

The Advocate

Official Publication
of the Idaho State Bar
Volume 54, No. 1
January 2011



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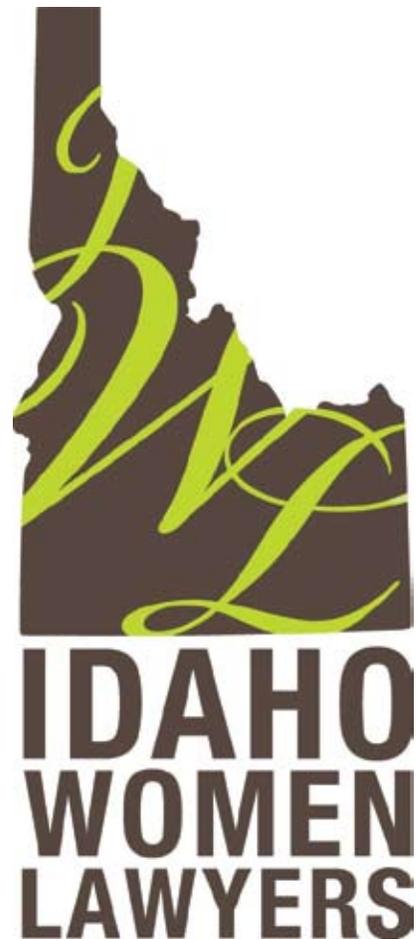
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On the Cover

Cross country skiing has become increasingly popular in Idaho. These skiers practice their "skate" techniques at the Sun Valley Resort, site of the 2011 Annual Conference on July 13-15. Photo courtesy of the Sun Valley Resort.

Section Sponsor

This issue of *The Advocate* is sponsored by the Idaho Women Lawyers.

Editors

Special thanks to the January editorial team: Scott Randolph, Hon. Kathryn Sticklen and Jennifer Schindele.

Letters to the Editor

The Advocate welcomes letters to the editor or article submissions on topics important to the Bar. Send your ideas to Managing Editor Dan Black at dblack@isb.idaho.gov.

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Stoel Rives Announces Two New Partners

Stoel Rives congratulates Bradley Dixon and Nicole Hancock, members of the firm's litigation group, on being named partners.



BRADLEY J. DIXON

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Brad's trial experience includes complex commercial litigation, employment disputes, insurance coverage, products liability, title insurance, foreclosure and bankruptcy matters.



NICOLE C. HANCOCK

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Nicole's corporate litigation experience includes agriculture litigation, commercial contract matters, product liability cases, wine and beer franchise disputes, trade secret violations, unfair competition, consumer protection and corporate torts.



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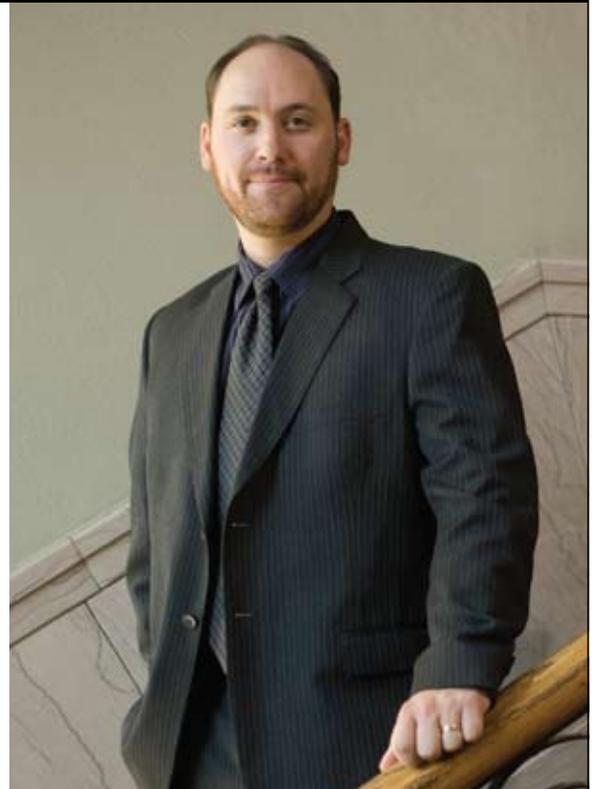
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Upcoming CLEs

January

January 12

Criminal Law Ethics

Sponsored by the Idaho Law Foundation

3:30 – 4:30 p.m. (MST) at the Law Center – Boise, ID

Webcast Statewide

1.0 CLE credit of which 1.0 will be ethics RAC*

January 25

Law Firm Intellectual Property

Sponsored by the Intellectual Property Law Section

8:30 – 9:30 a.m. (MST) at the Law Center – Boise, ID

Webcast Statewide

1.0 CLE credit

January 28

Courtroom Strategy in the 21st Century

Sponsored by the Idaho Law Foundation

9:00 a.m. – 3:00 p.m. (MST) at the Oxford Suites – Boise, ID

5.0 CLE credits of which 1.0 will be ethics

February

February 4

CLE Idaho: Lunch and Replay

Sponsored by the Idaho Law Foundation

11:15 a.m. – 1:30 p.m.

2.25 CLE credits of which 0.75 credit towards Ethics

Held in the following cities and locations:

- Boise, ID – Law Center
- Blackfoot, ID – Bingham County Courthouse
- Hailey, ID – Community Campus
- Sandpoint, ID – Bonner General Hospital
- Weiser, ID – Washington County Courthouse

Keep an eye out for these CLEs in 2011. Details forthcoming.

February 28

Real Property Section Annual Seminar

Boise Centre – Boise, ID

March 3-5

Commercial Law and Bankruptcy Section Annual Seminar

U.S. Courthouse and Federal Building and The Coeur d'Alene – Coeur d'Alene, ID

March 4-5

Trial Skills Academy

(Open to attorneys who have practiced 10 years or less)

Sponsored by the Litigation Section

U.S. Courthouse and Federal Building – Boise, ID

March 11

Workers Compensation Section Annual Seminar

Sun Valley Resort – Sun Valley, ID

*RAC—These programs are approved for Reciprocal Admission Credit pursuant to Idaho Bar Commissions Rule 204A(e)

Dates and times are subject to change. 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.

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Live Seminars

Throughout the year, live seminars on a variety of legal topics are sponsored by the Idaho State Bar Practice Sections and by the Continuing Legal Education program of the Idaho Law Foundation. The seminars range from one hour to multi-day events. Upcoming seminar information and registration forms are posted on the ISB website at: isb.idaho.gov. To register for an upcoming CLE contact Dayna Ferrero at (208) 334-4500 or dferrero@isb.idaho.gov.

Online On-demand Seminars

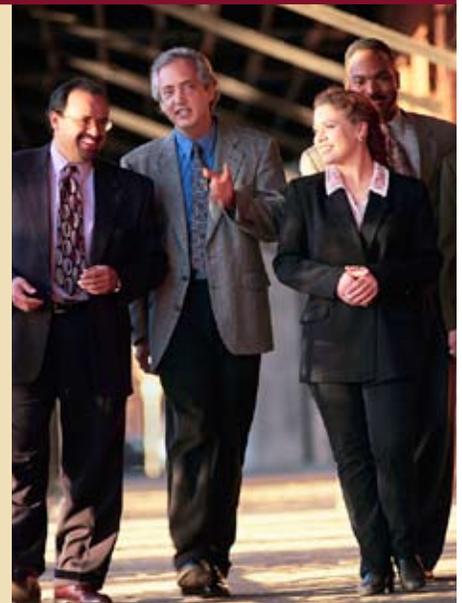
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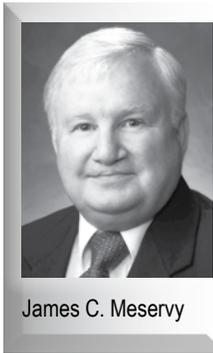
ENDING AT THE BEGINNING

James C. Meservy
President, Idaho State Bar
Board of Commissioners

As I turn the reins over to Deborah Ferguson, I would like to end where I began. This is an honorable profession. Having recently finished the "Road Shows", it is abundantly clear that from the First District in the North to the Seventh District in the Southeast, the Idaho State Bar has, at its core, many fine lawyers of integrity, even exceptional lawyers.

I wish the public and the media could see what we saw as we traversed the state. We honor lawyers for service, for *pro bono* work, for professionalism. We honor retiring judges. Nothing is said about money, nor classes given on how to take advantage. We recognize and applaud those who serve the profession, represent the poor and disadvantaged, exemplify integrity and professionalism. We give thanks to judges who are routinely credited with going above and beyond — many, if not all, who could have pursued more lucrative careers in private practice or doing something else.

In each district the story is similar, if not the same. Attorneys give of their time to help in CASA programs, to victims of domestic violence, etc. Some have, for years, accepted *pro bono* cases. Selfless service is the norm for many, not an exception. The recipients of the Professionalism Award are gracious. Apart from being fine lawyers and respected in the district, they are all genuinely appreciative of the blessings that flow from the practice of law. All accept their clients as they are, recognizing the need for all, regardless of faith, creed, political affiliation, or sex, to have access to justice, to have their cause heard. We honor plaintiffs' counsel, defendants' counsel, prosecutors and defense counsel. Some are litigators, while others are transactional attorneys.



James C. Meservy

Everything isn't perfect within the membership of the Bar. Not all lawyers are professionals. So what? Why not aspire to be the best?

To the young lawyers of the Bar, I would encourage you to attend local Bar meetings and go to the Road Show in your district. I think you will learn a lot about what it means to be a professional, to be respected in the legal community. The stories told, whether about a recipient or at the table you are sitting, will be instructive. For instance, in several of the districts comments were made about the ability of Idaho lawyers to pound on each other all day in trial, but leave those feelings in the courtroom while both move on to the next case. Some say that such is unique when compared to other states. I don't know about that, but my experience is that it's true. This is still a relatively small Bar. You will meet again. The good lawyers of the state, the professionals, know that. It is a good thing to know. You can learn things at a Road Show and by rubbing shoulders with good lawyers.

As mentioned above, the recipients of the Professionalism Award are appreciative of the blessings received. It is difficult to express the thoughts of those who not only give thanks for the award, but for the opportunity they have had to be a lawyer. Each somewhat humbly acknowledged the benefits received from practicing law. Yes, some of the benefit is financial and a good standard of living. Many, like most of us, saw an elevation of standard of living from that of their progenitors. Opportunities for service are created.

Some might say that such is a little Pollyannaish. Perhaps so, to a degree. Everything isn't perfect within the membership of the Bar. Not all lawyers are professionals. So what? Why not aspire to be the best? Why not encourage young lawyers to aspire to become professionals,

to someday be the lawyer who receives the Professionalism Award? For some this may sound too much like Jimmy Stewart and "It's a Wonderful Life".

Yet, I suggest for many of us, as recognized by the professionals just honored, it is a wonderful life. The ability to practice law, that is. We are truly lucky to have such an opportunity. Sure, there are bad days. All of us have bad days (probably many, in fact) where we would like to go home screaming from the office. Have we figuratively kicked the dog, or even yelled at the kids? Perhaps so.

Yet, from a farm kid's perspective, it isn't picking rock near Kimama (rural Minidoka County) in 40 degree weather with the wind blowing 40 miles an hour covering you in dirt and sand. We were paid 75¢ an hour, then \$1.00, and finally \$1.25. When we got home Mom made us strip to our shorts outside because of the dirt. The bottom of the bathtub was covered with sand after we had a bath. It isn't driving a tractor or hauling hay all day (by hand, in the old days) in the heat. In those days, tractors did not have air conditioners or radios. It isn't herding livestock. At least my experience was that equipment of any kind breaks down, and cows get out. Now, such is not to disparage farming and ranching. It is, and was, a good life. It was a great way to grow up. I am thankful for it.

I tell many of my clients that the practice of law is like farming. Tractors still break down, cows still get out. You just don't call them tractors or cows. While this is true, there is, in my mind, something special about being an attorney. I think those I have associated with the last month, and for the last 2½ years, feel the

same way. As I watch Don Burnett, Dean of the University of Idaho College of Law, attend to his duties, I know he feels that way. So do most of you.

These are difficult times. If we are honest, it is difficult for all of us in one way or another. At this time, good lawyers, good leaders, are needed. Lead. As is counseled, when times are difficult, forget self and lift others. In doing so, your own burdens will be lifted. Give comfort, solace and aid to those in need. Don't just aspire to, become (if you aren't already) a professional.

I hope John Doerr, Professionalism Award recipient in the 5th District, won't mind if I close by considering his poignant

closing thought (I could have chosen remarks from any of the recipients' remarks, as they were all excellent). John remarked how he often thought of his father and how he wished his father were there to see him as he tried a case, practiced law. How true that is for all of us who have lost a parent or parents. John, may I echo your words for the many of us who feel the same way: Dad (and Mom), I wish you were here to see this, to see what you have done for me and my family. May God Bless you.

About the Author

James C. Meservy was raised on a farm in Dietrich, Idaho. Jim graduated from Dietrich High School in 1971. He at-

tended the University of Idaho, graduating with a Bachelor of Science degree in 1975. He attended the University of Idaho Law School 1976-1979. Jim married Cherie Wiser on July 31, 1979. They have six children: Ashley, Chris, Tyler, Mallory, Baillie, and Jordan.

Jim was Deputy Prosecuting Attorney for Twin Falls County from September 1979 until January 1981. He has been in private practice in Jerome, Idaho, since that time. From May 1, 1990 to the present, Jim has been a partner in the law firm Fredericksen, Williams & Meservy, with the firm known presently as Williams, Meservy & Lothspeich.

Proposed Idaho Rule of Civil Procedure 3(c)

Court proposes rule changes for filing personal information

Proposed Civil Rule. In 2009 the Supreme Court formed the Ad Hoc Committee on Protecting Personal Information in Court Files. The Committee reviewed the federal rules as well as rules from other states and a draft rule was proposed that has since undergone many revisions. The court is now considering adoption of the following effective July 1, 2011. All are invited to review this proposal and send comments to cderden@idcourts.net by February 1, 2011. Minutes relating to the meetings in 2009 and more explanation of the revisions can be found at <http://www.isc.idaho.gov/rulesamd.htm/>.

Proposed Idaho Rule of Civil Procedure 3(c). Privacy protection for filings made with the court.

(1) Redacted Filings. Unless the court orders otherwise, the parties shall refrain from including or shall partially redact, where inclusion is necessary, the following personal data identifiers from all documents filed with the court, including exhibits. This rule does not apply to exhibits offered at a trial or hearing unless they are filed with the court.

(a) Social Security numbers. If an individual's social security number must be included in a pleading, only the last three digits of that number shall be used.

(b) Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child shall be used.

(c) Dates of birth. If an individual's date of birth must be included in a pleading, only the year shall be used.

(d) Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers shall be used.

(e) Home addresses. Only the city and state shall be identified; however, this rule does not apply to information required to be in the caption of a pleading pursuant to Rule 10(a)(1) or in a certificate of service.

(2) Exceptions.

(a) The redaction requirement does not apply to the record of a court, tribunal, administrative or agency proceeding if that record was filed before the effective date of this rule.

(b) The redaction requirement does not apply to documents that are exempt from disclosure pursuant to Idaho Court Administrative Rule 32.

(c) The redaction requirement does not apply to documents that are required by statute to include personal data identifiers.

(3) Options when personal data identifiers are necessary. A party filing a redacted document need not also file an unredacted version of the document; however, where inclusion of the unredacted personal data identifiers is necessary, a party may:

(a) File the redacted document together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information. The reference list shall be secured in the file and be exempt from disclosure pursuant to Idaho Court Adminis-

trative Rule 32; however, courts will share the reference list with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.

(b) File the redacted document together with an unredacted copy of the document. The unredacted copy shall be placed in a manila envelope marked "sealed" with a general description of the records, and the redacted copy placed in the court file. The unredacted copy shall be exempt from disclosure pursuant to Idaho Court Administrative Rule 32; however, courts will share the unredacted copy with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.

(4) Orders of the court. The court shall refrain from including in court orders the personal data identifiers set forth in subsections 1(a)(1) through 1(a)(5) of this rule, except in cases where some or all of the personal data identifiers are required by statute or by the nature of the proceeding. If personal data identifiers are included in the order, the order shall be placed in a manila envelope marked "sealed" and be exempt from disclosure pursuant to Idaho Court Administrative Rule 32. Copies of the order shall be served on the parties and shall be available to the parties and other government agencies without court order for purposes of the business of those agencies. Upon request a redacted copy shall be prepared.

(5) Responsibility for compliance. The parties and counsel are solely responsible for redacting personal data identifiers. The clerk will not review each document for compliance with the rule. Failure to comply with this rule is grounds for contempt.

DISCIPLINE

STEPHEN M. JOHNSON (Suspension)

On October 7, 2010, the Idaho Supreme Court issued a Disciplinary Order relating to the suspension of Stephen M. Johnson. The Idaho Supreme Court's Order followed a stipulated resolution of an Idaho State Bar reciprocal disciplinary proceeding that resulted in the identical sanctions that were imposed in Arizona, a suspension for six months and one day effective October 11, 2003 through April 12, 2004 and a second suspension for six months and one day, effective May 27, 2004 through November 28, 2004.

Mr. Johnson was previously and is currently admitted to practice law in Arizona. Mr. Johnson was admitted to practice law in Idaho in September 1995, but has never been an active member of the Idaho State Bar. He has been on inactive status since February 1996. Mr. Johnson was suspended twice in Arizona. During both Arizona suspensions, Mr. Johnson was an inactive member in Idaho and consequently not able to practice law in Idaho.

