



the **ADVOCATE**

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May 2023

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Idaho Conservation League

Environmental Justice &  
Corporate Sustainability

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On the Cover



This issue's Featured Article written by Wade Foster and Krista McIntyre discusses environmental justice and how these concepts ought to be practically implemented within corporations and businesses. The cover photo is of the Danskin Mountains taken by author and weekend warrior, Wade Foster, as he stared out the window of his decrepit vehicle debating if it would make it home.

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## Take Me to the Lakes (and Idaho's Great Outdoors)

Lindsey M. Welfley

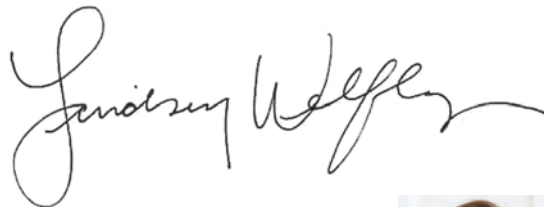
Welcome to this year's May issue of *The Advocate*, co-sponsored by the Animal Law Section and Environment & Natural Resources Law Section. While we've had a bit of a false start to spring all throughout our great state, hopefully this issue finds you well and ready to read!

This issue begins with a celebration of the 50<sup>th</sup> anniversary of the Idaho Conservation League, written by Marie Callaway Kellner. Next, Adam Karp implores readers to consider adopting their next dog or cat and provides a larger discussion of restrictions on the retail sale of domesticated animals. In this issue's Featured Article, co-authors Wade Foster and Krista McIntyre write about environmental justice and the impact of its practical implications on corporate sustainability. And finally, while we may be a landlocked state, Catherine Danley invites you nonetheless to explore the world of deep-sea mining and the latest endeavors toward mineral-based energy – one such project has touched home here in Idaho.

In addition to the content from the Sections, this issue also includes a report from ABA Delegate Jonathan Shirts on the ABA Mid-Year Meeting. We also have an update from our Law Related Education Program's Mock Trial competition.

As we start gearing up for the summer months, we hope you are inspired to get out and enjoy the great outdoors – whether it's a patio, park, mountaintop, or lakeside!

Best,



Lindsey M. Welfley  
Communications Director  
Idaho State Bar & Idaho Law Foundation, Inc.

the **ADVOCATE**

MAY 2023

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## Order to cancel license to practice law for non-payment of 2023 license fees

The Commissioners of the Idaho State Bar by and through their Executive Director have filed with the Clerk of this Court evidence that the following named attorneys have not paid the 2023 Idaho State Bar license fees required by Idaho Bar Commission Rule 305(b)(2) and have not given notice of resignation from the practice of law to the Idaho State Bar and this Court;

IT IS ORDERED that the LICENSE TO PRACTICE LAW IN THE STATE OF IDAHO of the following named persons are, CANCELED FOR FAILURE TO PAY THE 2023 IDAHO STATE BAR LICENSE FEES:

DOUGLAS JAMES AANESTAD; BARBARA JO BENTLEY; ERIC L. BERLINER; ALLIE M. BOYD; SARAH L. K. BRANDON; DALE FRANCIS BRAUNGER; ROBERT P. BROWN;

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IT IS FURTHER ORDERED AND NOTICE IS HEREBY GIVEN, that the persons listed above are NO LONGER LICENSED TO PRACTICE LAW IN THE STATE OF IDAHO, unless otherwise provided by an Order of this Court.

IT IS FURTHER ORDERED that Bar Counsel of the Idaho State Bar is directed to distribute, serve, and or publish this Order as provided in the Idaho State Bar Commission Rules.

DATED this 7th day of March, 2023.

## Order granting petition for reinstatement as active member in the Idaho State Bar

As of the date(s) indicated, the following attorneys' licenses were reinstated:

Benedict George Donahue; Active Status, March 17, 2023

## Notice of Public Discipline

The rules for discipline of Idaho lawyers are established by the Idaho Supreme Court, through Section V of the Idaho Bar Commission Rules. IBCR 521 provides for two types of disciplinary sanctions: private discipline (for less serious violations) and public discipline (for more serious violations). Only public discipline sanctions are posted.

To view a complete list of discipline notices visit our website at: <https://isb.idaho.gov/bar-counsel/public-discipline>

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## Well-Being in Law

Jillian H. Caires

As lawyers, we have a tough job. We work long hours and feel a hefty pressure to obtain the best possible outcomes for our clients. Attorneys meet clients and victims in their hour of greatest need and walk alongside them as they navigate crisis. Our judges see some of the darkest parts of humanity daily. We can all likely empathize with the stress of law school and studying for the bar exam. Additionally, as Idaho lawyers, we go through long, dark winters, which, in my opinion, multiplies the weight we feel as lawyers (thank goodness it is FINALLY spring!).

Most of us have experienced stress from our work – in my career, I have experienced physical manifestations of stress such as a chronically sore shoulder and I have gone through periods of burn out. We have also likely all known colleagues in the legal profession who have self-medicated with alcohol or drugs or been diagnosed with anxiety or depression. One of my law school classmates tragically took his own life several years ago, a shock to those who knew him as an upbeat friend who would lift others up. Sadly, many of us have been touched by this type of tragedy.

The first full week of May is Well-Being Week in Law<sup>1</sup>, and May is Mental

Health Awareness Month; a month focused on building awareness about, and breaking stigmas around, mental health.<sup>2</sup> “Mental health includes our emotional, psychological, and social well-being. It affects how we think, feel, and act. It also helps determine how we handle stress, relate to others, and make choices.”<sup>3</sup> In a profession where we often tend to the needs of others before our own and in a state with a suicide rate higher than the national average, it is critical that we take time as individuals and as a profession to build our mental health awareness.<sup>4</sup> Maintaining well-being is part of lawyers’ ethical duty of competence.

We are instructed by airline attendants that in case of emergency, we must secure our own oxygen mask first before we help others. The same is true when it comes to taking care of our own mental health and well-being: we must take care of ourselves first if we are to successfully help others. Part of taking care of ourselves is knowing what warning signs to watch for. Some warning signs of mental health problems include: withdrawing from people or activities; eating or sleeping too much or too little; experiencing a drop in energy levels; feeling hopeless; increasing use of substances; and thinking of harming one’s self or others.<sup>5</sup>

As a Board of Commissioners, we took time last fall to develop our strategic vision for the Idaho State Bar. One focus of that strategic vision is supporting the well-being of our members. If you have a passion for well-being, please keep your eyes open for an opportunity to join the Bar’s Well-Being Committee which will soon be formed by the Commission.



**Jillian H. Caires** is an Idaho native and a proud Washington State University Cougar and Gonzaga Bulldog. After clerking for the Honorable Benjamin Simpson, Jillian spent several

years in private practice in Coeur d’Alene before joining the in-house legal team of Avista Corporation. In her free time, Jillian enjoys baking, gardening, walking her standard poodle, and spending time with her family.

### Endnotes

1. <https://lawyerwellbeing.net/lawyer-well-being-week/>.
2. <https://www.samhsa.gov/programs/mental-health-awareness-month>.
3. <https://www.mentalhealth.gov/basics/what-is-mental-health>.
4. <https://www.kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/idaho/>.
5. <https://www.mentalhealth.gov/basics/what-is-mental-health>.



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## Admissions Department Report

Maureen Ryan Braley

The Idaho State Bar Admissions Department administers the rules governing admission to the practice of law in Idaho. Attorneys can be admitted by taking the Idaho Bar Exam, transferring a Uniform Bar Examination (“UBE”) score to Idaho, or through reciprocal admission (admission based on practice experience in another state). The Admissions Department also oversees limited admission to the practice of law in Idaho through a House Counsel license (working in-house for an Idaho employer), Emeritus Attorney license (limited license to do pro bono work), Military Spouse Provisional admission (servicemember spouse is stationed

in Idaho), pro hac vice admission, and Legal Intern licenses.

### Idaho Bar Exam Statistics

A record number of people took the Idaho Bar Exam in 2022. 93 people took the exam in February 2022 and 182 people took the exam in July 2022. The overall pass rate for the 2022 bar exams was 59.6%, which is down over five percentage points from the 2021 overall pass rate of 64.7%. The increase in bar exam applicants was due to the increased enrollment at Concordia University School of Law before its closure in the spring of 2020. Most of the Concordia students transferred to the University of Idaho Col-

lege of Law and graduated in May 2022. Therefore, we will likely see a decline in the number of people taking the Idaho Bar Exam in 2023.

### Reciprocal and UBE Admission Trends

As we know, Idaho’s population grew during the pandemic. We saw higher numbers of reciprocal applicants in 2020 and 2021, with 94 attorneys applying in 2020, followed by a record high 109 attorneys in 2021. Reciprocal applicant numbers returned to pre-pandemic levels in 2022, when 81 attorneys applied for reciprocal admission. Idaho has reciprocity with 35 jurisdictions. UBE applicant

numbers have held steady at 50 per year since 2020.

### NextGen Bar Exam

In 2018, the National Conference of Bar Examiners (“NCBE”), the entity that develops the UBE, created the Testing Task Force to determine the knowledge and skills entry-level lawyers should be expected to know and how that knowledge and those skills should be assessed on the bar exam. After several years of research, the Testing Task Force recommended that the NCBE develop what it refers to as the “NextGen Bar Exam.” The NCBE is currently conducting pilot and field testing and developing content scope outlines for the NextGen Bar Exam. The NCBE will finalize this work in early 2026, with the NextGen Bar Exam ready to be deployed for the July 2026 bar exam.

In February 2023, the Board of Commissioners of the Idaho State Bar created a NextGen Bar Exam Task Force to monitor developments with the NextGen Bar Exam and consider whether it should be implemented in Idaho.

### Spotlight on Belinda Brown, Idaho State Bar Admissions Analyst

A law student’s or lawyer’s first contact with the Idaho State Bar occurs during the admissions process. And since 2009, that first contact has been with Belinda Brown, the Idaho State Bar Admissions Analyst. Belinda handles the intake on all applications for admission. She communicates with dozens of lawyers daily, answering questions

about the admissions process and updating them about the statuses of their applications. She is patient, courteous and professional. I have learned a lot from her and am privileged to work with her.



**Maureen Ryan Braley** is the Associate Director of the Idaho State Bar and the Idaho Law Foundation. Her job duties include overseeing bar admissions in Idaho. She clerked for Chief Justice Gerald F. Schroeder of the Idaho Supreme Court and practiced law for six years in Boise before joining the Idaho State Bar staff in 2011. Maureen is a “double Zag,” having earned an undergraduate degree in history and a law degree from Gonzaga University.

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Idaho Conservation League members advocating for clean water. Photographer unknown.

## Idaho Conservation League: A Retrospective at 50 Years

Marie Callaway Kellner, with insight from and appreciation to Jeffrey C. Fereday

**T**he Idaho Conservation League (“ICL”) is Idaho’s oldest and largest state-based, non-profit natural resource conservation organization. Its mission is to create a conservation community with pragmatic, enduring solutions that protect the air we breathe, the water we drink, and the lands and wildlife we love. Founded in 1973, ICL membership has grown from dozens of people to almost 30,000 and includes current members and supporters in all 44 Idaho counties. ICL has 30 staff working from four offices (Sandpoint, McCall, Ketchum, and Boise), and a volunteer Board of Directors who provide geographical representation for all regions of Idaho.

Practitioners of natural resource and environmental law owe a debt of gratitude to those individuals and organizations – including far-sighted political leaders – in

the 1960s and 70s who advocated for, and helped pass, the federal statutes that established much of our nation’s legal framework for managing, protecting, and harvesting public natural resources. Yet, just as we see in today’s political and cultural landscape, what was happening at the federal level was in many ways an outgrowth of local sentiments by citizens who were willing to put in the work to make change. The creation of the Idaho Conservation League (“ICL”) in 1973 is Idaho’s homegrown example.

While the lore surrounding ICL’s origins varies regionally, the stories from around the state have a common thread. Whether Coeur d’Alene, Idaho Falls, Boise, Caribou County, Twin Falls, or the Wood River Valley, and whether it was at lunch, a coffee shop, or over a potluck dinner, there was a small group of Idahoans back then with the common desire to do something about protecting Idaho’s environment and its quality of life. Lucky for

us today, these folks found each other. They were concerned that Idaho’s Legislature was anti-conservation; they watched growth without safeguards impair open space and wildlife habitat, degrade water and air quality, and threaten the wild places that so greatly contribute to quality of life. They recognized that together their voices would be more effective. But most importantly, they were willing to try. That spirit launched the Idaho Conservation League in 1973.

For 50 years, ICL staff, Board, members, and volunteers have endeavored to carry that commitment forward, providing facts and a consistent voice at the Statehouse, and advocating for things that don’t have a literal voice.

### Legends in the Movement

When I joined ICL’s staff as its first ever Water Associate more than a decade ago,

I was thrilled to put my relatively recently earned law license to work on behalf of rivers and fish. I have always loved rivers for their inherent beauty and what I deem an analogy for life: serene at times, turbulent at others, yet always flowing and carrying you to places you may not yet know. While my role has evolved and I now work on much more than river conservation, some aspects of working at ICL remain constant, including the opportunity to learn from and continually meet Idahoans who value a healthy environment and our wildest, most pristine places.

Some of the most special work moments I have involve meeting people who were part of the organization's founding. To realize that 40, 45, or even 50 years on they are still engaged and passionate about ICL's mission inspires me. ICL is only as strong as its staff, members, and active volunteers, and its earliest ones were legends of Idaho's environmental protection movement.

After helping found Coeur d'Alene's Kootenai Environmental Alliance, civic icons, former state senator Mary Lou Reed, and her husband, the late attorney Scott Reed, also anchored the formation of ICL. In late 1973, the Reeds were in the room when what was known as the Boise Lunch Bunch "got down to brass tacks, formed the organization and decided on a name."<sup>1</sup> Conservation was intentionally chosen over the terms preservation or environmental, and the term league was an acknowledgment that, while there was a staff and board, ICL was actually a league of chapters from around the state. An incomplete list of the people there that day includes photographer Ernie Day, attorney Bruce Bowler, dentist Ken Cameron, and journalist Ken Robison, who is said to have suggested ICL's initial motto: "[a] non-partisan voice for conservation legislation."<sup>2</sup>

ICL's first Executive Director was Boisean Marcia Pursley, and her first hire was Belle Heffner. Marcia and Belle were organizers extraordinaire who directed the growing volume of ICL volunteers to meaningful work.

