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FAT SMITTY'S & FRIENDS: GUIDANCE FOR STATUTORY INTERPRETATION

One of the things I enjoy immensely about receiving my copy of *The Advocate* every month and my membership in the Idaho State Bar is the way that we are able to learn from each other's unique perspectives, experiences, and positions. Nothing excites me more than listening to lawyers from different practice areas discuss the developments and evolution of those areas. With acknowledgement that some of the "more seasoned" members of the Bar or Bench may be better equipped to present a guide on statutory interpretation, I am eager to share lessons that I have learned thus far in my career.

This article examines the following keys in the Idaho Supreme Court's statutory interpretation analysis: the plain meaning rule and ambiguity, determining legislative intent, as well as several other canons of construction. In some ways, these keys can be understood as progressive steps in resolving any statutory interpretation issue. For example, a typical statutory interpretation case begins with examining the plain meaning of the statute. If the statute is found ambiguous, legislative intent and the other canons must be applied to construe the statute. This article is named for the 2020 Idaho Supreme Court case of *Fell v. Fat Smitty's, LLC*, that serves as a reminder of the importance of the principles of statutory construction.[1] Let's explore those steps in detail.

Plain-meaning rule

We begin with the plain meaning rule, which examines the plain language of the statutory scheme at issue. As the Supreme Court has repeatedly held: "Interpretation of a statute 'must begin with the literal words of the statute; those words must be given their plain, usual, and ordinary meaning; and the statute must be construed as a whole. If the statute is not ambiguous, this Court does not construe it, but simply follows the law as written.'"[2] For a term that is undefined in the statute or a related provision, the Court turns to ordinary dictionaries to give the term its plain meaning.[3] The Court has strongly adhered to this plain meaning rule since the 2012 decision of *Verska v. Saint Alphonsus Regional Medical Center*.[4] Review of the reasoning of this case helps outline the Court's reliance on the plain meaning rule.

In *Verska*, the Court was faced with the question of the Court's authority to ***37** modify the plain language of a statute because the plaintiffs argued that the result of the unambiguous language would lead to an absurd result.[5] The plaintiffs contended that "[t]he literal wording of a statute cannot be honored if it creates unreasonable, absurd results" based upon dicta from past decisions of the Court.[6] The Court rejected this argument and repudiated this language on the basis of the principle of the separation of powers.[7] As the Court explained: "we have never revised or voided an unambiguous statute on the ground that it is patently absurd or would produce absurd results when construed as written, and **we do not have the authority to do so.**"[8]

As the Court has stated: "The most fundamental premise underlying judicial review of the legislature's enactments is that ... **the courts must assume that the legislature meant what it said.**"[9] On this basis, the Court disavowed any language in previous cases that indicated that the stated intent of the Legislature[10] or policy concerns[11] could control over the unambiguous language of a statute. Thus, in interpreting statutory or constitutional provisions, the plain meaning primarily controls.

As applied to court rules

The plain meaning rule applies to limit the Court's authority to interpret statutes due to operation of separation of powers concerns. "The public policy of legislative enactments cannot be questioned by the courts and avoided simply because the courts might not agree with the public policy so announced."[12] After all, as the Court has recognized: "If a statute is unsound or the policy behind it unwise, the power to correct the statute rests with the Legislature, not the judiciary."[13]

However, the plain meaning rule does not strictly apply to the interpretation of Court rules, largely because the same separation of powers concerns do not apply to the Court revising or interpreting its own directives rather than those of the Legislature. The Court held accordingly in *Montgomery:* "We are not constrained by the constitutional separation of powers when interpreting rules promulgated by the Court. Today we make it clear that while the interpretation of a court rule must always begin with the plain, ordinary meaning of the rule's language it may be tempered by the rule's purpose. We will not interpret a rule in a way that would produce an absurd result."[14] Thus, in interpreting a court rule the plain meaning of the words is still an important consideration, but not absolutely controlling as it is for interpreting statutes. Instead, the courts will interpret the plain language in ways that avoid absurd results.

The Court's guiding principle in determining what qualifies as an "absurd result" seems to be those interpretations that would violate the Idaho Criminal Rules' aspiration "for the just determination of every criminal proceeding."[15] In other words, all court rules should be construed so as "to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay."[16] The Court has explicitly extended this reasoning in construing the Idaho Rules of Family Law Procedure in *Kelly v. Kelly*.[17] Accordingly, it seems that the same analysis in *Montgomery* would apply equally in civil actions as well, though the Court has yet to so hold.