With respect to Mr. Johnson's first disciplinary case in Arizona, on April 28, 2003, he entered into an Agreement for Discipline by Consent. Mr. Johnson agreed to the imposition of a suspension for a period of six months and one day, probation and the assessment of costs. Mr. Johnson admitted violations of Arizona Disciplinary Rules ER 1.2, ER 1.3, ER 1.4, ER 1.15(b), ER 1.16(d), ER 8.1(b), and ER 8.4(c) and (d). Those disciplinary rules correspond to the Idaho Rules of Professional Conduct. On September 11, 2003, the Supreme Court of Arizona entered its Order suspending Mr. Johnson for a period of six months and one day effective October 11, 2003, and following the suspension, placed Mr. Johnson on probation for a period of two years upon terms and conditions, which included that he participate in the Law Office Management Assistance Program, that he participate in the Member Assistance Program, that he be assigned a practice monitor for the period of probation, that he be required to participate in the State Bar Trust Account's Ethics Enhancement Program, and that he pay the costs and expenses of the disciplinary proceeding.

With respect to Mr. Johnson's second suspension in Arizona, the parties agreed

to a resolution of that disciplinary case without filing a complaint or a determination of probable cause. In that case, a client filed a complaint against Mr. Johnson with the Arizona State Bar, claiming that he failed to adequately communicate with his client during the course of representation and that he was not diligent in the representation. In Mr. Johnson's response, he included a copy of a letter, which was purportedly sent to his client upon his appointment to the case. However, the letter was fabricated. The parties agreed that Mr. Johnson's conduct violated Arizona Disciplinary Rule ER 8.1(a), which corresponds to I.R.P.C. 8.1(a). On May 27, 2004, the Supreme Court of Arizona entered its Order suspending Mr. Johnson for a period of six months and one day and assessing the costs and expenses of that disciplinary proceeding.

After Mr. Johnson served those two suspensions, he was reinstated to the Arizona State Bar effective October 30, 2007 and placed on probation for two years on the terms and conditions specified in the first suspension order. Mr. Johnson successfully completed his probationary period in Arizona and was licensed to practice in Arizona, without conditions, on July 8, 2010. Mr. Johnson has not had any disciplinary incidents in Arizona since returning to practice in October 2007.

Mr. Johnson reported his Arizona circumstances to the Idaho State Bar in an appropriate fashion as an inactive member. Mr. Johnson has also recently requested the Idaho State Bar Board of Commissioners approve a transfer from inactive to active status in Idaho under I.B.C.R. 304. The Board authorized Bar Counsel to seek reciprocal discipline before further considering Mr. Johnson's request to transfer to active status and recommended that the reciprocal suspensions be contemporaneous with the Arizona suspensions. The Board also decided that in addition to the reciprocal sanctions, Mr. Johnson's request to transfer to an active license would be referred to the Character and Fitness Committee of the Idaho State Bar to make a recommendation to the Board about Mr. Johnson's character and fitness competency. If he is found to have the appropriate character and fitness competency, he will be required to take and pass the Multistate Professional

Responsibility Examination before being reinstated.

The Idaho Supreme Court's Disciplinary Order also provided that Mr. Johnson's suspensions in Idaho will be a public record of the Idaho Supreme Court, open for inspection by anyone requesting to see it and that the notice of suspensions be published in *The Advocate*.

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

RICHARD A. BERGESEN (Interim Suspension)

On November 16, 2010, the Idaho Supreme Court issued an Amended Order Granting Petition for Interim Suspension of License to Practice Law immediately suspending the license of Boise attorney Richard A. Bergesen. The Idaho Supreme Court also ordered that Mr. Bergesen shall comply specifically with I.B.C.R. 516 and 517 until further order of the Court.

A formal charge case is pending before the Professional Conduct Board.

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

MCLE Extension

If you did not complete your MCLE requirements by your December 31, 2010 deadline, you can get an extension until March 1, 2011 to obtain the credits you need. Send a written request and \$50 MCLE extension fee to the Licensing Department. Courses taken in 2011 to complete your MCLE requirements will be counted on your previous reporting period.

Remember the licensing deadline is still February 1, 2011 and the rest of your licensing must be physically received in the Idaho State Bar office by that date to avoid the late fee. The final licensing deadline is March 1, 2011. Your MCLE requirements must be completed by that date. Please contact the Licensing Department at (208) 334-4500 or astrauer@isb.idaho.gov if you have any questions.

National courtroom expert to give CLE in Boise on Jan. 28

The Idaho Law Foundation presents its flagship winter CLE, "Courtroom Strategy in the 21st Century" from 9 a.m. to 3 p.m. on Friday, Jan. 28 at the Oxford Suites in Boise. Attendees are eligible for 5.0 CLE credits, of which 1.0 is ethics.

The presenter, Richard C. Waites, J.D. Ph.D., is an expert who pioneered the field of applying social science research for trial work. Topics will include trial preparation and jury research, jury selection, credibility and impeachment of witnesses, and the power of storytelling in trial.

Waites is the CEO and one of the founders of Advocacy Sciences, Inc., the largest jury and trial consulting firm in the United States with offices in 17 major cities. He has appeared as a legal analyst on Court-TV, ABC's Nightline, Larry King Live, Good Morning America, Fox News, MSNBC, and the MacNeil-Lehrer News Hour. For more information, including

discounted early registration, check the ISB website at www.isb.idaho.gov.

Study shows women struggle with wage disparities

A recent article in *Newsweek* magazine examines a study by the Project for Attorney Retention and the Minority Corporate Counsel Association. The study, called "New Millennium, Same Glass Ceiling?" found that of 700 female lawyers surveyed, more half of equity partners and two-thirds of minority partners say they are dissatisfied with the way compensation was determined at their firms – compared to nearly three-quarters of men who reported high levels of satisfaction with those systems, according to a previous study.

The study shows women believe a series of gender bias and double standards seriously curtail their earnings. The study said women find a double standard in their quest to be both well-liked and respected. Self-promotion is commonplace for

men, they said, but women get penalized for it. Also, a third of respondents said they had been "threatened, bullied or intimidated into giving up what law firms call "origination credit," that is, bringing a client to the firm, earning the "originator" 20 to 30 percent of that client's billing.

The study's authors say these things help explain why there high levels of attrition among women, not just in their child-bearing years. It also helps explain why although 50 percent of law school graduates are women, and fewer than 20 percent of law partners are female.

Law school economic picture not rosy

According to the *Montana Lawyer*, many law school graduates are having difficulty finding a job in the field. The *College Guide* wrote the nation's law schools are producing more lawyers than the marketplace needs. A recent *Wall Street Journal* article said only 71 percent of the law class of 2009 have real legal jobs. This is down from 75 percent for the class of 2008.

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Helen McKinney left legacy worth celebrating

When Helen McKinney died on October 6, she left a civic legacy well worth celebrating. A four-term legislator, political (Republican) matriarch, and legendary volunteer, she devoted her life to helping others with a kindness and gentility that were irresistible. Perhaps less well known were her contributions to the state judiciary, and, in particular, her pivotal role in one of the last pieces of court reform, in 1982.

In 1975, Helen McKinney was the first woman appointed to the Idaho Judicial Council. For 18 years, a non-lawyer appointed by four governors, she contributed to the Council's vital work in nominating judicial applicants, recommending discipline of judges, and suggesting improvements in the administration of justice. It was in that later cause, improving the administration of justice, that Helen, as Vice Chair of the Council, made a lasting contribution to the organization of the state courts.

Since statehood, the Idaho Constitution provided that the chief justice office rotate among the three justices every two years, and this rotation remained unchanged, even after the size of the court was increased to five justices in 1920. Rotating three times in a six-year period meant that, in practice, the office was passed among the justices on an average of every 12 to 18 months, which was, in the words of a 1975 resolution of the Idaho State Bar, "increasingly unworkable." There were numerous constitutional amendments proposed during the 1970's to change this system, but none gathered the necessary two-thirds vote in the legislature.

In 1981, with a long history of support from the Supreme Court and the Bar, and with the support of the trial courts, both legislative houses overwhelmingly passed a proposed constitutional amendment, HJR 2, to eliminate the rotation, and provide:

"The chief justice shall be selected from among the justices of the Supreme Court by a majority vote of the justices. His term of office shall be four years. When a vacancy in the office of chief justice occurs, a chief justice shall be selected for a full four-year term. The chief justice shall be the executive head of the judicial system."

The proposed amendment was to be considered at the November 2, 1982 election, and appeared to be unopposed, but at the last minute, opposition did arise, from an unlikely source – a member of the Supreme Court, which as a body had approved and sponsored the amendment. In the last months of October 2010, Justice Stephen Bistline wrote to newspapers throughout the state, attacking the amendment as a vehicle for discriminating against individual members of the court and contriving to pass the office among a small group on the court. Unexpectedly, on the weekend before the vote, *The Idaho Statesman*, with the state's largest circulation, ran an editorial opposing HJR 2, placing the amendment in jeopardy.

That is when Helen McKinney made another of her many contributions to the court system. Writing on behalf of the Idaho Judicial Council and the other four justices, she wrote a guest opinion in the *Statesman*, and guest editorials in other newspapers throughout the state on No-

vember 1, the day before the vote, pointing out that,

"No successful or efficient business or any other government agency selects its chief executive officer on a chance rotational basis from a pool of people without regard for their administrative abilities or personality. It is unreasonable that the court be required to continue to operate under such a system . . . I hope Idaho's citizens will join me in voting for HJR No. 2."

And join Helen, they did: the amendment was passed overwhelmingly, by a vote of 203,000 to 87,917. While there were solid reasons to pass the amendment, I still feel that Helen McKinney's personal reputation and contacts throughout the state made the difference – and perhaps help explain why, with seven other amendments on the ballot that day, HJR2 had the biggest "yes" vote!

In the succeeding years, HJR2 has proven to be wise policy, with a series of outstanding chief justices leading our court system to national recognition for court management and modernization. The courts, the bar, and all Idaho citizens owe a lot to Helen McKinney.

Thanks, Helen. We will miss you.

Carl Bianchi

A more detailed description of these events appears in *Justice for the Times, A Centennial History of the Idaho Courts*, beginning at page 224.

Carl Bianchi is the former Administrative Director of the Courts and former director of the Legislative Services Office.

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Mr. Evett replaces James D. LaRue whose three-year term in that position was completed at the end of 2010.

Mr. Evett joined the firm in 2002. In addition to his role managing the firm, he will also serve on the executive committee and will continue an active practice in business and commercial litigation.

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Mr. O'Bannon is a 2008 cum laude graduate of Lewis & Clark Law School. He became a member of the Oregon Bar in 2008 and the Idaho Bar and the U.S. District Court, District of Idaho in 2010. Mr. O'Bannon will focus his practice in the areas of contracts, employment law, municipal and local government, and real estate law.

Mr. Punkoney is a 2010 graduate of the University of Idaho College of Law. He became a member of the Idaho Bar and the U.S. District Court, District of Idaho in 2010. Mr. Punkoney will focus his practice in the areas of collections, contracts and leases, general civil litigation, municipal and local government, and zoning and land use.

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2010 RESOLUTION PROCESS RESULTS

Diane K. Minnich
Executive Director, Idaho State Bar

The report on the 2010 resolution process is brief, the two resolutions presented to the membership passed. Both the resolutions proposed changes to the Section II of the Idaho Bar Commission Rules, the rules governing admission to the practice of law in Idaho.

Resolution 2010-01 proposes that Section II "Admissions" Rules 200 and 217 be amended to allow for the administration of the Uniform Bar Examination (UBE) in Idaho.

The National Conference of Bar Examiners (NCBE) has developed a Uniform Bar Examination, which consists of the bar examination components currently administered by the Idaho State Bar, including six MEE questions, two MPT questions and the MBE. The only topic currently administered by the Idaho State Bar, which is not on the UBE, is com-



munity property. Community Property education can be provided as a part of the required practical skills course.

The UBE will allow for a portable score to be transferred to other UBE jurisdictions and to Idaho thereby providing employment flexibility for law students and newly admitted attorneys.

Resolution 2010-02 proposes that Idaho Bar Commission Rule 226(1) be amended to provide for a 12 month exception for faculty members at a Approved Law School to the requirement that a legal intern supervising attorney be actively licensed in Idaho.

Idaho Bar Commission Rule 226 now in effect requires an attorney be actively licensed in Idaho and to have practiced law for at least five years immediately prior to supervising legal interns. The current Rule 226 requirement that faculty

members of an Approved School of Law be actively licensed to practice law in Idaho before supervising legal interns has a material detrimental affect on the law schools' ability to recruit clinical faculty members on a nationwide basis.

The proposed rules have been submitted to the Idaho Supreme Court for its consideration. If the Supreme Court approves the rules, a notice, including the effective date, will be in *The Advocate*, Ebulletin, and on the ISB website.

As in past years, the Commissioners, Brad Andrews, Mary Hobson, Carol Craighill and I enjoyed our annual fall "roadshow". We appreciate the opportunity to meet with Bar members around the state, to honor colleagues for their service to the bar, and to hear updates about the work of the District Bar Associations.

We appreciate the opportunity to meet with Bar members around the state.

2010 Resolutions – Meeting Attendance and Vote Tally											
District	1st	2nd	3rd	4th	5th	6th	7th	OSA*	Totals	Percentage	
Members eligible to vote	429	214	226	1,928	307	215	370	917	4,606		
% of total membership	9%	5%	5%	42%	7%	5%	8%	20%	100%		
Members voting	110	53	62	354	72	80	104	2	837		
% of members voting	26%	25%	27%	18%	23%	37%	28%	0%	18%		
Number in attendance	46	20	30	60	12	51	32	1	252		
% in attendance	11%	9%	13%	3%	4%	24%	9%	0%	5%		
10-1 Uniform Bar Examination											
For	92	43	55	293	60	62	93	2	700	84%	
Against	16	10	7	57	11	19	11	0	131	16%	
Total	108	53	62	350	71	81	104	2	831		
10-2 Legal Intern Supervision											
For	82	34	46	279	59	63	95	2	660	79%	
Against	25	19	16	73	13	17	9	0	172	21%	
Total	107	53	62	352	72	80	104	2	832		

SAY YES! PARTICIPATION IS THE PATH TO SUCCESS

Peg M. Dougherty
Office of the Attorney General

One of the goals of Idaho Women Lawyers, Inc. (IWL) is to promote full participation by women and minorities in the organized bar and in the legislative and judicial branches of government. The articles in this edition of *The Advocate* highlight that “full participation” goes beyond going to work every day. I think you will agree as you read about the paths of the remarkable women who contributed articles that each one has pushed herself to fully participate beyond the boundaries of her job description. The reward for this effort has been success.

The challenges for these women have been widespread; from transforming the structure of Little League Baseball to ignoring the ridiculous ramblings of a reporter. The accomplishments have been great; first woman appellate court judge, first woman to serve on the federal bench in Idaho, newly appointed U.S. Attorney for the District of Idaho, Director of the Idaho Human Rights Commission, Officer of the District of Idaho Lawyer Representatives Coordinating Committee, and President Elect of the Idaho State Bar Board of Commissioners.



Peg M. Dougherty

Each one of these accomplished women graciously give credit to the mentors who contributed time and support throughout their career.

In between the challenges and accomplishments we see participation in Idaho State Bar Sections, service on Idaho Law Foundation committees and court committees, membership in IWL, Inns of Court, a variety of national legal organizations and community service.

Cathy Silak, Dean of Concordia University’s School of Law, soon to be opened in Boise, was the first woman appointed to the Idaho Court of Appeals and the second woman justice of the Idaho Supreme Court. She also served as the President and CEO of Idaho Community Foundation. In her article, Dean Silak shares the framework for developing and reaching your leadership potential. That framework introduces and defines “engaging” as its final component. Leadership requires stepping forward and offering your talents to the legal profession and the community. As Dean Silak points out, if you are not the right person for the opportunity, encourage your colleagues to step up.

U.S. Chief Magistrate Judge Candy W. Dale offers inspiring instruction in her

article “I Hope You Dance.” When given the chance to “sit it out” or serve on a committee or in an organization, Chief Judge Dale consistently chose to serve throughout her career. She attributes the leadership roles that she has attained to rarely saying no to opportunities to participate.

Wendy Olson, U.S. Attorney for the District of Idaho, is an illustration of the success that can be had by following her formula to take chances, persevere, recognize the power of the law, and be patient. Wendy mentions the value she has found through participation in professional associations. Through her contributions to IWL she managed to combine her passion for sports and her legal work when she put together a Title IX CLE session for the 2009 Annual Bar Meeting. She was also the driving force behind the IWL survey of the status of women in the legal profession in Idaho, the results of which were published in the IWL sponsored 2008 edition of *The Advocate*. Many people have benefited from Wendy’s participation beyond her job.

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Leslie Goddard, former Director of the Idaho Human Rights Commission and former Deputy Attorney General, writes about her "Lifetime in Public Employment" and her challenging road to get there. Her plan to break into the business with a job in the public sector turned into twenty years with the Office of the Attorney General and as she explains, her human rights work touched her heart and her head. Leslie said "Yes!" when asked to take the Director position at the Human Rights Commission. Leslie shares a valuable message of how fulfilling public service is.

Throughout her 20-year career thus far, Debora Kristensen has consistently tried to include some type of Bar or community service in her practice. Most recently she has served the District of Idaho for the past six years as a lawyer representative and an officer of the Lawyer Representatives Coordinating Committee. Debora is familiar to most of us through her service as a former president of the State Bar Board of Commissioners and author of *Idaho's First Fifty Women*, capturing the challenges and accomplishments of the first 50 women admitted to the Idaho State

Bar. Debora's article informs us about the role of a lawyer representative in the federal court system. She emphasizes the satisfaction she has realized as a result of her participation in Bar and community activities, particularly the opportunities to meet and work with people outside the scope of her practice.

Deborah Ferguson is the President elect of the State Bar Board of Commissioners and an IWL board member. For the last five years IWL has dedicated time and effort to increasing the number of women who serve on the bench in Idaho. Over the course of this time we have consistently heard from the Judicial Council and Magistrate Commission members that more women need to apply for open positions. Deborah's article gives perspective to Idaho's dearth of women in the state's judiciary, providing national statistics with Idaho ranking last. There are a number of factors that come into play in the selection of a judge but key to having a diverse and strong judiciary is the applicant pool. Next time an opening on the bench arises, throw your hat in the ring, participate.

