2-3 times a week, and played into his 90s. He loved the solitude of green fairways, often saying it was the one place where all the troubles of the day just melted away.

Ray is survived by his two children Meg and Ray, and Ray's wife Jeanne; by three grandchildren Jeoff, Maria and Joe; by his two brothers John and Jim, and Jim's wife Pat; and by numerous nieces and nephews.

David Emery Doane, Jr.
1920 - 2008

David Emery Doane, Jr., 88, former Boise attorney and retired federal administrative law judge, died at his Boise home of a heart attack on October 8, 2008. He was 88. He was born March 6, 1920 in Wallowa, Oregon and graduated from high school in Grangeville, Idaho. He excelled on the basketball, football, baseball and track teams; and, developed a love of sports that endured throughout his life.

He received both a Bachelor of Arts and a law degree from the University of Idaho. Before finishing law school, Mr. Doane enlisted in the Army Air Corps and served in the Judge Advocate General's office during World War II. He married Vera Nell James of Gooding in 1942.

After his military service, he returned to Boise, served as an Assistant Attorney General from 1946-47, and subsequently entered the private practice of law. During the next 17 years, he was a partner in several law firms and was active in many community service organizations.

In 1951, he was elected to the Idaho House of Representatives and served four years. He was Assistant Majority Floor Leader in 1951 and Chairman of the State Affairs Committee in 1953.

In 1965, he resigned from his law practice at Givens, Doane, Givens and Manweiller and received a commission as a Lt. Colonel in the U.S. Air Force. Mr. Doane and his family moved to Washington, DC where he served as Legal Advisor to the National Guard Bureau at the Pentagon. He then served as Legislative Assistant to Senator Len Jordan for two years.

In 1970, he was appointed to the Board of Mine Operations Appeals within the U.S. Department of Interior, where he wrote many of the Board's precedent-setting opinions. He was appointed Chief Administrative Judge of the Board in 1975 and in 1978 became an administrative law judge to the Board of Contract Appeals. After retiring from the Department of Interior in 1989, Mr. Doane was awarded the Department's highest honor, the Distinguished Service Award.

During retirement, he devoted more time to his passion for golf, participated in bowling leagues, and played tennis well into his seventies. After his wife, Nell, died in 2001, he married Ruth Howard, and they moved to Boise. He and Ruth were active members of the Hillcrest Country Club, participated in senior golf tournaments, and enjoyed bridge with friends.

Mr. Doane was a distinguished attorney and judge, loving husband, generous father and devoted grandfather. He will be remembered for his integrity, unpretentious manner, keen mind, kindness and good sense of humor. He is survived by his wife, Ruth, son David Doane, III and wife Hollye, of Oakton, Va., daughter Tracy Yarbrough and husband Dick, of Kamiah, Idaho, and daughter Donna Pfluger and husband Richard, of Chantilly, Va. He is also survived by three grandchildren, David James Doane, currently serving in the Peace Corps in Guatemala, and Stephen and Lindsey Doane of Oakton, Virginia.

On The Move

Scott Randolph, has joined the Boise office of Holland & Hart LLP. He is an associate in their litigation department. Prior to joining Holland & Hart he was a law clerk for Hon. N. Randy Smith of the U.S. Court of Appeals for the Ninth Circuit District of Idaho. Scott is a member of the Editorial Advisory Board for *The Advocate*, the official publication of the Idaho State Bar. He previously served as the chair of the Idaho State Bar Young Lawyers Section and volunteered as an attorney for the Court Appointed Special Advocate program. Scott earned his J.D. from the University of Texas at Austin, and his B.S. in health care administration from Oregon State University. He can be reached at (208) 342-5000.

Craig G. Taylor, has joined the Boise law firm Belnap Curtis & Williams, PLLC. Prior to this position he served as vice-president, corporate secretary and associate general counsel for Washington Group International Inc, for several years. He has extensive experience in employee benefits law, estate planning and business organization. Prior to that position he was a partner in the Boise law firm Hawley Troxell Ennis & Hawley LLP; and, an associate attorney in the Rockford, IL law firm Reno, Zahm, Folgate, Lindberg & Powell. After graduating from Brigham Young University's J. Rueben Clark Law School, Craig clerked for the Hon. Albert J. Engel on the U.S. Court of Appeals for the 6th Circuit. He also holds a bachelor's degree in business management from BYU. He is admitted to the state bars of Idaho, Illinois and Ohio, and multiple federal courts. He can be reached at (208) 345-3333.

