# \*ADVOCATE

Volume 68 | No. 6/7

Anniversary Article on page 50

June/July 2025 THE WOMEN WHO CAME BEFORE US **PLUS** dvocating for Yourself as a Parent in the Workplace Change for Women in the Criminal Justice System



# TENANT REALTY ADVISORS

Reeling in the best commercial properties for tenants and buyers for 25 years.



Let the expert anglers at TRA navigate the commercial real estate waters so you don't have to. We understand the currents of the market and can help ensure your next office or industrial move is a shore thing.



Founding Principal (208) 841-3530 beck@tenantrealtyadvisors.com



GREG GADDIS, CCIM, SIOR Principal (208) 869-9294 greg@tenantrealtyadvisors.com



JOSHUA WAITMAN Principal (405) 830-4331 joshua@tenantrealtyadvisors.com

Congratulations to our fellow big fish on their years of dedicated service to Idaho.





#### On the Cover



On the cover is Benjamin Victor's bronze sculpture *Transcendent Justice*, housed at the Wassmuth Center for Human Rights in downtown Boise. The sculpture is part of the Center's *Art of Human Rights* exhibition, which invites visitors to reflect on the values that shape just and joyful communities. Photo by Carissa Carns. Sculpture: Benjamin Victor, *Transcendent Justice*, 2022, bronze, Art of Human Rights Collection, Wassmuth Center for Human Rights, Boise, ID. Supported by Idaho Women Lawyers.

#### Featured Article

12 The Women Who Came Before Us
Allison M. Darnall and Leslie M. G. Hayes

#### Sponsored Articles

Sponsored by Idaho Women Lawyers

18 The Future of DEI in Law: Impact of Recent Government Action to Our Profession

Christina M. Hesse and Emma C. Nowacki

- 26 Advocating for Yourself as a Parent in the Workforce
  Logan E. Weis-Hurzeler and Madison N. Miles
- **The Fight for Civil Rights in Idaho: Women's Edition**Jenna L. Furman and Abigael Schulz
- 38 Urgent Change Is Needed for Women in the Criminal Justice System
- 42 Idaho's Abortion Ban Explained: A Primer on the Complicated Laws that Govern Reproductive Rights in Idaho and the Changes That We Can Make Mary E. Shea

#### From the Bar

- 5 From the Editor Lindsey M. Welfley
- 8 Letter to Editor
- 10 Outgoing President's Message Mary V. York
- 50 The Idaho State Bar and Idaho Law Foundation Anniversary: The 1970s
  Hon. Jessica M. Lorello
- 58 July Bar Exam Applicants

# 9 times in the following months: January, February, March, May, June, August, September, October, and November by the Idaho State Bar, *The Advocate* P.O. Box 895 Boise, ID 83701. Periodicals postage paid at Boise, ID 83701 and

The Advocate is the official publication of the

Idaho State Bar. Copyright © 2025 The Idaho State Bar. The editorial contents of this publication are the opinions of the authors and do not necessarily represent or reflect the policies or

opinions of the Idaho State Bar. *The Advocate* has the authority to edit material submitted for publication. Appearance of an advertisement in

The Advocate does not constitute a recommendation

or endorsement by The Advocate or the Idaho

State Bar of the goods or services offered therein. The Idaho State Bar Editorial Advisory Board

reserves the right to reject advertising determined

not to be in keeping with the publication's standards. *The Advocate* (ISSN 05154987) is published

additional mailing offices.

POSTMASTER: Send all address changes to the Idaho State Bar, *The Advocate* P.O. Box 895 Boise, ID 83701.

Subscriptions: Idaho State Bar members receive *The Advocate* as part of their annual dues payment. Nonmember subscriptions are \$45 per year.

#### In Every Issue

6	Bar Actions	64	In Memoriam
60	Court Information	68	Around the Bar
62	Cases Pending	70	Uncomina CL F

#### Reflection, Growth & Gratitude

Lindsey M. Welfley

Summer has arrived! I am usually not a "summer person" but this year the warmth is hitting differently. Thank you for picking up the June/July issue of *The Advocate*, and with it a variety of timely, thought-provoking articles. This issue is sponsored by Idaho Women Lawyers ("IWL") and is packed with topics ranging from the criminal justice sphere to developments in recent legislation.

The featured article—written by Leslie Hayes, IWL President, and Allison Darnall, IWL Vice President—is a tour through IWL's history beginning with its creation in 1986 and spanning to present day. Next, Christina Hesse and Emma Nowacki discuss the impact of recent government action toward diversity, equity, and inclusion ("DEI") initiatives on the legal profession, acknowledging that there are currently more questions than answers. Following this discussion, another co-authoring duo, Logan Weis-Hurzeler and Madison Miles, encourage parents to advocate for themselves in the workplace.