Each one of these accomplished women graciously give credit to the men-

tors who contributed time and support throughout their career. That act of mentoring is participating beyond the bounds of the job. The result is evident in the women writing in this issue.

In addition, we have included, with the permission of the ABA, an article about Justice Ruth Bader Ginsburg. She has demonstrated an ability to balance her life with her work through times that have not always been conducive to that effort. Her tenacity and attention to detail are inspiring for anyone.

Read and enjoy the articles provided here, then act on the inspiration that they will generate and commit to fully participate in a new way in the Bar, the legislative and judicial branches of government. Start by joining IWL, consider applying for the next opening on the bench, participate in all that the Bar has to offer. You will be rewarded with greater success.

About the Author

Peg M. Dougherty is completing her 3rd year as President of Idaho Women Lawyers, Inc. She is a Deputy Attorney General in the Division of Contracts and Administrative Law representing the Idaho Department of Health and Welfare.

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EXPANDING LEADERSHIP OPPORTUNITIES FOR WOMEN LAWYERS

Cathy R. Silak
Dean, Concordia University
School of Law

Women in the legal profession have distinctive values and capabilities to become leaders in society and in the Bar. As attorneys, they practice law ethically and are devoted to the service of their clients. They communicate clearly and candidly with the courts, clients, and opposing counsel. In addition, women lawyers add to these qualities the mix of real life experience as daughters, wives, and mothers that so enriches their understanding of their communities. Women lawyers have so much to offer in leadership, but is just possessing these qualities enough? How can women lawyers best prepare themselves to achieve positions of leadership?

A study by McKinsey and Company identified factors that drive and sustain successful women leaders.¹ Although the study focused on women in business, the five dimensions identified provide a useful framework for women in the law to cultivate resources in addition to their own values and capabilities to develop into leaders. The McKinsey dimensions are: (1) Meaning, or finding your strengths and putting them to work in the service of an inspiring purpose; (2) Managing energy, that is, knowing where your energy comes from, where it goes, and what you can do to manage it; (3) Positive framing, or adopting a constructive way to view your world, expand your horizons, and gain the resilience to move ahead even when bad things happen; (4) Connecting, or identifying who can help you grow, building stronger relationships, and increasing your sense of belonging; and (5) Engaging, or finding your own voice, becoming self-reliant and confident by accepting opportunities and the inherent risks they bring, and collaborating with others.

The search for meaning, that is, working in the service of an inspiring purpose, is an uplifting way of thinking about one's career and can keep morale up through difficult times. As the McKinsey study observed, finding meaning helped many



A part of this effort was training for judges on best practices in handling courtroom proceedings so that women lawyers and litigants were treated with the same respect afforded to men.

female leaders “take new paths and accept the risks implicit in their goals.”² In my own career, I had the opportunity to serve as the first woman judge of the Court of Appeals and the second woman justice of the Idaho Supreme Court. To some extent, the inspiring purpose that I found in those two positions was to demonstrate that even persons from traditionally underrepresented groups could achieve positions in the judiciary on the merits. However, being a first or a second was not enough to create lasting meaning. The greater meaning that I found was in helping to improve the administration of justice by integrity in legal decisions, and working on creating new programs. For example, during my time on the Court of Appeals and Supreme Court, I had the honor of serving on the first Judicial Fairness Committee. This Committee focused on assuring that the court system deliberately examined its practices and habits to root out any unfairness based on the factors of gender, race, ethnicity and religion. A part of this effort was training for judges on best practices in handling courtroom proceedings so that women lawyers and litigants were treated with the same respect afforded to men.

The second factor, managing energy, is a way to make sure that a woman lawyer has the personal and professional resources that she needs to be ready to lead. It is important to understand what helps create energy and what depletes energy. Many professionals, both men and women, take strength from the support of colleagues, spouses, and friends. Keeping the work life in balance is the challenge, and many women may find themselves sapped of energy if they take on too much. The McKinsey study suggests basing priorities on activities that are energizing, both at work and at home.³ For me, during my career, my husband and I were raising three children while both working full time. It was only because of my very supportive spouse, family, work

colleagues, and friends, that I was able to keep the work life balance. Going to the YMCA as often as possible and taking many memorable family vacations helped me to create energy.

Positive framing can be a challenge for women lawyers, because there are often setbacks for our clients and ourselves in our profession. Many studies suggest that optimists view situations more realistically than pessimists do.⁴ It is probably easier to keep a positive attitude after a woman lawyer has had some adverse experiences and realizes that there are still more challenges ahead and that more success might be gained in the future. Seek out role models and leaders, both men and women, who kept following their vision despite some obvious setbacks. For me, I found inspiration in reading about other women's lives, such as Katherine Graham or Sandra Day O'Connor.

Connecting with those who can help a woman lawyer grow and build strong relationships is important for leadership development. The McKinsey study points to the importance of developing a “sponsor” – a mentor willing to create opportunity for the protégé.⁵ Sponsors may also be groups of colleagues willing to advocate for the cause or the person. An organization that assisted me in my quest for a judicial appointment was the Idaho Women Lawyers. This group helps women applicants for judicial positions by creating mock Judicial Council interview sessions, and by publicly stating that the presence of women as judges in the Idaho court system would improve the system of justice. Mentors are also very important in creating a successful path to leadership. In my case, I benefitted from mentors in my law firm of Hawley Troxell Ennis & Hawley, as well as my judicial mentors Judge (later Justice) Jesse R. Walters and Judge Roger Swanstrom.

Engaging is the final factor and it is the one that requires the individual to step

forward and offer her talents to the legal profession and the community. One of the factors that the McKinsey study identified in engaging is risk-taking and there is indeed some risk in stepping forward into a leadership role. However, if a woman lawyer has prepared for leadership, the risk to her profession really comes if she is not willing to take the risk. In this regard, I would encourage all women lawyers to think of themselves and their fellow women lawyers as leaders, and to volunteer each other for positions of leadership. This means that when board or committee positions are being filled, women should

think of women lawyers for those nominations.

To sum up, women lawyers can take deliberate steps to prepare themselves to offer leadership to the profession and the community. Idaho's legal profession and civic community will benefit and the women themselves will enjoy their professional lives in a greater measure as they achieve the levels of leadership that they seek.

About the Author

Cathy R. Silak is Dean of Concordia University's School of Law, to be opened

in Boise. She served as President and CEO of the Idaho Community Foundation and was in private practice as a partner with Hawley Troxell Ennis & Hawley. She served as a Court of Appeals judge and an Idaho Supreme Court Justice.

Endnotes

- ¹ The McKinsey Quarterly 2008, No. 4, P. 35. Centered Leadership: How Talented Women Thrive, by Joanne Barsh, Susie Cranston and Rebecca A. Craske.
- ² *Id.* at 38.
- ³ *Id.* at 40.
- ⁴ *Id.* at 42.
- ⁵ At 38.



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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 Rosters of Commercial Arbitrators and Mediators and the Employment 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 has 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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I HOPE YOU DANCE

Hon. Candy Wagahoff Dale
U.S. Courts, District of Idaho

When asked to write this article outlining how involvement with the legal community can provide stepping stones for a career path, I thought of the lyrics repeated in *I Hope You Dance* recorded by Lee Ann Womack: “When you get the choice to sit it out or dance, I hope you dance.” The song is not about a cowgirl who pines for a swing dance partner, but one that encourages listeners to have faith when taking chances:

*Never settle for the path of least
resistance
Living might mean taking chances
But they're worth taking*

These lyrics translate to the message of encouragement I would like to convey regarding professional life choices, while describing some of the choices I believe led to achievement of my aspiration to serve as a member of the federal judiciary.

I recognize that I have the incredible fortune of being appointed as a United States Magistrate Judge for the District of Idaho — a position I have held now for over 2 ½ years. A good friend often tells me the chances of serving as a federal judge are less than being struck by lightning. Although I am not certain about the accuracy of that statistic, I appreciate I am among a select few lawyers that have this opportunity.

I am asked frequently whether I “always wanted to be a judge.” While I can recall the approximate time when I began believing I might have the experience to qualify for a position in the judiciary, I recently came across an article from the *Moscow Idahonian* that describes my aspiration as of December 1981 while I was in my third year of law school. The article focused upon the fact that I was the third woman in six years to serve as Editor in Chief of the *Idaho Law Review* and upon other accomplishments of women in law school, who at the time comprised only one-fifth of the third-year law class at the University of Idaho College of Law. The second paragraph of the article states my



Hon. Candy Wagahoff Dale

Oral argument took place in the courtroom of the College of Law in Moscow, before a large audience of law students and a writer for the Lewiston Tribune who wrote a sexist editorial about the name “Candy” that was published the following Sunday.

aspiration as follows: “to work as an attorney in government in a human rights capacity and then to be a judge.” Later in the article, I am quoted as saying I was not, however, “closing the door on private practice” and that I wanted to keep as many doors open as possible for my career path upon graduation from law school.

My first thought after reading this archived article was about how prophetic, even if forgotten, I had been at that time of my life. Also included in the article is reference to the fact, again long forgotten by me, that I was told before running for the Editor in Chief position that my chances of winning were slim because I was competing against three men. Obviously, the gender of my opposition did not deter me. And, after “winning” the election, the three men who had their names in the race went on to serve on the editorial board with me and have continued to earn high regard in their careers as trial lawyers and one as a well respected Idaho state district court judge. In that instance, I chose not to sit it out but to run for the position, as did these three other candidates. As a result, we next had the opportunity to work together as a team to publish a respected journal and to improve our skills in research, writing and editing that I believe benefitted each of us during our legal careers.

After law school, I had the good fortune of being in the position to accept a number of opportunities during my years in private practice. For example, shortly after I started practicing law at Moffatt Thomas, I did not hesitate to accept an opportunity offered to me by a senior partner in the firm to argue a case of first impression before the Idaho Supreme Court. I still recall signing the appellate brief in that case as my first pleading after admission to the Idaho State Bar. Oral argument took place in the courtroom of the College of Law in Moscow, before a

large audience of law students and a writer for the *Lewiston Tribune* who wrote a sexist editorial about the name “Candy” that was published the following Sunday. Sometimes now when I hear the bailiff announce the “Honorable Candy Dale” is presiding, I wonder whether that editorial was one piece of the motivation for me to prove my first name could be associated with professionalism and honor.

Another example of my good fortune during private practice is the fact that I did not hesitate when I was asked, after 6 years of trial practice, to start a new firm with five more experienced lawyers. I was the youngest, least experienced and sole woman who founded Hall Farley Oberrecht & Blanton, where I continued practicing law for over 19 years. At the time of my appointment to the bench, I was president of the firm — a position that required a significant amount of work and emotional investment, but a role I never regretted assuming.

Call it “blind luck” or luck I made for myself, there were many opportunities presented to me, or those I sought, while practicing law that gave me the chance to sit it out or to serve on a committee or in an organization that resulted eventually in leadership roles. These included, among many others, the CLE Committee and Professional Conduct Board of the Idaho State Bar and Law Foundation, the Idaho Association of Defense Counsel, and the American Inn of Court No. 130. None of these dances was solo, and they took various forms of pace I could describe as a waltz, or a fox trot, or a twist, and perhaps even a jitter-bug or two. The point is that I rarely said no to a dance request, unless I decided my dance card was full, or the timing of the request was not right vis-a-vis my personal or family situation. A few examples, and injecting first another line from *I Hope You Dance*, may help.

Whenever one door closes, I hope one more opens.

After more than ten years practicing law, I thought I might have had sufficient experience and reputation to qualify for appointment as a Lawyer Representative to the Ninth Circuit Judicial Conference from Idaho, so I applied for the position. I was one of six nominees for the appointment, and a lawyer with more experience was selected. Although I will admit I felt rejected, I was asked a short time later by then Chief District Judge Edward J. Lodge to serve on a Long Range Planning Committee for the District of Idaho. I firmly believe my appointment to that committee came about in large part due to my expression of interest in the lawyer representative position. In fact, the rejection letter (that I saved and found recently) reads more like a thank you letter regarding my offer of time, resources and service to the District of Idaho and the Ninth Circuit. I also recall then Lawyer Representative and now Ninth Circuit Judge N. Randy Smith telling me that he was encouraging the state and federal courts and local bar organizations to appoint more women to committees. Thankfully, this was not the first time nor the last time I received a dance invitation through the encouragement of someone other than the requester.

After serving on the Long Range Planning Committee, I applied again for a position as lawyer representative and was appointed to serve from 1996 to 1999. Around this same time, I was appointed to and served on the Gender Fairness Committee for the District of Idaho, the Local Rules Committee, and the Advisory Rules Committee for the Ninth Circuit. Perhaps the ultimate service to the federal courts prior to my appointment as U.S. Magistrate Judge included my appointment to the Advisory Board for the Ninth Circuit by then Chief Judge Mary Schroeder, upon nomination by Chief Judge B. Lynn Winmill, and as an incorporator and secretary of the Board of Directors of the Federal Defender Services of Idaho, Inc.

In the fall of 2007, I submitted my application for U.S. Magistrate Judge, which was not the path of least resistance because I had a very comfortable and both professionally and financially rewarding position with Hall Farley. When I waived confidentiality about my application, allowing the merit selection committee and judges to survey all members of the Idaho State Bar about me, I knew I was taking one of the biggest chances of my legal career. I can say with all sincerity now that it was well worth taking.

Recently, a candidate for a law clerk position indicated that she was interested in learning how I obtained my "coveted" position as federal judge. Others have asked how I prepared myself for the appointment. Without making this article into more of a professional resume for me than it is already, I will explain that I truly do not believe I would have experienced this incredible fortune had I not chosen to serve on Idaho State Bar committees, federal court committees, and other legal professional organizations as often as I offered to do so or was invited to do so. I now conclude where I began, by encouraging you to:

When you get the choice to sit it out or dance, I hope you dance.

About the Author

Honorable Candy Wagahoff Dale was the first woman appointed to the federal bench for the United States District Court for the District of Idaho, entering duty as United States Magistrate Judge on March 30, 2008. She was appointed Chief Magistrate Judge in October of 2008. Judge Dale received the 2010 Kate Feltham Award from the Idaho Women Lawyers for "promoting equal rights and opportunities for women and minorities in the legal profession."



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TAKE CHANCES. PERSEVERE. RECOGNIZE THE POWER. BE PATIENT.

Wendy J. Olson
U.S. Attorney's Office,
District of Idaho

When I was eight years old, I tucked my long braids under my baseball cap and went off to Bannock Boys Baseball tryouts – mitt in hand. I was convinced that my baseball skills, honed by weeks and months of neighborhood games with my brother and others, would win me a spot on the team. I was wrong. I may not have been the best player at tryouts — I saw lots of grounders rolled under mitts of would-be infielders — but I was the only girl. One of the coaches was my elementary school vice principal. He gently informed me that Bannock Boys Baseball was just that. Baseball for boys.

The next year I went back armed not with a baseball cap hiding my hair, but with a lawsuit out of New Jersey calling the exclusion of girls from Little League Baseball gender discrimination. It was not lost on the powers-that-were

at Bannock Boys Baseball that my father was a lawyer. I made a team – appropriately sponsored by the Odd Fellows – that year and for two more, before I decided any athletic future I had was in tennis. But the long-term lessons I learned were far more powerful. Take chances. Persevere. The law is a powerful force. Justice sometimes requires patience. You never get anywhere without a good network of support. You see, while I may have had the baseball skills (albeit eight and nine-year-old baseball skills), I never would have even made it to tryouts the first time or made a team the second time without my parents (who gave the okay and, of course, drove), my brother (who taught me how to play, told me I could do it, and was never embarrassed that I would try), my babysitter (who tucked my braids under my hat), Mrs. Spiva (the mother of one of my classmates who had the courage to sign me up at tryouts when I was nine) and Robert Huntley (yes, the former Supreme Court justice, who was one of my father's law partners at the time and mentioned the New Jersey case to anyone who would listen).



Wendy J. Olson

For these women, and for the many other crime victims I have seen through my career, the law is, indeed, a powerful tool, and for them justice did require patience.

On June 25, 2010, I was sworn into office as the 29th presidentially appointed United States Attorney for the District of Idaho. I know that I reached this position only by taking chances, through persevering, through committing to a career in which law has been a powerful force, through recognizing that justice requires hard work and patience, and through relying on a tremendous network of support.

The United States Attorneys' Offices are the nation's principal litigators, and the United States Attorney is the chief federal law enforcement officer in his or her district. I am one of 93 United States Attorneys located throughout the United States, Puerto Rico, the Virgin Islands, and Guam and the Northern Mariana Islands. Generally, the United States Attorney's Office is responsible for 1) the prosecution of criminal cases brought by the federal government, 2) the litigation and defense of civil cases in which the United States is a party, 3) the handling of criminal and civil appellate cases before the United States Courts of Appeals, and 4) the collection of debts owed the federal government that are administratively uncollectible. The United States Attorney also carries out the important role of liaison with federal, state, and local law enforcement officers, and with members of the community on various crime reduction programs.

The United States Attorney must carry out all of these duties within the framework of priorities set by the United States Department of Justice, at the direction of the attorney general, and on a budget that is set and allocated by the Executive Office for United States Attorneys. The United States Attorney must tailor these national priorities to the particular needs of his or her own federal judicial district. In Idaho, that task must be implemented across diverse regions with unique population, geographic, and cultural characteristics. The United States Attorney's Office for the District of Idaho has 59 employees

with more than 800 years of federal government service. It has 47 employees in its main office in Boise, and six each in its Coeur d'Alene and Pocatello branch offices. I have been one of those Boise office employees since March, 1997.

I pursued the position of U.S. Attorney to continue my service to the people of Idaho, to the United States government, to the Constitution, to the mission of doing justice and to my talented, hard-working colleagues in the United States Attorney's Office. I like to think that my new position is the product of my perseverance, my 20 years of working for a federal justice system where the law is, indeed, a powerful force, my patient pursuit of justice in case after case, and, of course, my strong and generous support network.

