



The **Advocate**

Official Publication
of the Idaho State Bar
Volume 55, No. 9
September 2012

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Foreclosures 14**

**Breakfast with
The Legends 17**

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Alan Sullivan was ranked #1 on the *Mountain States Super Lawyers*® 2012 list of attorneys in Utah, Nevada, Montana, Idaho and Wyoming.

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Alan Sullivan is admitted to practice law in Utah; he is not licensed in Idaho.

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Mark P. Coonts

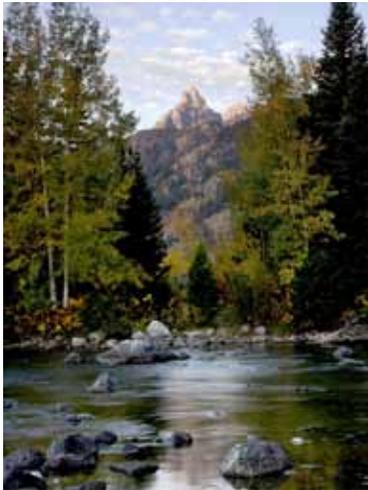
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On the Cover

This picture was taken by attorney Tom Dial of Pocatello in the fall of 2008. He gave the following account: "I was looking for a place to catch the alpenglow on the Grand Teton with a bit of fall color framing it and fog coming off the stream. The stream is unnamed, flows out of the Teton Range near Jenny Lake and eventually branches into Cottonwood Creek in the Teton National Park. I was hoping for some fog from the stream, but it did not happen. So I changed options and decided to capture the reflection. I had to find a place where the rocks in the stream did not break up the reflection and a fast enough shutter speed in the low light and shadows to hold the reflection in the river. So I waded into the stream for the picture. I had to work quickly because the alpenglow moves up the peak of the Grand as the sun raises. The color can disappear in a matter of a few minutes. It was taken with a Canon 40D, Canon ef 17-40mm f/4 L USM Lens, racked at 38 mm, ISO 200, f .22, 1.3 sec exposure, 1A filter."

When he is not composing photos, Tom is Of Counsel with May, Rammell & Thompson, Chtd.

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Section Sponsor

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

Editors

Special thanks to the September editorial team: Dean Bennett, Daniel J. Gordon and Tenielle Fordyce-Ruff.

Editors Notes:

The writing column was held just before press time to accommodate discipline notices. It will return in October.



The Advocate makes occasional posts and takes comments on a LinkedIn group called "Magazine for the Idaho State Bar."



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Upcoming Idaho State Bar/Idaho Law Foundation CLEs

September

September 7 - 8

2012 Annual Advanced Estate Planning Seminar
Sponsored by the ISB Taxation, Probate and Trust Law Section
Sun Valley Resort
Sun Valley, ID
9.5 CLE credits of which 1.0 is ethics

September 19

Handling Your First or Next DUI
Sponsored by the Idaho Law Foundation
8:30 – 10:30 a.m. (MDT)
Law Center, Boise/Statewide Webcast
2.0 CLE Credits **(RAC)**

September 21

*Idaho's Legal Practice:
Bench & Bar Perspectives on Professionalism*
Sponsored by the Idaho Law Foundation and the University of
Idaho College of Law
2:30 – 4:00 p.m. (PDT)
University of Idaho College of Law, Moscow
1.5 CLE Credits of which 1.5 is Ethics **(RAC)**

September 25

*The Color of Conscience:
Human Rights in Idaho CLE Celebration*
Sponsored by the ISB Diversity Section
4:00 – 6:30 p.m. (MDT)
Idaho Public Television, Boise/ Statewide Webcast
1.0 CLE credit **(RAC)**

September 26

Clarence Darrow's Search for Justice
Sponsored by the ISB Government and Public Sector Lawyers
Section and Concordia University School of Law
1:00 – 4:15 p.m. (MDT)
Concordia University School of Law, Boise/Statewide Webcast
3.0 CLE credits of which 1.0 is ethics

October

October 4

CLE Program Video Replay
Sponsored by the Idaho Law Foundation
8:30 – 11:15 a.m. (MDT)
Law Center, Boise
2.5 CLE Credits of which 1.5 is Ethics **(RAC)**

October (continued)

October 5

Idaho Practical Skills Seminar
Sponsored by the Idaho Law Foundation
8:00 – 3:30 p.m. (MDT)
Boise Centre on the Grove, Boise
5.25 CLE Credits of which 1.25 is Ethics **(RAC)**

October 12

Family Law - Beyond Basic Custody and Divorce
Sponsored by the ISB Family Law Section
8:30 a.m. - 4:15 p.m. (MDT)
Oxford Suites, Boise
6.5 CLE credits

October 19

Family Law - Beyond Basic Custody and Divorce
Sponsored by the ISB Family Law Section
8:30 a.m. - 4:15 p.m. (MDT)
Hilton Garden Inn, Idaho Falls
6.5 CLE credits

October 19

Mastering the Art of Voir Dire: Experts in Action
Sponsored by the ISB Litigation Section
9:00 a.m. - 4:15 p.m. (MDT)
Concordia University School of Law, Boise
5.25 CLE credits

October 24

Internet Law: Traps, Tips and Trends
Sponsored by the ISB Intellectual Property Law Section
8:30 - 9:30 a.m. (MDT)
Law Center, Boise/Statewide Webcast
1.0 CLE credit

October 26

Family Law - Beyond Basic Custody and Divorce
Sponsored by the ISB Family Law Section
8:30 a.m. - 4:15 p.m. (PDT)
Hampton Inn & Suites, Coeur d'Alene
6.5 CLE credits

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

****Dates, times and CLE credits 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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2012 District Bar Association Resolution Meetings

District	Date/Time	City
First District	November 7 at Noon	Coeur d'Alene
Second District	November 7 at 6 p.m.	Moscow
Third District	November 1 at 6 p.m.	Nampa
Fourth District	November 2 at Noon	Boise
Fifth District	November 13 at 6 p.m.	Twin Falls
Sixth District	November 14 at Noon	Pocatello
Seventh District	November 15 at Noon	Idaho Falls



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WHAT DO YOU MEAN I'M BIASED?

Molly O'Leary
*President, Idaho State Bar
 Board of Commissioners*

Although there were many worthwhile CLE presentations at this year's annual meeting, one that really stood out for me was a presentation by Lauren Stiller Rikleen on *Achieving Success in the Changing Landscape of Idaho's Legal Profession*. Ms. Rikleen is currently an Executive-in-Residence at Boston College's Center for Work and Family in the Carroll School of Management, and founded the Rikleen Institute for Strategic Leadership following a distinguished career as an equity partner in the Massachusetts law firm of Bowditch & Dewey, LLP. In addition, she has had two books published: *Ending the Gauntlet: Removing Barriers to Women's Success in the Law* (2006), and *Success Strategies for Women Lawyers* (2010).

Ms. Rikleen's presentation addressed two related topics: (1) managing diversity and fostering inclusion in one's legal practice; and (2) fostering the strengths of a multi-generational workplace. To set the stage for this discussion, Ms. Rikleen began by addressing the topic of unconscious or implicit bias.



Molly O'Leary

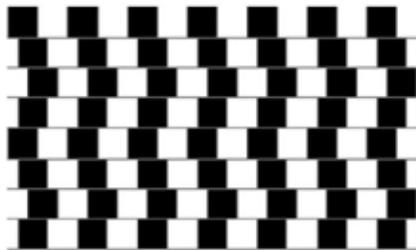
As Ms. Rikleen noted, unconscious bias is a quality that all humans share. It is neither a good nor bad quality in and of itself. The danger comes in the illusion of objectivity each of us harbors by virtue of the fact that our biases are unconscious. Because our unconscious biases lurk in our cognitive blind spot, they often play an unintended role in our interactions with others. We've all heard the phrase, "You don't get a second chance to make a good first impression," but how much control do we actually have to make a good first

Because our unconscious biases lurk in our cognitive blind spot, they often play an unintended role in our interactions with others.

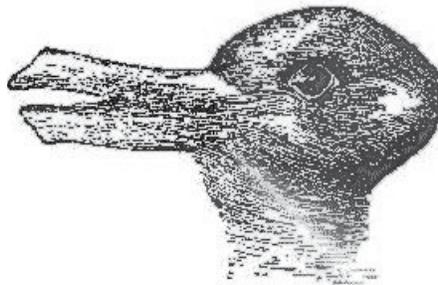
impression if that first impression is filtered through our audience's unconscious bias?

Ms. Rikleen began making her point by showing the audience a series of PowerPoint slides that visually demonstrated

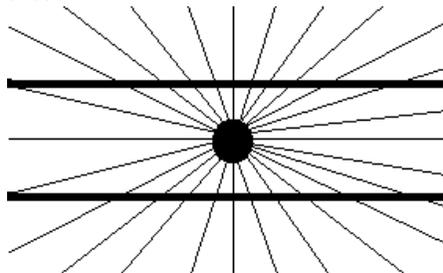
Are the horizontal lines parallel, or do they slope?



A rabbit, looking right? Or a duck, looking left?



Are the horizontal lines parallel or slightly arced?



how what we think we see or know is not always the case. For example:¹

By illustrating her point in an "issue-neutral" fashion, Ms. Rikleen was able to open the audience's mind to more sensitive examples of implicit bias and how it plays out in the "real world."

The following are some examples of unconscious bias cited by the Associate Provost for Faculty Development at Boston University:²

- In a 1991 study by Biernat, Manis & Nelson, college students were shown photographs of male and female students. The students consistently guessed the women's height to be shorter, despite the fact that they were shown photographs of students with identical heights.
- When shown photographs of men with similar athletic abilities, evaluators rated the athletic ability of African American men higher than that of white men (Biernat, Manis & Nelson, 1991).
- In a national study, 238 academic psychologists (118 male, 120 female) evaluated a résumé randomly assigned a male or a female name. Both male and female participants gave the male applicant better evaluations for teaching, research, and service and were more likely to hire the male than the female applicant (Steinpreis, *et al.* 1999). Another study showed that the preference for males was greater when women represented a small proportion of the pool of candidates, as is typical in many academic fields (Heilman 1980).
- When rating the quality of verbal skills as indicated by vocabulary

definitions, evaluators rated the skills lower if they were told an African American provided the definitions than if they were told that a white person provided them (Biernat and Manis 1991).

- When asked to assess the contribution of skill and luck to successful performance of a task, evaluators more frequently attributed success to skill for males and to luck for females, even though males and females performed the task equally well (Deaux and Emswiller 1974).

- Evaluators who were busy, distracted by other tasks, and under time pressure gave women lower ratings than men for the same written evaluation of job performance. Sex bias decreased when they gave ample time and attention to their judgments, which rarely occurs in actual work settings. This study indicates that evaluators are more likely to rely upon underlying assumptions and biases when they can/do not give sufficient time and attention to their evaluations (Martell 1991).

And, as Ms. Rikleen noted in her presentation, our implicit biases are not simply ones of race or gender. Interestingly,

although only 15% percent of men are six feet tall or taller, 60% percent of CEOs are six-foot or taller.

So, what's the take away? According to an Iowa State University presentation on unconscious or implicit bias:

- Biases are often unintentional
- Everyone has them
- Decisions made quickly are more susceptible to unconscious bias
- Biases can be advantageous or disadvantageous to those being evaluated

An interesting way to potentially ferret out some of your own implicit biases is by taking one or more of the Implicit Association Tests developed by social psychology researchers Anthony Greenwald, Debbie McGee, and Jordan Schwartz. You can take the tests online via the following link: <https://implicit.harvard.edu/implicit/demo/takeatest.html>.

About the Author

Molly O'Leary represents business and telecommunications clients throughout Idaho, and is a managing member of Richardson & O'Leary, PLLC, in Boise. Ms. O'Leary began her service on the Idaho State Bar Board of Commissioners in August 2010 and will serve through July 2013. In addition to her service to

Evaluators who were busy, distracted by other tasks, and under time pressure gave women lower ratings than men for the same written evaluation of job performance.

the Bar, Ms. O'Leary serves on the statewide advisory council for the Idaho Small Business Development Center and is actively involved in a variety of community and neighborhood-related issues.

Endnotes

¹ National Institute of Environmental Health Sciences - <http://kids.niehs.nih.gov/games/illusions/index.htm>

² Raising Awareness of Unconscious Assumptions and Their Influence on Evaluation of Candidates - http://www.bu.edu/apfd/recruitment/fsm/assumption_awareness/

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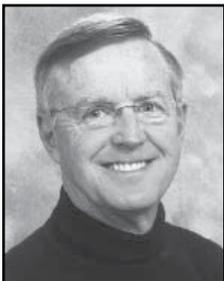
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Special Thanks



It's been more than a year since she retired as Co-Director of Idaho Volunteer Lawyers Program. But Carol Craighill is not one to sit around and take it easy. Among many other new and engaging activities, Carol has still found time to stop by every week to volunteer at the IVLP office. Many thanks to Carol!

JAY P. CLARK (Suspension)

On July 30, 2012, the Idaho Supreme Court issued its Remittitur that ordered that the Court's Opinion announced July 6, 2012 was final. On August 6, 2012, the Court entered an Order awarding the Idaho State Bar \$6,289.52 in costs. The Court's Opinion ordered that Mountain Home attorney Jay P. Clark be suspended from the practice of law in Idaho for three years, with eighteen months of the suspension withheld upon Mr. Clark being granted permission to transfer his license to active status under the applicable Idaho Bar Commission Rules.

The Idaho Supreme Court Opinion concluded the disciplinary case filed on May 20, 2009. In March 2010, Mr. Clark filed a Motion to Dismiss the Complaint, which was denied by a Hearing Committee of the Professional Conduct Board. A hearing was conducted before that Hearing Committee in December 2011. The Hearing Committee issued its Findings of Fact, Conclusions of Law and Recommendation in April 2011. Mr. Clark appealed that recommendation.

The Hearing Committee determined that there was clear and convincing evidence that Mr. Clark violated Idaho Rules of Professional Conduct 1.2, 1.3, 1.5(b) and 1.16(d). The Idaho Supreme Court held that the Hearing Committee's decisions were supported by clear and convincing evidence and were not clearly erroneous or arbitrary and capricious.

The case's factual and procedural background related to Mr. Clark's representation of an eighteen-year-old client, MV, who attended a graduation party where alcohol was served. Upon leaving the party, RB, MV's friend, discovered that his truck was missing. Assuming that MV took his truck because he was the last person around it, RB and a friend drove to MV's parents' home. MV and his parents were on their front lawn, and RB inquired about his truck. MV stated that he did not know where RB's truck was and that he caught a ride home with some friends.

When the police arrived at the scene, they located RB's truck down the street. They then discovered that MV had RB's keys and duffel bag in his possession, both of which were in RB's truck when it was taken. MV's cell phone was also found in RB's truck. No one witnessed MV driv-

ing that night and he contended that he did not remember driving RB's truck home from the party. When questioned by the police, MV initially denied driving RB's truck and then later allegedly admitted to driving the truck while under the influence, but he did not remember making the admission.