Other early leaders who left a mark on ICL via their volunteerism, board, or staff service, legal representation, policy

advocacy, or as organizational allies include (among many others) Bruce Bowler, Franklin Jones, John Peavey, Ken Pursley, Nelle Tobias, Matt Mullaney, Tom Davis, Doli Obie, Renee Quick, Jeff Fereday, and Pat Ford.

Notably, two Idaho political stalwarts were in office during ICL's early years: Gov. Cecil Andrus and Sen. Frank Church. Aptly described by Fereday as "two, once-in-a-lifetime politicians," they were lions in the environmental movement who had "a bones-deep appreciation for clean air, wildlife, wild places, and free-flowing rivers."<sup>3</sup> They provided inspiration and focus for ICL early on just as their legacy continues to inspire ICL today.

### Advocacy From the Beginning

ICL is not a law firm; it's an advocacy organization. That being said, several ICL staff are attorneys who practice primarily in state administrative fora. If ICL litigates in federal court, it typically works with outside – often *pro bono* – legal counsel. ICL's advocacy also comes in the form of lobbying, education, public engagement, and policy development with state and federal agencies. Each of these tools is used strategically and, ideally, at the right time. ICL's long-time Executive Director Rick Johnson (now re-

tired) once said, "[c]onservation success is based on windows of opportunity. These openings are sometimes rare and fleeting. The art of conservation is recognizing the opening and getting through it, usually in some policy forum, where achievement can be made."<sup>4</sup>

Two of ICL's earliest windows of opportunity were advocating for thoughtful growth through land use planning and mandating public disclosure by lobbyists. In his recent essay, "Memories of ICL, 1973-77"<sup>5</sup> Jeff Fereday – who in addition to being a longtime Idaho attorney was an early ICL volunteer and its second Executive Director – shared Marcia Pursley's recollections about the land use planning fight:

"When the first ICL Board met in November 1973, rampant and unregulated growth were hammering Idaho communities. Land use planning and zoning were local options, not statewide requirements. In 1970 or so, Boise City had hired planning staff to oversee 'planned growth,' but backlash against these efforts was immediate and personal. Boise planning staff were being threatened by people who contended they could do anything, anytime, with their property, that land planning and zoning was a communist plot, and that the Boise City



Idaho Conservation League Executive Director, Justin Hayes, consulting with a client. Photo by John Robison.

planners should, in so many words, ‘get the hell out of town.’”

Governor Cecil Andrus recognized that Idaho’s growth needed safeguards, and a commission he created to study solutions proposed the Local Planning Act in the 1974 legislative session, an early version of our current Land Use Planning Act.<sup>6</sup> What happened next is recollected by Fereday:

“With such widespread support, one might assume the measure would be odds-on to pass, and ICL and its allies worked hard to achieve that. But there were obstacles. The bill stalled in the Idaho Senate. A filibuster by then Minority Leader and later Idaho governor, John Evans, broke the logjam. ICL staff and volunteers sat in the gallery lending moral support. Another challenge was that a Senate committee chair used Idaho state letterhead for a letter addressed to all ‘Fellow Realtors’ urging opposition to the bill. To counter that, ICL volunteers packed his committee room, standing body to body behind the members. However, late in the session, a group of companies (including Idaho Power, Morrison Knudsen, and the realtors and homebuilders’ associations) sent in a brigade of lobbyists, many of them on a stealth basis, who persuaded legislators to kill the bill.

Frustrated and alarmed, ICL staff now felt the sting of a situation that undermined representative democracy: the fact that a business or other entity could work completely behind the scenes at the Legislature while disclosing nothing about backers and financial supporters. Marcia, Belle, and the ICL Board understood that this problem would continue to frustrate citizen action on every issue unless something were done. Marcia’s response was immediate, and aimed directly at using democracy itself.

As soon as the 1974 legislative session ended, Marcia and Senator John Peavey created a volunteer committee to launch a citizens’ initiative to put on the November 1974 ballot a proposed new statute, dubbed the Sunshine Law,<sup>7</sup> that would require lobbyists to register and reveal their employers, and would mandate financial disclosures for both lobbying efforts and election campaigns. Ken Pursley wrote the proposed new statute, John Peavey chaired the statewide effort, and Mary Mech of the League of Women Voters staffed signature gathering. Boise legislator Bill Onweiler (R) enthusiastically supported the initiative, and his wife, Corki Onweiler, chaired the Ada County signature gathering effort. In those days, be-

fore the Legislature made the initiative process as vexingly difficult as it is today, signatures in a small number of counties could put a measure on the ballot. Despite the short timeframe, the proponents succeeded, and, once it was on the ballot, Governor Andrus supported it. As did Idaho voters in the November 5, 1974 election – by 77.56%.<sup>8</sup>

## Keeping Coal Out of Idaho

Idaho’s Sunshine Law exemplifies ICL as a champion for good ideas and a fulcrum for volunteer citizen effort. Another early priority, preventing the Pioneer Coal Plant from being built on the desert between Boise and Mountain Home, exemplifies ICL’s commitment to oppose bad ones.

Proposed by Idaho Power to address what it projected would be necessary to meet growth, Pioneer was a proposed 1,000 mega-watt coal fired power plant to be located about 20 miles south of Boise. Organizing against what would have been Idaho’s first coal fired power plant required the fledgling conservation organization to grow up fast. As recalled by Fereday, “[c]ounteracting Idaho Power’s message required hard-nosed, tireless work; fact-finding, self-education, work at the Legislature, a vigorous presence in the news, and persuasion at the state agencies. It required consulting experts and researching federal clean air matters, utility regulation, electrical transmission, the northwest energy system, and the economics of power sales and consumption.”<sup>9</sup>

ICL staff and volunteers raised funds to host energy awareness workshops around the state. They wrote Letters to the Editor and



Beautiful Sawtooth Wilderness. Photo by Ed Cannady.

created petitions opposing the coal fired plant. They pitched stories to Idaho newspapers and the regionally acclaimed High Country News. They organized with allies like the League of Women Voters and the Idaho Medical Association. There was even a TV debate between then-ICL Executive Director Fereday and Idaho Power's CEO Albert Carlsen. Much as still happens today, ICL used as many tools in the toolbox as it could. And luckily for Idaho, its air quality, and its energy economy, these efforts were successful. In September 1976, the Idaho Public Utilities Commission denied Idaho Power's application to build Pioneer. To this day, Idaho still has no instate coal fired power.

## Protecting For Perpetuity

In the almost 50 years since, ICL has been at the table when natural resource issues are on the menu. The Owyhee Canyonlands Wilderness and its attendant Wild & Scenic Rivers reaches;<sup>10</sup> the Cecil D. Andrus White Clouds Wilderness;<sup>11</sup> the Central Idaho Dark Sky Reserve;<sup>12</sup> the Frank Church-River of No Return Wilderness;<sup>13</sup> the preservation of Box Canyon in the mid-Snake River;<sup>14</sup> citizens suits under the Clean Water Act<sup>15</sup> and the Endangered Species Act;<sup>16</sup> and much more. And beyond all this, of course, is ICL's day-to-day attention to and dissemination of information

to the public about environmental issues facing Idaho.

## Onward!

As ICL enters its second 50 years, much remains to be accomplished. People like me, with the good fortune to work here now, do our best to embody the goals of ICL's founders, early staff, and volunteers. If we are successful, 50 years from now those who come after us will have the opportunity to reflect on the relevance and importance of this organization and all it has done to shine a light on good governance, protect in perpetuity the most worthy of places, fight for public and environmental health by protecting air and water, and be a voice for the fish and wildlife that don't otherwise have one.



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## Adopt, Don't Shop: By Legislative Fiat

Adam P. Karp

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According to the APPA National Pet Owners Survey (2023-2024), 66% of all U.S. households have a companion animal, with 65.1 million households sharing a home with a dog and 46.5 million households with a cat.<sup>1</sup> Idaho boasts the nation's highest percentage of dog owners (58%), eighth highest

percentage of cat owners (33%), and fifth highest percentage of companion animal owners (70%).<sup>2</sup> Over six million companion animals enter the approximately 3,500 animal shelters in the United States every year. Best Friends Animal Society<sup>3</sup> found that homeless animals surrendered to, or impounded by, American shelters die at a rate of at least 350,000 lives per year. In 2016, the year before California became the first state to ban puppy and kitten retail sales, the kill rate was over 1.5 million.<sup>4</sup>

While some of these millions of animals who have been picked up as strays are reunited to their owners, large numbers are housed in overcrowded facilities at prodigious municipal expense until forcing shelter workers to face the excruciating task of ending lives, not for ailing

health, but due to finite resources and out of concern for long-term effects of confinement. Breeding new animals into existence inevitably comes at the expense of those already here and desirous of finding lifetime homes. While Americans have, in some cities, more dogs and cats than human children, there is only so much residential capacity. With a glut of homeless animals, the inexorable march to euthanasia continues.

### The Rise in Pet Retail Sales Bans

Municipalities and states who wish to be goal-oriented in staunching this unyielding flow of canine and feline life impose regulatory restrictions, or premiums, on those who harness their reproductive



potential rather than curtail it. This is accomplished through mandatory spay/neuter laws, as well as by enacting animal care conditions that seek to ameliorate the oppressive conditions of extensive breeding. Financing impediments also achieve this goal by prohibiting or penalizing predatory solicitations and legal instruments binding consumers to retail installment contracts, leases, loans, and purchase money security interests in the animals. By far the most common legislative tactic is to restrict avenues by which the public may readily acquire bred puppies and kittens, instead incentivizing rescue from a nonprofit or adopting from a shelter.

By cutting off retail supply lines, legislatures reasonably seek to redirect the public to the inventory of homeless pets, thereby lowering animal control and sheltering expenses and furthering the humane goal of stewardship toward animals that society has intentionally or negligently allowed to breed in excessive number. As most consumers shop at pet stores, legislatures naturally look to ban those point of sale transactions at brick-and-mortar storefronts. However, this leaves unaffected direct sales between breeders, whether they occur at the kennel or in a parking lot, advertised via online yard sale sites like Facebook Marketplace or Craigslist, or through website presence.

Yet shutting down pet store sales simply to drive citizens to adopt has been met with repeated constitutional challenges. This is why another rationale surfaced – that the vast majority of animals sold at pet stores come from Commercial Breeding Enterprises (“CBE”) or “puppy mills.” CBEs or puppy mills are large-scale breeding operations notorious for neglectful and abusive conditions related to the factory-type farming of dogs and cats to produce units for filial consumption.

To cripple CBEs and their use of out-of-state municipalities to unload large numbers of puppies and kittens, legislatures have successfully argued that halting retail sales serves to deprive puppy mills of market opportunities, since, after all, puppy mills do not sell directly to the public but, rather, through a series of intermediaries including wholesalers, distributors, dealers, resellers, transporters, and retailers. In so

doing, CBEs mask from public view the deplorable conditions of production.

That puppy frolicking in the window of a clean, well-lit, and warm pet store does not faithfully reflect its genesis nor the mistreatment and neglect that follows its parents at an undisclosed location. Aside from cities and counties being moved to take action due to the perfectly understandable considerations for the inhumane treatment of dams and sires, yet another reason for legislative involvement beckons: due to intensive breeding, a number of the milled offspring suffer from congenital abnormalities and behavioral problems not apparent until after sale.

Those maladies may result in unexpected and extreme veterinary expenses to the hoodwinked buyer, or, as is more often

decade, as pet store bans have taken off like wildfire. California, Maine, Maryland, Washington, and New York lead, and hundreds of counties and cities all throughout the United States have followed. Indeed, states without a statewide prohibition may as well be regarded as possessing one, such as New Jersey, with 137 municipal bans.<sup>5</sup>

Yet, by and large, except in the case of Arizona, which enacted a law preemptive of Phoenix’s ban,<sup>6</sup> not a single court has stricken a retail pet sale ban; although a federal district court judge in 2011 did grant a temporary restraining order to enjoin enforcement of the City of El Paso’s law capping the sale price of kittens and puppies at \$50 for unaltered and \$150 for altered dogs and cats older than eight weeks of age – which suit was later



*Naturally, pet stores have not gone down without a fight, which explains the legal challenges that ensued in the 21st Century, most commonly in the last decade, as pet store bans have taken off like wildfire.*

the case, surrender of these ailing creatures to municipal shelters, foisting the burden of caring for such hapless beings on taxpayers, and saddling shelter workers with the terrible choice of euthanizing or impounding an animal for a potentially long and costly period, eager for an adoption that is, statistically, unlikely to occur.

Albeit a somewhat circuitous route, the plausible pipeline from puppy mill to pet store to buyer to shelter forges the nexus that supports such bans by shrinking the market in which milled pets may be sold.

Naturally, pet stores have not gone down without a fight, which explains the legal challenges that ensued in the 21st Century, most commonly in the last

dismissed by a settlement and no further adjudication.<sup>7</sup> It is extremely dubious that any future court will do so, as nearly every variant of argument has been meticulously fly-specked.<sup>8</sup>

The predominant challenge to any such law highlights the undeniable discrimination between pet shops, on the one hand, and breeders, animal rescues, and shelters, on the other, taking the form of claims invoking the U.S. Constitution’s Commerce Clause, Equal Protection Clause, Contract Clause, Due Process Clause, and Takings Clause. Federal preemption by the federal Animal Welfare Act (“AWA”) provides yet more grist for dispute, as well as claims of preemption by state law and home rule overreaches. In many respects,

litigation over pet retail sales bans read as a redux of the cases upholding state equine slaughterhouse bans.<sup>9</sup> That said, some permutations have yet to be tested, and if municipalities or states become more emboldened, familiarity with prior cases will prove invaluable.