I began my career as a law clerk for Chief United States District Court Judge Barbara J. Rothstein in Seattle. After two years there, I entered the Criminal Section, Civil Rights Division, U.S. Department of Justice through the Honors Program. As a Criminal Section trial attorney, I worked on hate crimes, law enforcement officer misconduct and human trafficking cases in places such as Savannah and Waycross, Georgia, Daytona Beach, Florida, Kansas City, Missouri, Kansas City, Kansas, Salt Lake City, Utah and Shreveport, Monroe and Junction City, Louisiana. I met brave African-American women in rural Southeast, Georgia, whose homes had been shot up by young men seeking to drive them from the area. I met an older African-American woman in rural central Missouri who woke one night to find a tall, wooden cross blazing on her front lawn, reminding her of the power and influence of organized white supremacist groups that targeted her community when she was a child. For these women, and for the many other crime victims I have seen through my career, the law is, indeed, a powerful tool, and for them justice did require patience.

Upon my return to Idaho in 1997, I broadened my focus to prosecuting health care fraud crimes, crimes involving the sexual exploitation of children, and, more civil rights crimes. In the U.S. Attorney's Office in Idaho, I learned about the breadth of the federal criminal code – from criminal illegal aliens (Title 8) to tax evasion (Title 26). I have worked with committed health care fraud auditors and agents willing to comb through billing and care records with pain-staking thoroughness to ensure that state and federal health care dollars were properly spent. I have watched in somber admiration the courage of young victims who have had unspeakable horrors visited upon them by adults.

My nearly 20 years as a federal prosecutor, and the years of training I received in law school and clerking, have provided me with an embarrassment of riches. I have always been grateful and satisfied by my career choice, even when it has been difficult.

It is no mystery how my career developed. I have been extremely fortunate to have bright, caring and compassionate mentors in each stage in my career. Stanford law professor Deborah Rhode, for whom I worked as a research assistant; Judge Rothstein; Criminal Section Chief Linda Davis, now a D.C. Superior Court judge; United States Attorney Betty Richardson; Assistant United State Attorney Celeste Miller, and, of course, my father. All new lawyers – and more experienced lawyers looking for a change of direction – should look for the people around them who provide guidance and inspiration.

I have also been extremely fortunate to work in a justice system populated by

When I was eight, I certainly would never have forecast that my Bannock Boys Baseball experience would so influence my life choices.

bright, caring and compassionate judges and adversaries. Federal court practitioners and federal criminal defendants are well served by the judges who hear their cases and by the criminal defense bar. We all have tremendous opportunities to learn from those we practice with and against, even when things are not going our way.

I have been extremely fortunate to form professional associations with talented, creative, and enjoyable lawyers. Members of the Idaho Chapter of the Federal Bar Association, American Inn of Court No. 130, Idaho Women Lawyers, Inc., and various Idaho State Bar sections have provided countless hours to legal education courses and professional and social networking events that have allowed me to further my career. Most of Idaho's lawyers are committed to civility and to improving the profession. All lawyers should find a group that will help their professional development.

Finally, I have been extremely fortunate to have family members who understand that my work schedule is sometimes out of my control and to have good friends willing to swap nights for the soccer car-

pool, which, I suppose, means we all have to figure out a way to make a life outside of as well as in the law. I think it makes us better lawyers.

When I was eight, I certainly would never have forecast that my Bannock Boys Baseball experience would so influence my life choices. But I am glad that it did. My journey to becoming U.S. Attorney has been professionally and personally challenging and rewarding. I will never have any regrets about not pursuing something I believe I am qualified to do. I encourage you to do the same.

About the Author

Wendy J. Olson was born and raised in Pocatello, and graduated from Stanford Law School with a J.D. in 1990. She clerked for United States Chief District Court Judge Barbara Rothstein in Seattle from 1990-1992 and later worked as a trial attorney with the U.S. Department of Justice. She joined the U.S. Attorney's Office in 1997 and was appointed United States Attorney for the District of Idaho in 2010.

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A LIFETIME IN PUBLIC EMPLOYMENT?

Leslie Ruth Goddard

I don't know about you, but when I was in law school I did not spend much, if any, time thinking about what kind of law practice I would have after graduation. I was entirely focused on surviving law school, and most specifically, my next class. But eventually, the time comes when school is finished, the law degree and Bar membership are in hand, and one faces the next big hurdle of figuring out what to do with those hard-earned credentials.

A long term career in state government is probably not one of the first things that comes to mind for many new graduates. Having taken that path, however, I realize how fortunate I was to have that door opened for me. I agreed to write this article in order to encourage others to consider public employment as a legal career that can be both personally rewarding and an avenue for contributing to the overall quality of life in Idaho.

My path to a legal career may not seem very relevant because it occurred so long ago, but I will offer you the nutshell version anyway just to keep the historical record correct. (We Americans tend to have really short memories about social change.) I grew up during a time when girls did not even think about becoming lawyers. Once we were adults and finally did think about it, we were actively discouraged. A case in point for me was my so-called "adviser" in law school. We were instructed to meet with our advisers the first week of classes to help us learn the ropes and to perhaps not flunk out the first semester. So I dutifully set up the appointment and went to his office, naively expecting some words of support. Instead he told me bluntly that I had no business being there. He conceded that my academic and work credentials were strong and indicative of success, but the fact that I was a woman with two small children negated all of that. He told me that I would not make it through the rigors of law school or be capable of practicing law. (This news from my adviser was especially disheartening since my father



Leslie Ruth Goddard

I grew up during a time when girls did not even think about becoming lawyers. Once we were adults and finally did think about it, we were actively discouraged.

had essentially told me the same thing when I telephoned and gave him my exciting news that I had been admitted to law school.) My adviser told me that, if I seriously thought I wanted to work in law, I should enroll in a program for legal secretaries or possibly a new paralegal program just being established.

I knew enough about life that I did not even try to explain to him that I was in law school precisely because of those two children, who just happened to be little girls. I wanted them to have opportunities that had been closed to me, chances for schools and jobs and paychecks reflecting their work, not their gender. For me, it wasn't enough to just wish for change; I had to be a part of it. That determination was what had led me to law school in the first place. My decision at the end of this advising session was to never meet with this man again, and I did not.

My husband and I moved to Idaho in 1978, having just completed law school. I had absolutely no personal or professional contacts here. The conventional wisdom about public employment at that time was that it was an excellent place to get started. Many public sector jobs were filled through the merit system, a system that I believed would give me a chance. Furthermore, a two-year stint with either the Attorney General or the county or city prosecutor's office was, by reputation, a good career starter. One could get some high quality legal experience, become acquainted with other members of the Bar, make some contacts, and then move on to private practice.

As I researched state government, I came across the name of a small state commission on human rights. My background in the social sciences was immediately piqued. As I read their statute and learned more about the work they did—administering Idaho's anti-discrimination law—I knew that I really

wanted to work there. Then, incredibly, the Human Rights Commission advertised an opening for an investigator. I immediately applied for the job. The merit system worked for me. When I met with the Director of the Human Rights Commission, Marilyn Shuler, I learned that, in addition to the investigator position, they were also looking for a deputy attorney general. I applied for that position as well. When Marilyn offered me the job, she asked only that I agree to give the Commission one year on the job. Thirty years later, I retired.

So, what caused me to stay? I spent the first 20 years as a deputy attorney general. That gave me the opportunity to work with five different Attorneys General, from both political parties, and I could not have asked for better leadership. They all gave me the latitude to work hard for my client, even when human rights issues, and sometimes the case decisions of the Human Rights Commission, were politically unpopular, as long as the legal work was sound. It was also a time of significant changes in both state and federal anti-discrimination laws, so the work was always intellectually challenging. Intellectual challenge is not enough, however, to hold a person for 20 years. Human rights work touches my heart, as well as my head, and that is what made the difference. It was an honor, and it was humbling to be even a small part of those changes.

The next ten years were spent as the Director of the Idaho Human Rights Commission. When the job was first offered to me, I had great misgivings about leaving the active practice of law. I also worried about following such an exceptional person as Marilyn Shuler into the director position. I surely did not want to do any harm to the agency she had worked so hard to develop. Both concerns turned out to be unnecessary. I was able to stay involved with human

rights legal issues on a daily basis, even though now I had an attorney instead of being that person. Marilyn's fine work and leadership worked only to my benefit, giving me a strong base upon which to build.

As Director of the Human Rights Commission, I often was invited to talk to high school or college students. One question that just about always came up was, "If I think I want to go to law school, what should my college major be?" Probably my answer was not what academic advisers would say, but I always told them to major in whatever field interested them the most. I told them they could come to the study of law from all sorts of backgrounds—political science, social science, biology, agriculture, math, English literature, or whatever. The important part is, not what your academic field is, but that you have worked hard in it. I encouraged them to discover what really interested them, and then to dig in and excel in it; to use what they were interested in to learn how to do academic research, how to write, to make an oral presentation, to work on a discovery project with someone else, to change their ideas about something, to challenge themselves. Those tasks are hard work. If students do them well, they probably will develop subject matter interests that will stay with them for the rest of their lives.

As lawyers, we know there are legal issues that arise in every area of life. My theory was that, if these young people did eventually become lawyers, their undergraduate interest and expertise just might help guide them in selecting legal work that is fulfilling. If someone is really lucky, he or she finds a way to combine their passion with their legal work. That is the best job of all.

Another strong point about public employment is that it means having a large number of outstanding colleagues. I know this is a time when public employees

What I think is important is that we all do whatever it is that fills our need for a meaningful life.

may not feel especially appreciated, but they should never be sold short. As one example, last June, Idaho held "Women's Day in the Capitol" in which women were invited to tour the Capitol. Thirty-two state employees formed a panel and spoke about their wide range of jobs, including everything from agriculture, health and welfare issues, how pardons and parole decisions are made, labor statistics, insurance, etc. All the officials who spoke, either in their initial presentations or in responses to questions from the audience, were both knowledgeable and passionate about their work. No member of the audience could have left that presentation without having great respect for, and confidence in, Idaho state employees. My one regret was that the event showcased only women officials. The men who work so hard for us should have been invited to be there too; people like Roger Madsen and Gavin Gee who have foregone lucrative careers in private practice to provide quality leadership to state agencies, thereby benefiting all Idaho citizens.

That brings me to my final point, and that is about compensation. I know there are attorneys who would like to accept or stay in public service jobs, but for financial reasons, find it too difficult to do so. It is a valid point. Lifetime earnings in the public sector cannot compare with the

possibilities in private practice or in the corporate world. I have no good answers to that dilemma, but the rewards of public service and the interesting work go a long way toward balancing that equation.

What I think is important is that we all do whatever it is that fills our need for a meaningful life. I hope I have planted a seed that public employment is a viable option, along with the more traditional career paths. Our legal training and experience give us the opportunity to do so many different things. If used wisely, and tailored to our individual interests, they allow us to practice our profession at its best.

Work that you actually enjoy doing is a lot like a lifetime sport: it can make you pretty darn uncomfortable sometimes, but you just keep doing it, through your working years and into retirement, and it continues to bring you pleasure. I wish it for everyone.

About the Author

Leslie Ruth Goddard has a B.A. from Oklahoma State University, a Master's degree from the University of Wisconsin, and a J.D. from William Mitchell College of Law. Before moving to Idaho in 1978, she taught sociology at the University of Wisconsin - River Falls. She and her husband Steve live outside of Mountain Home. They enjoy hiking (the Sawtooths are Leslie's favorite), bird-watching, and volunteering on various projects supporting wildlife and human rights issues.

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SERVING AS A LAWYER REPRESENTATIVE FROM THE DISTRICT OF IDAHO

Debora K. Kristensen
Givens Pursley LLP

“The road to success is always under construction.”

- Lily Tomlin

Since I began practicing law 20 years ago, I have made a point of trying to incorporate some type of bar or community service into my practice. The reason for this is selfish: these activities make my day more interesting and provide me with the opportunity to work with a diverse group of people with whom I might not otherwise have come into contact.

In 2002, I was fortunate to be elected to the Idaho State Bar’s Board of Commissioners for a three year term. This position gave me the ability to better understand the practice of law, and lawyers, throughout the state, as well as those who work within our state court system. This was a very active time in my life as I traveled around the state on Bar business, including attending the seven district “road shows” every fall and taking on a special project to recognize the first 50 women admitted to practice law in Idaho.¹

After completing my term on the Bar’s Board of Commissioners in 2005, I was used to an over-committed schedule and anxious to continue my service to the bar in some capacity. That is when someone suggested that I apply to be a “lawyer rep” with the federal court in Idaho. Until then, I had never heard the term “lawyer rep” let alone understood what, exactly, a “lawyer rep” did for or on behalf of the U.S. District Court and the Bankruptcy Court for the District of Idaho. I soon learned that the position of “lawyer rep” provides a unique opportunity to work with members of the bench and bar throughout the Ninth Circuit.

What is a Lawyer Representative?

Each of the Ninth Circuit’s 15 districts (in nine western states and two Pacific Island jurisdictions) appoint lawyers – in a number that corresponds to the size of

I soon learned that the position of “lawyer rep” provides a unique opportunity to work with members of the bench and bar throughout the Ninth Circuit.



Debora K. Kristensen

each district – to serve as its representatives to the Ninth Circuit Conference of the United States Courts. These lawyers work closely with federal judges of all types throughout the circuit to foster open communication among judges and attorneys, and to provide support and advice in the functioning of the courts. Lawyer representatives also have the unique opportunity to attend the Ninth Circuit’s annual Judicial Conference each summer. This provides even more opportunity for access to, and interaction with, the federal bench and bar throughout the circuit. Currently, there are a total of 164 lawyer representatives in the Ninth Circuit, three of which are from Idaho

On the local level, lawyer representatives are assigned a variety of duties within their districts. Here in Idaho, Chief District Judge B. Lynn Winmill and Chief Bankruptcy Judge Terry Myers encourage lawyer representatives to serve actively as representatives of the bar to advance opinions and suggestions for improvement, assist the court in the implementation of new programs or procedures, serve on court committees, make recommendations on the use of the court’s non-appropriated fund and develop curriculum for the District Conference. All of this means that, over the course of a three-year term, lawyer representatives have significant interaction with members of the federal bench in Idaho and throughout the circuit and with some of the best lawyers in the West.

Unlike Idaho State Bar Commissioners, lawyer representatives are not elected; they are appointed by the members of Idaho’s federal bench. The district court has established a schedule whereby representatives from throughout the state may apply over the course of three years. For instance, in 2005 (the year I applied),

the court was taking applicants from the Fourth Judicial District. Each of the other districts have openings on a rotating basis (e.g., in 2008 applications were accepted from the Sixth and Seventh Districts; in 2009 applications were accepted from the Third and Fifth Districts, etc.). Because each position is for a three year term, Idaho’s lawyer representatives always represent practitioners from across the state.

My experience as a lawyer representative

Once selected as lawyer representative, lawyers are invited to attend the quarterly meeting of all the federal judges in Idaho, along with representatives of the U.S. Attorney’s office, the Federal Public Defender’s Office, Probation Office and Clerk of Court. At these meetings, lawyer representatives are encouraged to fully participate in the administration of the courts and are expected to speak up on issues that concern the bar. In addition, lawyer representatives are expected to help plan the annual district conferences and participate in court committees as needed. In so doing, they have the opportunity to better understand the functioning of the federal courts and the people – judges, clerks and administrators – who work to ensure that the courts operate effectively and efficiently. Lawyer representatives also gain a better appreciation for the special challenges that our judges face given our geography (and the required travel associated with covering such a large state) and the ever-increasing caseload handled by judges who have not seen a pay increase since the 1980s (a cost of living adjustment since the 1990s, or a new district court judgeship despite long having the requisite statistics to support such a position. Indeed, our federal judiciary is increasingly asked to do more with less – and has repeatedly responded by doing just that.

In 2005, I was fortunate to be chosen as a lawyer representative for the District of Idaho thereby joining Ron Kerl (Pocatello) and Keith Roark (Hailey) on Idaho's three-person delegation. Little did I know at the time that I was about to join an elite group of experienced Idaho practitioners. While not all former lawyer representatives from Idaho end up on the federal bench, it is likely not a coincidence that several members of our federal bench previously served as lawyer representatives from Idaho, including Ninth Circuit Judges Thomas G. Nelson (1979-81) and N. Randy Smith (1991-95) and U.S. Magistrate Judges Candy Dale (1997-99) and Ronald Bush (1999-2001). Other former lawyer representatives include Jess B. Hawley, Jr., Carl Burke, Willis Sullivan, Dick Fields, Craig Meadows and Larry Westberg, to name a few.

My first year as a lawyer representative was a learning experience that primarily involved following the lead of the more senior lawyer representatives. In my second year my duties and responsibilities increased. In addition to continuing my service to the District of Idaho, I was now also considered a "co-chair" of the Idaho delegation for purposes of the Lawyer Representatives Coordinating Committee ("LRCC") – the organization overseeing all 164 lawyer representatives in the Circuit.

Two lawyer representatives from each of the circuit's 15 districts are designated "chair" or "co-chair" and thereby become members of the LRCC (since Idaho has only three lawyer representatives, the two most senior members are automatically designated to be members of the LRCC). The LRCC is responsible for planning programs for judicial meetings throughout the year, which means that lawyer representatives actively work with their counterparts throughout the circuit and attend a variety of judicial functions. By my third year, I found myself more and more involved with the work of the Circuit and lawyer representatives all across the West – many of whom I now considered to be friends.

Lawyer Representative Round 2: LRCC

My term as a lawyer representative for the District of Idaho ended in 2008 – just about the time that I understood how the Ninth Circuit's administration worked and, in particular, how the lawyer representatives worked to assist the circuit. As

I was only the second woman selected to serve as a lawyer representative from Idaho, following in the very large footsteps of U.S. Magistrate Judge Candy Dale.

it happens, that was the same year that the Ninth Circuit held its annual Judicial Conference in Sun Valley, making me and the other Idaho lawyer representatives unofficial "hosts" of the event for the LRCC. Since I was not ready to step away from my involvement with the circuit and the people I had come to know so well, I decided to run for a position as an officer of the LRCC. To my delight, I was elected by the circuit's lawyer representatives to a three year term as an officer of the LRCC – beginning as vice chair, then chair elect and, finally, chair of the LRCC in my third year.