Beth Smethers, has joined Hawley Troxell Ennis & Hawley. Her area of law focus will be in the areas of commercial litigation, mediations and arbitrations. Beth returns to Boise after attending the University of Idaho, where she obtained her undergraduate degree in accounting (*summa cum laude)*, a master's of accountancy, and her J. D. (*cum laude*). She graduated in the top 10-percent of her class. While in law school, she was an editor of the University of Idaho Law Review. She can be reached at (208) 344-6000.

Janelle Finfrock, has joined Zarian, Midgley and Johnson as a litigation paralegal. She has extensive experience working as a litigation paralegal and is familiar with all aspects of automated litigation support. Previously she worked for Syngenta Seeds, where she was a paralegal and regional document retention manager. She also spent four years working as a paralegal in the Boise office of Stoel Rives. She can be reached at (208) 562-4900.

Emil R. Berg, has opened a solo practice in Boise. His area of practice emphasizes insurance coverage issues, appeals, and civil motions in the state and federal courts of Idaho and Oregon. His experience with civil motions included serving as a pro tem circuit judge in the Oregon state courts. He can be reached by phone (208) 345-2972 and email at erberg@cableone.net

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Nicole Trammel, has joined Hawley Troxell Ennis & Hawley. Her area of law expertise is in the areas of securities, finance and corporate law. She obtained her law degree from Willamette University College of Law *magna cum laude*, graduating in the top two-percent of her class. She also obtained her undergraduate degree from Willamette, majoring in politics and Spanish with a minor in women's studies. While in law school, Nicole received the Oregon State Bar Securities Regulation Award and served as the note and comment editor of the Willamette Law Review. She can be reached at (208) 344-6000.

Julianne Slayton Hall, has joined Gjording & Fouser, PLLC as an associate. Her areas of practice will emphasize civil litigation with a focus on insurance defense, employment law and medical malpractice defense. Previously she worked as a litigation associate in Denver, Colorado, with an emphasis on insurance defense and subrogation. She is licensed in both Idaho and Colorado. She can be reached at (208) 336-9777 and jhall@g-g.com.

Michael J. Hanby II, has joined Elam & Burke's legal team as a new associate. He graduated cum laude from Boise State University and received his law degree from the University of Idaho College of Law, where he served as fall edition editor of the Idaho Law Review. He practices primarily in the area of civil litigation. He can be reached at (208) 343-5454.

Matthew J. McGee, has joined the law firm Moffatt Thomas as an associate in the Boise office. His practice focuses on water rights, environmental and natural resources law. Previously, he worked as a law clerk in the office of general counsel for Bonneville Power Administration and as a judicial extern for Justice Thomas Balmer of the Oregon Supreme Court. He received his bachelor of science degree in electrical and computer engineering from Boise State University and his juris doctor form Willamette University College of Law. At Willamette he was the executive editor of the Willamette Law Review and a member of the Moot Court Board. He can be reached at (208) 345-2000.

Andrea Patterson, has been chosen to lead the Human Resources Office for the Idaho Courts. She comes to the Supreme Court with outstanding experience, including four-plus years as the Human Resource manager for the Ada County Sheriff's office and five years as an associate attorney with Holland & Hart's Boise office where she specialized in litigation and employment law. Prior to that she was a law clerk at the Supreme Court. She graduated from the University of Oregon Law School. She can be reached at (208) 947-7437.

Davis F. VanderVelde and **Mary F. Gigray-Shanahan** have become associates of White Peterson, Attorneys at Law.

VanderVelde received a Bachelor of Arts degree cum laude from the University of Nevada Las Vegas in 1998 and his law degree magna cum laude from California Western School of Law in 2001. He will focus his practice in the areas of civil litigation, employment law, civil rights, toxic torts and pharmaceutical law.