## The Animal Welfare Act

To understand why retail pet sale bans are critical in spite of the federal AWA,<sup>10</sup> one must first understand that retail pet stores are exempt from regulation thereunder. Congress enacted the AWA to insure that pets are provided humane care and treatment, finding it “essential to regulate [...] the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose of use.”<sup>11</sup>

To that end, it regulates animal “dealers.”<sup>12</sup> The AWA definition of dealer excludes retail pet stores.<sup>13</sup> Breeders who sell by means where the purchaser has no chance before sale to determine health, such as via the internet, are nonetheless bound to the licensing, inspection, and care standards. This means that breeders selling puppies to consumers in person, such as at flea markets, by the side of the road, or by Craigslist or Facebook yard sale sites, are exempt from the AWA regardless of the size of their breeding operation. Additionally, the AWA does not apply to businesses of *de minimis* size, such as businesses with four or less breeding female animals.

In response to audits of the federal government’s enforcement of the AWA which demonstrated widespread issues and ineffectiveness,<sup>14</sup> APHIS implemented a final rule in September 2013,<sup>15</sup> which amended 9 CFR Pts. 1 and 2, revised the definition of “retail pet store” to require licensing by breeders in “sight unseen” transactions that do not involve “face-to-face” delivery to customers but typically occur over the internet. Brick and mortar stores remained exempt from licensing and inspection under the AWA. Photos, Skype, webcam, and other electronic methods of communi-

cation do not suffice to avoid licensing by such entities.

The rule raised the maximum number of female breeding dogs, cats, or certain species a person could maintain from three to four to be exempt from licensing, provided they sold only offspring from those animals born and raised on their premises for pets or exhibition. 80 FR 3463 (2015) corrected an oversight in the 2013 final rule that neglected to raise the number in one provision of the regulations related to animal purchases by dealers and exhibitors.<sup>16</sup> In 2020, APHIS again amended these regulations, but without substantive change to 9 CFR 2.1(a)(3)(iii) [exempting persons with four or fewer breeding female pet animals] or 9 CFR 2.132 [concerning dealer procurement of animals].<sup>17</sup>

As of December 2022, APHIS’s Animal Care Program enforces the AWA for 13,200 licensees and registrants. The Animal Care division enforces the AWA and Horse Protection Act (prohibiting soring only).<sup>18</sup> In FY 2020, APHRE initiated 1,129 new cases. In FY 2021, the Animal Care program initiated 118 cases for AWA violations, issued 58 official warnings, issued three pre-litigation settlements, and obtained eight administrative orders.<sup>19</sup> See also USDA FY 2022 Budget Summary, pages 88-91.<sup>20</sup>

## USDA Regulations

The United States Department of Agriculture (“USDA”) and its Animal & Plant Health Inspection Service (“APHIS”)’s implementing regulations<sup>21</sup> set the minimum standards for the treatment of certain species in various contexts. Civil and criminal penalties apply.

The USDA created three licensing categories for retail pet sellers:<sup>22</sup> a “Class ‘A’ licensee (breeder)” – a dealer subject to AWA licensure “whose business involving animals consists only of animals that are bred or raised on the premises,” a “Class ‘B’ licensee” – a regulated dealer “whose business includes the purchase and/or resale of any animal” including “brokers [...] who] negotiate or arrange for the purchase, sale, or transport of animals in commerce,” and “Class ‘C’ licensee” – an exhibitor whose business involves the showing or display-

ing of animals to the public. Breeders with four or fewer breeding females who sell only offspring from those females need not obtain an AWA license.<sup>23</sup> Businesses covered by the AWA include: “dealers,” typically animal breeders and brokers, auction operators, or those who sell domesticated, laboratory, exotic, or wild animals. Dealers are defined as:

“Any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of: Any dog or other animal whether alive or dead (including unborn animals, organs, limbs, blood, serum, or other parts) for research, teaching, testing, experimentation, exhibition, or use as a pet; or any dog at the wholesale level for hunting, security, or breeding purposes. This term does not include: A retail pet store, as defined in this section; and any retail outlet where dogs are sold for hunting, breeding, or security purposes.”<sup>24</sup>

Therefore, Class A dealers deal only in animals they breed and raise; the rest are Class B. Retail pet stores who sell directly to owners, hobbyists, animal shelters, and boarding kennels are not regulated by the federal government. Animal transporters or carriers, such as airlines, railroads, and truck drivers, require a Class T registration, but no license. If registered or licensed, the business or individual must comply with all federal regulations, including recordkeeping and standards of care. Licensing records may be accessed through Animal Care Public Search Tool.<sup>25</sup>

The AWA expressly contemplates local regulation<sup>26</sup> and provides that USDA regulations regarding “humane handling, care, treatment, and transportation of animals by dealers” shall not bar any state or locality from promulgating their own additional standards.<sup>27</sup> The USDA has come under criticism for lax enforcement and insufficient standards leading to the proliferation of puppy mills.

The Humane Society of the United States, for instance, has stated: “[the] AWA allows dogs to be kept in cramped, wire-floored cages for their entire lives,

churning out litter after litter of puppies for the commercial pet trade.<sup>28</sup> The Inspector General has found that dogs cared for by USDA-licensed breeders were observed “walking on injured legs, suffering from tick-infestations, eating contaminated food, and living in unsanitary conditions.”<sup>29</sup> As a result, many states and localities have imposed restraints on breeders and pet stores.

## State Retail Sales Bans

Most pet sale bans originate at the local level, but statewide prohibitions are increasing in prevalence.<sup>30</sup> As of March 2022, six states have enacted statewide prohibitions banning retail pet sales. The statewide bans include the following:

In 2017, California became the first state to enact a retail pet sale ban with AB 485, creating Cal. Health & Safety Code 122354.5. This code was subsequently amended in 2020 by AB 2152, known as Bella’s Act, which made it illegal for a pet store not only to sell, or offer to sell, a dog, cat, or rabbit, but from also adopting out such animals. Pet stores wanting to offer live animals would need to put aside space for a public animal control agency, shelter, or 501(c)(3) tax-exempted non-profit rescue to showcase adoptable animals and the animal must be sterilized prior to adoption and adopted for no more than \$500.

In 2022, California passed AB 2380, which prohibited online pet retailers from offering, brokering, referring, or otherwise facilitating a loan or other financing option for adoption or sale of a dog, cat, or rabbit, though it did not apply to a service animal.<sup>31</sup>

California provided a template for other States, such as Maryland in 2018 (Maryland Bus. Reg. Code 19-701 – 703); Maine in 2020 (MRSA 4153); Illinois in 2021 (225 ILCS 605/3.8, 605/3.9), Washington in 2021 (RCW 16.52.360); and New York in 2023 (35-D NYS Agr. & Markets 753-F). The latest state laws make efforts to circumvent bans by “puppy laundering,” the practice of funneling puppies through fake animal rescues with hidden payments, often across state lines, to provide pet stores dogs labeled as “rescues” who are, in fact, bred for sale. The laws

do so by prohibiting the shelter or rescue from serving as an affiliative conduit for breeders and brokers.<sup>32</sup>

## Boise City Council Ordinance

Most germane to this article is the passage of Ord. 20-21 by the Boise City Council in May 2021. BCC 5-1-22 states:

### 5-1-22: SALE OF COMMERCIAL BRED DOGS AND CATS IN RETAIL STORES PROHIBITED:

- A. Prohibition: It shall be unlawful for any person to offer for sale any live dog or cat in a retail business within the City, except for dogs and cats obtained from an animal care and control agency, animal care facility, animal shelter, or non-profit rescue that does not breed dogs or cats, or obtain dogs or cats from a person who breeds or resells such animals for payment or compensations.
- B. Breeder Exemption: This section shall not prohibit the private breeding of dogs and cats for direct sales between the breeder and the consumer. (Ord. 20-21, 5-11-2021)

Violation of BCC 5-1-22 is a misdemeanor pursuant to BCC 5-1-25(B). Based on the abysmal track record of those challenging such retail pet sale bans, Boise’s laudable ban is virtually guaranteed to be impervious to legal challenge. Thankfully, it helps to close the loophole that allows “rescues” to front for breeders by reselling them under the guise of an exempt nonprofit.<sup>33</sup>

## Conclusion

Laws that ban sales of dogs and cats, and that prohibit breeding altogether, are vital to government operations, public safety, and social equanimity hallmarked by humane stewardship. They will remain needed so long as public consciousness has failed to recognize the hard truth that, by domestication of the canid and felid, and centuries of unbridled animal husbandry, our society has given birth to wholly dependent individuals numbering in the millions of lives to whom we stand in loco parentis. And they, in turn, take millions more lives who have been canned or

processed as pet food. We have forsaken our artificially selected companions and thrust upon shelter workers the abhorrent task of what would appear to an objective observer to be “taking out the trash,” except instead of true garbage, the barrels are filled with euthanized, homeless beings.



**Adam P. Karp** received his J.D. and M.S. in Statistics from the University of Washington in 1998 and 2000, respectively. In 2012, the American Bar Association’s Tort Trial and Insurance Practice Section’s Animal Law Committee bestowed upon Mr. Karp the Excellence in the Advancement of Animal Law Award. In 2021, Mr. Karp was elected as a Fellow to the American Bar Foundation. Mr. Karp has practiced animal law since 1999 and is licensed in the States of Washington, Oregon, Idaho, and Hawaii. He authored *Understanding Animal Law* in 2016. He founded the Idaho State Bar’s Animal Law Section.

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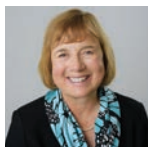
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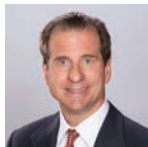
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# Environmental Justice: One Key to Corporate Sustainability

Wade C. Foster and  
Krista K. McIntyre

## Defining Environmental Justice

Consider these three statements: *I experience odor or discoloration in my tap water, English is not the primary language spoken in my home, and I live near industrial activity.*

Now, consider these statements: *The organization that I work for can access environmental subject matter experts, the organization that I work for has influence in the regulatory review of projects that I care about, and the organization that I work for can access regulators and leaders of agencies.*

Responses to these and similar prompts may highlight the persistent disparities among communities and reveal the varying levels of involvement in regulatory processes among stakeholders in communities across America. The re-

freshed focus on Environmental Justice (“EJ”) in regulatory and commercial activities is targeted at narrowing the gaps in lived experiences across American neighborhoods.

EJ is defined by the U.S. Environmental Protection Agency (“EPA”) as the “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”<sup>1</sup> EJ aims to combat the disparate impact of environmental and health hazards on low-income neighborhoods and communities of color through distributive, procedural, corrective, and social justice.<sup>2</sup> EJ is no longer only a subject of activism and academia; it is at the forefront of minds in the White House, state legislatures, and even board rooms.

EJ touches nearly all aspects of society today: pollution, food security, energy equity, disaster relief, housing access, internet access, tribal sovereignty, urban planning, socioeconomic growth, political representation, transportation, education, climate change, and resiliency. EJ targets every facet of the lived experience and an individual’s ability to enjoy a safe, healthy community and to access opportunity. EJ impacts nearly every commercial and industrial sector. Unpacking the definitions of “environmental,” “justice,” and “community” reveals meanings that are broader and more complex than generally understood, even by experienced environmental lawyers.<sup>3</sup>

The term “environmental justice” emerged during the civil rights movement of the 1960s, when Rev. Dr. Martin Luther King, Jr. brought attention to environmental injustices borne by

predominately black garbage workers at a Memphis, Tennessee sanitation facility. Later, a national study found a positive correlation between subjects' race and their proximity to hazardous waste sites.<sup>4</sup> Empirical evidence of environmental injustice sprouted.<sup>5</sup> Overburdened communities are not only in black and brown or urban neighborhoods. Following an Executive Order signed by President Clinton in 1994, federal agencies began work to identify and address impacts in communities of color and among low-income areas.

### Refreshed Emphasis on EJ

Current events impacting overburdened communities, like the Flint, Michigan water crisis (2014), the Dakota Access Pipeline protests (2016), and the disproportionate rates of COVID-19 hospitalization and death in communities of color,<sup>6</sup> punctuate the urgency for new EJ conversations. On January 3, 2023, for example, the EPA published its final Strategic Plan 2022-2026. It declares an imperative for the agency to embed EJ and civil rights into its core mission and day-to-day work.<sup>7</sup> National and regional offices within the EPA are directed to develop plans to achieve specific EJ goals and will be accountable for performance against those goals.

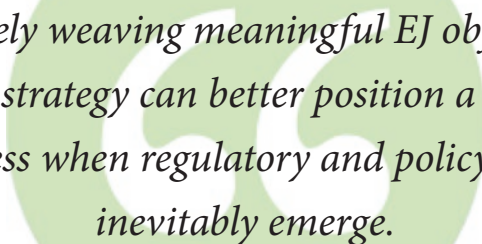
EPA Administrator Michael Regan directed all EPA offices to integrate EJ considerations into their plans and policies, noting EJ was one of his "top priorities as administrator."<sup>8</sup> Among Regan's EJ focuses are strengthening environmental enforcement in and improving engagement with EJ communities and incorporating EJ into regulatory processes, including impact assessments and rulemaking. A recent EPA Enforcement and Compliance Assurance memo directs staff to protect EJ communities by boosting inspections and enforcement while increasing engagement with community members about enforcement efforts.<sup>9</sup>

Other federal agency plans are required by President Biden's Executive Orders 13985 and 14008. For example, the U.S. Department of Transportation committed to ensuring opportunities for minority and low-income communities to

influence the transportation planning and decision-making processes through enhanced engagement and meaningful input and actively preventing disproportionately high and adverse effects of transportation projects on minority and low-income communities.

The U.S. Department of Housing and Urban Development ("HUD") committed

proactively. Strategic EJ implementation can yield real benefits and complement investments in Environment, Social, and Governance ("ESG") objectives. Businesses that hesitate to incorporate EJ principles into their corporate sustainability strategies open themselves up to stakeholder (e.g., regulatory, community, and employee) scrutiny.