In August 2010, I became chair of the LRCC. This has given me a very visible role within the Ninth Circuit – affording me great access to, and interaction with, members of the federal bench at all levels. In addition to my duties in guiding the LRCC, as officer of the LRCC I am also a member of the Ninth Circuit's Conference Executive Committee (CEC), the organization directly responsible for planning the programs at the circuit's annual conference each summer. The CEC, comprised of Ninth Circuit, District, Magistrate and Bankruptcy judges and select lawyers, meets frequently throughout the year to plan the Judicial Conference. This year, Idaho's Ninth Circuit Judge Randy Smith is the chair of the CEC and Chief District Judge Lynn Winmill is a member of the CEC. Since I am now chair of the LRCC and also on the CEC, Idaho is prominently represented in the circuit.

Reflections on my service as a Lawyer Representative

I have been involved in many organizations, committees and boards over the past 20 years. While I have gained something from my service with each of these, I can truly say that my six years of service on behalf of the District of Idaho – three as a lawyer representative and three as an officer of the LRCC – have given me some

of the most enjoyable and personally satisfying experiences I have ever had. For that, I am grateful to Chief Judge Winmill and the entire Idaho bench for giving me the opportunity to represent our district.

Looking back, I note that I was only the second woman selected to serve as a lawyer representative from Idaho, following in the very large footsteps of U.S. Magistrate Judge Candy Dale (who served from 1997-1999 and then later on the Ninth Circuit's Advisory Committee from 2006-2008). But those statistics are already getting better. In September 2010, the District of Idaho announced its newest lawyer representative – Trudy Fouser – making her the third woman to serve in this role. As many of you know, Trudy is an accomplished lawyer who has long worked with the federal court in various capacities. She is sure to be a great addition to the long list of accomplished lawyer representatives from Idaho.

About the Author

Debora K. Kristensen is a partner in the Boise law firm of Givens Pursley, LLP. She is a past President and Commissioner of the Idaho State Bar, Lawyer Representative for the District of Idaho and President of the Idaho Legal History Society. Deb currently serves as President of the American Inns of Court No. 130 (Boise) and Chair of the Lawyer Representatives Coordinating Committee for the Ninth Circuit.

Endnotes

¹ The "First 50" project arose from the fact that I was only the third woman elected to serve on the Idaho State Bar's Board of Commissioners (Kaye O'Riordan was the first, and Jean Uranga was the second) and asked the natural question "Who were the earliest women practitioners in Idaho?" My search for the answer to this question took more than one year and resulted in my writing a book about the first 50 women admitted to practice law in Idaho and organizing the single largest event in the history of the Idaho State Bar to honor them.

LAST PLACE IS NO PLACE TO BE

Deborah A. Ferguson
U.S. Attorney's Office

A national study about women in state and federal judicial positions recently caught my eye. Idaho ranked dead last in integrating women into the judiciary. Women make up 11 percent of all judicial positions in Idaho, with 16 of 140 positions.¹ The complete rankings are printed on the next page, for your consideration.²

These statistics may raise an eyebrow, a furrowed brow or simply a shrug. More important I think, are the questions they raise for us, as a bar, to contemplate: Why do we have fewer women judges than any other state in the nation? Does it matter, since we have a strong, competent and fair (but overwhelmingly male) judiciary? If it does not matter, should it? And if change is desired to achieve a more gender balanced bench, how do we get from here to there?

As to why we have a disproportionately low number of women judges, many clues are found in the June 2010 report "From Bar to Bench: Report & Recommendation to Enhance Judicial Recruitment" prepared for the Idaho Supreme Court Judicial Recruitment Committee.³ It reported that "75% of district judge vacancies over the last decade have had inadequate judicial applications - whether quantity, quality, or both to afford the Governor the greatest choice in appointing district judges. The problem with lack of applications



Deborah A. Ferguson

for district judge service is not isolated to one county or even one judicial district it is a statewide problem".⁴

A closer look reveals that "when looking at the entire Idaho state judiciary, no female was appointed to any judgeship from the fall of 2006 until three years later; thirty-five consecutive males were appointed to the bench during this time period."⁵ Acknowledging that not all of the applicant groups have had female candidates, (although the majority did), even when the Idaho Judicial Council advances qualified female candidates to the Governor, past selection indicates the odds have been consistently against them.

So, does a gender imbalance matter, in light of the fact that Idaho has a strong and competent judiciary? I think so. There is a broad consensus among academics and bar groups throughout the country that it is important to have women serve on the bench as role models and for the diversity of experience they can offer. The presence of women on the bench changes the way the public sees the legal process. With an integrated bench, the public sees the judicial system as more representative of the population it serves and, accordingly, more fair. A fundamental tenet of the rule of law in society is the perceived fairness of the judicial system.

If change is desired, how do we pull out of 51st place and get into the race, as Idaho moves further into the 21st century?

Why do we have fewer women judges than any other state in the nation?

I turn that question back to you. If that is our desire we can undoubtedly achieve it by a collaborative effort. Personally, I have seen little evidence of overt gender discrimination in our bar or bench. Idaho attorneys and judges enjoy a far more collegial and respectful environment than many of the bars in the country. I encourage you to contact the governor, his staff, a member of the judicial council, or a member of a magistrate selection committee to make them more aware of the disparity. With increased awareness we can have the kind of dialogue that brings real change one judicial appointment at a time.

About the Author

Deborah A. Ferguson, *President-Elect of the Idaho State Bar. She has been an Assistant United States Attorney in the District of Idaho for the past 15 years with expertise in federal environmental litigation. Deborah is a graduate of Loyola University Chicago School of Law, and in her 25th year of practice.*

Endnotes

¹ As of November 2010, there are 144 judges in Idaho including both state and federal.

² A Report of the Center for Women in Government & Civil Society, Rockefeller College of Public Affairs & Policy, University at Albany, State University of New York," p. 10, Spring 2010, http://www.albany.edu/womeningov/judgeships_report_final_web.pdf, reprinted with permission.

³ <http://www.isc.idaho.gov/recruitmentreport.pdf>

⁴ Id at p.1.

⁵ Id. at p.4.

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State Ranks Based on the Number of Women in State Judgeships

State	Women's Share of State Level Judgeship	State Rank based on Women's Share of State-Level Judgeships	Tier
Vermont	40.2%	1	Tier 1: State where women's share is at least 30% or higher.
Massachusetts	37.5%	2	
Rhode Island	36.7%	3	
Montana	36.5%	4	
District of Columbia	35.7%	5	
Hawaii	35.0%	6	
Kentucky	34.5%	7	
Oregon	33.3%	8	
Nevada	31.8%	9	
South Carolina	31.7%	10	
Maryland	31.3%	11	
Minnesota	31.2%	12	
Washington	30.9%	13	
Arizona	30.5%	Tied in 14th Place	
New York	30.5%	Tied in 14th Place	
Florida	29.4%	16	Tier 2: States where women's share is between 20% - 29%
Georgia	29.2%	17	
Colorado	28.8%	18	
Michigan	28.4%	19	
California	28.3%	20	
Illinois	27.7%	21	
Pennsylvania	26.8%	22	
Louisiana	25.6%	23	
North Carolina	25.4%	24	
Texas	25.2%	25	
Delaware	25.0%	Tied in 26th Place	
New Jersey	25.0%	Tied in 26th Place	
Ohio	24.4%	28	
Iowa	24.1%	Tied in 29th Place	
West Virginia	24.1%	Tied in 29th Place	
New Mexico	23.7%	31	
Utah	23.1%	32	
Connecticut	22.6%	33	
Maine	20.8%	34	
Indiana	20.7%	Tied in 35th Place	
Virginia	20.7%	Tied in 35th Place	
Alabama	20.5%	37	
Alaska	19.6%	38	
Oklahoma	19.2%	39	Tier 3: States where women's share is between 10% - 19%
Missouri	19.0%	40	
Mississippi	18.5%	41	
Nebraska	18.2%	42	
New Hampshire	17.0%	43	
Kansas	16.6%	44	
Tennessee	16.3%	45	
Arkansas	16.2%	46	
North Dakota	15.7%	Tied in 47th Place	
Wisconsin	15.7%	Tied in 47th Place	
Wyoming	14.0%	49	
South Dakota	13.9%	50	
Idaho	11.1%	51	

FAMILY TIES

THE PRIVATE AND PUBLIC LIVES OF JUSTICE RUTH BADER GINSBURG

Stephanie Francis Ward
ABA Journal

It's ironic that being a parent was what made law school easier for Ruth Bader Ginsburg. For a woman in 1950s America, motherhood was held out as the reason that she shouldn't even have been there.

"I think my life was more balanced," says Justice Ginsburg of her years as a student at Harvard and Columbia law schools. "I was less apprehensive than my classmates because there was something going on that was more important, frankly, than the law."

In an interview at the U.S. Supreme Court in August, Justice Ginsburg talked about her career as a lawyer and judge; about marriage to her late husband, Martin; and about the changes that women have seen in law and parenthood.

Confirmed for the court in 1993, Ginsburg, now 77, became the second female justice, joining Justice Sandra Day O'Connor. With Justices Elena Kagan and Sonia Sotomayor, the court now has three women.

But friends and colleagues say that understanding Justice Ginsburg and her insistence on gender equality begins with her relationship to her husband and children. Their marriage – and the sharing of expectations and parenting responsibilities – impelled both Ginsburgs to achieve.

"One of the things that's really dramatic about Justice Ginsburg is that her husband was always very proud of her career, and willing to support her," says Joan C. Williams, a professor at the University of California's Hastings College of the Law in San Francisco who also co-directs the Project for Attorney Retention and directs the Center for WorkLife Law. Many men, then and now, have the sense that unless their wives take the second seat and support their own careers, they'll never get to the heights they seek."

"That's my dream for the world," says Ginsburg, who has two children and four grandchildren. "That a child should have two caring parents who share the joys and

They have to be willing to ask for these accommodations. Its more than asking – it's expecting how workplaces should be organized.

— Justice Ruth Bader Ginsburg



often the burdens. It really does take a man who regards his wife as his best friend, his equal, his true partner in life."

High Expectations

For a lawyer who advanced the cause of women's rights – in court and in her life – that belief formed the basis of what Ginsburg says feminism is all about.

"It takes women and men who are feminists. By feminists I mean people who think women should have equal chances to do whatever their talent permits them to do," she says. "They have to be willing to ask for these accommodations. Its more than asking – it's expecting how workplaces should be organized."

Brooklyn born, Ginsburg gained acceptance to Harvard Law School in 1956, two years after her marriage to Martin. In 1958 she transferred to Columbia Law School to join Martin, who graduated from Harvard a year earlier and took a job at New York City's Weil, Gotshal & Manges as a tax attorney.

Unlike many female lawyers from her generation, Ginsburg didn't pause her career to raise children, initially because she didn't feel she had a choice. When Martin was in his third year of law school he was diagnosed with advanced testicular cancer, and he spent most of his spring semester recovering from surgery and taking radiation treatments.

"I didn't have any break because frankly we didn't know how long Marty was going to live, and I might end up being the sole supporter of Jane," says Ginsburg, who lost her mother, Celia Bader, to cancer in 1950, eight years before her husband's diagnosis.

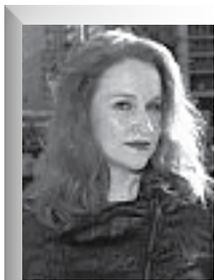
"By the time we were out of the danger zone and it was past the five-year mark of his surgery, I was so hooked on my job that I would not give it up," she adds.

Nevertheless, Ginsburg says she found time to raise her children. In fact, she says, "I attribute to my daughter the responsibility for why I was such a good law student. I went home, played with Jane, had dinner and then I was ready to go back to the books. It was the pause that refreshes."

Ginsburg was selected to both the Harvard and Columbia law reviews. And despite being tied for first place in the Columbia class of 1959 and earning a glowing recommendation from the dean of Harvard Law School, Supreme Court Justice Felix Frankfurter refused to hire her as a clerk. She got a job clerking for Judge Edmund L. Palmieri of the U.S. District Court for the Southern District of New York.

When the clerkship ended Ginsburg worked for the Columbia Law School Project on International Procedure, and in 1963 she joined Rutgers Law School faculty. While there she co-founded the *Women's Rights Law Reporter*, the first U.S. law journal to focus solely on women.

She also started taking gender discrimination cases on behalf of the American Civil Liberties Union. One of her clients was Stephen C. Wiesenfeld, a widower whose wife died in childbirth. He challenged the Social Security rule that allotted child care benefits to women whose husbands died, but denied them for men who lost their wives. His wife, Paula Polarschek, was a school teacher and had provided most of the couple's income before her death. Wiesenfeld wrote to a New Jersey newspaper about his experience. A Rutgers professor saw the published letter and brought it to Ginsburg. "He was told he couldn't get the child care benefit, and



Stephanie Francis Ward

he said “Why? I have a child in my care,” she says. The case, *Weinberger v. Wiesenfeld*, worked its way to the U.S. Supreme Court, which in 1975 found that widowers and widows with minor children are entitled to Social Security benefits when a wage earner dies.

Addressing equal pay

In 1972 Ginsburg joined the law school faculty at Columbia, and she founded and agreed to serve as director of the Women’s Rights Project of the ACLU.

One of Ginsburg’s projects pertained to faculty salaries. When Title VII of the Civil Rights Act of 1964 was extended to cover university employment practices, Ginsburg discovered that her salary was lower than those of her male colleagues. She took part in a successful equal-pay campaign with other women who taught at Columbia.

Later, Ginsburg persuaded fellow Columbia female employees to challenge the retirement plan offered by the Teachers Insurance and Annuity Association – College Retirement Equities Fund, which paid women lower monthly retirement benefits. TIAA-CREF said it relied on mortality tables that showed women usually live longer than men. Statistics revealed that women and men summed the same amount of money, but life expectancy spread the amount differently.

“That’s what stereotypes are,” Ginsburg says. “They are true in the majority of cases. But they are not inevitably true, and why should people be boxed in who don’t conform to the stereotype?”

Between 1973 and 1979, while teaching, running the Women’s Rights Project and raising two children, Ginsburg argues six cases in the U.S. Supreme Court. “She’s extraordinarily thorough and very composed in the way she presents things. What I learned from her was these were issues she was totally committed to, and she would be very aggressive pursuing them,” says Joseph Levin, a Montgomery, Ala., lawyer and co-founder of the Southern Poverty Law Center. Levin was counsel of record for Sharon Frontiero, a U.S. Air Force lieutenant who was denied housing and medical benefits for her husband, Joseph.

At the time, servicemen automatically got benefits for their wives by claiming them as dependents. But servicewomen had to prove their husbands were dependent on them for more than half their support. On behalf of the Women’s Rights Project, Ginsburg submitted an amicus brief supporting Frontiero. It was the first case she argued in the Supreme Court.

Ginsburg looked to desegregation cases for ideas on how to build up case law, but convincing the court and the public of your position was different, she says.

“The discrimination [Frontiero] encountered was the most typical. It was the assumption that if a woman is a wage earner, she earns it for herself,” Ginsburg says. “Women were automatically assumed to be dependants, and men were the responsible breadwinners.”

In 1973, the Supreme Court found in *Frontiero v. Richardson* that the military benefit policy was unconstitutional because there was no reason wives needed benefits more than husbands in similar situations. The case changed the standard for gender-related cases, with the plurality arguing for strict judicial scrutiny, rather than rational basis review.

Changing with the times

In the 1970s the country was changing rapidly, Ginsburg notes, and that offered much material for brief writing. “We emphasized that discrimination begins with women as wage earners. We recognized in the briefs that if you did a poll, yes, most people divided their lives that way – most women took care of home and children, and most men earned bread,” she says. “But more and more people had lives that didn’t conform to that pattern, and shouldn’t the law be neutral in people’s choices?”

Ginsburg looked to desegregation cases for ideas on how to build up case law, but convincing the court and the public of your position was different, she says. Most people understood issues of race, but not necessarily those of gender.

“Most men in the 1970s thought that the law differentiated between men and women, but it was always benignly in women’s favor,” she says, mentioning her last Supreme Court case, *Duren v. Missouri*. The defendant, who was convicted of first-degree murder and robbery, argued that a state law exempting women from jury duty on request violated Sixth Amendment rights to an impartial jury.

When the Supreme Court granted cert, Lee Nation, then a Kansas City, Mo., pub-

lic defender, selected Ginsburg as his co-counsel. “We were trying to explain that [the exemption] was not a favor to women. It certainly wasn’t a favor to women plaintiffs, or women defendants in criminal cases,” Ginsburg says. “The system was saying that you are expendable; we didn’t need to participate in the administration of justice.”

The Supreme Court overturned Duren’s conviction in 1979 and remanded the case to trial.

Work-life balance

As with her legal work, Ginsburg’s sense of gender equality traces to her family. She would occasionally take her son, James, who was born in 1965, to events. “One of her former students remembers Ginsburg bringing him to faculty gatherings at Columbia and said they’d never seen a child that active in their life,” says Jane S. DeHart, a history professor at the University of California at Santa Barbara who is working on a biography of Ginsburg.

James, now founder and president of the Chicago classical music label Cedille Records, attended the Dalton School in his youth. “He was always getting into pranks – nothing really bad – and the headmistress would call, demanding a conference with his mother,” DeHart says. “At one point Ginsburg said, ‘This boy has a father – call him,’ and instructed the school to alternate calls between herself and her husband.”

Once the school started contacting Martin Ginsburg, James says, the calls were much less frequent.

“They were warm parents, and from what I observed I didn’t hear a lot of fretting and obsessing about kid things and teenage things that I certainly heard from a lot of parents,” says Kathleen Peratis, who worked with Ginsburg at the Women’s Rights Project and is now a partner with New York City’s Outten & Golden.