After being arrested, MV refused to undergo a breathalyzer examination. MV was served with a citation and a Notice of Suspension for Failure of Evidentiary Testing ("Notice of Suspension"). The Notice of Suspension provided that MV's license would be suspended for refusal to submit to the breathalyzer examination, unless he showed cause why he refused to undergo evidentiary testing at a hearing no later than June 6, 2005, with the Elmore County Magistrate Court. Charges were filed against MV on May 31, 2005, the same day MV retained Mr. Clark to represent him. At their initial meeting, MV brought the citation and told Mr. Clark that he wanted a show cause hearing before the magistrate court because he did not want to lose his driver's license, which was a requirement for his job. Mr. Clark told MV that he may have sufficient grounds for a show cause hearing because no one witnessed him driving RB's truck. Contrary to prior statements made on the record and admissions that he made in his Answer to the formal charge disciplinary Complaint, Mr. Clark later reversed course and testified that MV never told him at the meeting that he refused to take a breathalyzer examination because such a critical issue would have been reflected in his notes.

Mr. Clark filed MV's plea of not guilty, responses to discovery requests and a motion to continue, and was served with discovery on June 3, 2005 by the prosecutor. Mr. Clark never submitted a request for a show cause hearing to the Elmore County Magistrate Court. Instead, Mr. Clark mistakenly filed that request with the Idaho Transportation Department ("ITD"). When MV called the ITD to verify the status of his license, he was informed by the staff that his request for a show cause hearing had been sent to the ITD in error. MV then went to Mr. Clark's office and testified that at that meeting Mr. Clark informed him that the request was properly submitted and that, in any event, a hearing was irrelevant because his request had no merit. Mr. Clark testified that he called

MV on June 3, 2005 to advise him that there were no grounds for the show cause hearing based on his review of the police report. MV denied that Mr. Clark called him that day and the call was not reflected on any billing statement. The Idaho Supreme Court noted in its Opinion that Mr. Clark's testimony contradicted his prior statements on the record and the admissions in his Answer, which generally asserted that Mr. Clark initially believed MV's claim had merit and that he knew that MV refused a breathalyzer examination.

Mr. Clark then sent the ITD letter to the prosecutor and indicated that the letter was sent in error to the ITD. He asked whether the prosecutor would object to a show cause hearing with the Elmore County Magistrate Court even though that hearing had not been requested. The prosecutor responded that failure to properly present a request for a refusal hearing before the magistrate court resulted in the court losing jurisdiction over the matter. Mr. Clark agreed with MV to plea bargain with the prosecutor in order to withdraw MV's license suspension given his concerns with keeping his job. However, Mr. Clark never spoke with the prosecutor in order to pursue a plea bargain. MV then terminated Mr. Clark's representation and retained another attorney to represent him. That attorney filed a motion for a hearing regarding the license suspension, which was denied because it had not been timely requested. MV eventually entered a plea of guilty to the charge of minor in consumption. However, as a result of the license suspension, MV eventually lost his job.

Mr. Clark testified that MV signed a nonrefundable fee agreement and MV testified that he did not remember signing any fee agreement. However, Mr. Clark never produced a fee agreement. About a month after he terminated Mr. Clark, MV requested a refund of the retainer monies paid. In response, Mr. Clark claimed that the fee was nonrefundable. After MV filed a grievance with the Idaho State Bar ("ISB"), Mr. Clark sent MV a letter offering an itemized statement and a partial refund. The letter informed MV he could pick up the refund at Mr. Clark's office. Later, Mr. Clark sent another letter requesting MV make an appointment to pick up his refund. Mr. Clark did not send the refund to MV and did not send

DISCIPLINE

the check to his substitute attorney and testified that was because he did not trust that attorney.

When Mr. Clark responded to MV's grievance, the letter included a backdated billing statement and a copy of a backdated refund check and a proposed Affidavit for MV. The letter stated that the Affidavit was to be presented to MV "for him to review and sign, which if he does sign, might prevent him from being sued for libel and slander." It further asked the ISB to advise him if MV refused to sign the Affidavit so he could consider legal action. The Affidavit consisted of statements that were intended to suggest that Mr. Clark did not err in his representation of MV and that MV's grievance was prepared by his substitute attorney. Mr. Clark admitted that the Affidavit was a threat in the sense that MV should tell the truth. Mr. Clark also claimed that he had a constitutional right to threaten to sue MV. MV refused to sign the Affidavit because he claimed the statements in it were not true. He also testified that he would not have filed a grievance with the ISB had he known he could get sued for libel or slander.

In May 2010, Mr. Clark sent MV a refund check in the amount of \$218.75. Mr. Clark discontinued his practice in 2006 and his license to practice law was placed on affiliate status and subsequently inactive status.

The Idaho Supreme Court determined that Mr. Clark's due process rights were not violated by the ISB's delay in filing the Complaint. The Court found there was no proof that the delay hindered Mr. Clark's ability to defend himself, or was intended to gain an unfair tactical advantage. In fact, the Court found the delay was mostly attributable to Mr. Clark, not the ISB, since during the time when Mr. Clark filed his response to MV's grievance and the filing of the Complaint, the ISB had the "daunting task of investigating five other grievances filed between October 2003 and January 2006 against Mr. Clark by his former clients. All of those grievances were investigated separately, but also together as a group to determine if they presented a pattern of misconduct as per standard ISB procedure."

The Court held that there was clear and convincing evidence that Mr. Clark violated I.R.P.C. 1.2 and 1.3 because he did not diligently pursue his client's ob-

jectives by filing a request for a show cause hearing and plea bargain with the prosecutor. The Court found Mr. Clark did not abide by MV's decisions concerning the objectives of representation and whether to settle the matter, and did not act with reasonable diligence. The Court found Mr. Clark's claim that filing a show cause hearing was frivolous was preposterous given that he filed the request with the ITD on two separate occasions and later sent a fax to the prosecutor requesting a jurisdictional waiver.

The Court also found that the Hearing Committee's decisions that Mr. Clark violated I.R.P.C. 1.5(b) and 1.16(d), were supported by clear and convincing evidence because Mr. Clark did not properly communicate the scope of his representation and the basis or rate of the fee to MV, did not enter into a written fee agreement with MV, failed to promptly refund any advance payment of the unearned portion of the fee, and failed to pay interest on the unearned portion of the fee.

The Court held the Hearing Committee's decision that Mr. Clark violated I.R.P.C. 8.4(d) did not infringe on his First Amendment rights and was supported by clear and convincing evidence. The Hearing Committee held that Mr. Clark violated I.R.P.C. 8.4(d), by engaging in conduct that was prejudicial to the administration of justice because he made false statements to the ISB in response to MV's grievance that were inconsistent with the admitted exhibits and testimony and because he threatened MV in the Affidavit in order to persuade him to withdraw his grievance. The Court found that Mr. Clark had not provided any convincing argument or authority that he had a First Amendment right to threaten his former client with a lawsuit.

Based upon those findings, the Court held that Mr. Clark is suspended from the practice of law in Idaho for a period of three years, with eighteen months of his suspension withheld upon Mr. Clark being granted permission to transfer his license to active status under the applicable Idaho Bar Commission Rules. Prior to transfer to active status or reinstatement, Mr. Clark must demonstrate that he fully complied with the requirements of I.B.C.R. 516 and 517 and pass the Multistate Professional Responsibility Examination. The Court awarded costs to the ISB in the amount \$6,289.52, and held that Mr. Clark must

pay MV \$109.37, which reflects the interest due with regard to the unearned portion of the fee. Upon any transfer or reinstatement to active status, the Court ordered Mr. Clark be placed on a period of probation for three years upon terms and conditions that include he maintain errors and omissions legal malpractice insurance during the probationary period.

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

M. PATRICK DUFFIN (Interim Suspension)

On July 30, 2012, the Idaho Supreme Court issued an Order Granting Petition for Interim Suspension of License to Practice Law of Idaho Falls attorney M. Patrick Duffin. The Idaho Supreme Court's Order immediately suspended Mr. Duffin's license to practice law. Mr. Duffin was also further ordered to comply with I.B.C.R. 516 and 517 until further order of the Court.

The Idaho State Bar filed its Petition for Interim Suspension of License to Practice Law and Affidavit in support thereof on July 18, 2012 and Mr. Duffin filed his Objection to the Petition on July 25, 2012.

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

NEWS BRIEF

Position available on Idaho Code Commission

The ISB Board of Commissioners is accepting applications for a position on the Idaho Code Commission. Pursuant to §73-203 *Idaho Code*, the Board of Commissioners nominates attorneys to serve on the Idaho Code Commission. The appointments are made by the Governor for six-year terms. The term of one of the current Commissioners expires on December 1, 2012, and the Board of Commissioners is seeking applicants for the position. If you are interested in serving on the Code Commission, please submit a letter of interest to ISB Executive Director Diane Minnich by October 5, 2012. For information about the work of the Idaho Code Commission, you can contact Executive Secretary Max Sheils at (208) 345-7832.

Banks deserve legal scrutiny

Dear Editor,

My name is Vermont Trotter and I am the Plaintiff/Appellant in *Trotter v. Bank of New York Mellon*, 275 P.3d 857 (2012).

There has been a bit of discussion of *Trotter v. BONY* in your magazine over the last several months. The first piece, in the January issue, was by a banking industry attorney who, in my opinion, did nothing but spin facts to justify her point of view. The second discussion was in your May issue from a 3rd year law student whose analysis, in my opinion, also came up short. I feel compelled to speak.

I learned about issues of real property and title by spending hundreds of hours in various county recorder's offices across Idaho and Washington researching title due to my work as a logging contractor. This case went to the Supreme Court because I see clearly the horrific damage the mortgage banking industry and the national banking associations have done to the title of many homes all across Idaho. Title determines private property ownership and as we all know, private property ownership is the cornerstone for all that we are.

In the opinion of the Plaintiff/Appellant, the appeal can best be described thusly:

Did the trial court err in granting a Motion for Summary Judgment to Defendant instead of the motion to compel discovery for the Plaintiff?

If I were to boil down the ruling in *Trotter v. BONY* to its essence, I would have to quote the following three items:

1. "The court declines to consider Trotter's arguments."
2. "Trotter argues that before any party may initiate a non-judicial foreclosure under I.C. § 45-1505, it must affirmatively demonstrate its standing to foreclose by proving it has an interest in both the deed of trust and the promissory note it secures."¹
3. "We hold that, pursuant to I.C. § 45-1505, a trustee may initiate non-judicial foreclosure proceedings on a deed of trust without first proving ownership of



the underlying note or demonstrating that the deed of trust beneficiary has requested or authorized the trustee to initiate those proceedings."

In regards to the first, you really should look at the items the court declined to consider. In my opinion, it was chock full of false and fraudulent documents filled with faked notarizations while using blatantly counterfeit signatures in violation of Idaho Codes §§ 18-2601, 18-2602, 18-2603 and 18-3202. There were also multiple filings by strangers to title in violation of Idaho Code § 55-806 and in direct contravention of *Maxwell v. Twin Falls Canal Co.*, 49 Idaho 806, 292 P. 232 (1930).

How can any person, be they pro se or represented by the most talented legal mind in the state have a chance if the Court declines to consider the arguments that person puts forward? I always thought the purpose of the court is to consider arguments and accept or reject them as they see fit with a clear discussion as to its reasoning. They didn't do that here. They just declined to consider.

In regards to the second and third, taking these words to their logical conclusion, anyone can foreclose upon anyone at anytime as long as they have the courage to file documents be they faked or real. It doesn't matter.

According to the Supreme Court of Idaho, proof of beneficial interest is not required under any circum-

stances and now, because of *Trotter v. BONY*, no one is allowed to ask. Strangers to title are free to file documents in violation of multiple statutes and, given that the local county prosecutor declines to prosecute the multiple felony complaint that has been sitting on his desk since November of 11, it seems to be a pretty safe crime ... especially if you work for a bank.

These are not ivory tower considerations. These issues have immediate real world implications. Every time there is a sale on the courthouse steps, not only does it strip all equity from that house, it also strips equity out of all the neighboring houses. According to CNBC, Idaho has the eighth highest foreclosure rate in the nation.² According to CBS News, Idaho has had the greatest drop in property values with over 30% of all homeowners upside down or rapidly approaching a negative equity condition.³ According to BankRate, the Boise/Nampa area had the largest drop in property values for all demographics in the entire United States for the 4th quarter of 2011.⁴ In June, the Fed reported that the average consumer household lost 39% of their wealth in the last three years.⁵

If the courts continue to allow the banks to foreclose in this unquestioned manner, this decline in property values will continue. It won't be long before you have an *Ibanez*⁶ or *Bevilacqua*⁷ situation on your hands. Those are two court cases out of Massachusetts which clearly demonstrate

the kind of title issues you can expect as you allow this to continue. Chaos doesn't begin to describe it. It has already reached the point where one of the local district judges wrote in an opinion stating that because a US Supreme Court ruling came out of Colorado, not Idaho, he is not bound to it.⁸ That may not have been what he meant, but that is absolutely what he said.

The Bar's problem, the Judiciary's problem, however, is much larger and, I believe, should be an item of extreme concern. Both before and since the ruling I have had contact with numerous people from all over the state. I assure you all that you now have a large and growing perception that the judiciary for the State of Idaho has no integrity and, especially on this issue, the system has gone missing. If you are a bank, you can lie and cheat to steal houses and no one cares. Harsh, but once you examine all the facts, you realize this is exactly what they are doing and you, the court system and the bar, are letting them get away with it.

I would like to point out to all of you something I found in the Idaho

Rules of Professional Conduct. In the pre-amble, under paragraph 5 it states:

While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

Then, in paragraph 6 in the pre-amble it states:

In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.

Does this willingness to look the other way, this willingness to overtly assist the banks by denying discovery so that the full truth can see the light of day inspire confidence in a legal system or the popular participation in it? I submit not. There must be faith in the system. Otherwise the system will collapse.

Private property rights are the cornerstone of everything we are as a civilization. It controls all levels of relationship from landlord/ten-

ant to taxpayer/government. These records are the economic facts upon which we all rely and upon which we base forward movement as a society. When you allow them to be corrupted, you inject a virus into society. When you try to facilitate them in an effort to try to save and perpetuate a dead and broken system you only compound the problem. This chaos shall continue until the full story is dealt with honestly.

I write to ask the Bar to help.

— Vermont Trotter

Endnotes

- ¹ See Idaho R. Civ. P. 17(a).
- ² http://www.enbc.com/id/29655038/States_With_the_Highest_Foreclosure_Rates?slide=4
- ³ http://www.cbsnews.com/8301-505145_162-37144224/top-5-states-for-depreciating-home-values/
- ⁴ <http://www.bankrate.com/finance/real-estate/q4-2011-home-values-5-worst-markets-2.aspx>
- ⁵ <http://www.federalreserve.gov/pubs/bulletin/2012/PDF/scf12.pdf>
- ⁶ *U.S. Bank Nat. Ass'n v. Ibanez*, 458 Mass. 637, 941 N.E.2d 40 (2011).
- ⁷ *Bevilacqua v. Rodriguez*, 460 Mass. 762, 955 N.E.2d 884 (2011).
- ⁸ Memorandum Decision and Order Re: Defendant's Motion to Dismiss, Kootenai County District Court April 11, 2012, Case No. CV-1-4920, *Sprouse v. Mortgage Electronic Registration Systems, Inc.* at page 11.