Gigray-Shanahan received a Bachelor of Science degree from the University of Idaho in 2002 and her law degree from the University of Idaho College of Law in 2007. She served as vice president in 2006-2007 for the Student Chapter of the Idaho Trial Lawyers Association. She will focus her practice in the areas of municipal and local government, water law, employment law, civil litigation and criminal law.

Recognition

Hon. Ronald J. Wilper, Fourth District Judge, was named the recipient of the 2008 Granata Award. The Granata is awarded to the trial judge who best exemplifies the professionalism evidenced by Judge Granata during his more than twenty years of judicial service. Judge Wilper was nominated for his considerable contributions to the Ada County Drug Court which he presides over. As the largest drug court in Idaho, its programs serve approximately 150 defendants at any given time. Judge Darla Williamson states that the success of the Ada County

Drug Court is a direct reflection of Judge Wilper's efforts. "Judge Wilper has tireless enthusiasm for the advancement of the drug court. He is an effective role model to other drug court judges and is an inspiration to drug court defendants to make positive changes in their lives". A native Idahoan, Judge Wilper received his J.D. from the University of Idaho in 1987, and was appointed by Governor Batt to the District Court bench in 1999. He can be reached at (208) 287-7554.

Burton Butler, the Trail Court Administrator for Seventh Judicial District was selected as the 2008 Kramer Award recipient. The Kramer Award is awarded to the person who best exemplifies excellence in judicial administration by character and action. Judge Brent Moss, nominated Butler for the Kramer for his leadership in the establishment of problem-solving courts. "I am not aware of anyone who has worked harder to improve the administration of justice than he has, or who has exhibited more passion to improve the delivery of services provided by the judicial system". Judge Moss also commended Butler for his leadership in the continual monitoring of the effectiveness and sustainability of the problem-solving courts. Burton has served as Seventh Judicial District Trial Court Administrator since 1993. He moved to Idaho from North Carolina where he served as Trial Court Administrator for the 29th Judicial District for fourteen years. He can be reached at (208) 529-1350.

Mark Geston, Stoel Rives LLP, Boise, has been elected for a three-year term to the board of directors for The Log Cabin Literary Center. The Cabin's mission is to inspire and celebrate a love of reading, writing and discourse throughout Idaho and the region. They serve over 750 members, 2,000 children and youth, and over 30,000 people through educational and cultural programs. Mark's involvement with the Cabin interfaces with his work as a published author of short story fiction and five novels. His latest work, "The Allies," appeared in the anthology Year's Best Science Fiction 4. His work has been recognized and discussed in the New York Times Book Review section, Contemporary Authors New Revision, A Directory of Contemporary Poets and Fiction Writers, Anatomy of Wonder, The Encyclopedia of Science Fiction and others. Three of Geston's earlier novels will be republished this coming February by Baen Books in an omnibus volume titled "The Books of the Wars." As part of the Stoel Rives litigation group, he focuses on legal malpractice, product liability and complex commercial disputes. He is recognized in Chambers Legal Guide (2008) and The Best Lawyers in America (2009). He can be reached at (208) 387-4291.

Jamie Shropshire, Nez Perce County DUI Court Prosecutor team member, was selected to represent Idaho and Idaho's DUI and Drug Courts in The Recovery Project Rally in New York City on September 27, 2008. For more information: http://www.aetv.com/real-life-change/. She can be reached at (208) 746-7948.

Anderson Julian & Hull has announced that **Robert A. Anderson**, **Brian K. Julian**, **Alan K. Hull**, **Chris H. Hansen** and **Amy G. White**, have been selected by their peers for inclusion in the 2009 edition of *Best Lawyers in America*. Robert A. Anderson has been selected for his work in construction Law and Personal Injury Litigation. Brian K. Julian has been selected for his work in Labor and Employment Law, Personal Injury Litigation and Insurance Law. Alan K. Hull has been selected for his work in Worker's Compensation Law and Employee Benefits Law. All three individuals are the founding partners of Anderson Julian & Hull. Partner Chris H. Hansen has been selected for his work in Personal Injury Litigation and partner Amy G. White has been selected for her work in Education Law. They can be reached at (208) 344-5800.