“Marty and I decided that, barring something really important, we would be

home and have dinner with the children every night.” She also admits that cooking is not her forte. Dinner, by her hand, was usually frozen vegetables and frilled meat that had been defrosted. Once a teenager, Jane took over the task with her father, who was known as a masterful cook. Given the technology available today, Ginsburg is surprised that more lawyers with young children aren’t telecommuting.

“I would think it should be easier, not harder, today to accommodate home and family life,” she says. When she visited her husband at Weil, she noticed lawyers coming in and going out of the office during the day, which seemed to her a waste of time. “It takes time to break old ways of thinking,” Ginsburg adds. “I had to be economical with my time; I didn’t have hours of time to waste.”

Jane Ginsburg says her mother is “good with kids, because she’s never particularly dramatizing with kids.” And her minute attention to detail that was often commented on by colleagues and former clerks was present at home, too. “Even now I’m really quite amazed that she did all these things. Not just in the work arena. For instance when I went to sleep-away camp she wrote regularly,” Jane says. “She just sort of has this way of being meticulous and attending to detail that in a way is quite daunting to even think about keeping up with.”

Inspiration by example

In 1993 President Bill Clinton nominated her to succeed Justice Byron White. She was confirmed that same year. Albert F. Cacoza Jr. was one of her clerks on the 2nd Circuit. He attended the Senate Judiciary Committee hearings with her, along with Ginsburg’s husband, children, son-in-law, soon-to-be daughter-in-law and two of her grandchildren, who were then young children.

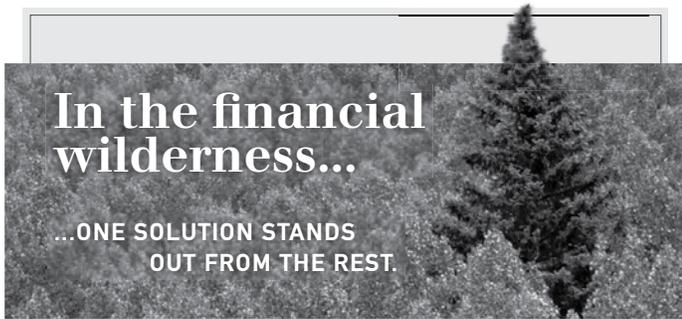
Cacoza notes that if Ginsburg felt pressured, it was relieved when Martin Ginsburg entered the room. “They were just a team. Marty was a very accomplished guy, and there was not one ounce of jealousy or envy. There was none of that,” says Cacoza. Then single with no children, the Ginsburg partnership left a strong impression on him, he says.

A tax lawyer and Georgetown Law School professor, Martin Ginsburg died of cancer this summer, a few days after the couple’s 56th wedding anniversary. He was often described as one of the country’s best tax attorneys. Many who knew the couple say his admiration and support for his wife, coupled with their determination to share home responsibilities, played a large role in Ginsburg’s success, both as a parent and a lawyer, and define who she is today.

In fact, when Ginsburg received her nomination to the Supreme Court, it appeared that no one was more excited than Martin Ginsburg. “You’ve got to share; that’s the lesson I took from it,” says Cacoza, who now has two children, 18 and 15. “I was very involved in the lives of my kids. It’s not something where my wife is supposed to take care of everything.”

Female clerks have similar memories. “She gave me a picture of the kind of career that was possible with children, that I’d want to have,” says Abbe R. Gluck, a professor at Columbia Law School who clerked for Ginsburg in 2003. Gluck is the mother of 4-year-old twin boys. “After clerking with her I felt I was not going to be in a job that prevented me from being an excellent lawyer or an excellent mother,” Gluck says. “I thank her for giving me that determination. It’s not impossible, and women shouldn’t stop trying.”

In August, Ginsburg told the Associated Press that her work helps her cope with the loss of her husband, and she has no immediate plans to retire. “It’s great for this institution and for the country that women are now one-third of the highest court in the land,” Ginsburg says. “It means that we are really here. We are no longer one- or two-at-a-time curiosities.”



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Jim Jones
Warren E. Jones
Joel D. Horton

Regular Spring Terms for 2011

Boise January 10, 12, 14, 18 and 19
Boise February 7, 9, 11, 14 and 15
Northern Idaho April 4, 5, 6, 7 and 8
Boise (Eastern Idaho) May 2, 4, 6, 9 and 11
Boise (Twin Falls) June 1, 3, 6, 8 and 10

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of the 2011 Spring Terms of the Supreme Court of the State of Idaho, 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 for January 2011

Tuesday, January 11, 2011 – BOISE

9:00 a.m. State v. Keyes #36695-2009
10:30 a.m. Cunningham v. State #37553-2010
1:30 p.m. Lazinka v. State #36854-2009

Thursday, January 13, 2011 – BOISE

9:00 a.m. State v. Campbell #37222-2009
10:30 a.m. State v. Thomas #36947-2009
1:30 p.m. County of Twin Falls v. Hettinga #37047-2009

Thursday, January 20, 2011 – BOISE

9:00 a.m. Rodriguez v. Rodriguez #37375-2010
10:30 a.m. State v. Gomez #36545-2009
1:30 p.m. State v. Odom
#36951/36952/36953/36957/36958/36959-2009

Licensing Deadline is February 1, 2011

The 2011 licensing deadline is February 1, 2011. Your payment and forms must be physically received in the Idaho State Bar office by deadline to avoid the late fee. Postmark dates do not qualify. If your licensing is going to be late, be sure to include the appropriate late fee: Active, Out of State Active and House Counsel - \$50; Affiliate and Emeritus - \$25. The final licensing deadline is March 1, 2011.

If you are near the deadline, consider using online licensing renewal on our website at www.isb.idaho.gov.

Contact the Licensing Department at (208) 334-4500 or astrouser@isb.idaho.gov if you have any questions.

Idaho Supreme Court

Oral Argument for January 2011

Monday, January 10, 2011 – BOISE

8:50 a.m. Martin v. Camas County #36605-2009
10:00 a.m. John Doe II v. John Doe III (EXPEDITED) #37739-2010
11:10 a.m. Moore, Sr. v. Moore, Sr. (Industrial Commission)
#37083-2009

Wednesday, January 12, 2011 – BOISE

8:50 a.m. Taylor & Sons, Inc. v. Western Horizons #36525-2009
10:00 a.m. Adams v. Aspen Water, Inc. (Industrial Commission)
#36501-2009
11:10 a.m. Stuard v. Samuel Jorgenson, M.D. #36844-2009

Friday, January 14, 2011 – BOISE

8:50 a.m. Curtis-Klure, PLLC v. ACHD #36647-2009
10:00 a.m. Estate of Judy Dumoulin v. Cuna Mutual Group
#36828-2009
11:10 a.m. Kimbrough v. Idaho Board of Tax Appeals #36726-2009

Tuesday, January 18, 2011 – BOISE

8:50 a.m. Ward v. Portneuf Medical Center #36701-2009
10:00 a.m. Harris Family Limited Partnership v. Brighton Investment
#36410-2009
11:10 a.m. City of Eagle v. IDWR #36970-2009

Wednesday, January 19, 2011 – BOISE

8:50 a.m. Two Jinn, Inc. v. Fourth Judicial District #36476-2009
10:00 a.m. Statewide Construction, Inc. v. Sequoia Pietri
#36934-2009
11:10 a.m. State v. Fluewelling #36648-2009

OFFICIAL NOTICE COURT OF APPEALS OF IDAHO

Chief Judge
Karen L. Lansing
Judges
Sergio A. Gutierrez
David W. Gratton
John M. Melanson

1st AMENDED Regular Spring Terms for 2011

Boise January 6, 11, 13 and 20
Boise February 8, 10, 17 and 22
Boise March 8, 10, 15 and 17
Boise April 12, 14, 19 and 21
Boise May 10, 12, 17 and 19
Boise June 14, 16, 21 and 23

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of the 2011 Spring Terms of the Court of Appeals of the State of Idaho, 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'S NEW JUDICIARY IN 2010

Honorable Lowell D. Castleton
Senior Judge *Judicial Education Director, Idaho Supreme Court*

As of November 29, 2010 there have been eight new Idaho judges appointed: five new district judges and three new judges of the Magistrate Division.

In the First Judicial District

Honorable Benjamin Simpson was appointed as a District Judge for the First Judicial District, effective January 1, 2010 filling the vacancy left by the retirement of Judge Charles Hosack.



Hon. Benjamin Simpson

Judge Simpson is a Colorado native and U.S. Navy veteran who received his bachelor's degree from California State University in Chico and his law degree from the Gonzaga University School of Law in Spokane, Washington.

He served as an associate and then partner in a Wallace-based law firm for 15 years before becoming a magistrate judge in January 2000. He now lives in Coeur d'Alene with his wife, Jonelle.

Honorable Clark Peterson was appointed as a Magistrate Judge for Kootenai County, effective March 31, 2010 filling the vacancy left by the appointment of Judge Benjamin Simpson to the district bench.



Hon. Clark Peterson

Judge Peterson graduated in the top of his class from Loyola Law School in Los Angeles, where he served as editor and author for its law review. Prior to taking the bench, he was an experienced trial attorney with focus on high profile criminal jury trials and family cases. He was previously a Chief Deputy District Attorney in Las Vegas, Nevada, where he was the Capital Case Coordinator handling all death penalty cases in Southern Nevada, a member of the Sexual Assault Unit focusing on high profile sex crimes, and the head of the Vehicular Crimes Unit respon-



sible for prosecuting all alcohol and drug related driving offenses in Las Vegas.

Second Judicial District

Honorable Michael Griffin was elected as a District Judge for the Second Judicial District, effective January 1, 2011 filling the vacancy left by the retirement of Judge John Bradbury.



Hon. Michael Griffin

Judge Griffin graduated from the University of Idaho College of Law in 1977. Following law school Judge Griffin served in the U.S. Army JAG Corps in Alaska until 1980. He returned to Idaho and practiced law in Grangeville until he was appointed to be a Magistrate Judge in 1982. Judge Griffin served as the Magistrate Judge for Idaho County until his retirement in 2007. He then served as a senior Magistrate until his election as District Judge in 2010.

Fifth Judicial District

Honorable Jonathan Brody was appointed as a District Judge for the Fifth Judicial District, effective December 16, 2009 filling the vacancy left by the appointment of Judge John Melanson to the Idaho Court of Appeals.

Judge Brody served as a chief deputy prosecutor for Minidoka County. He is a Chicago native and University of Denver

graduate with a law degree from the University of Colorado. He worked in the Twin Falls County public defender's office and the Twin Falls County prosecutor's office and engaged in private practice before becoming Minidoka County's chief deputy prosecutor in 2008. Judge Brody and his wife, Robyn have two children.



Hon. Jonathan Brody

Honorable Eric Wildman was appointed as a District Judge for the Fifth Judicial District, effective January 1, 2010 filling the vacancy left by the retirement of Judge Barry Wood.

Judge Wildman served as a staff attorney for the Snake River Basin Adjudication. He is a Boulder, Colorado native and University of Utah graduate with a law degree from the University of Idaho. He served as a law clerk for Judge Wood and also worked in private practice in Gooding before joining the SRBA and Coeur d'Alene-Spokane River Basin Adjudication legal staff in 1999. Judge Wildman and his wife, Becky, have two children.



Hon. Eric Wildman

Sixth Judicial District

Honorable Thomas W. Clark was appointed as a Magistrate Judge for Bannock County, effective December 30, 2009 filling the vacancy left by the appointment of Judge Robert Naftz to the District bench.



Hon. Thomas W. Clark

Judge Clark received his law degree from the University of Idaho College of Law. Prior to taking the bench, he worked as an attorney in private practice for 26 years and most recently as a partner in the law firm of Merrill & Merrill, Chartered. He handled cases in the areas of family law, criminal law, collections, probate, worker's compensation and Social Security Disability. He is past-president of the Sixth District Bar Association (1996-97); Portneuf Inn of Court (2000-01); and the Rotary Club of Pocatello (2009-10). He was the 2010 recipient for the Idaho State Bar Professionalism Award for the Sixth Judicial District.

Seventh Judicial District

Honorable Dane Watkins was elected as a District Judge for the Seventh Judicial District, effective January 1, 2011 filling the vacancy left by the retirement of Judge Gregory Anderson.



Hon. Dane Watkins

Dane was born and reared in Idaho Falls, Idaho. Prior to attending the J. Reuben Clark School of Law at Brigham Young University, he worked for the Department of Jus-

tice in Guantanamo Bay, Cuba translating human rights abuses for Haitian asylum applicants. Following law school, Judge Watkins served Seventh Judicial District Judge Gregory Anderson as a law clerk. After his clerkship, he worked as a Bonneville County deputy prosecutor. In 2001, he was appointed as the Bonneville County Prosecutor and was elected in three primary and general elections. Judge Watkins has served as the President of the Idaho Prosecuting Attorneys Association and was appointed by the Governor to sit as a council member on the Idaho Peace Officer Standards and Training Academy (P.O.S.T.). He is married to Angelia. They have four children, Jackson, London, Wynter and Easton. He enjoys writing and cycling.

Honorable Steven Gardner was elected as a Magistrate Judge for Bonneville County, effective January 1, 2011 filling the vacancy left by the retirement of Judge Linda Cook.



Hon. Steven Gardner

Mr. Gardner, a native of Nampa, Idaho, received his B.A. from Brigham Young University in 1977, and completed his law degree at Gonzaga University School of Law in 1980. He played varsity football for BYU as an undergraduate. Judge Gardner was then admitted to the Idaho State Bar and has maintained a civil practice of law in Idaho Falls since 1980. He has been actively involved in civic and religious affairs and has served on the City of Idaho Falls Civil Service Commission since 1997, as a Special Deputy Attorney General for the State of Idaho since 1993, and also served as

President of the Seventh District Bar Association in 1993.

Transition in Idaho Supreme Court Judicial Education Staff

Judge Lowell D. Castleton, the Director of Judicial Education for the Idaho Supreme Court, is retiring from that post on December 31, 2010, a position he has held for 8 ½ years since his "first retirement" and relocation to Boise in 2002. He will continue to hear occasional cases as a Senior Judge in Ada County.



Hon. Lowell Castleton

The Administrative Office of the Court is pleased to announce that **Judge Michael McLaughlin** has agreed to take the lead in judicial education after the first of the year. He has agreed to do with a reduced number of senior judge days being reallocated from judicial education to provide back-up to his calendar during these difficult financial



Hon. Michael McLaughlin

times. In addition, as soon as budget conditions permit, **Judge Debra Heise**, who has served as a magistrate judge for over 25 years in Bonner County, has also agreed to team up with Judge McLaughlin to provide leadership in judicial education.



Hon. Debra Heise

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Idaho Supreme Court and Court of Appeals
NEW CASES ON APPEAL PENDING DECISION
(Updated 12/1/10)

CIVIL APPEALS

HABEAS CORPUS

1. Did the magistrate court abuse its discretion by dismissing the petition on the grounds that it failed to state a claim for a violation of any of Cacciaguidi's constitutional rights?

Cacciaguidi v.
Idaho Department of Corrections
S.Ct. No. 37063
Court of Appeals

LICENSE SUSPENSION

1. Whether the district court abused its discretion in reinstating Van Camp's driving privileges.

Department of Transportation v.
VanCamp
S.Ct. No. 37714
Court of Appeals

LIENS

1. Did the district court err in ruling Landscapes Unlimited's lien claim must be postponed to Hopkins' deeds of trust by reason of I.C. § 45-508?

Hopkins Northwest Fund, LLC v.
Landscapes Unlimited
S.Ct. No. 37170
Supreme Court

POST-CONVICTION RELIEF

1. Did the district court err when it *sua sponte* dismissed Horonzy's ineffective assistance of counsel claims asserted by him in his addendum without first giving him notice and opportunity to respond?

Horonzy v. State
S.Ct. No. 37154
Court of Appeals

2. Did the magistrate court err when it denied Cole's petition for post-conviction relief after an evidentiary hearing?

Cole v. State
S.Ct. No. 37480
Court of Appeals

SUMMARY JUDGMENT

1. Whether the court erred when it granted summary judgment in favor of respondents upon finding the stock redemption agreement was illegal.

Taylor v. AIA Services Corporation
S.Ct. No. 36916
Supreme Court

2. Did the court err in granting Pressman's motion for summary judgment and in concluding Suhadolnik's expert had failed to adequately familiarize himself with the local standard of health care practice applicable to Pressman?

Suhadolnik v. Pressman
S.Ct. No. 37526
Supreme Court

3. Did the district court err in granting summary judgment on Antim's claim for negligence against Fred Meyer and Cleaning Group?

Antim v. Fred Meyer Stores, Inc.
S.Ct. No. 37456
Court of Appeals

4. Whether the district court erred in finding that there was no issue of material fact that Esposito did not dedicate Lot 39, Block 1 to the Greenbriar Homeowners.

Asbury Park, LLC v.
Greenbriar Estates Homeowners
Association
S.Ct. No. 37556
Supreme Court

CRIMINAL APPEALS

DUE PROCESS

1. Did the district court abuse its discretion in permitting the cross-examination of Veles to include questions about his current and previous place of residence?

State v. Veles
S.Ct. No. 36641
Court of Appeals

2. Did the prosecutor violate Carson's right to due process and a fair trial by committing prosecutorial misconduct during closing argument, appealing to the passions and prejudices of the jury, implicitly vouching for Henson's credibility, and misstating the reasonable doubt standard?

State v. Carson
S.Ct. No. 33229

Supreme Court

JURY INSTRUCTIONS

1. Did the district court deny Grove his right to due process and to a jury trial when it reduced the state's burden of proof by failing to instruct the jury that Grove had to have the specific intent to commit the underlying felony?

State v. Grove
S.Ct. No. 36211
Court of Appeals

2. Were Sutton's rights to due process and a fair trial violated by the court's failure to instruct the jury on an element of the crime of intimidating a witness?

State v. Sutton
S.Ct. No. 36819
Court of Appeals

PROBATION REVOCATION

1. Did the district court err when it relied upon hearsay evidence, over Fraser's objection, in finding him in violation of his probation and revoking probation?