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2012 AWARD RECIPIENTS REPRESENT OUTSTANDING IDAHO ATTORNEYS

Diane K. Minnich
Executive Director, Idaho State Bar

Each year, lawyers and non lawyers are selected by the Board of Commissioners to receive awards for the commitment, service and leadership they provide to the legal profession and the public. The recipients represent the outstanding volunteers and lawyers we are fortunate to have in Idaho.

For more information about the award recipients, you will find the 2012 Awards Brochure on the ISB website: www.isb.idaho.gov.

Distinguished Lawyers

Distinguished lawyers are selected for their exemplary conduct, professional excellence, and many years of dedicated service to the profession and to Idaho citizens.

- Hon. Charles F. McDevitt (*Boise*)
- Scott W. Reed (*Coeur d'Alene*)
- Archibald W. Service (*Pocatello*)

Service Awards

These lawyers and non lawyers are selected for their outstanding service to the profession through their volunteer commitment to the bar, foundation, or community.

- Hon. Rudolph E. Carnaroli (*Pocatello*)
- Brian P. Kane (*Boise*)
- Hon. Jim Jones (*Boise*)
- Mark T. Monson (*Moscow*)
- Reginald R. Reeves (*Idaho Falls*)
- Monica Shurtman (*Moscow*)
- Marcia Wing* (*Boise*)
- William "Bud" F. Yost, III (*Nampa*)

Professionalism Awards

The lawyers who receive the professionalism award reflect the highest standards of professionalism as lawyers and community leaders. At least one recipient is selected from each judicial district.

- 1st – Sharon E. Anne Solomon (*Coeur d'Alene*)
- 2nd – Hon. Gregory K. Kalbfleisch (*Lewiston*)
- 3rd – Gerald L. Wolff (*Caldwell*)
- 4th – Hon. Mikel H. Williams (*Boise*)
- 4th – Lawrence G. Wasden (*Boise*)
- 5th – Alfred E. Barrus (*Burley*)

- 6th – Brent O. Roche (*Pocatello*)
- 7th – Winston V. Beard (*Idaho Falls*)

Denise O'Donnell Day Pro Bono Awards

Pro bono award recipients donate generously of their time and resources to provide legal services to low income Idahoans.

- 1st – Mischelle Rae Fulgham (*Spokane*) & Lindsey Renee Simon (*Coeur d'Alene*)
- 1st – Muriel M. Burke-Love (*Coeur d'Alene*)
- 1st – Martha Teresa Roletto (*Coeur d'Alene*)
- 2nd – Gregory Richard Rauch (*Moscow*)
- 3rd – Kerry Ellen Michaelson (*Nampa*)
- 4th – Robert Morrison Meek (*Boise*)
- 4th – Gary Guerdrum Allen (*Boise*)
- 4th – Keely Elizabeth Duke (*Boise*)
- 4th – Susan Morrison Moss (*Boise*)
- 5th – Seth C. Platts (*Twin Falls*)
- 5th – Kevin Patrick Cassidy (*Twin Falls*)
- 6th – Aaron Neal Thompson (*Pocatello*)
- 6th – Stephen F. Herzog (*Pocatello*)
- 7th – James Douglas Holman (*Idaho Falls*)

Outstanding Young Lawyer

This award recognizes a young lawyer who has provided service to the bar, foundation and community and who exhibits leadership qualities and professional excellence.

- Nicole Catherine Trammel Pantera (*Boise*)

Section of the Year Award

This award is in recognition of a Section's outstanding contribution to the bar, its area of practice, the profession and the community.

- Commercial Law and Bankruptcy Section

Advocate

- Best Issue: Litigation Section Sponsor, February, 2011; Editing team Brent Wilson, Sara Berry, Scott Randolph
- Best Cover: Jennifer Cafferty-Davis, paralegal at Anderson Julian & Hull, owner of Memory Lane Photography
- Best Article: Jason Prince, February, 2011, "Chipping Away at the 'Wall of Stone': Foreign Country Law and Federal Rule of Civil Procedure 44.1"

The Distinguished Lawyer, Service, Outstanding Young Lawyer, and Section of the Year awards were presented at the ISB Annual Meeting in July. The Professionalism and Pro Bono Awards will be presented at the resolution meetings in November.

The Bar also honors those members who have reached the 50 and 60 years of service to the profession and the members of the judiciary who retired during the past year. The 50 and 60 year members were honored at the Annual Meeting and the retiring judges will be honored at their respective district resolution meeting.

50-Year Attorneys

- Hon. Phillip Marvin Becker (*Gooding*)
- John S. Chapman (*Hailey*)
- Hon. Jim Raymond Doolittle (*Caldwell*)
- Hon. Larry Robert Duff (*Rupert*)
- John Dennis Faucher (*Philadelphia, PA*)
- Alva Alton Harris (*Shelley*)
- Hon. Byron Jerald Johnson (*Boise*)
- Edward Armstrong Johnson (*Boise*)
- Hon. Edward J. Lodge (*Boise*)
- Hon. Paul David McCabe (*Coeur d'Alene*)
- Franklin H. Powell (*Boise*)
- Jerry A. Quane (*Boise*)
- William Frederick Ringert (*Hammett*)
- Larry Dale Ripley (*Eagle*)
- R. Michael Southcombe (*Boise*)

60-Year Attorneys

- Leonard Herman Bielenberg (*Moscow*)
- James Bartlett Green (*Pocatello*)
- Wayne Clinton MacGregor Jr. (*Grangeville*)
- Reginald R. Reeves (*Idaho Falls*)
- Richard Rosenberry (*Caldwell*)
- Wilber Lee Rowberry (*Overland Park, KS*)
- Fred Allan Schwartz (*Sacramento, CA*)
- Thomas L. Smith (*Boise*)
- Jay H. Stout (*Encinitas, CA*)

Retiring Judges

- Hon. Earl Blower (*Ammon*)
- Hon. Gregory M. Culet (*Nampa*)
- Hon. Larry R. Duff (*Rupert*)
- Hon. Michael R. McLaughlin (*Boise*)
- Hon. Robert M. Taisey (*Caldwell*)

* Indicates non-lawyer

WELCOME FROM THE YOUNG LAWYERS SECTION: BREAKFAST WITH THE LEGENDS

Mark P. Coonts
Ada County Public Defender's
Office

This issue of the *Advocate* is something that I could have not done by myself. I would like to thank all of the people who put in considerable time and effort to make this issue possible. Especially, the members of the Bar and Judiciary who agreed to participate in our breakfast series. I would also like to thank M&M Court Reporting for volunteering their time and reporters to capture each breakfast verbatim. Their generosity allowed the Young Lawyers Section to share each event in its most raw and real form with the rest of the Bar. If you take nothing else away from this issue, realize the importance that the simple act of mentoring has had, and will continue to have, on the practice of law in Idaho.

With this series, the Young Lawyers asked prominent members of the Bar to come and speak with some of our members in a casual setting. We tried to select attorneys/judges and locations across the state and make sure that there was an intimate setting for the talks. Each of the attorneys/judges who volunteered their time had complete freedom to engage in a dialogue with members of our section. As the name suggests, each CLE happened over breakfast across the state.



Mark P. Coonts

*After reading all of these transcripts,
it is clear, that the simple act of mentoring
makes our Bar a stronger, self-sustaining entity.*

I had the privilege to read all of the transcripts from across the state. Throughout each one, it is apparent that mentoring plays a significant role in development of a successful legal career. It is also an important component of why our Bar has such a high level of civility and professionalism. Each generation of attorneys/judges in Idaho brought the lessons from past mentors to pass along to the next generation of attorneys. After reading all of these transcripts, it is clear, that the simple act of mentoring makes our Bar a stronger, self-sustaining entity.

An equal responsibility lies with new attorneys to take advantage of the wealth of knowledge offered by a willing mentor. There is always something that can be passed along to not only make a better attorney, but hopefully a better person as well. And, it is equally important for a mentee to return the favor to other new attorneys when he or she reaches that point in their career. The level of practice our Bar enjoys is not something that comes easy, nor is it something that miraculously just happens. To achieve a high level of success and enjoyment in a career, a new attorney cannot go down the path alone.

The Young Lawyers Section allows new members of the Bar to have a group of peers to share their experiences with the practice of law. It is important for those new to the state, and it is a good way for people from Idaho to keep in touch. The Section hosts social events throughout the year for Young Lawyers to develop a sense of camaraderie and mutual understanding. The Section also is responsible for the annual Lawyers Against Hunger fundraiser raising money for the Idaho Foodbank. In that event, the Section tries to elicit both awareness and empathy for people in Idaho who are relying on the Idaho Foodbank to supplement their diets. Please join us this fall and help make this year's event the most successful yet.

About the Author

Mark P. Coonts works at the Ada County Public Defenders Office and is Chairman of the Young Lawyers Section. He earned his B.A. in Philosophy from the Albertson College of Idaho and his J.D. from the University of Idaho College of Law. Mark was admitted to the Idaho State Bar in 2007. He worked as a law clerk for Ada County and before his work as a public defender did contract work for Davidson Copple Copple & Copple.

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BREAKFAST WITH THE LEGENDS, TWIN FALLS - JUSTICE ROGER S. BURDICK

Hon. Roger S. Burdick
Idaho Supreme Court

Chief Justice Roger S. Burdick was appointed to the Idaho Supreme Court in 2003. He was reelected in 2004 and 2010. Prior to his appointment, he presided over the Snake River Basin Adjudication and served as a district judge and magistrate judge within the Fifth District. He began his career in private practice, as well as serving as both a public defender and a prosecutor. Justice Burdick relates the lessons he learned from both sides of the bench.

I don't know how I became a legend. I have a theory: there are about a million bottles with messages put into the ocean every year, and about five or six make it to shore. I'm one of those that made it to shore. You know, you just bob along until you've made it to shore and then when you're old enough, they consider you a legend.

I think if you would talk to some of the older lawyers here, they would tell you more about me than I know about me. That's one thing I always knew — the lawyers in the Fifth District knew the judges better than the judges knew themselves. So, if you want to know the truth, go ask them.

I'm supposed to talk about lessons I've learned throughout the years. I think the only reason that I have had any success is the people around me. I was just talking to the court reporter about Virginia Bailey, my court reporter in Twin Falls, and the part she played in terms of helping me become a fairly successful district judge here in Twin.

When I was in business school, my senior paper was about informal power structures within organizations. At that time, there wasn't very much literature on it. But I'd worked as a telephone installer in college, and we knew that we had a boss. But, then we had a guy who ran the garage, and he'd been there about 30 years and knew everything and knew everybody and was a much better people person than the boss. And he ran the place. That intrigued me. I think doing that paper and having that sensitivity helped me shore up my own weaknesses, and there are many. Because I'm not the smartest guy in this room, I will guarantee you that. I may have had a few more experiences than most, but it's the people around you that really do allow you to continue at any level in this business.

So knowing that, first thing I always do is I go talk to the janitors; I talk to the clerks; I talk to the secretaries, as much as I do the partners or the other judges.

I asked a friend of mine, why do you think I've had any success? And he said, well, I think it's because of the way you treat people. You treat everyone exactly the same. And I didn't realize it, but I guess I do. And that, over the years, builds a certain reputation that people can feel comfortable around you. They can talk to you. They can trust you. And without trust, there is no leadership; there is no working relationship.

Speaking of reputation, you know, it really is all we have in this business. And as a result, you build it on a daily basis. There was only one piggy who survived, and that was the piggy who put together a house of bricks. The analogy is that each of us in this room who has had any success or longevity has worked every day to try to be a little bit better than yesterday, learned from the successes, learned from the failures, and put that brick on the little house — that is your reputation. As a result, once you have that reputation, again, you build trust. You can get that continuance. People know you don't lie. You can say this case says the following and people can trust it.

When I was a trial judge it was very easy for me to know exactly who I could trust and who I couldn't. It was very easy to then make decisions. If somebody asked for a continuance and they were on one side of the table that I didn't trust, I made sure that I called their office to check their schedule and make sure I wasn't being lied to. If they gave me a case, I checked the case. It's just that simple.

I'm always amazed at the lawyers, even the older lawyers now, who come into the court, a court with five hard-working individuals with over a hundred years of fairly successful practice and judicial experience, and try to tell somebody that — you know, they will quote a partial sentence or they will say this case stands for this. I am just amazed that they continue to do that. They are exposed fairly quickly. And as a result, their oral

argument, their position, and their client's case is weakened immediately.

Your reputation is everything. You build it on a daily basis. It's all we have to sell. I think every attorney in here who has over ten years of experience will tell you that the highway of life has a lot of turns in it. It has a lot of U-turns, where you're going to need a little bit of leeway, you're going to need a continuance, you're going to need a couple of extra days. You're going to be able to, in a negotiation, say, "Listen, my client is a jerk and I'm going through this negotiation to try and show that my case isn't going to be very strong if we do go to trial." And then not have that be used against them further on down the highway.

The business end of the law business has always been a bastion of stability in my mind. Maybe it's changed. I don't think so. Even if it has changed, it hasn't changed as much as the rest of the world. And if I have anything to say to the young lawyers, please understand that it is worth something. It is worth extra time with your family. It is worth a lot less alcohol at night. It's worth an awful lot. So nurture it and try to preserve it.

One of the things that I see is that some lawyers today are looking about an inch ahead of themselves; it is this case and this case only, I will live and die on this case, and I will do everything possible on this case. That's just not going to work. I mean, because that case, you're going to do things in that case that are going to ruin your reputation with one lawyer who talks to ten other lawyers or one judge who talks to every other judge. And pretty soon you're on the outside of the pack looking in. Does that mean you have to comply? Well, I think if you talk to anybody around here, I'm not sure I was known to comply with any rules, social or legal. It's vitally important, though, that you build that reputation every day.

Some people ask me: Did you always want to be a judge? I said, no, I never wanted to be a judge. I was asked a couple of times to be a judge in Jerome and said, no, I'm not smart enough. And now 30-plus years later, I've proven myself correct. I didn't want to be a judge. But once I was a judge, I think the things that made me successful were preparation, most of the time, and consistency. Again, that consistency of treating everyone the same, be it Mrs. Jensen — who I sentenced to life — or good friends — who



Hon. Roger S.
Burdick

came before me for DUIs and went to jail for a weekend, just like everybody else.

I've got a great story, and I won't name names. A man named Art, who I knew as a good social friend and great guy. He came in with his attorney, John, to Jerome on his second or third DUI. But, he was charged as his first DUI. I don't know why that was, but he got a first DUI. And, I mean, I probably spent some time with Art the week before. And he came in, he pled guilty. His attorney came up after I took the plea and sentenced him to eight days — or ten days, eight suspended weekend, eight o'clock Saturday to six o'clock Sunday, same as everybody else, and the same fine as well. And his attorney came up to me, "Could I approach the bench, Your Honor?"