*Proactively weaving meaningful EJ objectives into business strategy can better position a company for success when regulatory and policy changes inevitably emerge.*

to a variety of actions to empower communities to achieve climate resilience, facilitate economic opportunities, and eliminate health risks caused by environmental injustices. HUD has established EJ as a budget priority, ensuring that both HUD staff and its external stakeholders are aware of the significance of avoiding and reversing environmental inequities. As goes federal government priorities, also go state government obligations.

Tools for identifying overburdened communities where EJ may be relevant conversation include EPA's ECHO database, EPA's EJSCREEN, the Climate and Environmental Justice Screening Tool ("CJEST"), and the U.S. Census. None of these tools is perfect or complete. These tools provide only indicators, not determinations, of disparity or lack of meaningful involvement. Beyond the more obvious metrics, data collected on health outcomes, education levels, access to healthy food and the internet, and language proficiency can inform identification of EJ opportunities.

Companies are implementing EJ strategies to confront the refreshed EJ emphasis

### The Business Case for EJ

Implementing an EJ strategy is good for long-term business durability and sustainability.<sup>10</sup> Stakeholders, including shareholders, employees, supply (or value) chain partners, customers, and community members are increasingly demanding that companies be good corporate citizens. Ahead of regulatory mandates, businesses are confronting growing pressures to articulate corporate sustainability principles and execute on them. Social impact assessments are emerging in transaction due diligence and influencing commercial dynamics; these can include EJ evaluations. Employees are demanding that employers not only demonstrate commitment to diversity, inclusion, and equity internally, but walk the talk externally to advance EJ in impacted communities as well.

Environmental injustice is bad for business. Adverse outcomes ripple. Companies do not operate in a vacuum. In today's tight labor market, for example, the very communities that could be a local workforce and offer innovative ways of operating and impacting the surrounding area

are experiencing real barriers to advancement in today's economy. Implementing an effective strategy for meaningful engagement with EJ communities can not only lead to diversity of a company's workforce but can also reveal durable, community-driven improvements.

Neglecting investment in disproportionately impacted communities deters growth of economic power, diminishes community welfare, and slows advancement of the next generation of contributors, consumers, and leaders. Ignoring the environmental impacts on underserved communities perpetuates an un-virtuous cycle where poor health outcomes, poverty, and societal conditions repeat for generations – a cycle that is very much not consistent with corporate sustainability.

Proactively weaving meaningful EJ objectives into business strategy can better position a company for success when regulatory and policy changes inevitably emerge. Focusing on EJ complements ESG objectives, aligning environmental impacts, social and racial equity, and governance with community-centric metrics can enhance collaborations between businesses and the communities impacted by their operations.

## Projects in Peril and Reviews by Regulators

Local opposition and the related uncertainty over project postponements create real challenges for businesses. In one example, an international petrochemical company, Formosa Group, proposed to build a \$9.4 billion chemical and marine shipping facility in St. James Parish, Louisiana. The project faced strong community opposition due to environmental and EJ concerns that the new plant would adversely impact the area EJ activists call “cancer alley.”

The U.S. Army Corps of Engineers (“USACE”) initially issued a dredge and fill permit to the company in 2019. After EJ advocates challenged the permit on behalf of the predominantly black fence-line communities, the USACE suspended the permit in 2020. In August 2021, the Acting Assistant Secretary of the Army announced that a full environmental impact assessment was warranted, stating: “[t]he EIS process will provide opportunities for

voices to be heard in an open, transparent, and public way.”<sup>11</sup> The average time to complete an EIS is approximately four and a half years.

In another example, Acting Regional Administrator for EPA Region 5, Cheryl L. Newton, urged the Michigan Department of Environment, Great Lakes, and Energy to perform a cumulative impacts analysis before issuing an air quality permit to Ajax Materials, Corp., for construction of an asphalt plant. The Region recommended analyses of ambient air impacts on the community and evaluation of whether the proposed construction will cause “adverse and disproportionate impacts for nearby residents.”<sup>12</sup>

In the letter dated September 16, 2021, the EPA also encouraged the company to consider an alternative site to avoid potential impacts uncovered by the additional review, and, if the plant is permitted, encouraged the company to generate data regularly on an easily accessible website for the community. The EPA also nudged the company to “engage with the local community to address community concerns that may not be within the scope of the air permit.”<sup>13</sup> These messages are consistent with the explicit EJ priorities and objectives outlined in the EPA's draft Strategic Plan and are likely to be repeated by other EPA Regional Administrators.

The EPA is increasing personnel in its regional offices to focus on its EJ strategy. Recent publications outline the authorities and activities relevant to increasing scrutiny on permitting, enforcement, and other processes in support of EJ for EPA managers and staff. These include Principles for Addressing Environmental Justice in Air Permitting dated December 22, 2022, EJ Action Plan dated September 2022, EPA Legal Tools to Advance Environmental Justice dated May 2022, and EPA Legal Tools to Advance Environmental Justice: Cumulative Impacts Addendum dated January 2023.<sup>14</sup> More guidance for regulators and the regulated community is expected this year.

In Idaho, the U.S. Attorney for the District of Idaho launched an EJ reporting hotline to “protect the community from harmful violations of federal health and safety laws.”<sup>15</sup> The EPA is also including EJ

in enforcement actions against Idaho companies using existing statutory authorities.

## EJ as a Key to Corporate Sustainability

The ESG framework can facilitate risk management to ensure long-term corporate sustainability and can highlight opportunities to create value for long-term success. ESG derives from notions of corporate sustainability and the enterprise leadership that stakeholders expect will confront risks and identify opportunities that increase value. The guiding principles of ESG are rooted in the United Nations Global Compact (2000) and subsequent report *Who Cares Wins* (2004).<sup>16</sup>

ESG factors selected by companies as material priorities are unique to each organization. Environmental factors address the business' long-term ability to secure raw materials and to produce goods and may include pollution, packaging, climate change resiliency, biodiversity, soil health, or energy use. Social factors address the business's long-term relationships with people and society and may include workforce and workplace priorities, supply (value) chain impacts, economic opportunities in impacted communities, or education. Governance factors address the leadership and accountability of the business amid uncertain and complex commercial realities and may include compliance, business ethics, transparency, board diversity and leadership pipeline, internal controls, or reporting and accountability practices.

Much is written and debated about the implementation of ESG and the lack of standardized methods to determine material risks, institute adequate controls, and clearly communicate progress toward desired outcomes. The most well recognized and widely employed standards for implementing ESG strategies are developed by the Global Reporting Initiative (“GRI”),<sup>17</sup> an international standards organization that helps businesses quantify and communicate on ESG impacts.

In 2022, 78% of global 250 companies used the GRI framework.<sup>18</sup> Overall, the standards create a continuous improvement cycle that places measurable ESG goals at the center of corporate



decision-making and action. ESG standards encourage systems that monitor, report, and reevaluate relevant metrics, creating a holistic picture of current operations, material risks, and possible opportunities. The holistic, stakeholder influenced framework that informs the E, S, and G factors can incorporate the lived experiences in fence-line communities – where EJ is ripe.

A successful ESG program begins with a materiality assessment, a candid and stakeholder-driven review of risk factors that threaten the long-term sustainability of a business. Identifying risks to mitigate and opportunities for investment future-proof an enterprise and create value. To apply ESG principles to EJ needs, companies meaningfully engage with impacted communities in an assessment to understand the lived experiences in the communities. To be effective, businesses must acknowledge and overcome the cultural, language, and power barriers that might stifle the exchange. Materiality assessments are recalibrated routinely to reevaluate topics that are material, as topics will change with time.

## Conclusion

Leading corporate sustainability efforts using ESG as a tool to identify risks and opportunities is a journey and certainly more encompassing than just EJ. As government and other stakeholders express more concrete expectations for narrowing the disparities among communities in America, a commitment to EJ can be a key to ensuring a business's future and to creating value that endures.



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The *Hidden Gem* is the world's first fully operational deep-sea mineral production vessel. Photo credit: The Metals Company, *The Metals Company and Allseas Announce Successful Deep-Water Test of Polymetallic Nodule Collector Vehicle in the Atlantic Ocean at a Depth of Nearly 2,500 Meters*, THE METALS COMPANY (May 5, 2022), <https://investors.metals.co/news-releases/news-release-details/metals-company-and-allseas-announce-successful-deep-water-test>.

## Idaho's Cobalt Belt & Seamount Crusts: Emerging Opportunities in the Pursuit of Battery Minerals & Renewable Energy Infrastructure

Catherine O. Danley

Northwest of Challis, in the Salmon River Mountains, an Australian mining company is opening a new cobalt mine in Idaho.<sup>1</sup> Jervois Global Ltd.'s mine sits along the Idaho Cobalt Belt – a 64 kilometer long stretch of cobalt and copper-bearing deposits in the historic Blackbird Mine area.<sup>2</sup> It is the largest cobalt resource in the United States and Jervois is the first cobalt mine the U.S. has seen operating on its shores in decades.<sup>3</sup> In fact, Jervois is one of only two mines in the world where cobalt is the principal product.<sup>4</sup> The other is in Morocco.<sup>5</sup>

Interest in cobalt mining is rising alongside demand for clean energy infrastructure and consumer electronics, particularly as governments seek ways to secure renewable energy resources and reduce their carbon emissions impact. The rising demand for electric vehicles has been a major catalyst under the Biden administration to push for cobalt specifically. The Salmon River Mountains, however, aren't the only source of cobalt deposits that are attracting mining interests. Minerals in the seabed have been considered a potential source of mining

sites since the 1970s and 1980s when depressed metal prices had companies and countries looking to sea for new deposits. Deep sea technology just wasn't up to the task to make mining economical, much less truly feasible.<sup>6</sup>

The search for cobalt, and other minerals crucial to modern technology, may be changing that. This article will briefly discuss the rising demand for cobalt, the minerals of the seabed, and new developments unfolding in deep sea mining, international laws governing seabed resources, and the ongoing



Jervois Cobalt Mine near Salmon, Idaho. Photo credit: Ian Max Stevenson and Kevin Fixler, *Cobalt Mining excavations return amid electric vehicle push. They're coming to Idaho*, Idaho Statesman (Dec. 27, 2022), <https://www.idahostatesman.com/news/northwest/idaho/article266874121.html>.

balancing act between environmental protections and the need for minerals in green energy markets.

### Why Cobalt?

Cobalt is a key ingredient in lithium-ion batteries that powers much of our modern technology, including laptops, cell phones, and electric vehicles.<sup>7</sup> Using cobalt stabilizes the battery's chemistry, prevents fires, and allows the battery to hold a longer charge.<sup>8</sup> Cobalt also allows manufacturers to add other materials – such as nickel – to help battery performance.<sup>9</sup>

Electric vehicles and other forms of renewable energy technology have been on the rise for years, but recent legislation and modern drives towards green energy have been powerful catalysts to mineral demand.<sup>10</sup>

For example, the Inflation Reduction Act of 2022, passed last August, includes tax credit provisions for electric vehicle purchasers.<sup>11</sup> These tax credits are part of the Biden administration's goal to hit a 50% electric vehicle target of sales shares in the U.S. by 2030, and to cut U.S. vehicle emissions in half within the same time frame.<sup>12</sup> It's an ambitious goal dependent, at least in part, on the manufacturers' ability to source cobalt and other minerals essential for electric vehicle production.

The Department of Energy also announced \$3.16 billion from the Infrastruc-

ture Investment and Jobs Act will be used “to make more batteries and components in America, bolster domestic supply chains, create good-paying jobs, and help lower costs for families.”<sup>13</sup>

All of this manifests at a time where nations are looking for renewable energy

solutions. Transitions to clean energy technology are expected to increase global demand for critical minerals by 400-600%, while battery minerals will increase as much as 4,000%.<sup>14</sup> Most of the world's cobalt supply, however, is controlled abroad, which has raised national security concerns.<sup>15</sup>

The Congo (Kinshasa) continues to be the leading source of cobalt production, accounting for 70% of the world's pro-

duction, while China remains the world's leading producer of refined cobalt.<sup>16</sup> China is the world's leading consumer as well.<sup>17</sup> Other key minerals are controlled overseas too. The U.S. imports most of its rare earth metals, with 74% coming from China, 8% from Malaysia, 5% from Estonia and Japan, and the remainder from a mix of nations.<sup>18</sup>

Rare earths serve diverse and highly specialized uses, such as construction of mobile phones, advanced motors, generators, oil-refinery catalysts, and super-strong magnets.<sup>19</sup> Like cobalt, demand for rare earths is rising too: the estimated value of imported rare-earth compounds increased by 25% from 2021 to 2022 alone, and global mine production is estimated to have increased to 300,000 tons of rare earth oxide equivalent.<sup>20</sup>

Idaho is beginning a new chapter in its mining history as “the world faces a myriad of challenges in transitioning to clean energy.”<sup>21</sup> The ocean floor just may be another source of minerals that “will help meet a massive new demand for electric vehicle (EV) battery metals.”<sup>22</sup>

*There are two types of mineral deposits mentioned in that data (nodules and crusts), which are located in different regions of the seabed.*

### Minerals of the Seabed

According to the U.S. Geological Survey, “[m]ore than 120 million tons of cobalt resources have been identified in polymetallic nodules and crusts on the floor of the Atlantic, Indian, and Pacific Oceans.”<sup>23</sup> There are two types of mineral deposits mentioned in that data (nodules and crusts), which are located in different regions of the seabed. Polymetallic

nodules are what they sound to be: varying sized “rocks” sitting scattered across the sediment of abyssal plains – a cold, dark, and flat expanse of seabed in the central Pacific.<sup>24</sup>

Each nodule tends to contain “at least 27 percent manganese, about 1 percent each of copper and nickel, and 0.2 percent cobalt.”<sup>25</sup> Whereas cobalt crusts “grow on hard-rock substrates of volcanic origin by the precipitation of metals dissolved in seawater in areas of seamounts, ridges, [and] plateaus.”<sup>26</sup> These deposits are found in international waters but sometimes fall into areas known as a country’s “Exclusive Economic Zone,” or EEZ. An EEZ is a zone of water that extends 200 nautical miles from a nation’s coast.<sup>27</sup> Importantly, resources within a nation’s EEZ fall within that nation’s jurisdiction.