Perkins Coie has announced that it has been named one of the 2008 Best Law Firms for Women by *Working Mother* Magazine and one of the 2008 Top Ten Family Friendly Firms by Yale Law Women. *Working Mother* Magazine's Best Law Firms for Women List recognizes a select group of U.S. law firms that are proactively developing and implementing women-friendly policies, including flex-time, child care, and women-focused mentoring, leadership and networking programs. Yale Law Women, a student organization devoted to promoting the interests of women in law school and the legal profession, conducted a 35-question survey to law firms on the 2007 Vault Top 100 Law Firms list to assess family-friendly practices. The Boise, Idaho phone number is (208) 343-3434.

Michael T. Spink and JoAnn C. Butler, Spink Butler LLP has announced that two of its partners have been named in the 2009 edition of *Best Lawyers in America*. Michael was selected in the specialty of real estate law, while JoAnn was selected in the specialties of real estate law and land use and zoning law. Inclusion in Best Lawyers is based on a thorough and rigorous peer-review survey by America's leading attorneys. They can be reached at (208) 388-1000.

Joe Borton, Rose Law Group, has been elected chairman of the board of Big Brothers Big Sisters of Southwestern Idaho. He will assume greater fundraising responsibilities in his new role as chairman. Borton is a managing partner of the Idaho office of Rose Law Group, a land use and development firm comprised of a team of planners, attorneys and project managers. His practice focuses on land use and zoning, real estate development, business litigation and local politics. He can be reached at (208) 323-5393.

The Idaho Association of Paralegals Inc. recently elected a new slate of officers for the 2008-2009 year. New officers are:

Lauren Paul, *Washington Division of URS Corporation*, Boise, President; **Ramona E. Banjac**, *Micron Technology, Inc.*, Boise, Vice President of Policy and Public Affairs; **Lori Peel**, *Idaho Office of the Attorney General*, Boise, Vice President of Membership; **Renea Ridgeway**, *Idaho Office of the Attorney General*, Boise, Vice President of Education; **Annette Bottaro-Walklet**, *Washington Division of URS Corporation*, Boise, Secretary; **Kathryn Brandt**, *Elam & Burke*, Boise, Treasurer; **Maryann Duncan**, *Discovery Real Estate Services*, Boise, *National Affairs Representative* and **Bernice Myles**, *Idaho Office of the Attorney General*, Boise, Board Advisor.

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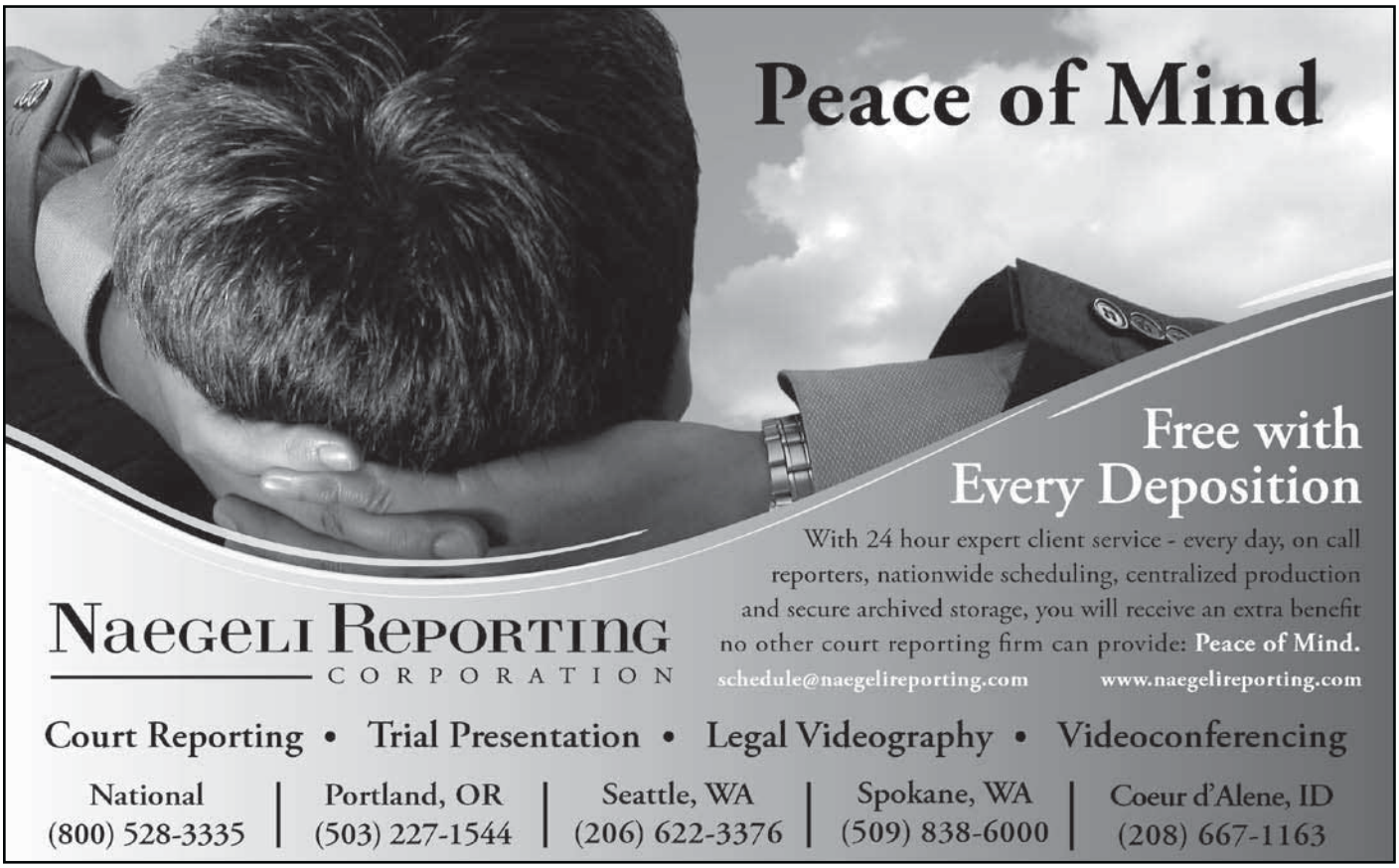