I said, yeah.

He said, "Do you want to go to lunch after you're done?"

I said, sure.

So, the three of us went to lunch afterwards. And then played the numbers game and Art had to buy my lunch to boot. Funny story. He lived in Sun Valley and got a speeding ticket coming to jail on Saturday morning. And the Shoshone cop pulls him over and he says, "What are you doing?"

And he says, "Well, I'm trying to get to jail or else Burdick is going to give me more jail time." So the guy gave him a warning, and off he went. That's a good story.

And then he got good time because there was a real troublemaker in the jail and Art had enough of that guy, so he beat him up. The sheriff let him out for toning down the bad guy. Art was one in a million, I tell you what. That was the old days, I guess. I don't suppose you could do that now. But, again, it goes to show that consistency is everything. It is treating people with respect, the same, no matter who they are.

People ask me, well, you know, what has been the success you've had to get to where you are? And, again, I think it's just pretty simple stuff. It's every day you work as hard as you can. And I think one thing that I've always done is that I've never said no to speaking engagements, to extra activities in the county or community. I was really active in Rotary. That takes away from your family, but it puts you out into the community. And, again, you get to treat people not in a legal sense or in a way that our profession does, but in a common sense. That helps us to deal with their problems when they come in.

I just was going to practice corporate law with, you know, well-heeled clients who bought me martinis at the country club.

Then, I think I try to be prepared. One of the big differences between being a district judge in Twin Falls and being on the Supreme Court is, number one, the pace. It's a snail's pace up there. And at the district court, it's very frantic. But, number two, I spent most Sundays at work, if we weren't out camping or I wasn't out hunting or something, I would be in Sunday getting ready for Monday law and motion. I think there was a lot more night work and weekend work that you had to do as a trial judge. Now it's just even worse. I can't imagine the case-loads that Judge Stoker and Bevan are dealing with here.

It's really interesting how Fifth District judges have come to the Supreme Court and now are vitally involved in administration. There's a reason for that. The administration here in the Fifth District of the judges is very collegial, very professional, and we just do our work. The legal culture among judges is to cooperate and to help each other get the job done.

Other things that I've observed: There just cannot be any substitute for preparation and detail. I tell the story that when I got out of law school, I said I'd never practice criminal law. And I just was going to practice corporate law with, you know, well-heeled clients who bought me martinis at the country club. I have now been the public defender for four counties and a prosecutor in two others. And I've never been to a country club with a well-heeled client. It's all preparation. It's all detail.

In fact, that's what I tell the new students at law schools, you may have come up here with an excellent LSAT, but it doesn't make a dime's worth of difference. It's all detail now and hard work from here on out. We all know that's the truth.

There are some great stories that I could tell you. People ask me, how did you do in law school? I say, well, I was real mediocre at best. I have a great story about that.

I've had very few goals in my life. One goal that I did express and hope I made, was to deliver a college graduation speech. And just a couple weeks ago, or a month ago, I did the graduation speech for the University of Idaho Law School. Now, if you don't think that's irony, you just don't know me, I will guarantee you. It was a real honor.

One of the young students asked me, What about your college experience, your law school experience, how was it?

I said, "It was the most fun I ever had in my life, three years of the most fun I ever had in my life." And it's exemplified by one story.

It was the '70s, and students at that time felt they needed to run everything. As a result, three of us were picked by the student body to go in and talk to the Dean about changes that must be made at the law school. Well, you know, that's the height of hubris, obviously. But we went in and we chatted with him. He was a fine southern gentleman named Dean Menard. The Dean was from Georgia. The Dean listened to us attentively, asked piercing questions, and then at the end, said the following.

The three of us there were Steve Brown, a lawyer in Boise, Rick Toothman, a public defender up in Boise, and myself. And the Dean said:

Well, thank you, gentlemen, I'm just very pleased that you came here to express the students' feelings. Mr. Brown, you had an exemplary Stanford education, very high grades, and on the athletic field excelled. Mr. Toothman, your LSAT approaches perfection and your grades at Columbia were marvelous. And, Mr. Burdick, I'm not quite sure how you got in this law school.

Now, that is an honest to God true story. I barely got out. Isn't that great?

"Mr. Burdick, I'm not quite sure how you got in this law school." Who knows? It was pretty funny. So, from that position, I'm now addressing you in this position.

BREAKFAST WITH THE LEGENDS, BOISE - HON. CANDY W. DALE

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

Judge Dale received her undergraduate degree from the College of Idaho in 1979 and her J.D. degree from the University of Idaho College of Law in 1982. She then began her legal career as an associate with the law firm Moffatt, Thomas, Barrett & Blanton in Boise. In 1988, she was a founding partner of the law firm Hall, Farley, Oberrecht & Blanton. And in November of 2007, she was selected for appointment as a Magistrate Judge for the United States District Court for the District of Idaho. She entered duty as Magistrate Judge on March 30, 2008, and has served as Chief U.S. Magistrate Judge since October of 2008.

The following are excerpts from a talk given by Judge Dale to a group of young attorneys in Boise, Idaho. She recounts her experience in private practice and some of her most memorable moments as a young attorney. She also shares some wisdom useful to all attorneys including the role mentoring plays in the practice of law.

So I really appreciate the opportunity to be here and to talk with you. And I really appreciate the opportunity to do it on an informal basis. And so it's fine that you have your breakfast while we talk, and I hope there are a lot of questions, because I would prefer question-and-answer format if we can do that. But I also have two pages of bullet points or things that I thought might be interesting to all of you.

I was raised in Boise, educated through the public school system, graduating from Borah High School in 1975, and then I went an entire 30 miles away to college, to the College of Idaho in Caldwell. So I am a Yote, as Mr. Street is. And then I attended the University of Idaho College of Law. Came back to Boise, started practicing with Paul Street and others at Moffatt Thomas. I was there a little over six years. I was a junior partner for about a year and a half, and then left the firm and founded, along with other lawyers, Hall, Farley, Oberrecht & Blanton, which sadly no longer exists in the same configuration today.

Both firms were amazing, as were the lawyers I worked with at both firms. And there was a lot of mentoring I received along the way. It was never forced mentoring. There was always mentoring that I tried to, I guess, absorb, by watching lawyers and trying to figure out what traits I wanted and would be able to emulate. This is something I talked about yester-

day to a group of legal externs, because I think it's very much a process that young lawyers go through, wherever you start practicing, whether as a sole practitioner like a couple of you are bravely doing, or with other lawyers.

But in the process I think you are trying to figure out what traits you are observing that you would like to believe others down the road will say: "Aah, I appreciate, I respect that trait of Scott Learned or of Ritchie Eppink." I believe we are all doing that as we go along practicing. And it's a very important part of the process as a lawyer, young or not so young.

So anyway, I wanted to talk a little bit about the first brief that I signed. I remember it vividly. It was a brief to the Idaho Supreme Court. It was when I was with Moffatt Thomas. I believe I signed it in September [of 1992], shortly after I was sworn in as a lawyer. And it was a case called Blake versus Cruz. It's reported in the Idaho Reports. And it was a case involving alleged wrongful birth and wrongful life. And on behalf of our client, the doctor, we obtained summary judgment, and the plaintiff appealed.

And I remember the case because it was very interesting. It was the first brief I signed, and then I was given the opportunity by Dick Fields to actually argue the case before the Idaho Supreme Court, which I did in October of 1983. And during that argument — it was a very memorable argument for a lot of reasons. Primarily because it was my first in an appellate court, and I remember walking into the courtroom and Fred Lyon, who was the clerk of the court at the time, said, "Well, where's Mr. Fields?" I said, "Well, I'm Mr. Fields today."

And I sat down. And the argument was in the courtroom of the law school. So that also made it memorable, having gone to law school there. But the courtroom ended up being packed, because they had high school students and a lot of other individuals attending the arguments. So the klutz that I am, I set myself up at counsel table and I had all my papers and my notebooks and decided I was going to pour some water into the cup or the glass, and promptly just dumped it all over my paperwork.

There was always mentoring that I tried to, I guess, absorb, by watching lawyers and trying to figure out what traits I wanted and would be able to emulate.

Fortunately, there weren't that many people in the courtroom yet because I was getting prepared. So I cleaned things up, and then we went ahead with the argument. And I thought the argument went quite well. I felt prepared, and I don't remember anything bad happening during the argument itself, other than before the argument spilling things.

I maintained myself. And then the following day in the Lewiston Tribune, the headline in the paper, and it may have made it down here in the Idaho Statesman, was "Doctor Admits Negligence." And I'm thinking: "Doctor Admits Negligence"? Where did that come from?

Well, I was very disturbed, and of course my client was as well, and was calling Dick Fields. He may have called Paul Street. I don't know. But he was calling various others. And because it was an appeal from a summary judgment that we had obtained and there were statute of limitation issues and other issues, such as when did the cause of action accrue because it was a wrongful life, wrongful birth, case, I had stated early on in my argument that we would assume only for purposes of the appeal that there was negligence and that the negligence cause of action accrued at a certain point in time.

And I was very disturbed reading the article, because I was thinking back about my argument knowing I hadn't admitted negligence. And the doctor was very disturbed, he was very excited. He didn't really understand the proceedings and why I would say something like I did, because, although it was a negligence cause of action, it was alleged malpractice.

And so I had the privilege of going down to the Idaho Supreme Court and listening to my oral argument. Fred Lyon set me up in a cubicle, and I listened to the tapes over and over again to ensure that



Hon. Candy W. Dale

I had not admitted negligence so that I could then talk to the client.

So shortly thereafter Dick Fields and I went to Kamiah because that's where our client was from and we met with the doctor, and he was okay. You know, he understood it by then. And I'm thinking, my career is gone after a year. It's only been a little over a year.

And then to top it off, the following Sunday in the Lewiston Tribune, Ladd Hamilton wrote an editorial. And the editorial was about my first name. It was about the names that parents give their children.

And I actually brought a copy with me today. And I talked a little bit about this during my investiture a little over four years ago. But the editorial starts: "I wonder how many readers noticed that one of the lawyers arguing a case before the Idaho Supreme Court at Moscow the other day was named Candy R. Wagahoff. There was a child whose parents never expected her to go to law school." And it gets better from there — or worse.

But the line that is interesting, and that really hurt my parents' feelings, was, "You must wonder what passes through the minds of parents, when envisioning what their child will grow up to be, they endow her with a cutesy-pie name that turns her into a bon bon or a trinket."

And so it was very disturbing. Disturbing more to, I think, my parents, my mother. My mother was very disappointed and had some comments about who would name their child Ladd, their male child.

The point of the story is I did survive. I made it through all of this. But I often think back about that because it was an interesting first year and a half or two years. And I guess I made a name for myself in a very oblique and interesting way.

I think this experience probably did have a bit of a motivating effect. And I thought a lot about it because the editorial

And it was a big victory, but we never collected a dime for our client or for the two law firms that were involved because the company that was sued filed bankruptcy and we never collected.

was sexist. There's no other way to put it. It really was.

And that probably hurt more than, you know, the story about a cutesy-pie name. And so that may have motivated me in part as well. I wrote an article that was in The Advocate about a year and a half ago for the Women Lawyers. I styled it "I Hope You Dance." And I talked a little bit about this editorial and that early time in my practice.

And so now when the bailiff or law clerk, or my courtroom deputy, calls court and announces: "The Honorable Candy Dale presiding," I think maybe that name didn't hold me back that much. I've not changed my name to Candice. I was born and given the name "Candy," and it's an interesting name.

And I do remember early years in representing physicians, and actually through the years representing doctors, and most of them were, you know, male at the time, and I would tell them, to make sure you explain to your wife why you're writing notes that say "For Candy."

But I thought this story might be interesting, and it's a little bit humorous also as well now to talk about it. But I remember sitting in that cubicle listening to those tapes of the oral argument. And of course, you know, they were big tapes. It wasn't something like you could just put in a computer back then. I remember thinking,

What's this going to mean for my career? But again, I survived. We actually won on appeal. The summary judgment was affirmed and everything seemed to go okay, a little bit smoother from there on out.

So again, I was at Moffatt Thomas for a little over six years, and then with Hall Farley 19-plus. I tried several cases, initially a lot of them with Rich Hall. My first case I tried by myself was a rear-end accident filed against a State employee. Gerald Schroeder was the trial judge. And that was a good experience. We did admit liability, but intentionally. Tried the case on damages, and they got less than our offer of judgment.

I just had great experiences in the courtroom. Didn't win every case, obviously. Had a case where I was co-counsel with a California lawyer, plaintiff's case, involving an employment agreement. And we got a verdict of about 3.2 million when you included the interest and other things. And it was a big victory, but we never collected a dime for our client or for the two law firms that were involved because the company that was sued filed bankruptcy and we never collected.

So I experienced a lot of those, I guess, hard feelings or the hurt that you have as a trial lawyer when things don't go your way. But I also had a lot of successes, defense verdicts, and a couple of plaintiff's verdicts.

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BREAKFAST WITH THE LEGENDS, IDAHO FALLS - ALAN C. STEPHENS

Alan C. Stephens
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*Alan Stephens is a Partner at Thom-
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his B.A. in economics from Brigham
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the University of Idaho College of Law in
1978. He is a member of the Idaho and
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tion, and the Idaho and Wyoming Trial
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State Bar in 2010 and is on the Idaho
Supreme Court's and the Idaho Federal
District Court's lists of trained media-
tors. Mr. Stephens has over 33 years of
experience in numerous areas of the law
and presently focuses his practice on con-
struction, business, and personal injury
litigation as well as providing mediation
services. Below are excerpts from a talk
he gave in Idaho Falls to a group of young
lawyers.*

The first thing is — and I don't know that I'm the person that came up with this saying, but I believe it's definitely true: A case that you take on is never better than the first time you hear it from your client. That's the best it's ever going to be. From then on out, it gets worse. It just always seems to be that way. There are a few rare exceptions where a case actually gets better, but that's rare.

Probably one of the most important things I would suggest to newer lawyers is be honest. Make that a part of your personal and public life. If you're honest, you don't have to — you don't really have to remember what you said. If you just tell the truth about everything, things work better. And you'll find in your practice that there are sometimes people that you deal with where you can't trust them, and that makes it very difficult for you and for them.

So, if you are trustworthy, if your clients can trust you and the other attorneys can trust you and your partners can trust you, that, to me, is the most important thing you can establish in your practice. Because if judges can trust you, when you stand up and you say something to a judge, they know that you mean that or that they can rely on what you're saying when you make a factual representation, it will make your life a lot easier as time goes on.

The next thing I would suggest is don't brag. You'll have a few moments where you feel like you can brag. And it's okay to enjoy the moment for a time, but don't be a braggart. That will come back to haunt you.

And one thing you'll find out is that, when you have a victory of some sort in the legal practice, that's a lot of fun, but it's short-lived. Because about 10 minutes later, you've got to get back to work.

But when you lose, you never forget it. You'll still remember it when you're getting ready to retire. So, don't brag. And the only lawyer that hasn't ever lost a trial — he's either never tried a case or he's tried one.