State v. Fraser
S.Ct. No. 37510
Court of Appeals

SEARCH AND SEIZURE – SUPPRESSION OF EVIDENCE

1. Did the district court err in denying Grace's motion to suppress and in finding the search of her purse was consensual?

State v. Grace
S.Ct. No. 37555
Court of Appeals

SENTENCE REVIEW

1. Did the district court abuse its discretion when it did not order a psychological evaluation after Rollins requested one in his PSI?

State v. Rollins
S.Ct. No. 37688
Court of Appeals

Summarized by:

Cathy Derden
Supreme Court Staff Attorney
(208) 334-3867

Avoid Licensing Late Fees

Running out of time to complete your 2011 licensing and want to avoid the late fee? Use the online licensing renewal to pay your fees and complete your forms any time before the February 1, 2011 deadline. Visit our website at www.isb.idaho.gov to access the licensing renewal program.

If you mail your 2011 licensing, it must be physically received in the Idaho State Bar office by February 1, 2011 or you will have to pay the licensing late fee: \$50 for active, out of state active and house counsel members and \$25 for affiliate and emeritus members. Postmarks cannot be used to meet the deadline.

Questions? Contact the Licensing Department at (208) 334-4500 or astrause@isb.idaho.gov.



FEDERAL COURT CORNER

Tom Murawski
*United States District
and Bankruptcy Courts*

Local rules revision

After a 30-day comment period for the Bar and public, the proposed revisions to the District and Bankruptcy Court Local Rules became effective on January 1, 2011. A redline/strikeout version detailing the specific changes as well as a clean version of each set of Local Rules is available on our website at www.id.uscourts.gov.

Revision of Electronic Case Filing (ECF) procedures

The District of Idaho has revised its Electronic Case Filing (ECF) procedures. Some of the changes include: electronically submitting a scanned pdf copy of the original signatures for all bankruptcy petitions, amendments, schedules and statements of



Tom Murawski

financial affairs at the time of filing; the elimination in Bankruptcy Court of the need to file sealed documents in paper format; the importance of creating a pdf directly from the word processor application and thereby minimizing the use of scanned documents; various changes and updates in IT-related standards, such as an increase in the size of files capable of being sent electronically, changes in scanner settings and computer issues relating to Pay.gov. The revised ECF procedures are available on our website at www.id.uscourts.gov.

Amendments to Federal Rules of Procedure

The following amendments to the various Federal Rules of Procedure took effect on December 1, 2010. **Federal Rules of Appellate Procedure:** Rules 1, 4 and 29; **Federal Rules of Bankruptcy Procedure:** Rules 1007, 1014, 1015, 1018, 1019, 4001, 4004, 5009, 5012 (new), 7001, and 9001; **Federal Rules of Civil Procedure:** Rules 8, 26 and 56; **Federal Rules of Criminal Procedure:** Rules 12.3, 21 and 32.1; and **Federal Rules of Evidence:** Rule 804. A brief summary of the changes to these procedural rules can be found on our website at www.id.uscourts.gov.

Appointment of New Chief Probation & Pretrial Services Officer

Jeffrey Thomason was recently appointed as Chief Probation & Pretrial Services Officer for the District of Idaho, succeeding Marilyn Grisham, who will retire effective January 1, 2011. Mr. Thomason most recently served as Supervising Probation Officer for the Western District of Washington. He has a Masters of Science in Criminal Justice from the University of Alabama.

Elimination of after-hours drop boxes

As of January 1, 2011, the United States District & Bankruptcy Court for the District of Idaho has eliminated the use of the after-hours drop boxes located outside the federal courthouses in Boise, Pocatello and Moscow. Unrepresented (pro-se) litigants who cannot file electronically will, under limited emergency circumstances, be able to fax file directly to the court.

About the Author

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

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- ❖ Wells Fargo Bank

Like Susan and her daughter.

Idaho Volunteer Lawyers Program helped recruit and prepare a volunteer attorney to represent Susan's daughter who was suffering from abuse at the hands of a family member. Susan obtained a permanent protection order to stop visitation from the abusive family member when her daughter was present. Thanks, in part, to an IOLTA grant IVLP is able to **provide legal aid to the poor** and Susan was able to ensure the safety of her child.

Where attorneys place IOLTA funds impacts how much the IOLTA grant program offers. Banks that partner with ILF to pay higher interest rates on IOLTA accounts determine whether the Foundation is able to help people like Susan and her daughter.

To find out more about IOLTA banks, visit www.idaholawfoundation.org or call Carey Shoufler, ILF Development Director, at (208) 334-4500.



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February 2011 Idaho State Bar Examination Applicants (as of December 7, 2010)

Listed below are applicants who have applied to sit for the February 2011 Bar Examination. The Board of Commissioners publishes the names of these applicants for your review and requests any information of a material nature concerning moral character and fitness of an applicant be brought to the attention of the board of Commissioners in a signed letter by January 15, 2011. Direct correspondence to: Admissions Director, Idaho State Bar, PO Box 895, Boise, ID, 83701.

Michael George Ackerman San Jose, CA <i>University of California, Hastings College of Law</i>	Jonathan Joseph Cavanagh Boise, ID <i>University of Oregon School of Law</i>	Gregory K. Hardee Meridian, ID <i>University of Idaho College of Law</i>	Kelly Christina Lotz Fremont, CA <i>Golden Gate University School of Law</i>	Casey Glen Potter Ammon, ID <i>Ave Maria School of Law</i>
Andrew A. Adams Idaho Falls, ID <i>Phoenix School of Law</i>	Jennifer Rose Chadband Boise, ID <i>University of Idaho College of Law</i>	Brett Elizabeth Hathaway Idaho Falls, ID <i>University of Idaho College of Law</i>	Lucas Todd Malek Post Falls, ID <i>University of Idaho College of Law</i>	Sarah Maureen Reed Orange, CA <i>University of North Dakota School of Law</i>
Gregory Afghani aka Gregory Houman Afghani Orange, CA <i>University of Montana School of Law</i>	Kara Lanette Chatterton Meridian, ID <i>Brigham Young University</i>	Tyler Vance Heath Caldwell, ID <i>University of the Pacific, McGeorge School of Law</i>	Sara N. Maleki Spokane, WA <i>Gonzaga University</i>	Nathan Dane Rivera Pocatello, ID <i>Spokane, WA, Las Vegas, Wm S Boyd School of Law</i>
Sarah Marie Anderson Boise, ID <i>University of Utah S.J. Quinney College of Law</i>	Thomas Richard Cuthbert Roseville, MN <i>Hamline University</i>	Chase T. Hendricks Rexburg, ID <i>University of Idaho College of Law</i>	Dustin Whitney Manwaring Blackfoot, ID <i>Drake University Law School</i>	Jennifer April Roark Moscow, ID <i>University of Idaho College of Law</i>
Michael John Archibald Rexburg, ID <i>University of Idaho College of Law</i>	Steven Diaz Spokane, WA <i>Seattle University School of Law</i>	Joseph Chaddock Hickey Hailey, ID <i>University of Idaho College of Law</i>	Elham Marder aka Elham Kayvani San Francisco, CA <i>University of California-Berkeley</i>	Terry Rodino Jr. Rexburg, ID <i>Washburn University</i>
Brian Taylor Aune Honolulu, HI <i>Harvard Law School</i>	James Edward Dorman Boise, ID <i>Case Western Reserve University School of Law</i>	Scott James Hoffert Gurnee, IL <i>University of Illinois College of Law</i>	Elizabeth L. Mathieu Hailey, ID <i>Suffolk University Law School</i>	Paulina Elena Rodriguez Kelso aka Paulina Elena Rodriguez Chubbuck, ID <i>Seattle University School of Law</i>
Timothy Daniel Beaubien Ontario, OR <i>Notre Dame Law School</i>	Jason Reilly Doucette Manhattan Beach, CA <i>University of Arizona</i>	Roxana Jimenez aka Roxana Dunteman Coeur d'Alene, ID <i>Loyola University Chicago School of Law</i>	Justin Jeremiah McCarthy Atlantic Beach, FL <i>Florida Coastal School of Law</i>	Ashley Rokyta aka Ashley Suzanne Jennings Moscow, ID <i>University of Idaho College of Law</i>
Lane Arland Blake Cincinnati, OH <i>University of Cincinnati College of Law</i>	Mark Henry Estess Boise, ID <i>University of Idaho College of Law</i>	Alison Gorczyca Johnson aka Alison Marie Gorczyca Eagle, ID <i>Santa Clara University School of Law</i>	Philip A. McGrane Boise, ID <i>University of Denver Sturm College of Law</i>	Brandon Roper Boise, ID <i>University of Denver Sturm College of Law</i>
Steven Dewey Brignone Yakima, WA <i>University of Idaho College of Law</i>	Todd M. Firestone Boise, ID <i>Case Western Reserve University School of Law</i>	Kimball Joseph Jones Sierra Vista, AZ <i>Brigham Young University</i>	Lindsay McKlveen Boise, ID <i>Gonzaga University</i>	Sarah Elizabeth Rupp Driggs, ID <i>Lewis and Clark College</i>
Ronald Walter Brilliant Boise, ID <i>Whittier Law School</i>	Arthur E. Fisher Ketchum, ID <i>University of California, Hastings College of Law</i>	Ralph Burdette Jordan III Visalia, CA <i>Brigham Young University</i>	Miller Lynn McMillen Meridian, ID <i>University of Idaho College of Law</i>	Andreas Christian Schou Moscow, ID <i>University of Idaho College of Law</i>
George R. Brown Boise, ID <i>University of Idaho College of Law</i>	Reyes Junior Garcia Boise, ID <i>University of Idaho College of Law</i>	Benjamin Oliver Layman Pocatello, ID <i>University of Idaho College of Law</i>	Lyndon Phuoc Nguyen Boise, ID <i>University of Idaho College of Law</i>	Ryan Matthew Scoville Denver, CO <i>Stanford University Law School</i>
Sarah Kathleen Brown aka Sarah K. Schmid Boise, ID <i>University of Idaho College of Law</i>	Janelle Rae Gates Boise, ID <i>Drake University Law School</i>	Stephanie Michelle Lemmon aka Stephanie Michelle Cone Irvine, CA <i>University of Denver Sturm College of Law</i>	William Jake O'Connor aka William Jake Knerr, Jr. Grand Blanc, MI <i>The Thomas M. Cooley Law School</i>	Randy Lee Searle aka Randy Lee Ellis Surprise, AZ <i>Phoenix School of Law</i>
Ryan Channon Bush Meridian, ID <i>The University of Michigan Law School</i>	Stephen Allen Glassford Monroe, LA <i>The Thomas M. Cooley Law School</i>	Amy Allen Lombardo aka Amy Allen Arlington, VA <i>George Mason University School of Law</i>	Nathan Spear Ohler Boise, ID <i>Wake Forest University School of Law</i>	John Richard Shackelford Eagle, ID <i>American University, Washington College of Law</i>
Brett Raymond Cahoon Moscow, ID <i>University of Idaho College of Law</i>	John Stuart Grover Boise, ID <i>Gonzaga University</i>		Jacqueline Racquel Papez Helena, MT <i>University of Idaho College of Law</i>	
	Peter Thomas Hamill Boise, ID <i>University of Idaho College of Law</i>			

February 2011 Idaho State Bar Examination Applicants (as of December 7, 2010)

Leah F. Shotwell
aka Leah F. Ricks
aka Leah F. Fuhrman
aka Leah F. Balzarini
Boise, ID
University of Idaho College of Law

David Duane Snider
Troy, ID
University of Idaho College of Law

Adam Michael Starr
San Francisco, CA
University of California-Los Angeles

Serhiy Stavynskyy
Idaho Falls, ID
Valparaiso University

Kimberli Ann Stretch
Moscow, ID
University of Idaho College of Law

Michael Jonathan Stump
Bakersfield, CA
University of California, Hastings College of Law

Jeffrey Lynn Thomason Jr.
Blackfoot, ID
University of Idaho College of Law

Joseph Mark Wager, Jr.
Boise, ID
Gonzaga University

Jason D. Wagner
Kuna, ID
University of Idaho College of Law

Ian Christopher Weight
Las Vegas, NV
University of Nevada, Las Vegas, Wm S Boyd School of Law

Lisa K. Weyrauch
aka Lisa Kathleen Long
aka Lisa Kathleen Ranniger
Eagle, ID
University of Arizona

Joseph Leon Williams II
aka Lonny Williams II
Shelley, ID
University of Idaho College of Law

Kendall Aline Woodcock
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CUTTING THE CLUTTER: THREE STEPS TO MORE CONCISE LEGAL WRITING

Tenielle Fordyce-Ruff
Smith, Fordyce-Ruff, & Penny
PLLC

A few weeks into law school, once my students understood that legal writing had to have law and analysis, I would hit them with this idea: good legal writing should contain no more and no fewer words than necessary to convey the idea to the reader.

This is true for all legal writing. But how do busy legal writers make their writing more concise given the time pressures of practicing law? I suggest you spend your time removing wordy stock phrases, replacing weak verbs, and eliminating nominalizations to create more concise documents.

Removing wordy stock phrases

We all began our legal writing careers in law school, where we spent hours slogging through horribly written opinions. Of course, as we absorbed the law, we also absorbed the writing. We began to think that because judges wrote this way (even if it was 100 years ago), we should write this way, too. We started to use stock phrases without thinking about whether a shorter phrase might also convey the meaning we intended.

Well, no more! Antiquated, wordy phrases should no longer appear in your writing simply because you got used to using them before you knew any better. Instead, start replacing these long phrases with fewer words that have the same meaning.

Don't use "adequate number of" when "enough" carries the same meaning and is much more concise, and don't use "excessive number of" when "too many" can do the same job in fewer words.

When you speak, do you say "at the present time" or do you say "now?" "Now" is the better choice for conciseness. Similarly, "soon" is more concise than "in the near future." And replace all those instances of "during such time as" in your writing with "when." Your reader will still understand your meaning.

Try inserting "if" instead of "in the event that." Your meaning won't change,



but your writing will be much more concise. Likewise, use "respond" instead of "provide responses." Replace "offer testimony" with "testify." Or, (one of my favorites), never use "due to the fact that" because a simple "because" will do.

Of course, there are many examples of stock phrases. If you find yourself saying a simple phrase when speaking, but using a wordy phrase in your writing to convey the same meaning, you are probably using a wordy stock phrase. Replace it with what you say and your documents will quickly become more concise.

Replacing weak verbs

Weak verbs drag writing down. Not only are they wordy, weak verbs can also be unclear, boring, repetitive, and monotonous. No wonder, then, that we should strive to eliminate them from our writing. Of course, to fix them, we first have to identify them.

Hearing the term "weak verb" you might imagine a wimpy verb, like "cower" or "flutter" or "lose," but weak verbs have nothing to do with passivity. Instead, weak verbs come in two flavors. A weak verb is any form of "to be," especially when used with an adjective or when used with a "there" or an "it." A weak verb is also any form of certain boring verbs: to do, to get, to go, to have, to occur, and to use.

To find weak verbs search for every instance of "to be" (am, is, was, were, be, being, and been). Now, see if it is part of a phrase like "there are," "it is," or "there had been," or if it is used with an adjective. If you find one of these combinations, you've used a weak verb. Likewise, search your document for forms of the other weak verbs: to do, to get, to go, to have, to occur, and to use. You can use the "find" function on your word processor to make this searching more efficient!

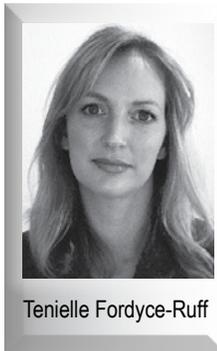
We started to use stock phrases without thinking about whether a shorter phrase might also convey the meaning we intended.

Finding weak verbs is only the first step. Next, you must critically examine your use of the weak verb and consider whether a stronger, more vibrant word choice would help your reader better understand the sentence. You don't need to get pompous or fancy. Simply consider other choices that the reader will still understand. For instance, "*There were* reporters everywhere, so the attorney *was* nervous the first day of trial" contains two weak verbs. A better choice might be, "Reporters packed the courtroom, so the attorney's voice quivered at first."

Of course, you can't replace every weak verb in your writing, but even re-writing a few sentences with strong, vibrant verbs will make your writing more concise and more interesting.

Eliminating nominalizations

Like wordy stock phrases and weak verbs, nominalizations clutter writings. Nominalizations also lead to unclear, monotonous, and wordy sentences, and nominalizations create empty nouns. Because of these problems, we should eliminate nominalizations from our writing.



Tenielle Fordyce-Ruff

A nominalization is a noun formed from a verb. For instance, compliance is the nominalization of the verb to comply, issuance is the nominalization of the verb to issue, and supervision is the nominalization of the verb to supervise. In fact, much to my amusement, nominalization is the nominalization of the verb to nominalize.

You can find nominalizations three ways. First, nominalizations are often followed by the preposition “of.” Therefore, you can search your documents for “of.” Next, nominalizations end in -ion, -ess, or -ing. Scan your writing for words with these endings. Finally, you can simply look for big words. If that word contains a verb you have found a nominalization.

Eliminating nominalizations is easy. You simply turn the nominalization back into its base verb and create an explicit subject for the sentence. For instance, “My happiness was evident after the suspect was arrested” contains a nominalization. I would eliminate that by rewriting the sentence as, “I was happy after the suspect was arrested.”

Likewise, “The taking of depositions was enjoyable” could become “The new associate enjoyed taking depositions.” Or you can become more creative: “Follow-

Spend some time removing wordy stock phrases, replacing weak verbs, and eliminating nominalizations from you writing.

ing a conversation with the witness, Mr. Smith felt confidence the case was nearing completion,” could become “Mr. Smith talked to the witness and confidently determined the case was nearly complete.”

Conclusion

Spend some time removing wordy stock phrases, replacing weak verbs, and eliminating nominalizations from your writing. You will be surprised how concise your writing becomes!