In another nod to the past, with sights set toward the future, Jenna Furman and Abigael Schulz interview three Idaho women who have dedicated their careers to advocating for civil rights for Idahoans. Next, Erica Marshall calls for changes that would improve outcomes for women in the criminal justice system. And finally, Mary Shea provides a primer on the recent changes to Idaho's abortion laws.

This issue also includes the history of the Bar through the 1970s, which also include the history of the Idaho Law Foundation since it was founded in 1975.

I'd like to invite you to take your copy of this issue, find a spot in the sun, and let yourself soak in the summer!

Best,

Janotsey Welfler



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

# of service to the public & profession IDAHO LAW FOUNDATION

#### #ADVOCATE

JUNE/JULY 2025

#### **EDITORIAL ADVISORY BOARD**

Kenneth C. Shumard, Chairperson Andrea J. Adkins

Chynna K. Castoro

Tenielle Fordyce-Ruff

Jenna L. Furman

Brian P. Kane

Jessica A. Harrison

Lea Livingston Kear

Megan A. Larrondo

Kolby K. Reddish

Rose-Hermance Rony

Katelyn M. Skaggs

Erin E. Tomlin

#### **BOARD OF COMMISSIONERS**

Mary V. York, President
Jillian H. Caires, Immediate
Past President
Kristin Bjorkman, Commissioner
Hon. Robert L. Jackson, Commissioner
Frederick J. Hahn, Commissioner

#### **EXECUTIVE DIRECTOR**

Maureen Ryan Braley

#### ADVOCATE EDITORIAL STAFF

Lindsey M. Welfley Communications Director lwelfley@isb.idaho.gov

Carissa A. Carns Communications Coordinator ccarns@isb.idaho.gov

> www.isb.idaho.gov (208) 334-4500

#### TESSA J. BENNETT

(Resignation in Lieu of Disciplinary Proceedings)

On May 20, 2025, the Idaho Supreme Court entered an Order accepting the resignation in lieu of disciplinary proceedings of Meridian attorney Tessa J. Bennett. The Idaho Supreme Court's Order followed a stipulated resolution of a disciplinary proceeding that related to the following conduct.

Ms. Bennett represented clients in three separate custody cases. As part of her advocacy of her clients in those cases, Ms. Bennett filed documents with the court asserting issues for which there was not a basis in both law and fact, made certain assertions about the presiding judges with reckless disregard as to the truth or falsity of those assertions, and engaged in conduct that required the additional expenditure of court time and resources.

With respect to that conduct, Ms. Bennett admitted that her conduct violated I.R.P.C. 3.1 [A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous], I.R.P.C. 8.2(a) [A lawyer shall not make a statement with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge], and I.R.P.C. 8.4(d) [Engaging in conduct prejudicial to the administration of justice].

The Idaho Supreme Court accepted Ms. Bennett's resignation in lieu of disciplinary proceedings. By the terms of the Order, Ms. Bennett may not make application for admission to the Idaho State Bar sooner than five (5) years from the date of her resignation. If she does make such application for admission, she will be required to comply with all the bar admission requirements in Section II of the Idaho Bar Commission Rules and shall have the burden of overcoming the rebuttable presumption of the "unfitness to practice law."

By the terms of the Idaho Supreme Court's Order, Ms. Bennett's name was stricken from the records of the Idaho Supreme Court and her right to practice law before the courts in the State of Idaho was terminated on May 20, 2025.

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

#### **GARY M. BULLOCK**

(Public Reprimand)

The Professional Conduct Board has issued a Public Reprimand to Portland, Oregon attorney Gary M. Bullock, based on professional misconduct. The Professional Conduct Board's Order followed a stipulated resolution of a reciprocal proceeding in Idaho based on an Oregon disciplinary proceeding. On February 19, 2025, the Oregon State Bar State Professional Responsibility Board issued an Order Approving Stipulation for Discipline. In the Stipulation, Mr. Bullock admitted to violations of Oregon Rules of Professional Conduct 1.6(a) and 3.4(c) involving two separate disciplinary matters and agreed to the imposition of a Public Reprimand. Oregon Rules of Professional Conduct 1.6(a) and 3.4(c) are identical to Idaho Rules of Professional Conduct 1.6(a) and 3.4(c).