Don't cut down other lawyers. I think we need, as a profession, to uphold the integrity of the profession by following the ethical rules as best we can and being honest, but also by not saying negative things about other practitioners in the law.

Sometimes negative things are — sometimes things happen that the public takes a negative view of lawyers. And there's nothing we can do about that, but I think we need to take every opportunity we can to remind people that we have influence over that, as a general rule, the attorneys that you practice with and against are honorable people trying to uphold the law, advocating for their clients, and doing the best that they can.

The next thing I would suggest is don't let your clients control you. There's an old saying that the law is a jealous mistress. And I can say there's been times in my practice where it became almost consuming, like you couldn't — when you'd leave the office, you couldn't stop thinking about it, and it affected the way you — the way you were at home or in other things that you were doing. And you need to do everything you can to be able, when you walk out of the office, to put a stop to that so that you have the ability to refresh yourself.

Part of that is not allowing clients, except in specific emergencies, to be calling you at home. That was one of the things, frankly, that soured me on domestic practice. When I was a young lawyer, I used

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Alan C. Stephens

to do a lot of criminal work and domestic relations work.

And what I found was that the domestic clients that weren't paying you were the ones that were going to call you at home on Christmas Eve and demand that you get their kids back from that no good so-and-so that hadn't produced them on time and that they wanted you to call the judge right then. And then they're the ones that aren't going to pay you.

So, learn to take that and get that under control and not allow that to take over your life.

And with that, it goes without saying, pay attention to your private life. Pay attention to your family. I mean, the reason we work as lawyers is so that we can provide for ourselves and our families. And while the law is a wonderful process and a great way to make a living, it's not as important as all those other folks that depend on you.

I mean, every one of us — if a member of our family needed us to stop the practice of law and to do something different because it was necessary to protect our family or to sustain our family, we would do it in a heartbeat, no matter how much we loved the practice of law.

And, so, pay attention to that. Make sure that you don't take your office home with you and allow it to affect the way you treat your children and your spouse. Make that a division in your life so that you can pay attention to your family.

Another suggestion I have is to learn how to play. Do something that's fun. The practice of law can be very stressful, and you need to be able to go out and do something to kind of change the way you think and get away from it a little bit. So, have a hobby or be a runner. I'm not a golfer myself, but I have partners that golf. Golf or do something that gets you away and allows you to decompress, for a lack of a better term. I think it just makes you a better lawyer. It keeps you fresh.

If you don't already have a sense of humor, see if you can figure out how to get one. There's been several times in my practice where, if I hadn't been able to laugh at myself, I probably would have had to be on medication, you know, because things can get pretty stressful.

Sometimes you just have to go "You know, that's pretty darn stupid, and that's, you know, pretty funny." And the ability to laugh at yourself and to laugh at the situation and see the humor in it, I think, is invaluable, especially if you're going to be a trial lawyer, because that's a pretty stressful area of practice. You've got to be able to see through it and what happens there, and that really helps you to handle the stress.

I jog for my health. And after you're out about 10 or 15 minutes and you kind of get in the flow of it, your mind starts to work really well and you can really think things through. I call it meditation. Other people have other ways of doing it, but those are times when you can really have some great thoughts about how to solve problems that are facing you in particular cases that you're involved in.

Always keep at least two calendars. Your secretary needs a calendar that you coordinate with, you need a hard calendar at your desk that you coordinate with, and then you need something on your computer as well. And those things need to be synced regularly to prevent you from missing deadlines, hearings. If you'll do that, if you'll have a couple of calendars and back those things up with each other, you'll save yourself a lot of grief, because you just don't want to miss deadlines and hearings.

Be involved in your community. A great way to build your practice is to help coach your kids' YMCA basketball or baseball teams. You get to know a lot of people that way, and you're giving back to the community. And you're also helping with your own family.

Be active in — I would suggest that every attorney ought to be active in some

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kind of service club, whether it's the Lions or Rotary or Civitan. There's several others. But we need to be — as attorneys, I think we're generally looked at by members of the community as people with skills and leadership ability, and we need to give back to the community. And that's one way we can do that is through being a member of some type of a service club.

In keeping with that, I would also recommend that you try to find a way to give back to the Bar, whether it's grading exams or serving on one of the committees. The Bar is a great support to all of us and if we can find a way to give back to the Bar, it helps others and it helps ourselves as well.

Learn the Rules of Evidence and don't be afraid to go to trial. You strengthen your client's position and your position in negotiations if you know what the Rules of Evidence are and the other side knows that you will try a case. You don't have to necessarily be the greatest trial lawyer in the world to be able to have the ability to try a case. Just knowing that you will go to trial and try a case if you need to strengthens your position and your client's position. If the other side knows that there's no way you're going to try a case, then, of course, that gives them some strength in negotiation.

So, learn the Rules of Evidence and don't be afraid to try a case. There's no way to learn how to try a case other than just doing it. And get some advice from other members of your firm. Or if you're a sole practitioner, get it from an older lawyer and talk it through with them. All the lawyers that I know in this area are happy to do that with a young lawyer and give you as much advice as possible.

I also suggest that every one of us, no matter what our age and area of practice is, at least annually, if not more often, you need to pull out our ethical rules and read through them from beginning to end to just refresh in our minds the ethical rules.

I would say you want to practice with people who you can trust, who are going

to be honest with you. You want to practice with people who are going to make you better.

In my opinion, all of my partners and associates are all better lawyers than me, and I like it that way because they make me better. So, I look to be around people who I think are smarter than me and — because being around them and seeing how they do things makes me better.

It's also important to have people with good judgment, because you need people you can bounce things off of. And if you have people around you with good judgment — and if you're not in a firm, if you have friends in the law that you can call and bounce things off of, that's really important.

But, first of all, you've got to be able to trust them. Then you have to respect them. And if you have those two things, I think you can be a successful firm.

The next thing is they would need to have a similar work ethic to yours. Sometimes if you have a workaholic in the firm, that can put undue pressure on others to work harder than they feel like they should work. And sometimes if you have a slacker who doesn't like to work, of course, that's a problem, too. And those things all have to be worked out.

But if you have people in the firm with similar work ethics and you trust them and you respect them, that will be, in my opinion, a successful association.

And I think it's better to practice with a group. It gives you flexibility. Somebody can cover for you. You can be gone. You've got somebody to talk things over with. I think it makes you a better lawyer.

But that said, some solo practitioners are great lawyers. But I think they always have a built-in system of friends they call and they discuss things with so that it's a de facto firm type of relationship where they can discuss things with others.

In short, look for the humor in your life. Work hard. Be kind to others, especially your family. Have some fun. Talk up our profession and be an ethical lawyer.

BREAKFAST WITH THE LEGENDS, MOSCOW - HON. JOHN C. JUDGE

Hon. John C. Judge
Latah County Magistrate Court

Hon. John C. Judge has been the Magistrate Judge in Latah County since October 1, 2008. Prior to his appointment to the bench, he enjoyed private practice for 24 years in Moscow with the firm Landeck, Westberg, Judge & Graham. Judge Judge graduated from the University of Idaho College of Law in 1984. He does not believe he is worthy of being called a "legend," nor is he old enough. He loves his work, his family, and his life. When he is not working, he is playing outside.

In this session, the Honorable John Judge spoke to several people in Moscow, Idaho. As a magistrate judge who came from private practice, he brings an interesting perspective to the not only advice on being an attorney, but also on his time on the bench. Below are excerpts from the morning's breakfast.

Opening thoughts

You're participating in a competitive and bruising profession. But despite Vince Lombardi's famous quote, winning isn't the only thing, and it's important to remember that winning can be inherently self-defeating if you're sacrificing lasting and fundamental values. So despite the pressures and stresses you face and will continue to face, never forget your larger responsibility to the rule of law, the profession, and your own humanity.

So my advice — or my charge — was to provide advice to new lawyers. I don't know if that really fits you, but, you know, there are always lessons to be learned and things to be reminded of, so I hope I can mentor you in some small way. I've been mentored my whole career, and I think we all have an obligation to pass on the good that we have received from others, and that's what keeps the whole system working.

It is pretty challenging to meet that charge without sounding trite, stringing together a bunch of platitudes, but a lot of these things do bear repeating, so I apologize in advance if a lot of what I have to say is a rehash of everything you have already heard, everything you know. And I especially apologize if it starts sounding preachy, but I tend to do that sometimes.

On success in the law

So maybe one of the most important things to remember is everything you really need to know about being successful

Despite the pressures and stresses you face and will continue to face, never forget your larger responsibility to the rule of law, the profession, and your own humanity.

in the practice of law you learned long before you went to law school; it's really that simple. And I think what's at the heart of success in life and the law is to live and work with integrity and seek a purpose that reaches beyond yourself.

People don't come to us with tidy packages of legal issues. They come to us with all the complications of being human. You should not and cannot avoid all of those complications of dealing with that person's humanity. It's what will make the difference between being a clinical purveyor of legal products or somebody who ends up as a trusted advisor to multiple generations in the same family. I think that is the difference. It really is the honor and privilege of what you do, what you get to do as a lawyer.

You know, it's hard to be successful in the law because you're always striking this delicate balance — walking this tight rope between contradictory forces. You're supposed to be confident but always humble. You're supposed to work hard and tirelessly but have balance in your life. You're supposed to obsess about details without losing sight of the big picture. You're supposed to advocate vigorously without losing your perspective. You need to make money but be generous with your time and expertise. You have to get this complicated project finished, be thorough, not make any mistakes, but not spend too much time on it.

And you're supposed to get all your work done so you can get home and spend time with your loved ones. And this kind of inconsistency, this pull in different directions, can be confusing for new lawyers, and it can be confusing for lawyers

who have practiced their entire lives; we all do have different paths. We need to strike the balance differently. But anybody who practices law for any time at all understands the struggle. It's not easy. I mean, I haven't been caught up, so to speak, since August of 1981 when I started law school. I mean, seriously, you just learn to deal with that.

On difficult clients

Do not confuse what the client wants with the client's best interests. Clients don't always understand what their best interests are. That's why they're coming to you. The client's interest can intersect with the client's desires, but not always. So never forget that the client has come to you for sound, objective, professional help. You don't help the client, you don't help yourself, and you don't help your reputation by feeding into a client's unreasonable expectations. Now, you've heard of client control, of course, so ignore it at your peril. Never forget that some of the best work a lawyer can do is in the privacy of his or her office within the protection of the attorney-client privilege.

That's where you're able to educate, explore alternatives, tamp down the emotions, listen carefully, and establish the trust and rapport that is necessary for a good working relationship. You'll also learn very quickly if this is a client that's going to be resistant to your gentle persuasions and education. You'll find out very quickly if this is a client who's going to carry those unreasonable expectations of you and prospective results in the case on through the case and beyond. And I would humbly suggest that you do not want this client. And you'll learn over the course of your career to be able to spot these potential problem clients. It doesn't mean that you can't work with this person and educate this person, as I said, but beware, especially if you're the third or fourth



Hon. John C. Judge

lawyer that this person has contacted. It's just not going to be possible to please this client.

We have all had some of these clients, because even if you obtain an absolutely brilliant result for this client, it won't be enough, and it will be your fault. And that can be damaging to your reputation; there's no shame, in certain situations to tell the client that perhaps they'd be happy with a different lawyer. Don't be so desperate to have clients that you pull in the ones that are going to drag down the rest of your practice and your life.

So client's interests and the client's desires are not always the same.

Now, having said all this, caution does not apply to the noble work done day in and day out by the public defender, who out of sense of duty, for love of constitution, are in the trenches every day protecting our constitutional rights and our constitutional system of criminal justice. They don't have — they don't have the same kind of discretion of client control.

On working for clients

Super basic, violated frequently: Don't take the money and not do the work. Don't take the money and not do the work. And you better not transfer the money that's in your trust account to your personal account without first earning it. You've now made a personal and professional commitment so you now must honor it.

Always, always talk about the money before the end of that first meeting with the client, and then always, always, always put it in writing in a fee agreement. You will not regret doing that.

Now, if you're having trouble finishing what you promised on time, call — always overestimate the amount of time it's going to take you, first of all. But if you're having trouble getting it done because things come up in a busy practice — everybody can understand that — call the client and apologize and explain before the client calls you. Always better. Never, never, never ignore the client's telephone calls. Can't do that. Probably the most frequent complaint you'll hear about lawyers, and it makes us all look bad.

When you do the work, you need to know what you're doing. That's kind of an obvious thing, but you're now responsible for somebody else's life, their liberty, their property, their children, their money, and it's easy to get in over your head. And if you are in over your head — and you will be — please ask for help.

You don't help the client, you don't help yourself, and you don't help your reputation by feeding into a client's unreasonable expectations.

I think this is a common mistake of newer lawyers. So don't suffer the pride of the new lawyer and fear exposure that things are somewhat out of control and pretend that things are under control when they aren't. It's always easier to correct course earlier than to wait until the damage is done and you're notifying your malpractice carrier. Don't isolate yourself. Make sure that you're talking to other people, especially when you get into a complicated situation.

Don't procrastinate. Okay. That's directly related to what I just said about taking care of business. It's kind of pointless to tell you not to procrastinate, because I know you will, just try a little harder not to. Everybody does. And, you know, one person's procrastination is another person's allocation of priorities or, perhaps, misallocation of priorities, but the reality is that a busy practice requires you to keep a lot of plates spinning at the same time. But you will marvel, as you gain experience, just how much stuff you can have going on at the same time, but there is a limit. There is a limit. And you must learn to recognize it. When you're so busy — and I've been here — you're so busy that you're not producing any work anymore, but you're calling people to tell them, to explain to them why you haven't finished their work, you've passed that limit, and it's time to not take anything else on until you've taken care of what you need to take care of.

On practicing in Idaho

Respect begets respect, civility begets civility, integrity builds trust, and trust builds reputation. This is still a small state. Many of us practice in small communities. Your reputation is your most important asset. We enjoy a high level of civility and professionalism in this state. Don't screw it up. As I said before, this can be a competitive, bruising profession. It's hard. Don't make it any harder on yourself or other people than it already is. Be kind, be decent, don't overreach, don't be a jerk. It is ultimately self-defeating,

and you'll obtain worse results for your clients. You'll feel worse about yourself when you go home at night.

Give back to the profession and your community. As JFK once said, "For those to whom much is given, much is required." You have been very fortunate. You can now help those who have not been, who are not fortunate or less fortunate. Give generously by doing work without charge for those in need. Give generously to the profession by providing your talent, your energy, and your experience to advancing justice, and give generously to your community by improving the lives of others. Generosity is good for those in need; it's good for the profession. It's good for the soul. It's good for your reputation. And you will feel better about yourself when you go home at night.

Take care of yourself, the people you love, and people who love you. Don't forget what and who got you here. After all the pressures, all the stress of these professional expectations, you need to make time for your health, your relationships, and your life. If you don't, you will not succeed at anything else. The rest of it will be worthless. This balance is probably the most important and most challenging of all, but achieving it will enrich your life beyond anything you have yet imagined.