To see an interesting contrast between the way the application differs for statutes and rules, examine the cases of *State v. Osborn* and *State v. Chambers*.[18] In *Osborn,* the majority of the Court followed the plain language of the statute for calculating credit for time served despite the undesirable effect: "The fact that we may dislike the result is of no moment. We will not interpret the plain language of a statute simply to reach a more desirable result."[19]

However in *Chambers*, the Court treated the language of a court rule very differently. In *Chambers*, the Court examined the effect of the plain language of Idaho Rule of Evidence 412.[20] The Court noted that the plain language of the rule limited testimony to false allegations of sex crimes "made at an earlier time[.]"[21] In the case, the parties offered different interpretations of what constituted an "earlier time" within the context of the rule.[22] Ultimately, the Court resolved the question, after citing to *Montgomery*, by stating: "The most logical interpretation of Rule 412(b)(2)(C) is that it contains **no** temporal requirement."[23]

The takeaway for us practitioners is that the Court seems willing to construe the language of Court rules contrary to their plain language to avoid undesirable results, but is unwilling to do so when interpreting statutes.

Applicable test for administrative rules

Finally, the Court has articulated a separate set of rules applicable to the pervasive world of administrative law. Rather than simply adopting the Federal doctrines,[24] our Court has recognized that: "it is this Court's responsibility to determine the validity of [administrative] rule[s]."[25]

To accomplish this test, the Court has espoused a four-prong test originally announced in *J.R. Simplot Company v. Idaho State Tax Commission*.[26] This test embodies ***38** four considerations. "First, we must determine if the agency has been entrusted with the responsibility to administer the statute at issue. Second, the agency's statutory construction must be reasonable. Third, we must determine whether the statutory language at issue does not expressly treat the precise question at issue. Finally, we must ask whether any of the rationales underlying the rule of deference are present."[27]

If the four-prong test is satisfied, then courts will give "considerable weight" to the administrative agency's interpretation of the statutory provision.[28] The nuances of the way this test has been applied are better suited for comprehensive exploration in a standalone article, but all practitioners should be aware of the deference that the *Simplot* test affords administrative agencies.

Ambiguity and determining legislative intent

A statute cannot have the plain meaning rule applied where the language is ambiguous. In that sense, the plain-meaning rule and ambiguity are opposite sides of the same coin. "A statute is ambiguous where the language is capable of more than one reasonable construction."[29]

"Ambiguity is not established merely because different interpretations are presented by the parties. If that were the test then all statutes whose meanings are contested in litigation could be considered ambiguous."[30] "[A] statute is not ambiguous merely because an astute mind can devise more than one interpretation of it."[31] If a statute is determined to be ambiguous, courts interpret the statute in a way that accomplishes the Legislature's intent.[32]

The literal words of the statute still provide the best guide to legislative intent, highlighting the continued importance of the plain-meaning rule throughout the interpretative process.[33] When the Court must further determine legislative "intent, we examine not only the literal words of the statute, but also the reasonableness of proposed constructions, the public policy behind the statute, and its legislative history."[34] Determining a single legislative intent poses a unique challenge precisely because one of the beauties of the Legislature is that it is full of many different voices, viewpoints, and perspectives.

For example, in *State v. Clarke*, the Court turned to the intent of the framers of the Idaho Constitution to determine legislative intent.[35] This required the Court to examine "the practices at common law and the statutes of Idaho when our constitution was adopted and approved by the citizens of Idaho."[36] Sometimes however, determining a singular intent is difficult. Take for example, the paired cases of *Idaho Telephone Company v. Baird* and *Idaho State Tax Commission v. Simmons*.[37]

Both of these cases turn to the debates of the Idaho Constitutional Convention to answer questions regarding the power of the Legislature in granting exemptions from property tax and come to exactly opposite answers based upon review of the material.[38] These cases, examined as a pair, demonstrate the inherent difficulty and challenge in identifying one singular legislative purpose. Reasonable minds can examine the same legislative history and interpret its purpose differently.

Other canons of construction

Finally, in applying the legislative intent, the Court has cited several different canons of statutory construction that can be applied to find the proper meaning. For a practitioner, it would be recommended to ensure that your argued interpretation satisfies more of these guiding canons than your opponent's construction does.

From that point of view, here are several canons that you should become familiar with for solving any statutory interpretation problem. Keep in mind that these rules are not unimpeachable rules of law, simply guides to help accomplish legislative intent.[39] Once you do, these are invaluable tools for resolving any statutory interpretation dispute:

• *Noscitur a sociis* or "a word is known by the company it keeps."[40] This maxim works to help define terms by understanding those defined terms around them.[41]

• *Expressio unius est exclusio alterius* is the maxim "where a constitution or statute specifies certain things, the designation of such things excludes all others."[42] This maxim can be an especially useful tool when comparing the demands of two different statutory provisions.