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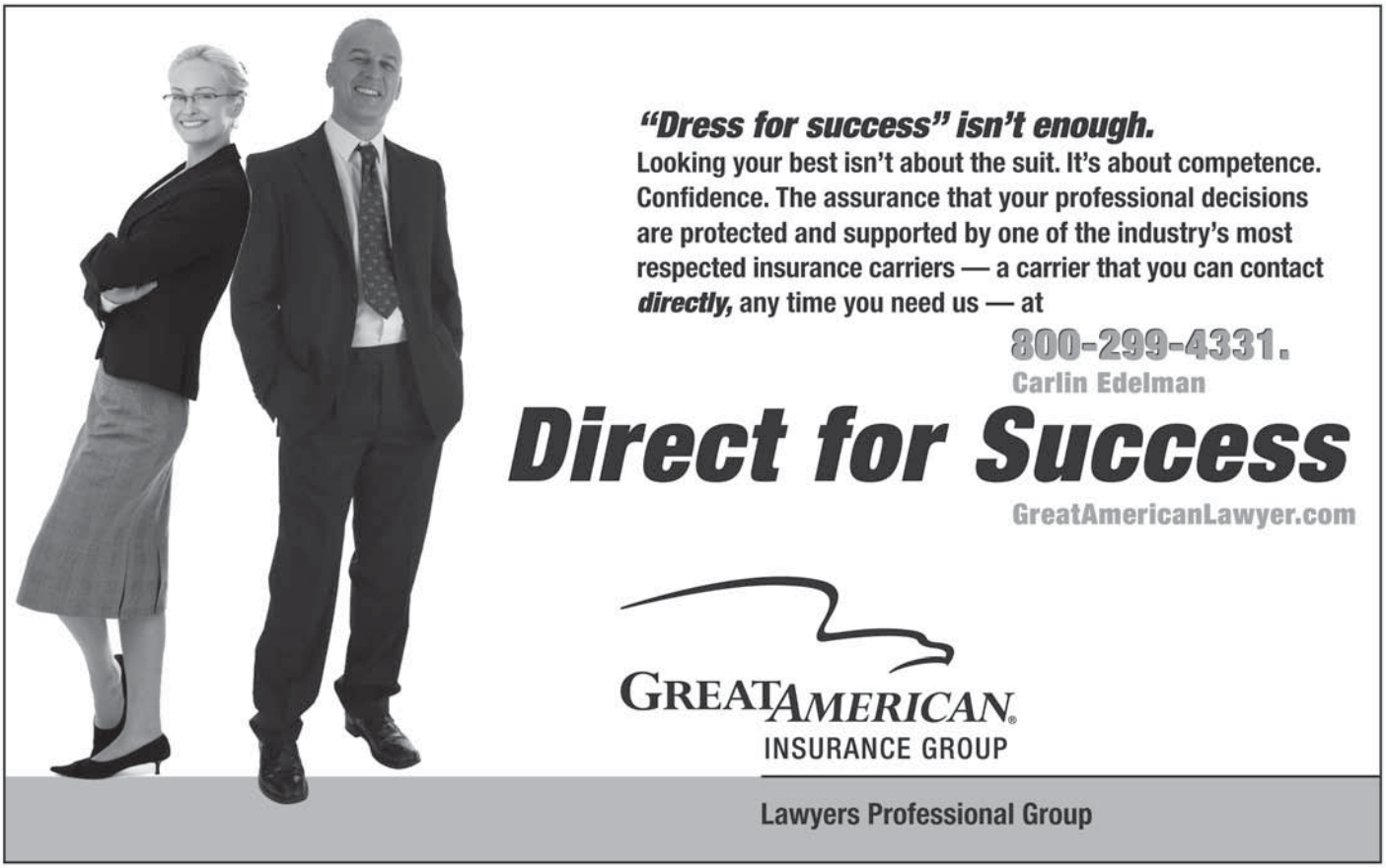