Just how much money is in seabed minerals? Some reports have estimated deep-sea minerals to be worth \$150 trillion, or about “nine pounds of gold for every person on earth.”<sup>28</sup> The trouble is access – technology simply hasn’t advanced yet to a degree that makes mining the deep sea economical.

It’s only been over the last few years that major technological developments have led to the possibility of commercially exploiting seabed minerals. One of the more recent milestones happened just last year. In May of 2022, The Metals Company, Inc. (Canada), and Allseas (a Swiss contractor) successfully completed deep-water tests with the *Hidden Gem*,

“the world’s first fully operational deep-sea mineral production vessel.”<sup>29</sup>

Six months later, in November 2022, the *Hidden Gem* reached another milestone. Engineers drove a pilot collector across 80 kilometers of the Pacific seafloor and collected 4,500 tons of polymetallic nodules through a riser system to the surface production vessel.<sup>30</sup> The nodules were transported up 4.3 kilometers (2.6 miles) of riser pipe to the sea surface.<sup>31</sup> The *Hidden Gem*’s pilot trials are the first integrated nodule collection tests since the 1970s to be conducted in the Clarion Clipperton Zone, a nodule-rich area of the central Pacific Ocean.<sup>32</sup>

### Uniform Rules Governing Deep Sea Mining

Deep sea mining doesn’t just require the technology and engineers to reach deep-sea minerals; there are layers of international rules and regulations governing seabed mineral rights. The United Nations Convention on the Law of the Sea (“UNCLOS”) governs deep sea mining of the “Area” – “the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction.”<sup>33</sup> Under UNCLOS, the international seabed and its resources are considered the common heritage of mankind.<sup>34</sup> This is a legal concept that dates back to ancient times, when the Roman jurist Marcianus wrote that the sea, its fish, and even coastal waters were “*communis omnium naturali jure*” or “common or open to all men by the operation of nat-

ural law.”<sup>35</sup> Because the oceans belonged to everyone, they could be appropriated by no one.<sup>36</sup>

Today, all Area activities are conducted for the benefit of all humanity. When a state mines the deep seabed it must distribute economic shares to developing nations, encourage and complete marine scientific research, take measures to protect the marine environment, promote the transfer of technology and scientific knowledge among other states, and promote the participation of developing states in activities within the Area.<sup>37</sup> The International Seabed Authority (“ISA”) is the governing authority charged with implementing each of these requirements, in addition to establishing rules and procedures for mining and mineral rights.<sup>38</sup>

In short, nations cannot lay direct claims to seabed resources outside of their jurisdiction, *i.e.* beyond the 200 nautical miles of their EEZ. They must seek mining claims through the ISA’s regulatory framework and the “Mining Code” – comprehensive mining rules, regulations, and procedures that apply to each type of mineral deposit in the seabed: polymetallic nodules, polymetallic sulfide deposits, and cobalt crusts.<sup>39</sup> Coastal states can also seek to demonstrate an outer continental shelf that extends more than 200 nautical miles from its shores (again, an area traditionally beyond its jurisdiction) to obtain sovereign rights for exploration and exploitation of its natural resources.<sup>40</sup>

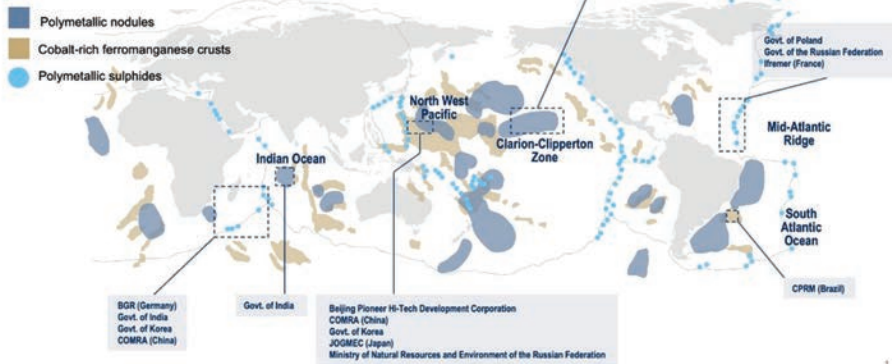
To date, the ISA has entered into five exploration contracts for cobalt, including JOGMEC (Japan), COMRA (China), Russia, the Republic of Korea, and CPRM (Brazil).<sup>41</sup> The ISA has entered into an additional 26 exploration contracts for polymetallic nodules (in the Clarion Clipperton Zone of the central Pacific Ocean) and polymetallic sulphides (deposits that build up beneath hydrothermal vents or “black smokers”).

You might notice that there’s a mix of private companies and foreign nations contracting with the ISA. Since 2010, both national agencies and private companies have been involved in exploration activities and contracting.<sup>42</sup> Sometimes international efforts overlap. The Metals Company, for example, is operating through its subsidiaries that



An Allseas engineer inspects more than 3,000 tons of nodules stored in the hold of the *Hidden Gem*. Photo credit: The Metals Company, NORI and Allseas Lift Over 3,000 Tonnes of Polymetallic Nodules to Surface from Planet’s Largest Deposit of Battery Metals, as Leading Scientists and Marine Experts Continue Gathering Environmental Data, The Metals Company (Nov. 14, 2022), <https://investors.metals.co/news-releases/news-release-details/nori-and-allseas-lift-over-3000-tonnes-polymetallic-nodules>.

## Exploration for minerals in the Area



Exploration Areas, INT'L SEABED AUTH., <https://www.isa.org/jm/minerals/exploration-areas> (last visited Feb. 21, 2023).

hold exploration contracts and commercial rights to three areas within the Pacific's Clarion Clipperton Zone.<sup>43</sup> It's also sponsored by the governments of Nauru, Kiribati, and the Kingdom of Tonga.<sup>44</sup>

Where does the U.S. fall into all this deep-sea mineral exploration? The short answer is, we don't. The United States has never ratified the United Nations Convention on the Law of the Sea, nor is it a member state of the ISA.<sup>45</sup> While the United States remains a consistent and official observer at ISA proceedings, we have yet to establish a legal regime or foundation to participate in seabed mineral extraction. Whether we can participate without being a party to UNCLOS remains to be seen.<sup>46</sup> Where American companies have wanted to participate in deep-sea mining interests, they've gone through foreign subsidiaries to gain legal access to the Area.<sup>47</sup>

### The Balance

Whether in Idaho or in international waters, mining becomes a balancing act between environmental protections and harvesting crucial minerals. Environmental and social concerns abound. Here are just a few examples to consider:

- In Idaho, the Jervois cobalt mine is close to the Frank Church River of No Return Wilderness and connects by a creek to steelhead and Chinook salmon runs. Concerns of water contamination run high, especially since the Blackbird Mine remains a Superfund

site where contaminated runoff entered water bodies during high flows.

- Terrestrial mining has historically demonstrated the potential for incredible environmental destruction. How much worse could the effects be deep in our oceans, which we depend on for resources, food, navigation, trade, and even climate?
- The effects of deep-sea mining are as unknown as the environments we're diving into. Will the noise and sediment plumes of mining operations

disrupt sensitive ecosystems? Will industrial mining alter marine landscapes in ways that affect species, habitat, and nutrient flow?

- Historically, mining has occurred in remote areas near indigenous peoples and minorities. How will they be affected with future mining opportunities?

Prudence is undoubtedly needed as mining efforts push forward at sea and on land, and balance between conservation and resource extraction is needed more than ever. Jervois has partnered with the Idaho Conservation League to address some of our more local environmental concerns. For the last three years, Jervois has funded projects that protect and restore fish habitats near the Upper Salmon River and protect crucial salmon species and spawning grounds. It has made \$150,000 available each year for such conservation projects and plans to partner with the Idaho Conservation League throughout its 30 to 40 years of mining operations.<sup>48</sup>

Ultimately, transitioning away from a carbon economy means transitioning towards a mineral one.<sup>49</sup> Clean energy technologies simply require more minerals. "A typical electric car requires six times



One of the key concerns in the dive for deep sea minerals is the environmental impact on ocean life, at the seabed and further afield. Photo courtesy of Catherine Danley.

the mineral inputs of a conventional car and an onshore wind plant requires nine times more mineral resources than a gas-fired plant.”<sup>50</sup> Since 2010, the average demand for “minerals needed for a new unit of power generation capacity has increased by 50%.”<sup>51</sup> Mining cobalt and similar resources has the potential to help develop our renewable energy infrastructure and spur economic growth. Not to mention supply the key minerals needed in items as common and crucial as batteries. While many questions and issues remain to be solved, just as many opportunities lie ahead.

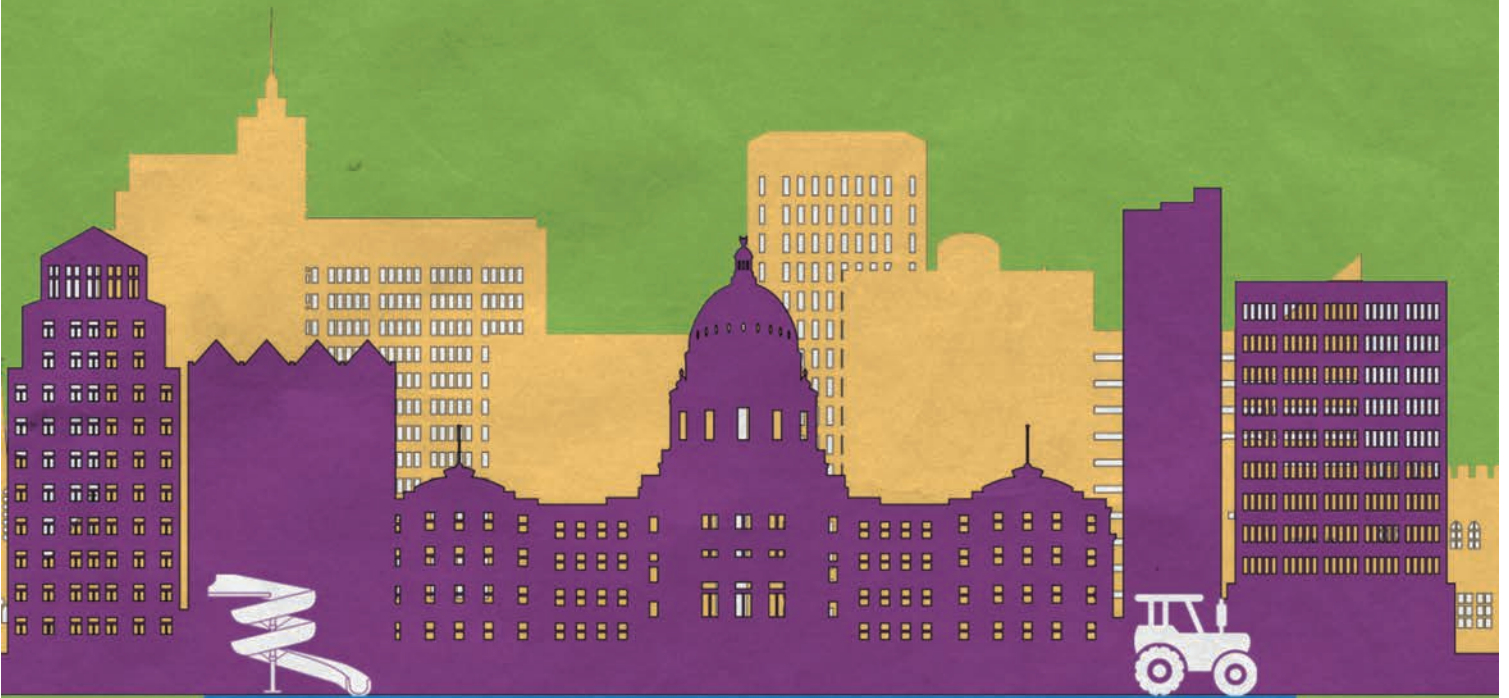


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Photos taken by author during his trip to New Orleans for the ABA's Midyear Meeting.

## ABA Midyear Report

*R. Jonathan Shirts*

For the first time since February 2020, the ABA's Midyear Meeting was held in-person from February 1-6, 2023. We were warmly welcomed by the city of New Orleans; and I do mean warmly – temperatures were in the mid-50's to mid-60's while we were there, much warmer than anywhere in our great state during that time. Before this, I had not had the opportunity to visit New Orleans, and it gave me some unique experiences – I'm pretty sure I have never heard an accordion solo in a street band before.

One thing I have always wanted to experience was Mardi Gras in New Orleans; I still haven't, but I feel like I've come close because the city was ramping up for it a month early. I heard someone say that New Orleans looks for any excuse to have a parade or a party, and it lived up to that billing – the entire House of Delegates was given a Second Line parade from the hotel

to the Louisiana Supreme Court on Friday night, and the city hosted a pre-Mardi Gras parade Saturday night.