Sources

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About the Author

Tenielle Fordyce-Ruff is a member of Smith, Fordyce-Ruff & Penny, PLLC. She clerked for Justice Roger Burdick of the Idaho Supreme Court and taught Legal Research and Writing, Advanced Legal Research, and Intensive Legal Writing at the University of Oregon School of Law. She is also the author of *Idaho Legal Research*, a book designed to help law students, new attorneys, and paralegals navigate the intricacies of researching Idaho law.

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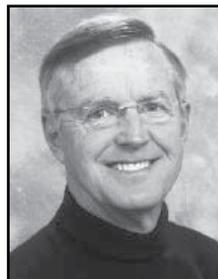
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IN MEMORIAM

Pocatello lawyer Beverly Bistline leaves legacy of philanthropy

The twenty-sixth woman admitted to the Idaho State Bar and former Idaho state legislator, Beverly Bistline, 88, of Pocatello, died on Saturday, October 23, 2010, at Quail Ridge Assisted Living in Pocatello.



Beverly Bistline

She was born in Coeur d'Alene, Idaho, on August 28, 1922, into a political family. Her father, Francis Marion Bistline of Pocatello, served several terms in the Idaho House of Representatives, including serving as Speaker of the House during 1941-43. Her uncle and grandfather both served as mayor of Pocatello.

Beverly graduated from the University of Idaho in 1943 with a Bachelor of Arts and returned to Pocatello to work in her father's law office before joining the WAVES, (Women Accepted for Volunteer Emergency Service) during World War II. She was assigned to the Chief of Naval Operations office, and later worked as a flight attendant. After her service, she returned to Pocatello where she worked for her father's bus company before she used the G.I. Bill to study law at the University of Utah. She was one of two women who graduated in the class.

Bistline worked in Los Angeles and later in San Francisco at law firms, though not practicing law. She enjoyed spending time with her beloved aunt, Bert, and loved the culture, philosophy and art of the Bay Area. In 1969, while she was visiting Pocatello, her father died suddenly while participating in a court hearing. She immediately decided to move back to Pocatello to carry on the family law practice. She was elected to one term as

a Democrat to the Idaho House of Representatives in 1974. She closed the law practice in 1994 when she retired.

She was active in several political campaigns, most notably those of former Governor Cecil B. Andrus, former legislator Patricia McDermott, and at least five presidential campaigns.

Over the years Beverly served on many commissions, boards and councils which included the Idaho State Tax Commission, the Idaho State University Foundation Board, the Governor's Advisory Council for Developmental Disabilities, the Pocatello Citizens Environmental Council, and the Citizen's Advisory Committee to the City Council. She was also active in several local organizations including the P.E.O. Sisterhood, and the First Congregational United Church of Christ. She has provided substantial support to many others including the Pocatello Zoo, the Pocatello Salvation Army and the Pocatello Greenway Foundation.

In 2002, she was granted the "Idaho Statesman of the Year" Award from the Pi Sigma Alpha national political science honor society, and was the 2003 recipient of the Pocatello Mayor's Awards for the Arts. In 2004, she was awarded the Idaho State Bar's Professionalism Award.

While she accomplished much in her life she was proudest of her significant role in the design and construction of the Stephens Performing Arts Center (SPAC). Her commitment to the arts has long been demonstrated by the activities of the Bistline Family Foundation which she started and funded and which has supported a variety of art activities in Pocatello and the surrounding small towns.

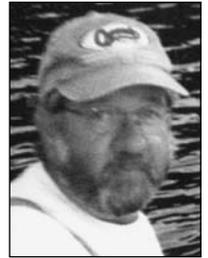
Stanton P. Rines, Jr.

1949 - 2010

Stanton P. Rines, 61 died Oct. 25, 2010, in San Diego, Calif.

Born in Memphis, Tenn., Stan served in the U.S. Marine Corp. and later earned

his Juris Doctor degree from the University of Idaho. He practiced in Coeur d'Alene as a public defender for Kootenai County. Stan enjoyed sailing and explored the islands off the coast of Baja in the Sea of Cortez in his boat, the "Sunset Breeze." Stan is survived by his mother, Elizabeth D. Rines; a sister, Beth Kaufman. His first mate, Val Benecke, resides in Coeur d'Alene. Private services were held on Veteran's Day, Nov. 11, 2010, in Gainesville, Ga.



Stanton P. Rines, Jr.

Hon. John H. Maynard 1921 - 2010

John H. Maynard, 89, of Lewiston,

died November 22 at Life Care Center of Lewiston. John graduated from Gonzaga University with a law degree in 1952. From 1952 to 1967 he practiced law in Lewiston, where he also served as justice of the peace. He became a district judge



Hon. John H. Maynard

in 1967 until his retirement in 1987. John said of his career, "I left with many memories, feelings of both futility and failure, satisfaction and regret, but always believing that the effort was well spent."

John was a member of the National College of Trial Judges.

He was preceded in death by his wife, Betty Lou Maynard and is survived by his daughter, Meryl Kingery of Englewood, Colo.; sisters Jane Wilson of Sacramento, Calif., and Ermal Goucher of Union, Ore.

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OF INTEREST



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Smith, Fordyce-Ruff, & Penny PLLC opens

Phoebe Smith, Tienielle Fordyce-Ruff, and Cristy Cone Penny announce the opening of Smith, Fordyce-Ruff, & Penny PLLC. In addition to general litigation and appellate work, their practice focuses on all areas of disability law, including special education law, social security disability, guardianships, and special needs trusts. They can be contacted at 208-953-1529, psmith@sfrplaw.com, tfordyce-ruff@sfrplaw.com, or ccpenny@sfrplaw.com.



Cristy Cone Penny

New Idaho Judicial Council executive director selected

The Idaho Judicial Council has selected James D. Carlson as its new executive director, effective January 1, 2011. Mr. Carlson has a distinguished legal career as a trial attorney beginning in 1982 with the Ada County Prosecutors Office, in private practice, as a Deputy Attorney General in the Civil Litigation Division of the Idaho

Attorney General's Office and most recently Of Counsel with the law firm of Naylor & Hales, P.C. He has tried more than 160 jury trials in state and federal courts and has handled over 20 cases on appeal before the Idaho Supreme Court, the Ninth Circuit Court of Appeals and the United States Supreme Court.

Mr. Carlson has also assisted the Idaho State Bar in handling fee arbitration and professional discipline matters. His law related activities include post-academy instruction and instruction at the college level as an adjunct professor.

Mr. Carlson is an Idaho native and resides in Boise.

Purnell Law Offices opens new office in Meridian

David Purnell announces the opening of Purnell Law Offices, PLLC, at 2541 N. Stokesberry, in Meridian. With his associate, Mark Peters, the practice focuses on all aspects of family law, transactional law and litigation, both civil and criminal.

Purnell began practicing law in Idaho in 1983. He opened Purnell Law Offices in 2004. He spent time as a professor of Agricultural law at the University of Illinois at Urbana-Champaign. Prior



James D. Carlson

to moving to Meridian, the firm had offices in downtown Boise. Purnell practice concentrates in administrative, elder and family law. He serves on the Boards of Directors of both the Idaho Guardian and Fiduciary Association and the Hemophilia Foundation of Idaho. He is an active member of the Idaho and Utah State Bars. Peters joined Purnell Law Offices in June, 2010 and brings thirty years of experience in corporate, financial and transactional law. He is a member of the Family Law, Real Estate and Corporate Law sections of the Idaho State Bar and the Boise East Rotary Club.

They can be reached at (208) 363-0123.

Ada Clerk Navarro to retire

After serving 37 years in Ada County, Clerk of Court J. David Navarro has announced his retirement. A retirement celebration will be held on Thursday, Jan. 6 from 2:30 to 5 p.m. in the Public Hearing Room on the first floor of the Ada County Court House, 200 W. Front St. in Boise. Welcome and tribute will begin at 3:30 p.m.



Mark Peters

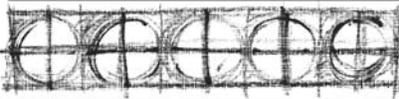


David Purnell



J. David Navarro

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Photo courtesy of Stephen A. Stokes

In close quarters, the 116th Cavalry Brigade Combat Team leaves Camp Buehring in Kuwait on a C-17 on their way to Baghdad, Iraq on Thanksgiving Day.

ADVOCATES IN ACTION

Stephen A. Stokes
Meyers Law Office, PLLC

Leaving Camp Shelby (Shelby), Mississippi was an adventure. In early November, ten percent of the 116th Cavalry Brigade Combat Team (CBCT) left Shelby in an advance party. Their job was to establish systems and procedures for the main body when it hit the ground at Camp Buehring (Buehring), Kuwait, and in Baghdad, Iraq. The main body, which represented about 80% of the brigade, left Shelby in mid-November. MAJ Ream, SFC Leija and I went with the main body. The trail party, the last 10% of the brigade, left about ten days later after winding up business at Shelby. MAJ Boice was in the trail party.



Stephen A. Stokes

Mass movement in the Army is an interesting animal. Everyone, regardless of rank, is treated like a junior private and

herded around in large, mindless groups. Your only task is to do what the person in front of you is doing. All the veterans back home know exactly what I'm talking about.

To catch our plane we woke up at 2:30 in the morning and formed up with about 300 other soldiers. Our luggage (one rolling duffel bag, one large infantry-style rucksack and one green duffel bag per soldier) was piled into huge mounds about 150 feet long and five feet deep. We then drove to Gulfport and stood in a hangar for about four hours before loading the plane. After a slight "mechanical delay," we flew to Bangor, Maine, then Leipzig, Germany, then Kuwait City, Kuwait. We were herded off of the planes and onto buses and, after an hour and a half bus ride through the desert, we finally got to our destination, Camp Buehring, where we were immediately formed up and herded into a tent for briefings. Total travel time for my group was 23.5 hours, but we were on the move for about 40 hours before we got to rest.

Buehring can be likened to the surface of the moon. If you can think of a stereotypical scene from Lawrence of Arabia with sand dunes, camels and Bedouins,

Everyone, regardless of rank, is treated like a junior private and herded around in large, mindless groups. Your only task is to do what the person in front of you is doing.

you have a good picture of the landscape; then add rows and rows of Quonset huts, guard towers, concertina wire, trash and military vehicles driving here and there stirring up huge clouds of dust, and you have a good idea of what Buehring is like.

Camp Buehring is a "theater gateway," and is the first stop for units on their way to either Iraq or Afghanistan. While at Camp Buehring, the brigade underwent

weapons qualification, more Improvised Explosive Device training and theater-specific briefings. The brigade spent approximately 10 days at Camp Buehring before heading to Baghdad, and while we were waiting to enter Iraq we entertained ourselves with trips to the dining facility, the gym and the USO tent to surf the internet or call home.

SFC Leija and I arrived in Baghdad on Thanksgiving Day. We were on standby to fly out of Camp Buehring for several days. When we were finally manifested to fly, we had about an hour notice to round up our gear, get on the bus and head out to the airport. We flew out in a C-17, which is a large Air Force cargo plane, with 150 other soldiers. After landing and finding MAJ Ream we had a merry JAG section Thanksgiving feast.

The 116th CBCT is replacing the 256th Infantry Brigade, Louisiana Army National Guard, as Garrison Command of the Victory Base Complex (VBC) in Baghdad. Authority was officially transferred to the 116th on 3 December 2010. The 116th CBCT will be administering the physical space of the base as well as administratively controlling our own soldiers and several other tenant units living on the VBC. The VBC is a large base comprised of several different cantonments, such as FOB Stryker, FOB Steeler, and FOB Victory. The circumference of VBC is approximately 26 miles.

The 116th has a large role in the administration of the VBC, but it is a relatively small fish in a big pond. United States Forces-Iraq, which is commanded by a four star general, GEN Lloyd Austin, who replaced GEN Raymond Odierno, operates out of the VBC. GEN Austin is the commander of all US forces in Iraq. III Corps, which is commanded by a three star general, LTG Robert Cone, and the 1st

Our JAG mission will primarily be a fiscal mission, since the US Army's focus is the responsible drawdown of forces and base closure.

Armored Division, which is commanded by a two star general, MG Terry Wolff, also work at the VBC. It's hard to imagine being much closer to the flagpole. You can't swing a stick at the chow hall without hitting 20 colonels, 10 lieutenant colonels and some majors.

Since Thanksgiving, we have been working with the outgoing attorneys of the 256th to assume files, work pending actions and meet all of our counterparts at the VBC. The last week has been a flurry of meeting with civilian counsel, contractors, military attorneys and commanders.

Our JAG mission will primarily be a fiscal mission, since the US Army's focus is the responsible drawdown of forces and base closure. Hence, as the fiscal law attorney, I have been busy working with contracts, meeting the fiscal team – which includes Army personnel from Army Material Command, civilian contractors, such as KBR and Flour, and the Director of Public Works – and helping the commanders make contracting and fiscal decisions. MAJ Boice has been working the criminal side of the house by establishing a rapport with the Military Police Officer, assuming several pending criminal cases and working up packets to bar civilians from post who have possessed contraband. He has also had the good fortune to attend a Military Justice conference, which has

brought all of the military prosecutors in Iraq to Baghdad for continuing legal education. MAJ Ream, as the personal staff attorney to the commander, has been attending all synch meetings with the other members of the brigade staff and overseeing the actions of the office.

We are excited to be in Iraq. It seems like the brigade has been working toward this mission for a long time. Now that we are here and working hard the days will begin flying by and soon it will be time to come home.

About the Author

Stephen A. Stokes received his J.D. from the University of Idaho in 2005. He is an associate with Meyers Law Office, PLLC in Pocatello, Idaho, where he practices in the areas of Family Law, Commercial Litigation and Planning, General Litigation, Personal Injury and Workers Compensation. He is a member of the Idaho Bar Association, the Idaho Association of Criminal Defense Lawyers and the Idaho Trial Lawyers Association. He served as chair of the Sixth District Bar Association Family Law Section. He is also a Judge Advocate serving as a First Lieutenant in the Idaho Army National Guard and is currently deployed to Iraq. He can be reached by telephone at 208-233-2141 or 208-406-2861 or by email at stephenandrewstokes@gmail.com or stephen.stokes@iraq.centcom.mil.

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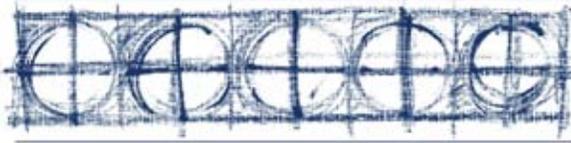
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In the last year, IVLP helped organize direct legal services to over 1,200 low-income litigants, helping them stabilize their lives. This gift from OfficeMax will help IVLP continue this important work.

“Many of our volunteers say this is the most meaningful work they do,” said IVLP Legal Director Mary Hobson. She

said every hour spent by IVLP matching clients with volunteer attorneys results in seven hours of pro bono legal work. “That’s a terrific return on investment.”

IVLP is one of the cornerstone programs of the Idaho Law Foundation. ILF was founded in 1975 as the charitable arm of the Idaho State Bar. With its mission to support the right of all people to live in a peaceful community, ILF programs increase access to legal services and develop educational opportunities for both attorneys and the public.

For information about IVLP, contact Mary Hobson at (208) 334-4500 or mhobson@isb.idaho.gov. For information about contributing time or money to the Idaho Law Foundation programs contact Carey Shoufler at (208) 334-4500 or cshoufler@isb.idaho.gov.

Mock Trial Judges needed for 2011 competition

The Law Related Education Mock Trial Program needs judges for the 2011 competition. Competition staff is currently recruiting judges and attorneys for regional and state competitions. Competition dates and times are as follows:

- **Saturday, Feb. 19, 2011:** Regional Competitions in Pocatello and Lewiston; 8 a.m. to 5 p.m.
- **Saturday, Feb. 26, 2011:** Regional Competition in Boise; 8 a.m. to 5 p.m.
- **Saturday, March 5, 2011:** Regional Competition in Caldwell; 8 a.m. to 5 p.m.
- **Thursday March 24, 2011:** State Quarterfinals in Boise; 4 to 11 p.m.
- **Friday March 25, 2011:** State Semifinals in Boise; 9 a.m. to noon.

This year’s case is a civil case that includes allegations of texting while driving. Mock trial will allow students to explore a very important public safety issue while at the same time improving their proficiency in such basic skills as listening, public speaking, reading, and reasoning.

Please consider volunteering your time to help make this year’s mock trial competition successful for Idaho students. Contact Ashley McDermott at (208) 334-4500 or amcdermott@isb.idaho.gov if you are interested in volunteering.

Visit the IVLP Wall of Fame

If you have been wondering about what your colleagues in the Idaho Bar have been doing over the last year for those who cannot pay for legal services, check out the Wall of Fame: www.isb.idaho.gov/ilf/ivlp/wall_of_fame.html. From civil rights, to child protection, bankruptcy, immigration, nonprofit formation, family law and many other areas, Idaho lawyers from all over the state and in virtually every part of the profession (law clerks, solo practitioners, big firm lawyers, government lawyers, corporate lawyers, part-timers, emeritus lawyers and every other professional permeation) have been getting involved and providing pro bono legal services. Take a look at the list on the website, take time to thank your colleagues for what they do to make us all look good, and if somehow your name does not appear there, rest assured it can be added as soon as you are ready to be “famous”. If your name is missing, you want to let us know what you have done or if your want to volunteer, contact Mary Hobson, Idaho Volunteer Lawyers Program Legal Director, mhobson@isb.idaho.gov or 208/334-4510.



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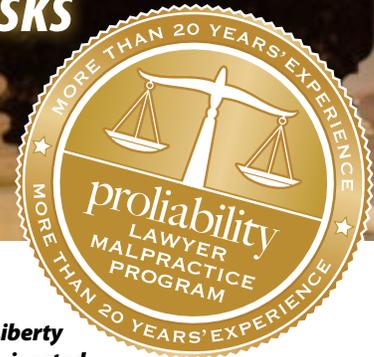
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