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Mr. Boyd will continue to focus his practice on corporate, employment, business, environmental, natural resources and mining law. His expertise will contribute greatly to the continuing growth of Ramsden & Lyons, LLP.

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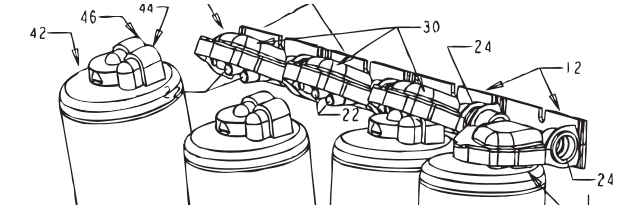

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December
(Continued)

December 4, 2008
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8:30 - 9:30 a.m.
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December 5, 2008
Annual Headline News-Year in Review
Sponsored by the Idaho Law Foundation
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December 12, 2008
Annual Headline News – Year in Review
Sponsored by the Idaho Law Foundation
Oxford Suites, Boise
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December 18, 2008
Top Ten Things Every Lawyer Should Know About Copyrights
Sponsored by the Intellectual Property Law Section
8:30 - 9:30 a.m.
Law Center – Boise
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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 contains current information on CLEs. If you don't have access to the Internet please call (208) 334-4500 for current information.

NOVEMBER

3	*The Advocate* Deadline
4	**1st District Bar Resolution Meeting**, CDA
5	**2nd District Bar Resolution Meeting**, Lewiston
13	**3rd District Bar Resolution Meeting**, Nampa
14	**4th District Bar Resolution Meeting**, Boise
19	*The Advocate* Editorial Advisory Board
19	**5th District Bar Resolution Meeting**, Twin Falls
20	**6th District Bar Resolution Meeting**, Pocatello
21	**7th District Bar Resolution Meeting**, Idaho Falls
21	ISB Board of Commissioners, Idaho Falls
27	**Thanksgiving Day, Law Center Closed**
28	**Law Center Closed**

DECEMBER

1	*The Advocate* Deadline
1	Final February Bar Exam Deadline
5	Idaho State Bar Board of Commissioners
17	*The Advocate* Editorial Advisory Board
25	**Christmas Day, Law Center Closed**
26	**Law Center Closed**

JANUARY

1	*The Advocate* Deadline
1	**New Year's Day, Law Center Closed**
2	**Law Center Closed**
16	Idaho State Bar Board of Commissioners
19	**Martin Luther King, Jr. Day, Law Center Closed**
21	*The Advocate* Editorial Advisory Board

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