Once the House of Delegates recovered from the celebratory welcome to New Orleans, the real business began. This was the last House of Delegates meeting for the long-time ABA Executive Director, Jack Rives, and his address to the House discussed many of the advancements the ABA has been able to make during his tenure.<sup>1</sup> A new President-Elect, William R. Bay of Missouri, was selected to take up the gavel as President of the ABA in August 2024.<sup>2</sup> He stated that one of his goals is to make all members of the legal profession feel welcome in the ABA, regardless of political, ideological, or other beliefs.<sup>3</sup>

There were a number of Resolutions up for debate that were very hot topics of discussion leading up to the actual House of Delegates meeting.<sup>4</sup> One of the major dis-

cussions surrounded a Resolution from the ABA's Council of the Section of Legal Education and Admissions to the Bar. In November 2022, the Council voted to approve a change for ABA-accredited law schools which would eliminate the requirement for applicants to law schools to have taken the LSAT or another similar admissions test.<sup>5</sup> Both sides of the debate talked about how they felt that either keeping or eliminating the admissions test would enhance diversity within the legal profession. Being a fairly recent law school graduate, I personally struggled with understanding how the elimination of a relatively-objective measure in the admissions process would enhance diversity in the profession. But I also understood the arguments that marginalized groups and people of color have historically scored much lower on average on the LSAT and other admissions tests.<sup>6</sup>

What we didn't have available until the very last minute, however, was any

objective data describing how elimination of an admissions test would promote or stifle diversity in law school classes. The data we were given the morning of the vote described how elimination of an admissions test did not foster a more diverse group of applicants, but in some situations, actually reduced it.<sup>7</sup> In the end, the House of Delegates voted to send this Resolution back to the Section of Legal Education and Admissions to the Bar for more study on this issue, something the House of Delegates is allowed to do twice. After that, the Council can take any action it deems necessary without further input from the House.<sup>8</sup> After a spirited debate, the House of Delegates voted to send this Resolution back to the Council for further study; however, 11 days later, the Council voted to return the Resolution to the House of Delegates for consideration at its next meeting.<sup>9</sup>

Another lengthy and spirited debate surrounded the House's consideration of a Resolution which would make it the ABA's official policy that the Supreme Court of the United States should adopt a binding code of ethics.<sup>10</sup> After a significant amount of rousing debate, the House voted to pass the Resolution.<sup>11</sup>

Other resolutions considered and passed involved removal of Confederate monuments and pictures from courthouses,<sup>12</sup> support for anti-Semitic measures,<sup>13</sup> and international wildlife crime enforcement protocols.<sup>14</sup> There were also Resolutions passed discussing the rights of women to travel for medical procedures including abortions,<sup>15</sup> the rights of intersex children to have informed consent before certain surgical procedures,<sup>16</sup> and 10 principles that would improve gender parity among criminal attorneys.<sup>17</sup>

The next ABA Meeting from August 2-8 will be much closer to us as it is being hosted in the beautiful city of Denver, Colorado. I would encourage anyone who is interested in voicing your concerns or comments to the House of Delegates to attend that meeting. Not only would it be a great networking opportunity and a great place to get CLE's on topics relevant to today's practice of law, it's a way to make your voice known. If you have any questions about attending the ABA Annual Meeting, the work of the House of Del-



egates, or the ABA in general, any of your Idaho Delegates would be happy to speak with you.

Until next time, thank you all for being a fantastic Bar that I am proud to represent.



**R. Jonathan Shirts graduated from the University of Idaho College of Law in 2018 and is currently the Staff Attorney for the Hon. Randy Grove of the Third District. He has also worked as the Staff Attorney for the Hon. Nancy Baskin and Hon. George Southworth. He enjoys good books and spending time in the outdoors with his wife, daughter, and two sons.**

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2023 Idaho Mock Trial Champions, The Ambrose School, Meridian.

## Law Related Education Wraps Up 2023 Idaho High School Mock Trial Competition

Carey A. Shoufler

The Idaho Law Foundation's Law Related Education Program hosted its annual High School Mock Trial State Championship from Wednesday to Friday, March 15 to 17. For the first time since 2019, the three-day tournament was held in-person. This year, students explored a criminal case that centered on a charge of theft by possession of stolen property charged against a college student who had started a business refurbishing computers for other students.

For 2023, 216 high school students from 24 teams registered to participate in the mock trial competition. One hundred thirty-eight teachers, judges, attorneys, and other community leaders donated their time to serve as coaches, advisors, judges, and competition staff.

Twelve teams advanced from regional competitions held in Lewiston and Boise. These teams participated in four rounds of competition on Wednesday and Thursday at the Ada County Courthouse with the top two teams facing off for the state championship at the Idaho Supreme Court on Friday morning. The following schools participated in Idaho's state tournament:

- The Ambrose School (Meridian, two teams)
- Boise High School (two teams)
- Lewiston High School
- The Logos School (Moscow, two teams)
- Mountain Home High School
- Thunder Ridge High School (Idaho Falls)
- Timberline High School (Boise)
- Victory Charter School (Nampa, two teams)

The following teams placed in the top four for Idaho's state tournament:

**2023 State Champion:** The Ambrose School (A Team)

**State Runner Up:** Logos School (A Team)

**Third Place:** Mountain Home High School

**Fourth Place:** Victory Charter School (A Team)

Mock trial team members who played roles as attorneys and witnesses had the opportunity to be recognized for individual awards. For each trial through four rounds of competition, each judge had the opportunity to select the students they believed gave the best performances for the trial. The top witnesses and attorneys for the 2023 competition include:

### Top 10 Attorneys:

Zack Atwood (Logos School)  
Gareth Brantley (Mountain Home)  
Caroline Brown (Ambrose)  
Lily Grauke (Logos School)  
Jackson Long (Victory Charter)  
Fiona Michael (Boise High)  
Kyleigh Rohrs (Mountain Home)  
Samara Steele (Victory Charter)  
Dakota Steffen (Timberline)  
Emily Zamorano (Ambrose)

### Top 11 Witnesses:

Andrew Beal (Boise High)  
Delaney Blankinsop (Boise High)  
Ben Casebolt (Logos School)  
Audrey Cherry (Ambrose)  
Signe Holloway (Logos School)  
Luke Hughes (Logos School)  
Goldie King (Ambrose)  
Bryce Kinney (Ambrose)  
Tabitha Miller (Logos School)  
Andrea Morales (Mountain Home)  
Izaak Olbera (Timberline)

As part of the state competition, Idaho's Mock Trial Program, in partnership with the Professionalism & Ethics Section, developed the Civility & Ethics Award, cre-



2023 Civility & Ethics Award Winner, Logos School B Team with Catie Freeman (far left), Chair of the Professionalism & Ethics Section.

ated to highlight the importance of civility and professionalism among teams participating in mock trial. During the state competitions teams observe and interact with each other and submit their nomination for the award. For 2023, Logos School B Team was chosen by the other teams as the recipient of this year's award.

Idaho's mock trial program also hosts a Courtroom Artist Contest as part of the program. Artists observed trials and submitted sketches that depict courtroom scenes. The top three entries for 2023 were:

**First Place:** Taelyn Baiza (Boise High School)

**Second Place:** Nam Bui (Lewiston High School)

**Third Place:** Shalyce Graham (Victory Charter School)

The Ambrose School will represent Idaho at the National High School Mock Trial Championship in May in Little Rock, Arkansas and Taelyn Baiza will represent Idaho in the National Courtroom Artist Contest.

The Idaho Law Foundation's Law Related Education Program would like to thank the sponsors and volunteers who helped during the 2023 mock trial season. We couldn't do our important work without your support.

Plans will soon begin for the 2024 mock trial season. For more information about how to get involved with the mock trial program, visit [idahomocktrial.org](http://idahomocktrial.org), or contact Carey Shoufler, Idaho Law Foundation Law Related Education Director, at [cshoufler@isb.idaho.gov](mailto:cshoufler@isb.idaho.gov).



2023 first place courtroom artist entry from Taelyn Baiza, Boise High School.



For 30 years, Carey A. Shoufler has worked in education and communication in an array of settings. In her current role, Carey has spent the last 17 years working as the Law Related Education

Director for the Idaho Law Foundation. Carey utilizes her experience as an educator to provide leadership and management for a statewide civic education program. She obtained her bachelor's degrees in English Literature from Mills College in Oakland, California and her master's degree in Instructional Design from Boise State University. A native Idahoan, Carey returned to Boise in 1999 after working for 13 years as a teacher and educational administrator in Boston. When not working, Carey likes to walk her dogs, knit, read, bake pies, and spend time with her grandchildren.

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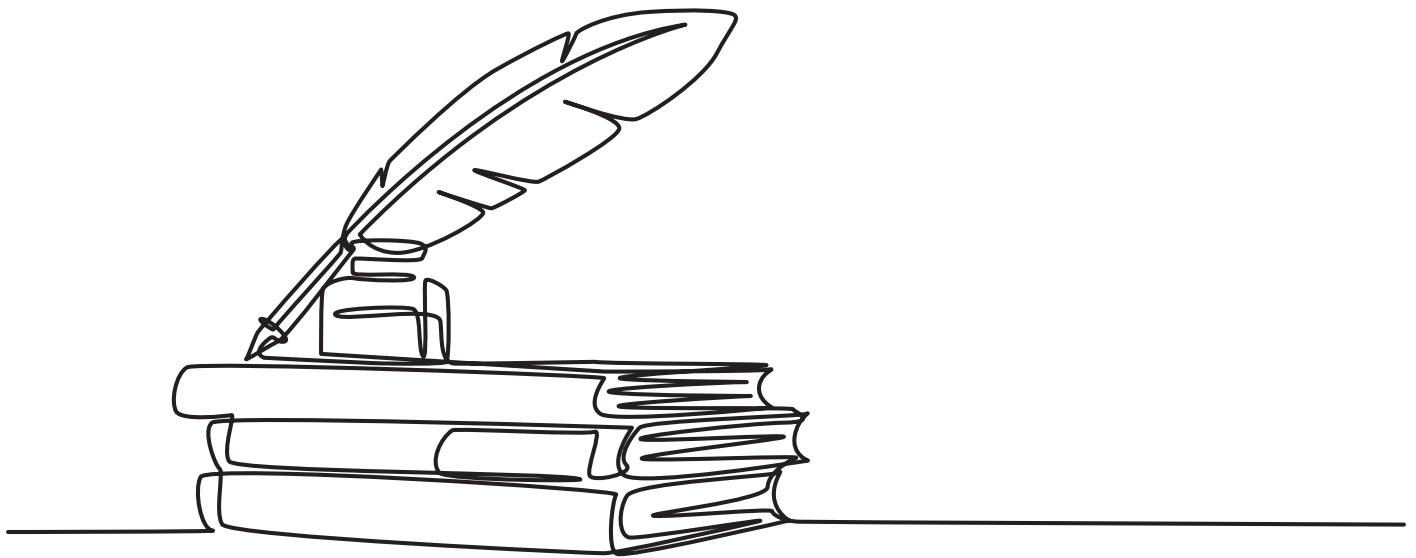
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## Revisiting Pronouns: The Singular *They*

Tenielle Fordyce-Ruff

I'm writing this in January, and as one does in January, I'm reflecting on the past year. I'm also reflecting on topics I've covered as I'm coming back to more regular contributions to *The Advocate*. Turns out that I haven't given pronouns any coverage for a decade. And a lot can change in 10 years. For instance, a decade ago the Boston Marathon was bombed, Whitey Bulger got life in prison, George Zimmerman was acquitted, and Bradley Manning came out as transgender.<sup>1</sup> Yet, I had to look all of those up because I no longer mention those in conversation.

On a smaller scale, I predicted that the use of the singular *they* would become ac-

ceptable in legal writing.<sup>2</sup> After all, even a decade ago we were using *they* accurately and consistently in speech and informal writing. It seems that I managed to accurately predict the future.<sup>3</sup> Then, in September 2019, Merriam-Webster expanded the definition of *they* to be an acceptable singular pronoun in some circumstances.<sup>4</sup> This means that *them*, *their*, and *theirs* can sometimes be singular, too.

And while I'm sure some grammar noodges' heads are exploding at my suggestion, legal writing is also embracing the singular *they*. For instance, the Michigan Supreme Court has proposed amending its rules to require the use of names or preferred pronouns, including the singular *they*, in all writing and oral references.<sup>5</sup>

So, as the singular *they* is now acceptable, how can we legal writers make sure we use it clearly? Let's start with a refresher.

### Pronoun Refresher

Personal pronouns replace nouns, and the nouns they replace are called antecedents. Pronouns should agree with the antecedents they replace in gender, person, and number. First person pronouns refer to the speaker or writer (I, me, we, us, my, mine, our, ours, myself, ourselves).

Second person pronouns refer to the person being spoken or written to (you, your, yours, yourself, yourselves).

Third person pronouns refer to someone or something else (he, him, she, her, it,



they, them, his, hers, its, their, theirs, himself, herself, itself, themselves.)<sup>6</sup>

## Pronoun Issues?

That pronouns should agree with their antecedent in gender hasn't been strictly followed by speakers and writers for ages. As the Maryland State Bar noted on its blog, "If you were to see the silhouette of a backlit person on the street, would you ask, 'Who is he or she?' Or, like a normal person, would you ask, 'Who are they?'"<sup>7</sup>

This usage isn't shocking. English has used *they* to refer to a singular person of unspecified gender for at least 500 years.<sup>8</sup> And *they* has long been acceptable for indefinite pronouns *anyone*, *no one*, and *someone*. We can easily write: *Go ask someone if they can help.*

So, what should we do to help our readers with the problem of referring to a person of unspecified gender? Well, much of my advice from 10 years ago still works. Change the antecedent or rewrite the sentence to avoid personal pronouns.

Let's look briefly at each of these fixes.

## Replace the Singular Noun

When it won't confuse the reader, you can change a singular noun to a plural noun. For instance, you couldn't write: *The professor must teach its students about pronouns.* But a simple fix works: *The professors must teach their students about pronouns.* There is a little twist to this, however.

Because we now are so used to *they* as a singular and plural pronoun, it's best to remove other plural nouns to avoid confusion. I'll give you an example from my legal writing professor, mentor, and friend: *When deciding difficult cases, Judge Wright exercises their discretion carefully.*<sup>9</sup>

The *their* in this sentence could refer to either the judge or the cases. The fix to avoid this confusion is to remove the other plural: *When deciding a difficult case, Judge Wright exercises their discretion carefully.*

## Rewrite the Sentence

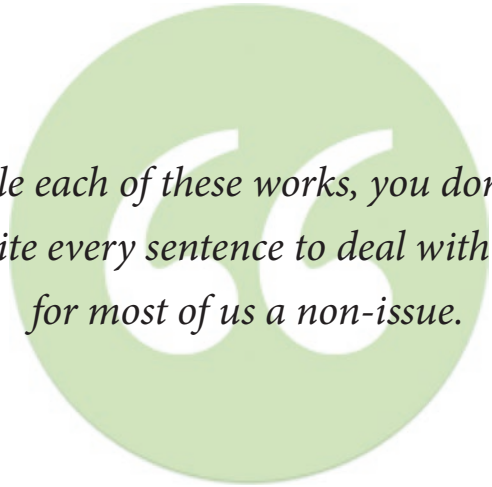
Avoiding personal pronouns as a fix takes a little more thought but can help avoid awkward sentences. If you find that

you are writing about someone without knowing their gender, you might be able to convey the meaning without a pronoun at all.