Parting thoughts

So here's more appeal to your highest instincts, and if you remember nothing else of what I say today, I just want you to always remember this and remember it every time you walk into the courtroom. This is not your court. It is not my court. It is not the judge's court. It is not the lawyer's court. It is the people's court, and that is critical to the mind-set. We're there to do good work. And we've been entrusted to do that work responsibly. And we stand on great history and sacrifice, and if you always remember that, that will keep you appropriately humble, properly focused. Always remember, it's not about you and it's not about me.

BREAKFAST WITH THE LEGENDS, BOISE - WENDY J. OLSON

Wendy J. Olson
U.S. Attorney's Office

Wendy J. Olson was sworn in on June 25, 2010 as United States Attorney for the District of Idaho. She joined the U.S. Attorney's Office in March of 1997. As an Assistant United States Attorney, she prosecuted white collar crime, crimes involving the sexual exploitation of children and criminal civil rights violations. Prior to joining the United States Attorney's Office, Ms. Olson was a trial attorney in the Criminal Section, Civil Rights Division, U.S. Department of Justice in Washington D.C. from 1992-1997 and a law clerk for United States Chief District Court Judge Barbara Rothstein in Seattle from 1990-1992. She graduated from Stanford Law School in 1990. Ms. Olson was born and raised in Pocatello, Idaho. She is married and has two daughters, ages 13 and 10.

It's interesting to think I've been in practice now for more than 20 years. I was first licensed in 1990 and worked for a federal judge in Seattle.

I think probably one of the things I've enjoyed most about being a lawyer is how unpredictable the course of my career has been. My undergraduate degree is in journalism, and when I went to law school I didn't have any sense that I was going to be a litigator or work for the federal government. I wanted to do First Amendment law and work with newspapers and was going to represent journalists. But as I went through law school, apparently to do that, I was going to have to work at some big firm in some city and it just sort of lost its appeal.

I was fortunate enough to go to work for a federal judge in Seattle, Barbara Rothstein, who was a wonderful mentor with a very bright mind and enjoyable to work with, and she gave her clerks a lot of responsibility. We spent a lot of time in court. If we were assigned to the case, we could sit in court and watch.

I never had any idea of doing trial work; I didn't take those classes in law school. But as I sat and watched trials, every now and then I would think: I could probably do that. You had some real drama, you got to see stories, particularly on the criminal side where it was really all about people and what was going to happen to people. So, that was probably the most formative experience I had.

I was fortunate enough to get into the Justice Department through the honors program and get to go to work in the Civil Rights Division. Our work there was pri-

marily law enforcement officer misconduct cases and some hate crime cases.

In going to work for the Civil Rights Division, I got to see places in the United States I certainly had never been as a kid growing up in Pocatello, Idaho. I did a lot of work and traveled in the deep South, which was very interesting, a lot different from where I had grown up, and met a lot of people whose lives were very different from mine, both in terms of education and socioeconomic background.

I worked with a lot of really good people, a lot of good people in the course there. I found the more formative parts of those experiences were the informal conversations I would have either with agents or with witnesses or sometimes with defense counsel.

One in particular has always sort of stuck in the back of my mind. We had a case in a small southeastern Georgia town where some young white men had been engaging in a variety of threats and harassment towards the African Americans who lived in some public housing complexes in the town, and one in particular.

One night they were driving back to where they lived and went past a trailer park. They had an AK-47 assault rifle and fired into some duplexes. And the one that they hit was occupied by African American women. One was 64 years old and one was in her mid-40s, a single mom who had two teenage daughters. Fortunately no one was hurt. It was just good luck.

The 64-year-old woman, one of the bullets hit in the headboard of her bed, but she wasn't in bed yet. The headboard was not very high, 6 to 8 inches. Had she been in bed, she likely would have been hit.

And then bullets went into the other duplex and into the cinderblock wall. And the bullets went into the wall or off the wall in one of the girl's bedrooms and went through some furniture. It was just very fortuitous that no one was hurt. The FBI did a really good investigation, were able to identify who was likely responsible for the crime.

When we got close to going to trial, two of the defendants elected to go to trial, one cooperated and testified against his coconspirators. We tested the gun, tracked down the weapon and tested it to match it with a bullet that had lodged in

the door of the house that the one woman lived in with her two daughters.

They had a guy from the FBI lab in the DC area to testify. And we are at dinner the night before and he was visiting and he said: This is the first time I've ever been called to testify against a white person; usually the defendants are black. It was just sort of a very sort of jarring — here I was working in the Civil Rights Division on this hate crime case. And he did a good job, but his experience had been every defendant out there was an African American guy. You sort of get a perspective for, one, what that prosecution meant and who the people are that we mostly see in the criminal justice system.

Then I was very fortunate to get to come back to Idaho and work with the US Attorney's Office. I've been here since 1997. I like being a lawyer. I get to meet lots of interesting people. I don't know that I would do anything differently. I've enjoyed where my career has taken me, that's for sure. I'm in a very fortunate position right now, at least through January 20 of next year. My children are well into the idea that my future job prospects depend on the presidential election. So it's a little entertaining taking that up to the masses. One of the great things about being a lawyer is you can take so many different paths and do interesting things and follow what it is you want to do.

I think it's important to make a separation between family and your job because I think it keeps you a healthier person, which allows you to be a better lawyer because you have the time and the freshness to bring to the work that you do. I think that you have to find that network of people outside of work who are willing to help you do the things that you need to do to carve some space.

I have a lot of friends who are not lawyers. As much as I enjoy lawyers, I have a lot of friends who are not lawyers. They help keep the perspective that life is not all about the work that you do.

I think I have interesting work, because I love going to work every day. In my case, once I had children, and it's hard for them not to be a priority, they can help you carve out that time. It's my husband who — he decided when we had kids that one of us should stay home, and since he was happy to do it, he did. But as he has candidly confessed, when I get home he's about 95 percent off duty. So you sort of have those external demands. It's not easy, but it's fun. I think you have to do it.

Most of the people I knew in law school that I really enjoyed, I think be-



Wendy J. Olson

came lawyers because they had a lot of other interests that they weren't quite good enough to be professional at any of them. So, they were also smart enough to go to law school. They had those aspects in their personality. Frankly, living in a place like Boise and getting to be a lawyer in Idaho, I think, really helps bring that about.

I think for as much as sometimes people externally (our spouses or people we are hanging with) may get frustrated by the technology that allows us to stay in touch all the time, I actually find that to be very helpful in creating a work-life balance. I have been on soccer sidelines monitoring or in touch with agents who are executing a search warrant and have questions about what is going on. I would rather be able to do that there than have to stay at my desk until they are done.

So putting those tools to work for us, not just sort of penning us in, I think is a way that we can do that. Much more so, frankly, than when I started 20 years ago when you did have to be sitting at your desk or have one of those antiquated pagers that you carried around, called back if someone buzzed you.

In terms of actually the hiring process and getting people on board, there are really, I think, three things that sort of catch my eye. One is the cover letter has to be well written and demonstrate both why you qualify for the job or articulate why you qualify for the job and why you want the job. It has to be well written. In our office we use the cover letter as part of what we evaluate as the writing sample; we request a writing sample. But, we look at that cover letter as well.

And then I think the focus has to be in acquiring the skills that allow you, in our case, to be good litigators. We are almost all about litigation. It's not transactional work at the US Attorney's Office. It's largely written litigation, even on the criminal side.

The civil side it's almost all written litigation. There is not that much time that our civil litigators spend in court, whether it's a motions hearing or a trial. So it's the ability to do that kind of litigation, you have to have good analytical skills.

So the cover letter is demonstrating that you have the qualifications somehow through your resume. And then having something that you can demonstrate, whether it's on a cover letter or resume or if you get an in-person interview, that you are someone who will be a good team player in whatever legal environment that you are hired to work.

Really in my case, it's been my mistakes that have made me better appreciate how to exercise my judgment in a way that will produce the correct result or the result that is best all the way around.

My experience has been that you get a lot more done in any pace, in any legal office, anything that you are working on when you have a group of people who work well together and pull their weight. And we really have emphasized over the last couple of years finding people who are team players and will do that.

I think that being willing to take on and help out in lots of different kinds of situations can be very helpful to your career. I think I've really always enjoyed the various things that I have done. I think there are moments where I've acquired more confidence in my abilities. I know when I first came out of law school, and maybe it was when I was clerking, I really thought: I am a lawyer, I know it all, I'm going to be great. That couldn't have been further from the truth. Among the reasons, it's the practice of law.

The ability to develop — it's great to know how to read cases and analyze things and find the statutes and know how to write a complaint or write, in our case, an indictment, or any of those things, but it's the wisdom and the judgment that you develop over the course of a legal career that I think is one of the most valuable skills that you can develop.

When you know not only what is the correct thing to do legally in a situation, but how to present that or discuss it with opposing parties or if you are working with agents on an investigation in a way that you are really going to produce the result that you want.

So I think that is really what I've been after the last few years. I think really in my case, it's been my mistakes that have made me better appreciate how to exercise my judgment in a way that will produce the correct result or the result that is best all the way around. It's fun to get to do that. Lots of different situations come up, try again.

One of the things I think that is most important for lawyers to learn — I mean,

there's so many ways to communicate now; you can text, you can e-mail, you can fax, all these ways where you don't have to have any real meaningful personal interaction.

I think that if you have a disagreement with or you see a disagreement coming with opposing counsel or someone on the other side, pick up the telephone or talk to them in person, because you are more likely to resolve the issue or really get to the bottom of it than firing off an e-mail or sending a letter, or the worst of all choices, filing a pleading with the court where you say things you probably wouldn't say.

In fact, any time you send a letter or an e-mail, it can get attached to a pleading. Sometimes that's not quite what we had in mind.

My dad gave a talk this morning over at the Bar meeting as part of the Legends Bar CLE series. One of the stories he mentioned casually, in the middle of a trial he was out for a drink with plaintiff's counsel after the end of the day. And how many times does that happen? It seems like more and more people are digging their heels in more — again, I remember growing up, he used to get together with opposing counsel all the time.

He and Judge Boyle have all these great stories of when they would travel together to do depositions and on the other side. And I think that keeps the attention where it should be, which is on the thing that you are litigating about and not on — it's not easy to do. There certainly have been times where in the privacy of my office I vent with my colleagues. But, if you sit down and talk to the other person, you can usually keep the focus where it needs to be, which is on the issues that need to be resolved through the litigation.

I have to say, I still think of myself as a relatively young lawyer, so it's a little daunting for me to be offering advice, and I feel very honored that you would want to do this with me. Thank you.

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COURT INFORMATION

OFFICIAL NOTICE SUPREME COURT OF IDAHO

Chief Justice
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Justices
Daniel T. Eismann
Jim Jones
Warren E. Jones
Joel D. Horton

2nd AMENDED - Regular Fall Terms for 2012

Boise August 20, 22, and 24
Twin Falls August 28 and 29
Boise September 17
Coeur d'Alene, Moscow, and Lewiston
..... September 19, 20, and 21
Boise November 1 and 2, **5**
Idaho Falls **November 7**
Rexburg (Brigham Young University - Idaho)
..... November 8
Pocatello (Idaho State University) November 9
Boise December 3, 5, 7, 10, and 12

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of the 2012 Fall 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.

OFFICIAL NOTICE COURT OF APPEALS OF IDAHO

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

2nd AMENDED - Regular Fall Terms for 2012

Boise August 9, 21 and 23
Boise September 18 and 20
Boise Eastern Idaho October **15**, 16, **17**, and 18 **19**
Boise October **23** and 25
Boise November 13, 15 and 20
Boise December 11 and 13

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of the 2012 Fall 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 Supreme Court Oral Argument for September 2012

Monday, September 17, 2012 – BOISE

8:50 a.m. McCallister v. Dixon #38196-2010
10:00 a.m. State v. Suriner (Petition for Review)
..... #39258-2011
11:10 a.m. State v. Sparhawk #38841-2011

Wednesday, September 19, 2012 – COEUR D'ALENE

8:50 a.m. Citizens Against Range Expansion v. Fish & Game
..... #39297-2011
~~10:00 a.m. Employers Mutual Casualty Co. v. Donnelly~~
~~..... #38623-2011~~

** VACATED**

11:10 a.m. Jim Brannon v. City of Coeur d'Alene
..... #38417-2011

Thursday, September 20, 2012 – MOSCOW

8:50 a.m. Kootenai County v. Harriman-Sayler
..... #39071-2011
10:00 a.m. Insight LLC v. Patrick Gunter #38158-2010
11:10 a.m. Ruddy-Lamarca v. Dalton Gardens Irrigation
District #39217-2011

Friday, September 21, 2012 – LEWISTON

8:50 a.m. Bolognese, etal. v. Forte, etal. #38472-2011
10:00 a.m. Thompson Development v. Latah County
..... #39265-2011
11:10 a.m. Snider v. Arnold #38572-2011

**The Idaho Supreme Court will have NO oral
arguments during the month of October.**

Idaho Court of Appeals Oral Argument for September 2012

Tuesday, September 18, 2012 - BOISE

9:00 a.m. State v. Skogen #38701-2011
10:30 a.m. State v. Sileoni #38986-2011
1:30 p.m. Maschek v. State #38517-2011

Thursday, September 20, 2012 – BOISE

9:00 a.m. Steele v. State #38794-2011
10:30 a.m. State v. McLeod #38886-2011
1:30 p.m. Broadfoot v. Dept. of Transportation
..... #39424-2011



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- Chapter 13 Bankruptcy
- Chapter 7 Bankruptcy
- Chapter 11 Bankruptcy

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Idaho Supreme Court and Court of Appeals
NEW CASES ON APPEAL PENDING DECISION
(Updated 8/1/12)

CIVIL APPEALS

Attorney fees and costs

1. Whether I.R.C.P. 54(e)(4) limits the award of attorney fees to a specific dollar amount pleaded in a complaint in the event of default after a defendant has appeared and contested the complaint.

Magleby v. Garn
S.Ct. No. 39264
Supreme Court

Condemnation proceedings

1. Whether the district court erred as a matter of law in holding that Alpine's State Constitutional Takings/Inverse Condemnation Claim is barred by I.C. § 50-219.

Alpine Village Co. v. City of McCall
S.Ct. No. 39580
Supreme Court

Contract

1. Whether the court erred in finding the City waived its contractual right to preapprove Petra's request for equitable adjustment.

City of Meridian v. Petra Inc.
S.Ct. No. 39006
Supreme Court

Post-conviction relief

1. Did the court err in summarily dismissing Patterson's petition for post-conviction relief?

Patterson v. State
S.Ct. No. 38752
Court of Appeals

2. Was summary dismissal inappropriate because counsel's act of abandoning the claim of self-defense was constitutionally deficient performance?

Williams v. State
S.Ct. No. 38349
Court of Appeals

3. Did the court err in denying Delgado's motion for appointment of counsel and in summarily dismissing his petition for post-conviction relief?

Delgado v. State
S.Ct. No. 38663
Court of Appeals

4. Did the court err when it found Byington's suppression related claim of ineffective assistance of counsel to be waived because it was not in his original petition?