• *Ejusdem generis* provides that "where general words of a statute follow an enumeration of persons or things, such general words will be construed as meaning persons or things of like or similar class or character to those specifically enumerated[.]"[43] This maxim is another useful tool for providing additional context to an interpretation.

• Finally, *in pari materia* advises that "statutes relating to the same subject--or those that are *in pari materia*--must be construed together."[44] This maxim can be particularly helpful when attempting to divine the way that two statutory provisions work in concert.

Of course, this list is not intended to be definitive or exhaustive. However, I hope that the cases provided demonstrate how the Court applies these principles and will be helpful to you as you work on your next statutory interpretation problem or case.

Footnotes

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1 167 Idaho 34, 467 P.3d 398 (2020).

2 *Florer v. Walizada*, 168 Idaho 932, 489 P.3d 843, 846 (2021) (quoting *State v. Ambstad*, 164 Idaho 403, 405, 431 P.3d 238, 240 (2018))

3 *Curlee v. Kootenai Cty. Fire & Rescue*, 148 Idaho 391, 398-400, 224 P.3d 458, 465-67 (2008).

4 151 Idaho 889, 265 P.3d 502 (2011).

5 *Id.* at 894, 265 P.3d at 507.

6 *Id.*

7 *Id.* at 896, 265 P.3d at 509.

8 *Id.* (emphasis added).

9 *Id.* at 894-95, 265 P.3d at 507-08 (emphasis added).

10 *See Idaho Dep't of Health and Welfare v. Doe*, 151 Idaho 300, 256 P.3d 708 (2011) and *State v. Doe*, 147 Idaho 326, 208 P.3d 730 (2009).

11 *State, Dep't of L. Enf't v. One 1955 Willys Jeep, V.I.N. 573481691*, 100 Idaho 150, 595 P.2d 299 (1979), abrogated by *Verska*, 151 Idaho 889, 265 P.3d 502.

12 *Verska*, 151 Idaho at 896, 265 P.3d at 509 (quoting *State v. Village of Garden City*, 74 Idaho 513, 525, 265 P.2d 328, 334 (1953)).

13 *State v. Montgomery*, 163 Idaho 40, 44, 408 P.3d 38, 42 (2017) (citing Verska)

14 *Id.*

15 *Id.*

16 *Id.* (citing I.C.R. 2(a)).

17 165 Idaho 716, 724, 451 P.3d 429, 437 (2019) (citing I.R.F.L.P. 101).

18 165 Idaho 627, 449 P.3d 419 (2019); 166 Idaho 837, 465 P.3d 1076 (2020).

19 165 Idaho at 632, 449 P.3d at 424.

20 166 Idaho at 842-43, 465 P.3d at 1081-82.

21 *Id.* at 842, 465 P.3d at 1081 (citing I.R.E. 412(b)(2) (C)).

22 *Id.* at 842-43, 465 P.3d at 1081-82.

23 *Id.* at 843, 465 P.3d at 1082 (emphasis added).

24 *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984); *Nat'l Cable & Telecommunications Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005).

25 *Mason v. Donnelly Club*, 135 Idaho 581, 583, 21 P.3d 903, 905 (2001).

26 120 Idaho 849, 820 P.2d 1206 (1991).

27 *Mason*, 135 Idaho at 583, 21 P.3d at 905.

28 *Id.*

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

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

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

32 *State v. Doe*, 140 Idaho 271, 274, 92 P.3d 521, 524 (2004).

33 *State v. Doe*, 147 Idaho 326, 328, 208 P.3d 730, 732 (2009).

34 *Id.*

35 165 Idaho 393, 397, 446 P.3d 451, 455 (2019).

36 *Id.*

37 91 Idaho 425, 423 P.2d 337 (1967); 111 Idaho 343, 723 P.2d 887 (1986).

38 *Baird*, 91 Idaho at 430, 423 P.2d at 342; *Simmons*, 111 Idaho at 348, 723 P.2d at 892.

39 *Hewson v. Asker's Thrift Shop*, 120 Idaho 164, 167, 814 P.2d 424, 427 (1991).

40 *State v. Schulz*, 151 Idaho 863, 867, 264 P.3d 970, 974 (2001).

41 *State v. Sams*, 160 Idaho 917, 920 n.3, 382 P.3d 366, 369 n.3 (Ct. App. 2016).

42 ***Fat Smitty's***, 167 Idaho at 38, 467 P.3d at 402.

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

44 *In re Adoption of Doe*, 156 Idaho 345, 350, 326 P.3d 347, 352 (2014).

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