As I pointed out previously, *A judge must give instructions to the jury* is every bit as clear as *A judge must give his or her*

ine how confused you would be if I wrote this:

*Natalie had a sunny disposition. She greeted me every morning with a cheery hello. They were always prepared with a kind word. He also loved to whistle as they walked.*



*While each of these works, you don't need to rewrite every sentence to deal with what is for most of us a non-issue.*

*instructions to the jury.* (Note, too, how stilted this *his or her* sounds!)

Likewise, *The accused must waive the right to speak to a lawyer* avoids personal pronouns by using articles instead of pronouns (*The* and *a* are the articles in this example). This is a great fix when speaking hypothetically.

## Using the Single They Correctly

While each of these works, you don't need to rewrite every sentence to deal with what is for most of us a non-issue. Simply use *they* as a singular pronoun. But do so consistently and carefully.

First, recognize that you don't need to use *they* instead of every other singular pronoun. *They* can be used when you don't know the gender of a person or when that person prefers this pronoun. But if you're writing about a case, and that case uses *he* to refer to a party, you can safely use *he*, too.<sup>10</sup> Likewise, if you know that someone prefers gender-specific pronouns, use those. For instance, I prefer *she*, so you can write: *She has written this column for over a decade.*

Second, don't use *they* and other personal pronouns interchangeably. Imag-

Do you have any idea if I'm writing about one person, or maybe five? Changing the pronouns for any single person will only create confusion.

Third, think of *they* like *you*. We have been using context to tell if *you* is singular or plural for decades. And we have been using context in speech to determine if *they* refers to one, two, or more people for years. Our readers can, likewise, glean what *they* refers to from context, so long as we carefully look at the context of our writing. Compare these two sentences:

*You are my partner.*

*You are my partners.*

Even though the verb *are* is plural, we know that in the first sentence, the *you* is singular and in the second the *you* is plural. This works equally well with *they*.

*They are my partner.*

*They are my partners.*

## Conclusion

Careful writers rewrite and edit to ensure the clarity of their ideas. Giving attention to pronouns and ensuring that the context gives the reader clues

about whether *they* is singular or plural is simply another item on a good editing checklist.



**Tienielle Fordyce-Ruff** is a member of the Idaho State Bar and an Associate Clinical Professor of Law at Sandra Day O'Connor College of Law Arizona State University.

## Endnotes

1. Jennie Wood, *Major National New Stories of 2013*, available at <https://www.infoplease.com/current-events/2013/us-news-27> (last visiting February 1, 2023).

2. Tienielle Fordyce-Ruff, *Problems with Pronouns Part III: Gender-linked Pronouns*, 56-JUL Advocate (Idaho) 48 (June/July 2013).

3. Suzanne E. Rowe, *As Language Evolves Pronouns Leap Forward: They/Them/Theirs*, 80 Jan. Or. St. B. Bull. 17 (Jan. 2020); Susie Salmon, *Them!*, Ariz. Att'y, Oct. 2018, at 10, <https://www.azattorney.com/digital.com/azattorney/201810/MobilePagedReplica.action?pm=2&folio=10#pg13> [<https://perma.cc/7USW-RBET>]; Greg Johnson, *Welcome to Our Gender-Neutral Future*, VT. BAR J., Fall 2016, at 36.

4. This isn't the first time a pronoun has shifted. You used to be only plural and we used *thee* to refer to a single person. But we now use *you* as both a singular and plural pronoun. Suzanne E. Rowe, *As Language Evolves Pronouns Leap Forward: They/Them/Theirs*, 80 Jan. Or. St. B. Bull. 17 (Jan. 2020).

5. <https://www.courts.michigan.gov/48efd1/siteassets/rules-instructions-administrative-orders/proposed->

[and-recently-adopted-orders-on-admin-matters/proposed-orders/2022-03\\_2023-01-18\\_formor\\_propamdmcr1109.pdf](#)

6. Tienielle Fordyce-Ruff, *Problems with Pronouns Part III: Gender-Linked Pronouns*, 56 Advocate 48 (2013).

7. Steve Klepper, *The Singular "They" in Legal Writing*, Maryland Appellate Blog, <https://mdappblog.com/2020/06/30/the-singular-they-in-legal-writing/> (last visiting February 1, 2023).

8. The New Oxford American Dictionary (3d ed. 2010).

9. Suzanne E. Rowe, *Using the Singular "They" Clearly: Finessing Gendered Pronouns*, 82 March Or. St. B. Bull. 17 (Feb./March 2022).

10. If, however, you know the opinion mis-gendered the party, you can correct that error and use the party's preferred pronouns. Just do so consistently.

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**Regular Spring Term for 2023**  
*3rd Amended February 22, 2023*

Boise .....	January 11, 13, and 20
Boise .....	February 6, 8, and 22
U of I Boise .....	February 17
Boise .....	April 3, 5, and 10
Moscow U of I, Lewiston .....	April 19 and 20
Boise .....	May 8, 10, and 15
Canyon County Courthouse.....	May 12
Boise .....	June 5, 7, 9, and 12
BYU-Idaho.....	June 14

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Melanie Gagnepain, Clerk

**NOTE:** The above is the official notice of the 2023 Spring Term for 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.

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Justices  
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**Regular Fall Term for 2023**  
*1st Amended February 28, 2023*

Boise .....	August 16
Blackfoot .....	August 23
Pocatello .....	August 24
Twin Falls .....	August 25
Boise .....	September 6 and 8
Coeur d'Alene .....	September 20 and 21
Boise .....	September 28
Boise .....	November 1, 3, 6, 8 and 13
Boise .....	December 4, 6 and 8

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**NOTE:** The above is the official notice of the 2023 Fall Term for 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.

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Judges  
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Molly J. Huskey  
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*11/4/2022*

Boise .....	January 10, 12, 17, and 19
Boise .....	February 9, 16, 23, and 28
Boise .....	March 14, 16, 28, and 30
Boise .....	April 11, 13, 18, and 20
Boise .....	May 9, 11, 16, and 18
Boise .....	June 6, 8, 13, and 15

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**NOTE:** The above is the official notice of the 2023 Spring Term for 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.

## Court Information – Oral Arguments

**Idaho Supreme Court  
Oral Arguments for May 2023**

*(All times are local – subject to change due to COVID-19)*

4/14/23

**Monday, April 3, 2023 – Boise**

8:50 a.m. State v. Thompson.....	#49492
10:00 a.m. State v. Head .....	#49029
11:10 a.m. State v. Rambo.....	#48949

**Wednesday, May 10, 2023 – Boise**

8:50 a.m. Sullivan v. Bittersweet Ranch, LLC.....	#49354
10:00 a.m. International Rescue Committee v. Mohammed.....	#49678
11:10 a.m. McCreery v. King.....	#49385

**Friday, May 12, 2023 – Canyon County Courthouse**

8:50 a.m. *Montierth v. Dorssers*....#49419  
10:00 a.m. *State v. Oldenburg*.....#49358  
11:10 a.m. *State v. Augerlavoie*.....#48939

**Monday, May 15, 2023 – Boise**

8:50 a.m. *Shake Out, LLC v. Clearwater Const*.....#49637  
10:00 a.m. *Bahr v. State*.....#49305  
11:10 a.m. *Hanks v. City of Boise*...#49606

**Idaho Court of Appeals  
Oral Arguments for May 2023**

*(All times are local – subject to change due to COVID-19)*

4/14/23

**May 16, 2023**

9:00 a.m. *Sanders v. State*.....#49020  
10:30 a.m. *State v. Doe (2022-04)*...#49496  
1:30 p.m. *Meyer v. State*.....#49608



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## CASES IN ALPHABETICAL ORDER BY CATEGORY – MARCH 2023

### CIVIL APPEALS

#### Contracts

Whether the district erred by dismissing Respondent's counterclaim alleging violations of the Idaho Consumer Protection Act and finding that Plaintiffs did not engage in an unfair act or deceptive practices with respect to the lease/option agreement.

*Pickering v. Sanchez*  
Docket No. 49801  
Supreme Court

#### Habeas Corpus

Whether the district court erred by affirming the magistrate's judgment dismissing the petition for writ of habeas corpus prior to service on the Respondents and concluding that Petitioner failed to show a constitutional due process violation or prejudice arising from alleged defects in his parole revocation proceedings.

*Floyd v. Idaho Parole Commission*  
Docket No. 49907  
Court of Appeals

#### Post-Conviction

Whether the district court erred by dismissing the post-conviction petition without affording Petitioner 20 days to respond to the court's notice of intent to dismiss, as required by I.C. § 19-4906(b).

*Hernandez v. State*  
Docket No. 49574  
Court of Appeals

### CRIMINAL APPEALS

#### Contempt

*IDHW v. Khurana* – Criminal – Contempt  
Whether the evidence was sufficient to support the magistrate's judgment holding Defendant in contempt for having violated a restraining order that prohibited him from removing or destroying property in a residence from which he had been ejected.

*IDHW v. Khurana*  
Docket No. 50027  
Court of Appeals

#### Equal protection

Whether the state violated Defendant's right to equal protection when it used a peremptory challenge to strike the only black venire member from the jury pool.

*State v. Buck*  
Docket No. 49110  
Court of Appeals

#### Evidence

Whether the district court erred by permitting the state's domestic violence expert to testify about the general dynamics of domestic violence, despite having excluded evidence of prior incidents of domestic violence between Defendant and the victim.

*State v. Ullom*  
Docket No. 49301  
Court of Appeals

#### Jurisdiction

*State v. Ayarzagoitia* – Criminal – Jurisdiction  
Whether the district court lacked jurisdiction to consider Defendant's motion to withdraw his guilty plea because the motion was filed more than three years after Defendant's judgment of conviction became final.

*State v. Ayarzagoitia*  
Docket No. 49879  
Court of Appeals

#### Jury Misconduct

*State v. Rodriguez* – Criminal – Juror Misconduct

Whether the district court abused its discretion by denying Defendant's motion for a new trial and finding that Defendant failed to prove by clear and convincing evidence that juror misconduct occurred and that the alleged misconduct reasonably could have prejudiced him.

*State v. Rodriguez*  
Docket No. 49266  
Supreme Court

#### Procedure

Whether the district court abused its discretion by failing to redline two accepted corrections to the presentence investigation report.

*State v. Schwab*  
Docket No. 49046  
Court of Appeals

Whether the district court abused its discretion by failing to redline an accepted correction to the presentence investigation report.

*State v. Harrison*  
Docket No. 48987  
Court of Appeals

#### Restitution

*State v. Head* – Criminal – Restitution

Whether the district court erred by requiring Defendant to pay restitution for economic losses resulting from criminal conduct of which she was not found guilty and by ordering Defendant and her co-defendant to be jointly and severally liable for the restitution award.

*State v. Head*  
Docket No. 49030  
Court of Appeals

#### Sentence Review

Whether the facts before the district court were sufficient to support a finding, to a high degree of certainty, that Defendant should be sentenced to a term of fixed life imprisonment upon his conviction for rape.

*State v. Guerrero*  
Docket No. 49591  
Court of Appeals

Whether the district court erred by *sua sponte* listening to and relying on an audio recording of an earlier hearing to support its finding that Defendant willfully violated the terms of his probation.

*State v. Greer*  
Docket No. 49699  
Court of Appeals

#### Statutory Interpretation

Whether a prior court order declaring a dog dangerous or at-risk is an element of the crime of misdemeanor at-risk dog under I.C. § 25-2810.

*State v. Wenk*  
Docket No. 49878  
Court of Appeals

**Summarized by:**  
**Lori Fleming**

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## **Gary D. Babbitt 1946-2023**

Gary Dean Babbitt, 77, passed away on the beautiful sunny morning of February 24, 2023, after bravely enduring Alzheimer's disease. Gary was born on January 30, 1946, in Wendell, Idaho. He spent his early years on his beloved family farm in nearby Jerome. Memories of life on the farm were some of his last to fade and were very important to him.



His adolescence was spent in Oregon and Idaho. He then attended the College of Idaho, where he excelled in academics and athletics. It was there that he met his future wife, Cherie. Although they divorced many years later, they welcomed three children together: Brooke, Geoffrey, and Laramie, and for that he was forever grateful.

Following the C of I, Gary attended the prestigious University of Chicago School of Law. He joined the Army ROTC program during law school and later received an honorable discharge from the Army Reserve. Gary had a bright mind and a determined work ethic while studying law and during his career. After graduating from law school, he served as a law clerk for Justice McFadden on the Idaho Supreme Court. He then went to work for Hawley, Troxell, Ennis and Hawley, where he became a well-respected partner in the firm.

Although he had a successful career, his three children were the biggest sources of his pride and love. From building a horse pasture to attending countless soccer games, Gary did his best to be a devoted father. Since he grew up without a father, he had to learn as he went along and put his heart into providing a good life for them as they grew up. Brooke, Geoff, and Laramie recognize how hard he worked to do this. The three of them will carry what they have learned from having him as a father and aspire to make the world a better place because of it.

Gary was preceded in death by his grandmother, Elizabeth, and aunt, Elsie, who both raised him on the farm; his mother, Alta; his father, George; his cousin,

Willard; and his best friend and brother, Terry. He is survived by his children, Brooke Harris (Chad), Geoffrey Babbitt (Kathryn Cowles), and Laramie Jake (Jared); his five grandchildren, Quinn and Carter Harris and Remi, Calder, and Sobin Cowles; as well as several siblings and other extended family.

## **Hon. Thomas H. Borresen 1949-2023**

On March 14, 2023, the Honorable Thomas Harold "Borg" Borresen of Jerome, Idaho, cherished husband, father, grandfather, brother, uncle, and pillar of his community passed away at the age of 73. Tom was born in Blackfoot, Idaho on August 19, 1949, to Conrad and Margaret Borresen. He is survived by his wife, Trish; two children, Natalie (William) Hunter and Andrew (Jenna) Borresen; four grandchildren, Aeron and Esmé Hunter and ZaVee and Murphy Borresen; his brother, Bill (Debbie) Borresen; and sister, Celeste (Bill) Keller.