Byington v. State
S.Ct. No. 38995
Court of Appeals

Records request

1. Should the Idaho Department of Health and Welfare be entitled to exemption under I.C. § 9-340(B)(7) when it is not actively conducting a criminal investigation relating to the protection of children?

Richardson v. Idaho Dept. of Health & Welfare
S.Ct. No. 39326
Supreme Court

Substantive law

1. Whether the district court erred in applying election contest requirements to usurpation actions.

State v. Keithly
S.Ct. No. 39033/39034/39035/39036
Supreme Court

2. Whether the district court erred in determining the wooden posts or pilings involved in the respondents' encroachment permit applications should be characterized as "navigational encroachments" for the purpose of processing the encroachment permit applications.

Kaseburg v. Dept. of Lands
S.Ct. No. 38917
Supreme Court

3. Does Section 13 of SB 1108 violate the Contracts Clause of the Idaho Constitution to the extent that it retroactively nullifies the early retirement incentive program for teachers who worked for a significant period of time prior to the Act's effective date?

Idaho Education Association v. State of Idaho
S.Ct. No. 39361
Supreme Court

4. Whether the district court erred in finding that no due process violation occurred because the owner/lessor did not take affirmative steps to use the existing license renewal procedures when it is undisputed that the Agency will not allow an owner/lessor to use existing renewal procedures.

BV Beverage Co. v. Alcohol Beverage Control
S.Ct. No. 39690
Supreme Court

5. Does the note rate of interest accruing on a debt secured by real property continue through the date of the judicial sheriff's foreclosure sale of the property and the application of the proceeds of the sale to the debt?

Roesch v. Klemann
S.Ct. No. 39836
Supreme Court

Summary judgment

1. Did the court err by enforcing the sales agreement even though a material question of fact existed as to whether the blasting agreement could be severed from the sales agreement?

AED, Inc. v. KDC Investments
S.Ct. No. 38603
Supreme Court

2. Did the court err in holding, as a matter of law, that ENA is not liable for breaching the Teaming Agreement because the Teaming Agreement was a contract and not merely an agreement to agree?

Syringa Networks, LLC v. Idaho Dept. of Administration
S.Ct. No. 38735
Supreme Court

3. Did the district court err as a matter of law in granting summary judgment in favor of the Bank of Commerce on the Harris's claim that the corrected quitclaim deed was void for lack of consideration?

Harris v. Bank of Commerce
S.Ct. No. 39204
Supreme Court

4. Did the court err in finding Estes lacked standing and the issues were moot and in granting summary judgment in favor of the District?

Estes v. Lewiston Ind. School Dist. No. 1
S.Ct. No. 39469
Court of Appeals

5. Did the district court err in holding Greystone's inverse condemnation claims were barred under the four year statute of limitations?

Hehr v. City of McCall
S.Ct. No. 39535
Supreme Court

6. Did the court err in granting summary judgment to State Farm and in finding the claims made by Rizzo were not covered under the homeowner's policy?

Rizzo v. State Farm Insurance Co.
S.Ct. No. 39611
Supreme Court

CRIMINAL APPEALS

Due process

1. Did the prosecutor commit misconduct when a police officer testified at trial regarding Banbury's invocation of his right to remain silent?

State v. Banbury
S.Ct. No. 38110
Court of Appeals

Evidence

1. Was there substantial competent evidence presented at trial from which the jury found beyond a reasonable doubt that Lish was guilty of stalking in the first degree?

State v. Lish
S.Ct. No. 38740
Court of Appeals

Instructions

1. Was there a fatal variance between the Information and the jury instructions in regard to the type of sexual contact Ormsher was alleged to have committed?

State v. Ormsher
S.Ct. No. 38699
Court of Appeals

2. Did the court improperly instruct and mislead the jury as to the elements of second degree stalking when it omitted "nonconsensual acts" from its definition of "course of conduct"?

State v. Briggs
S.Ct. No. 39215
Court of Appeals

Pleas

1. Did the court err by not sua sponte ordering an evaluation of Pulsifer's competency to plead guilty?

State v. Pulsifer
S.Ct. No. 39416
Court of Appeals

Search and seizure – suppression of evidence

1. Did the court err in denying Buhler's motion to suppress the evidence found in her purse and in finding the search was consensual?

State v. Buhler
S.Ct. No. 38362
Court of Appeals

2. Did the court err in finding officers had reasonable suspicion to stop Sanchez and in denying his motion to suppress?

State v. Sanchez, Jr.
S.Ct. No. 38655
Court of Appeals

Sentence review

1. Whether the court erred in deferring its sentencing rulings regarding court costs, fine and driver's license suspension until after the rider review hearing.

State v. Steelsmith
S.Ct. No. 39037
Court of Appeals

2. Did the court err in finding Blair's sentence for vehicular manslaughter while committing a DUI was not an illegal sentence?

State v. Blair
S.Ct. No. 39087
Court of Appeals

3. Did the district court abuse its discretion when it relinquished jurisdiction and failed to reduce Warth's sentences?

State v. Warth
S.Ct. No. 38854/38984
Court of Appeals

4. Did the district court abuse its discretion when it failed to reduce Radford's sentences sua sponte upon revoking probation?

State v. Radford
S.Ct. No. 39263
Court of Appeals

5. Did the court abuse its discretion at sentencing by considering Morris' answers to a polygraph and his housing situation?

State v. Morris
S.Ct. No. 39450
Court of Appeals

6. Whether the district court imposed a vindictive sentence after Baker exercised his right to enter an *Alford* plea.

State v. Baker
S.Ct. No. 39181
Court of Appeals

7. Whether the district court abused its discretion when it failed to order the requested psychiatric evaluation.

State v. Childers
S.Ct. No. 39402
Court of Appeals

Substantive law

1. Did the court err in denying Turbyfill's motion to dismiss the felony DUI because her first breath test was below the legal limit?

State v. Turbyfill
S.Ct. No. 38579
Court of Appeals

2. Did the court abuse its discretion when it denied Oldham's motion to terminate a no contact order?

State v. Oldham, Jr.
S.Ct. No. 38633
Court of Appeals

3. Did the court commit fundamental error when, with Overline's agreement, it excluded the public from portions of Overline's trial involving publication of nude photos of the young victim?

State v. Overline
S.Ct. No. 38929
Court of Appeals

Summarized by:
Cathy Derden
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Parsons Behle & Latimer, one of the most established and best-known law firms in the Intermountain Region, is pleased to welcome former counselor to the U.S. Secretary of Interior and EPA Regional Administrator, **L. Michael Bogert**, as shareholder in the firm's Boise office.

Michael joins the firm's Environmental & Natural Resources Department, focusing his practice on environment and natural resources counseling and litigation, specializing in Idaho water law and the Federal Endangered Species Act. Prior to joining Parsons Behle & Latimer, Michael was senior counsel at Crowell & Moring, LLP in Washington D.C. He also served as counselor to the U.S. Secretary of the Interior, Dirk Kempthorne, and as a presidentially appointed regional administrator of the United States Environmental Protection Agency, Region 10. Additionally, Michael served as counsel to the governor of Idaho. Michael holds a Bachelor of Arts degree from the University of Santa Clara, and received his Juris Doctor from the University of Idaho.

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IN MEMORIAM

Elisabeth Ann McSweeney Curtis 1944 - 2012

Elisabeth Ann McSweeney Curtis of Moscow died on April 17 after a short illness. Ann was born in North Carolina and grew up in Memphis, Tennessee (where she developed a passion for Elvis Presley). She was married to Nelson Shaw Curtis in 1964, and in 1968 they moved to Moscow, Idaho. Ann obtained a law degree from the University of Idaho and later moved to Boston where she worked as an attorney for Travelers Insurance. In addition to her career, Ann loved to sew and collect dolls. Ann returned to Moscow when she retired. She is survived by her daughter, Lisa Curtis Harrison.

Nancy A. Smith 1957 - 2012

Nancy A. Smith died after a brief illness. Nancy was born in Hillsboro, the third daughter of Donald and Dorine Foelker Smith. She attended St. Mary of the Valley High School, where she first was introduced to musical theatre which fostered her lifelong passion for the theatre arts. After her graduation from SMVA, she entered University of Portland as an arts major, which honed her vocal talent and significant writing skills. She often sang in an on-campus venue and was a very popular artist there. In addition, she performed in many musical theatre productions at University of Portland such as Sondheim's "Lover, Liars and Clowns," "Fiorello" and "Jesus Christ Superstar" among others.

Following college, she focused on a career in law, attending Lewis and Clark Law School and graduating with honors and a degree of juris doctor in 1984. Nancy was a brilliant lawyer, earning many accolades.

One only had to observe her in the courtroom to know why she was considered such a formidable force to be reckoned with. Licensed in Oregon, Washington and Idaho, over the course of her 25-year career she single-handedly built a specialty law firm focused on consumer debt, long before any woman had achieved such an accomplishment.



Nancy A. Smith

Her firm became a standard bearer for other consumer debt law practices. Nancy had a very generous and loving spirit, if she could help anyone in need she would do so gladly. She was also a lifelong supporter of any cause that helped abused, neglected or abandoned animals, she was passionate about making sure she did all she could to further those efforts.

She is survived by her parents, Don and Dorine Smith.

James F. Wickham 1949 - 2012

James Faber Wickham died June 21, in Palo Alto, California where he was visiting family. Jim was born on August 15, 1949 in San Diego, California. His father was a minister in the Navy and his mother was a school teacher, so Jim lived all over California and also Guam and Hawaii as a child. The family settled in Weed, California long enough for Jim to attend and graduate high school. Because he made several life-long friends and his parents returned there after their retirement, Jim always said he was from Weed.

Jim earned his undergraduate degree from the College of Idaho and then attended the University of California, Hastings College of Law. It was while singing in the San Francisco Bach Choir that he met Frances Lynn Willson. They were married in 1974 and shortly thereafter, returned to Idaho where Jim worked as an attorney for the State of Idaho, the City of Boise, and Mimura Law Office.

He helped raise two children, sharing his love of sports and travel. After the kids were grown, he and Fran traveled on their own, visiting England, Scotland, Italy, Norway, China, and several areas around the U.S.

Jim was always generous and supportive of his family, friends and coworkers. In the fall of 2009, Fran was diagnosed with cancer and for a year and a half, Jim cared for her lovingly and patiently, giving everything of himself to bring her peace.

Jim is preceded in death by his father Faber, his mother Priscilla and his wife Fran. He is survived by his son Ben, daughter Catie. A memorial service will



James F. Wickham

be held Sept. 9 at 2 p.m. at the Falcon Tavern in downtown Boise and instead of sending flowers, please make a donation to the Frances Wickham memorial scholarship fund at Bishop Kelly High School.

Kirk James Anderson 1946 - 2012

Kirk James Anderson, of Boise died at his home on Aug. 6, 2012. He was born in Boise Nov. 2, 1946 and raised in Seattle.

He earned a Bachelor's of Political Science from Brigham Young University in 1972 and a Juris Doctorate from University of Utah in 1975.

He married his first wife, Holly Haskell, in 1975 and later divorced. He married Cheryl Gibbs in 1990. He is survived by his wife; his sons, Kirk and Alex; his stepdaughter and stepson, Amy and Randall; and seven grandchildren.

After graduating from the University of Utah in 1975, he moved to Boise to establish his legal career. It was a career that spanned many decades, included a variety of legal disciplines, and provided many opportunities for Kirk to do what he loved most, trial work, a.k.a. "telling a courtroom story."

Kirk is known in the community as an accomplished immigration and defense attorney. In and out of the courtroom, Kirk's life was tempered by spirituality. He was a man of integrity, principle, and constant introspection, working consistently throughout his life to cultivate a deeper relationship with God. He served as Bishop with the Church of Jesus Christ of Latter-day Saints.



Kirk J. Anderson

OF INTEREST

Correction needed to stop the ribbing

Attorney Larry Ripley noted that the awards brochure at the luncheon honoring those who have passed the 50- or 60-year mark in the Bar, incorrectly named his alma matter. To set the record straight, Mr. Ripley attended the University of Idaho College of Law. The award recipient noted that the correction was needed, "especially for my buddies at UI."

UI College of Law selects writing faculty

University of Idaho College of Law Dean Donald Burnett announced the appointment of business law scholar-practitioner Sarah Haan, a graduate of Yale College and Columbia Law School, to the faculty in Moscow. The College is now pleased to announce that one of its own graduates, Kristina (“Kristi”) Wilson Running has been appointed to the faculty as a Legal Research & Writing Instructor in Moscow. Kristi received her Juris Doctor degree magna cum laude from the College of Law in 2008. During her law study she served as Executive Director of the Idaho Law Review, President of the International Law Students Association, and student member of the faculty Curriculum Committee. She came to the University of Idaho from the College of Idaho, where she received her baccalaureate degree summa cum laude in Business/International Political Economy and History. After graduating from law school she served as a judicial clerk to the Idaho Supreme Court (Hon. Roger Burdick) and as an associate attorney in the Boise law firm of Elam & Burke.



Sarah Haan



Kristina “Kristi” Wilson Running

The University of Idaho College of Law also welcomes a new Associate Dean for Students & Administration as well as the appointment of new faculty:



Jeffrey A. Dodge

Jeffrey A. Dodge is joining the College of Law community as the new Associate Dean for Students & Administration. Jeff comes to Idaho from the Hofstra University School of Law in New York (Long Island), where he served as Assistant

Dean for Administration and Operations and, most recently, as Assistant Dean for Global Initiatives & Multicultural Affairs.

Jeff has served as Secretary of the Association of American Law Schools Section on International Legal Exchange. He received his Juris Doctor degree from Hofstra in 2006. While a law student he served as Managing Editor of the Family Court Review and received Hofstra’s Distinguished Service to the School Award. He received his undergraduate education, majoring in political science, at the University of California/San Diego, where he was elected as Student Body President.

Schlender appointed to CLE Board

Washington Supreme Court Justice Barbara A. Madsen recently announced the appointment of E. Lee Schlender to the Mandatory CLE Board. The Washington State Bar Association Board of Governors nominated Schlender, and the Mandatory CLE Board and the Supreme Court’s Administrative Committee confirmed the appointment. The term is from Oct. 1, 2012 to Sept. 30, 2015. Schlender is a member of the Idaho State Bar and has a residence in Mountain Home.



E. Lee Schlender

“On behalf of the members of the Supreme Court, I wish to thank you for your willingness to serve on the Mandatory CLE Board,” Justice Madsen wrote. “I am confident that this important board will benefit from the expertise and experience you have to offer.”

Rebecca Nickell joins Concordia as Student Success Coordinator

Concordia University School of Law Associate Dean of Academics Greg Sergienko announced the selection of Rebecca Nickell as Student Success Coordinator.

“We’re very pleased to have Rebecca joining the team,” Associate Dean Sergienko said. “She had a stellar record in law school herself, and her wealth of experience in the area of student success will help our students and faculty succeed in our learning and teaching.”