Tom graduated with the inaugural graduating class of Skyline High School in Idaho Falls, Idaho, where he was a three-year letterman in baseball, a two-year letterman in basketball, and served as its first Student Body Vice President. Upon graduation, Tom attended his parents' alma mater and only real university in the state as far as he was concerned, the University of Idaho. At the U of I, Tom was a member of the Beta Theta Phi Fraternity where he stole the nickname "Borg" from his older brother Bill. Tom acquired his bachelor's degree in accounting and while waiting to take the CPA exam, Tom was convinced by his good friend to apply for law school. Since he "had nothing better to do," he decidedly agreed and unknowingly took the first steps towards his life's passion. Tom graduated from the University of Idaho's College of Law with his Juris Doctorate in 1975.

In 1975, Tom moved to Boise and began a clerkship for his mentor, the Honorable Judge J. Blaine Anderson in the Ninth Circuit Court of Appeals and the Federal District Court of Idaho. In 1978, Tom began practicing law as a general practice

lawyer. After 15 years as an attorney, Tom accepted a position as a Magistrate Judge in Jerome, Idaho, where his passion and true calling were united in a community that he would go on to dedicate his life to. From the Granata Award to mentoring new judges to serving on the judicial council and ethics committee, Tom did everything one could do as a magistrate and truly outpaced his position but refused to move on as he had found happiness where his Birkenstocks were accepted, and his wit was appreciated.

To say he participated in his community would be an understatement. Tom was highly active in both Rotary and Optimist Club where he held multiple positions in both organizations over the years. He also served on the St. Luke's Board of Directors. Tom often took time to engage with Mrs. Park's fifth grade class by reading, speaking on motivation, or just answering questions about his job. He loved to umpire little league where seldom was the time that his calls were challenged. One of his highest civic honors was serving as the Chief Gaming Commissioner of Fairness and Legality at Oop's House of Cards and Coffee or otherwise known as Morning Coffee. Regardless of how you knew Tom, Borg, or Judge Borresen, he was likely to make a positive impact on your life. Tom will be forever missed but never forgotten.

## **Wayne P. Willis 1943-2022**

Wayne P. Willis of Pensacola, Florida, passed away on Saturday, May 21, 2022 after battling Alzheimer's. He is survived by his loving wife, Wanda; his two daughters, Amy Willis Aaron (Bryan) and Haley R. Willis; three stepchildren, Julie Toms (Chris), Jenna Lee, and Hera Cook; his loving sister, Joanne Willis; three grandchildren; six step-grandchildren; and nieces and nephews. He was preceded in death by his loving parents, Margie and Paul Willis; a wonderful stepmother, Doris Willis; and his older brother, Jack Willis.

Mr. Willis was born in Jacksonville, Florida on September 12, 1943 and raised in Columbia, South Carolina. He graduated from Dreher High School, Class



of 1961 and later graduated from the University of Southern California, Class of 1965. Wayne enlisted in the Air Force OCS and served two Tours of Duty in Viet Nam, receiving two Bronze Stars. He re-

turned to the University of Southern California, Gould School of Law and graduated in 1974. Wayne began his law career in Boise and was appointed as a Magistrate Judge. In 1986, Wayne and family moved

to Pensacola, Florida where he opened his law practice. Music played a big part in Wayne's life becoming an accomplished Scottish Bagpiper along with the guitar and mandolin.



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## GLP Attorneys announces new shareholder

SEATTLE – GLP Attorneys, P.S., Inc. announces its appointment of Sara Maleki to Shareholder, practicing out of its Spokane, Washington location.

Ms. Maleki has successfully served the needs of personal injury clients across the Pacific Northwest since 2010. She joined GLP Attorneys in 2014 and was promoted to partner in 2020. She is licensed in both Washington and Idaho, has been recognized as a Super Lawyer Rising Star from 2017-2020, and selected as a Super Lawyer in 2022. She has been consistently selected by Spokane Coeur d'Alene Magazine as a Top Lawyer since 2016.



Ms. Maleki leads the GLP Attorneys Legal Internship Program for the Eastern Washington region which provides meaningful work experience for students in law school who are interested in careers in the personal injury field. She is passionate about diversity, inclusion, and belonging, serving as the Chair for the Washington State Association for Justice's Diversity Committee along with co-chairing DEI Committees for GLP Attorneys and the Spokane Symphony. Ms. Maleki proudly serves the community as Vice President of the Spokane Symphony Board of Trustees and as Associate Director for the Satori Camp for gifted and highly capable teenagers in Cheney, WA.

## Attorney Jen Wulf Joins J Eshman Law

BOISE – J Eshman Law is pleased to announce attorney Jen Wulf has joined the firm and will be heading up its newest location in Boise.

Jen is an experienced estate planning attorney, with a deep commitment to helping her clients secure their legacy and protect their families. She is skilled at creating client-focused solutions that are tailored to meet the unique needs of each client.



After graduating from Vanderbilt University Law School in 2008, Jen moved

to Houston, Texas where she worked as a litigator at a large law firm, honing her skills of crafting legal arguments and successfully advocating for her clients in court. She then served as Senior Litigation Counsel for a fast growing, publicly traded company, where she worked to mitigate risk and strengthen the positions of the business.

Jen moved with her family to Boise, Idaho in 2017, and launched her own estate planning firm, Wulf Legal, in 2018. She began consulting with J Eshman Law just a few years later, and agreed to join the firm full-time as of January 2023, where she will continue to serve her clients as part of the JEL family.

She is a member of the State Bar in Idaho, California, and Texas, and is also a member of both Idaho Women Lawyers, Inc., and WealthCounsel, LLC, a nationwide collaboration of estate planning attorneys and other professionals. Jen is currently pursuing her Master of Laws in Taxation and Estate Planning (LL.M.) from Golden Gate University in order to provide a more advanced level of counsel for her clients.

## Gravis Law welcomes new associate

BOISE – Alexis (Lexi) Vandrey has joined Gravis Law, PLLC as an Associate. She joins the family law team and will be practicing from the firm's Boise office location.



## Interested in Volunteering on an ISB/ILF Committee?

STATEWIDE – Member participation is vital to the success of the Idaho State Bar and Idaho Law Foundation. Lawyers can and do make a difference by participating in one of the many volunteer opportunities available. Whether you volunteer on one of our committees or give your time to a specific event, getting involved in what the Bar and Foundation do for our communities is as important as renewing your license! This year's deadline to submit your volunteer interest is June 2nd! Learn more on our website at [www.isb.idaho.gov/get-involved](http://www.isb.idaho.gov/get-involved).

## 2023 Access to Justice FUND Run/Walk – Save the Date!

BOISE – Save the date for Saturday, June 10, at 10:00 a.m. for the Access to Justice FUND Run/Walk benefitting the Access to Justice Idaho campaign! The Access to Justice Idaho campaign raises funds for the three main providers of free civil legal services to poor and vulnerable Idahoans: DisAbility Rights Idaho, Idaho Legal Aid Services, and the Idaho Volunteer Lawyers Program. In 2022, 474 people participated in the event. Since its inaugural year in 2014, the event has raised over \$60,000 for the Access to Justice Idaho Campaign.

The run/walk starts at Fort Boise Park in the Military Reserve area (near the corner of Reserve Street and Mountain Cove Road) and is an out-and-back route along Mountain Cove Road. Prizes will be awarded to the top three finishers in the following categories: Senior, Adult, High School, and 12 and Under. Food and beverages will be available for participants at the finish line.

Bring your friends, family, and dogs with you to participate in this event in Idaho's beautiful outdoors. Registration is \$25 for adults, \$15 for youth ages 13-17, and \$10 for kids 12 and under. Register as a team and compete for the Learned Foot travelling trophy awarded to the biggest team! Your registration fee gets you an awesome event t-shirt and good vibes knowing you are supporting a good cause.

Register by following the links on the Idaho Law Foundation website for the Access to Justice FUND Run/Walk, or go to <https://www.raceentry.com/access-to-justice-fund-runwalk-5k/race-information>.

If you are interested in being an event sponsor, contact Maureen Ryan Braley at 208-955-8885 or [mryanbraley@isb.idaho.gov](mailto:mryanbraley@isb.idaho.gov). If you are interested in volunteering to help on race day, contact Calle Belodoff at [cbelodoff@isb.idaho.gov](mailto:cbelodoff@isb.idaho.gov).

See you on Saturday, June 10!

## The Fourth District Magistrates Commission Appoints Boise County Attorney to Bench

IDAHO CITY – On March 10, 2023, the Fourth Judicial District Magistrates Commission appointed the current Boise County Prosecutor, Adam Strong, to the Boise County bench.

Following a competitive recruitment process in which highly experienced attorneys submitted applications, the Magistrates Commission conducted interviews with the top three candidates, ultimately selecting Mr. Strong as the next magistrate judge in Boise County. Mr. Strong fills a vacancy created following Judge Roger Cockerille's retirement.

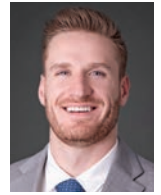
Adam Strong is a sixth-generation Idahoan. He received his bachelor's degree in political science from Brigham Young University-Idaho in Rexburg,

Idaho. He earned his Juris Doctor at J. Reuben Clark Law School in Provo, Utah. Mr. Strong started his legal career as Deputy City Attorney for the City of Boise and most recently served as the elected Boise County Prosecutor. He enjoys spending time outdoors with his wife and children.

### **Feller & Wendt welcomes new associate**

MERIDIAN – Feller & Wendt is pleased to announce that Colton Schneider has

joined its litigation team as a new associate. Mr. Schneider represents clients with a wide range of injuries, including those involving vehicle collisions, dog bites, unsafe premises, and wrongful death. Learn more about Mr. Schneider at [fellerwendt.com/meet-the-team](http://fellerwendt.com/meet-the-team).



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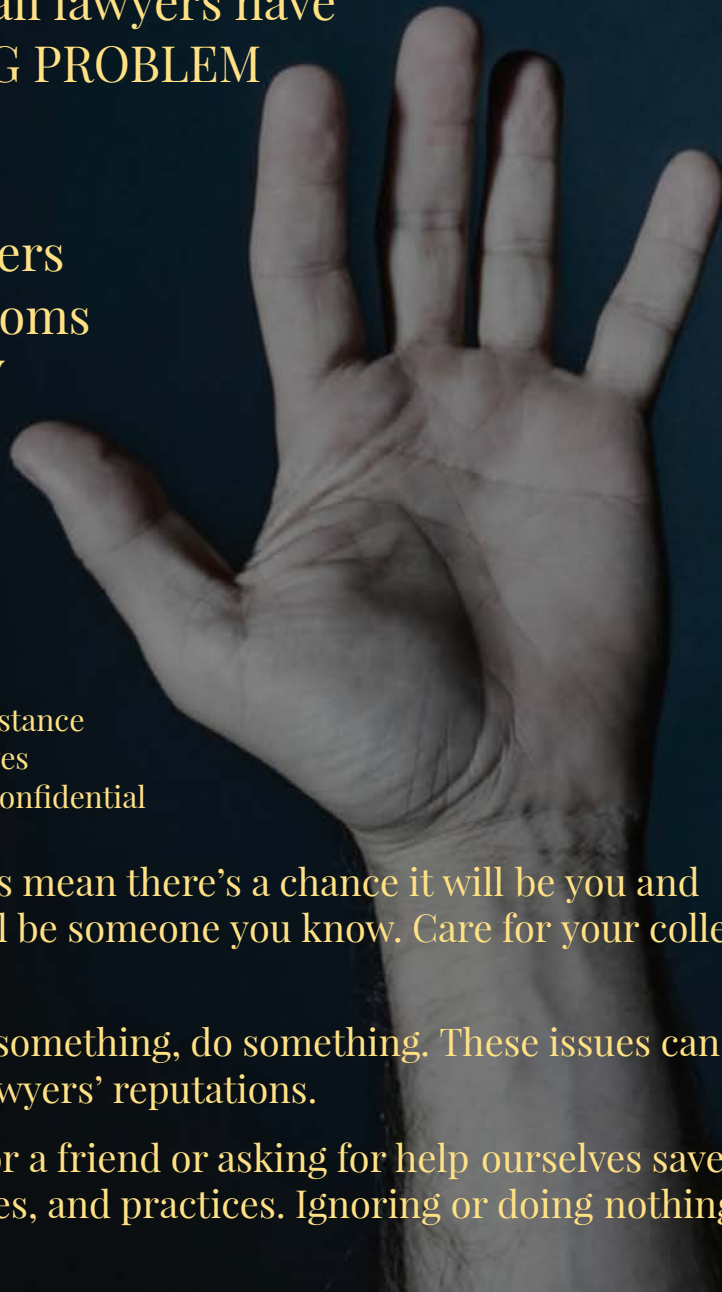
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- 13-20** *North to the Future 2023 Alaska Cruise CLE*  
6.0 CLE credits  

- 19** *8<sup>th</sup> Annual Estate Planning Basics*  
*The Law Center, Boise*  
3.0 CLE credits including 0.5 Ethics  
 
- 24** *Ethics of Shared Law Offices, Working Remotely & Virtual Offices*  
1.0 Ethics credit  


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## June

- |                                                                                          |                                                   |
|------------------------------------------------------------------------------------------|---------------------------------------------------|
| <b>7 &amp; 8</b> <i>2023 Ethics in Civil Litigation Update</i><br><i>Parts 1 &amp; 2</i> | <b>27</b> <i>Ethics in Negotiations</i>           |
| <b>10-17</b> <i>General &amp; Ethics Topics CLE (Dublin, Ireland)</i>                    | <b>28</b> <i>Real Property Section Annual CLE</i> |

For more information and to register, visit [www.isb.idaho.gov/CLE](http://www.isb.idaho.gov/CLE).



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