Prior to her appointment at Concordia Law, Nickell was in a similar role at Phoenix School of Law in Phoenix, Ariz., where she was instrumental in the success of students. Nickell was responsible for developing curriculum and teaching a 3-credit hour course focused on the essential skills required for the Uniform Bar Exam. In addition, she mentored and counseled graduates navigating the bar preparation period. She also fulfilled the role of academic counselor and taught a non-credit class on developing study skills and mastering the law school exam.



Rebecca Nickell

Nickell received her B.S. in chemical engineering and petroleum refining, from Colorado School of Mines in Golden, Colo. In 2010, she earned her J.D. from Phoenix School of Law. During her legal studies, Nickell ranked second in her class and aided the Phoenix Law Review as a board member and technical editor.

Preceding law school, Nickell worked as an engineer at both Speedfam-IPEC and ST Microelectronics, where she was received patents as a co-inventor on processes related to semi-conductor manufacturing methods.

Children’s Advocate and Protector Award presented

Judge Bryan Murray, chair of the Supreme Court’s Child Protection Committee, presented Michael Starnes with the Children’s Advocate and Protector Award (CAP Award) during the 2012 Children and Families Institute held last month in Boise.

Mike has served Idaho’s neglected and abused children for over 25 years and currently works at the Department of Health and Welfare in the 1st District. Nominated by a peer at the department, Mike “serves as an inspiration . . . a role model for parents, children, and social workers. He never ceases to amaze others with the amount of care he gives to families on his case load.”

Speaking at the presentation, Mike thanked the Supreme Court Child Protection Committee for the honor and recognized the hundreds of case workers throughout the state, all working to improve the lives of Idaho’s most vulnerable children.

Jack McMahon to teach course at Concordia

Professor Jack McMahon to teach Foundations of Justice this fall at Concordia University School of Law.

“Professor McMahon is teaching Foundations of Justice, a course that will trace our American system of justice to its religious and philosophical foundations,” Associate Dean Sergienko said. “It will give students a big-picture view of the issues that will provide a context for their work in other courses.”

An experienced educator, McMahon has taught at several universities across the country throughout his career. Most recently, he taught a third-year course in jurisprudence at the University of Idaho College of Law and at Boise State University in its undergraduate honors program. Additionally, he spent time as associate professor of philosophy at Marymount College in Tarrytown, N.Y., assistant professor at Marquette University in Milwaukee, Wis., and held the role of adjunct professor at St. Louis University in St. Louis, Mo.



John “Jack” McMahon

A qualified public servant, McMahon spent over 20 years serving the State in different capacities. From 1984 until 1994 he served as Chief Deputy Attorney General to Attorney General Jim Jones and Attorney General Larry EchoHawk. During this time, McMahon chaired a commission that rewrote the Idaho Administrative Procedure Act. In 1995 he was selected as the Division Chief of the Contract Law Division. In this role he supervised the private attorneys who provided risk management defense for the state and oversaw the legal services for ten state agencies. He also served as General Counsel to the Idaho Transportation Department and Idaho Public Utilities Commission.

McMahon received his Bachelor of Arts, in English from Catholic University of America in 1957. En route to his Doctor of Philosophy from St. Louis University in 1965, he earned his Master of Arts two years prior. After completion of his graduate work, he spent two years (1967-68) of post-graduate work at the University of Tübingen in West Germany. In 1976, he was awarded his Juris Doctor, cum laude, from Harvard Law School.

2nd Annual Restoring Lives Conference scheduled

The Sixth District Family Court Services and the Anderson Gender Resource Center at Idaho State University will present the Second Annual “Restoring Lives Conference” in Pocatello on Sept. 18 and 19. Workshops are multi-disciplinary and include such topics as: Representing Clients in Civil Protection Order Proceedings, Technology Safety, Response to Sexual Assault, Domestic Violence Evaluations and many more. The conference is free. Registration information and a conference brochure can be found at: <http://www.familycourtservices.org/conference-registration>

Legal research and writing program at Concordia selects part-time faculty

Concordia University School of Law Director of Legal Research and Writing Tenielle Fordyce-Ruff announced the selection of the program’s part-time faculty members in preparation for the enrollment of the inaugural class in August. Emily Carter, Jason Dykstra, Shasta Kilminster-Hadley and Rebecca Rainey will teach first-year Legal Research and Writing sections.

“I am thrilled with the diverse backgrounds and experiences these part-time professors bring to Concordia Law’s Legal Research and Writing Program,” Fordyce-Ruff said.

Carter earned her J.D. from Notre Dame Law School. During her legal studies, she was a member of the Notre Dame Law Review. While in law school, she was awarded the William T. Kirby Award for Excellence in Legal Writing and the Farabaugh Prize for High Scholarship in Law. Most recently, Carter clerked for Justice Petra Jimenez Maes of the New Mexico Supreme Court in Santa Fe, N.M. She received her B.A., summa cum laude, in Spanish from the University of Michigan.



Emily M. Carter

A Montana native, Dykstra earned both his B.S. in business administration and his J.D. from the University of Mon-

tana in Missoula. An associate attorney at Meuleman Mollerup, LLP, in Boise, Dykstra’s practice focuses on business and commercial litigation. Previously, Dykstra worked at Sasser & Inglis, P.C., in Boise, Idaho, where his work focused on insurance law and bad faith defense, intellectual property rights, and business transactions.



Jason G. Dykstra

Kilminster-Hadley earned her J.D. from the University of Arizona, College of Law. During her legal studies, she served as the senior articles editor for the *Arizona Journal of International and Comparative Law* and was awarded the Outstanding Writer Award in her second year. She currently is a Deputy Attorney General in the civil litigation division of the Idaho Attorney General’s office. Kilminster-Hadley received her B.A. in French language and literature from University of Montana. Additionally, she received her M.A. in French language and history from the State University of New York at Buffalo.



Shasta J. Kilminster-Hadley

An Emmett High graduate, Rainey operates her own firm in Boise, Rainey Law Office. Rainey earned her J.D. from Baylor University School of Law, her M.S. in international relations, with a national security affairs concentration from Troy State University, and her B.A. in political science from the University of San Diego. After graduating from USD, she enlisted in the Army and served as a Human Intelligence Collector and Korean Linguist. In 2002, she was selected as the United States Army Pacific Command Soldier of the Year. Rainey additionally was a partner at Moffatt, Thomas, Barrett, Rock & Fields, Chtd., in Boise from 2006 – 2010.



Rebecca A. Rainey



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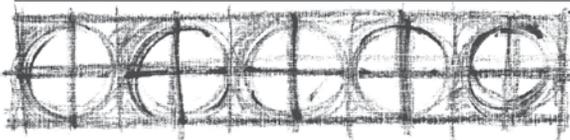


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QUALITIES OF CHARACTER SHINE AT ANNUAL MEETING

Idaho attorneys found a congenial atmosphere of rich educational and inspirational content at this year's Annual Meeting, held at the Riverside Hotel in Boise on July 11-13. This is the Idaho State Bar's signature event, and featured numerous presentations for CLE credit and speakers worthy of any national legal conference. The events were peppered with laughter, gentle ribbing, reconnecting with old friends and making new acquaintances. Also, several notable attorneys and judges were honored for their contribution to Idaho's legal community.

The Meeting kicked off the evening of Wednesday, July 11 with the President's Reception and the Distinguished Lawyer Award Dinner held in the Fireplace Foyer and the Ponderosa Room respectively at The Riverside Hotel in Boise. The recipients of the 2012 Distinguished Lawyer Award were the *Hon. Charles F. McDevitt* of Boise, *Scott W. Reed* of Coeur d'Alene and *Archibald W. Service* of Pocatello.

On Thursday, July 12, a total of 6.5 CLE credits were offered, 3.0 CLE credits in the morning session and 3.5 in the afternoon session. At noon, the annual Idaho State Bar and Idaho Law Foundation Service Awards were presented. Seven lawyers and one non-lawyer from around the state who have provided volunteer time to support the work of the Bar and the Law Foundation were honored. The Outstanding Young Lawyer of the Year Award was presented to *Nicole C. Trammel* of Boise. At the conclusion of the Awards program, the Idaho Law Foundation held its Annual Meeting and elected *Susan Weeks* as their President.

The Idaho Law Foundation, the Family Law Section, the Real Property Section and Business and Corporate Law Section and the Idaho Women Lawyers each held receptions Thursday evening that provided avenues of networking and socializing.

The morning of Friday, July 12 began with the traditional Plenary Session. ISB President *Reed Larsen* welcomed attendees and *Chief Justice Roger S. Burdick* gave the "State of the Court" report. The Keynote Presentation was given by *Dewey Bozella*, a former

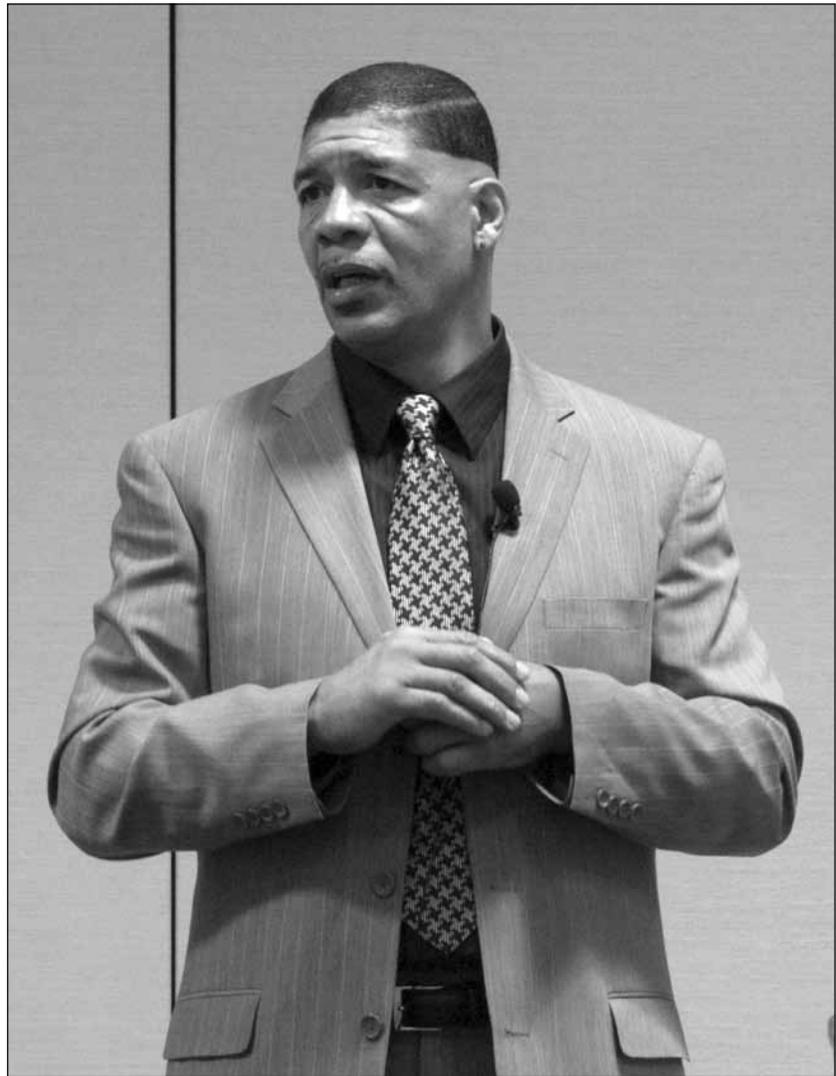


Photo by Kyme Graziano

Bozella delivers the keynote address about how he overcame resentment while wrongly imprisoned of a crime. He turned his prison experience into an opportunity for self-improvement and building character.

amateur boxer who served 26 years in prison after being falsely imprisoned for a murder he did not commit.

An additional 4.0 CLE credits were offered to conference participants on Friday. The morning session featured the annual "Lessons from the Masters" CLE. The presenters for the 2012 installment were the *Hon. Robert Bakes*, *William Olson* and *William "Bud" Yost*.

Twenty three attorneys were recognized for their years of practice at the Celebrating 50 and 60 Years

of Practice Luncheon. Of the 23, 11 attorneys were in attendance and provided jovial remarks. The Section of the Year Award was presented to the Commercial Law and Bankruptcy Section and annual *Advocate* Awards were also announced at the lunch.

A complete listing of the award winners and a short biography of each can be found at the Idaho State Bar's website at www.isb.idaho.gov.

— Mahmood Sheikh

2012 ANNUAL MEETING



Photo by Kyme Graziano

Justice Charles F. McDevitt gets a corsage from his wife Virginia before the Distinguished Lawyers Award Dinner.



Photo by John Glenn Hall

Former Idaho State Bar president Reed Larsen passes the gavel to Molly O'Leary, who will lead the Board of Commissioners until January.



Photo by Kyme Graziano

Kenneth Howard, Coeur d'Alene, and Concordia University School of Law Dean Cathy Silak reminisce at the Distinguished Lawyer Award Banquet.



Photo by Kyme Graziano

Bill Olson walks with his friend Archie Service, a winner of the 2012 Distinguished Lawyer Award.

2012 ANNUAL MEETING



Photo by John Glenn Hall

Jason Prince holds the Advocate Award for Best Article, which was presented by Editorial Advisory Board Chairman Scott Randolph.



Photo by Kyme Graziano

Christopher Meyer and his wife Karen Meyer, both attorneys in Boise, enjoy the President's Reception before the Distinguished Lawyer Award Banquet.



Photo by Kyme Graziano

Attorneys Megan Fernandez and Lindsey Romankiw, both attorneys in Idaho Falls, visit at the President's Reception.

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Monday, September 17 | 12:00 p.m.

National Pro Bono Celebration

October 21-27

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Thursday, October 25 | 10:00 a.m.

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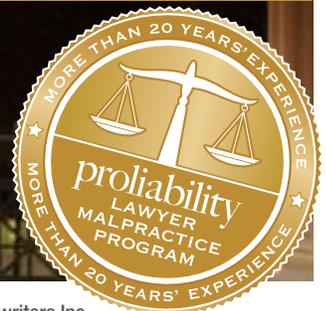
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Unconventional Responses to Unique Catastrophes: Tailoring the Law to Meet the Challenges

Wednesday, October 3, 2012

Reception & Presentation

5:30 p.m. (MDT) | Boise Centre on the Grove | Boise, Idaho

Seating is limited. Please RSVP at www.uidaho.edu/law-events by September 14, 2012

Thursday, October 4, 2012

Bellwood Memorial Lecture

3:30 p.m. (PDT) | Administration Auditorium | Moscow, Idaho

Webcast: www.uidaho.edu/live

For more information on this year's agenda and speaker, please visit: www.uidaho.edu/bellwood

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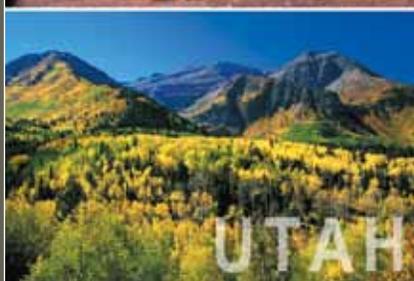


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