The Public Reprimand relates to the following circumstances. In the first matter, in 2020, Mr. Bullock's law firm filed a lawsuit against a former client for failure to pay the outstanding balance on her legal bill. During the litigation, a judge ordered Mr. Bullock to produce to the pro se former client, her file. In doing so, Mr. Bullock inadvertently failed to find and remove documents from 25 unrelated client matters that had been misfiled in his former client's file, copied those documents and produced them to the former client. The former client notified Mr. Bullock that the production of documents contained documents from other client matters. Mr. Bullock asked the former client to destroy the inadvertently produced documents, but she failed to do so. Mr. Bullock retrieved the documents several weeks later.

In the second matter, in 2022, Mr. Bullock's firm filed a lawsuit against another former client in relation to a fee dispute. In that case, the judge issued a protective order regarding the use of the former client's identifying information. The former client had changed her name and social security number and had moved residences several times to avoid an abusive ex-boyfriend. In November 2022, the former client filed a disciplinary complaint against Mr. Bullock related to his conduct in the fee dispute litigation. While the protective order was in effect, Mr. Bullock provided a response to the Oregon State Bar that inadvertently included unredacted documents showing the former name and other identifying information of the former client. Mr. Bullock acknowledged his understanding that bar complaint materials are subject to the Oregon Public Records Law. After the Oregon State Bar became aware of the protective order, it asked Mr. Bullock to address his apparent violation of the protective order based on his submission and response to the bar. In Mr. Bullock's response to the bar, he apologized and characterized as a mistake his inclusion of the former client's identifying information. However, Mr. Bullock also attached an unredacted retainer agreement containing the former client's personal identifying information. Mr. Bullock subsequently provided redacted copies of his attachments to the Oregon State Bar.

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

#### JUSTIN B. OLESON

(Disbarment)

On April 2, 2025, the Idaho Supreme Court issued an Opinion disbarring attorney Justin B. Oleson, effective immediately. The Court's Opinion followed a contested hearing before a Hearing Committee of the Professional Conduct Board ("Committee"), which found clear and convincing evidence that Mr. Oleson violated Idaho Rules of Professional Conduct ("I.R.P.C.") 1.7(a)(2), 3.4(c), and 8.4(d) and recommended a public reprimand. Both the ISB and Mr. Oleson appealed the Committee's decision to the Court.

After briefing and oral argument, the Court reversed the Committee's decision in part, affirmed it in part, and imposed the sanction of disbarment. The

Court affirmed the Committee's conclusions that Mr. Oleson violated I.R.P.C. 1.7(a) (2), 3.4(c), and 8.4(d), and also found clear and convincing evidence that Mr. Oleson violated I.R.P.C. 1.2(a), 1.4, 4.1, and 8.4(c).

The discipline case related to Mr. Oleson's representation of Jeff Katseanes ("Jeff') in a post-divorce matter involving Jeff's ex-wife, Judy, which was previously reviewed by the Court. See Katseanes v. Katseanes, 171 Idaho 478, 522 P.3d 1236 (2023). After the district court orally granted Judy's motion for a Qualified Domestic Relations Order ("QDRO") that entitled Judy to all the funds held in Jeff's retirement account, Jeff contacted his retirement plan administrator to withdraw those funds. Mr. Oleson wrote to Jeff regarding his understanding that Jeff had attempted to withdraw the retirement funds and requested that those funds be sent to Mr. Oleson, stating:

> If you did, hopefully you can get those funds to me ASAP and get me paid off and we can do something else with it. Otherwise, you will be getting the QDRO and having the retirement taken.

Erin Dupree ("Erin"), a representative of the retirement plan administrator, stated in an affidavit that Mr. Oleson told her there were "no holds" on Jeff's retirement funds, that no QDRO had been entered, and that she "should feel free to distribute the retirement funds" to Jeff. The plan administrator authorized Jeff's withdrawal following Erin's discussion with Mr. Oleson, and Jeff used those funds, in part, to pay for Mr. Oleson's legal work.

Judy discovered the withdrawal and moved for an accounting of the withdrawn retirement funds. The district court ordered Jeff to file that accounting. Jeff timely provided an accounting to Mr. Oleson, but Mr. Oleson instead filed an appeal on Jeff's behalf and submitted a letter to the district court. The letter stated that Mr. Oleson received Jeff's accounting but that Mr. Oleson did not feel it was proper to provide the accounting until the appeal was resolved. Mr. Oleson offered to provide the accounting if the district court still required it. Mr. Oleson later testified that it was his "legal decision" not to file the accounting with the district court. Mr. Oleson also testified that he did not discuss with Jeff the possibility that Jeff could serve jail time for failing to timely file the accounting. Mr. Oleson did not send Jeff a copy of the letter until after it was filed with the district court in lieu of the accounting.

Judy filed a motion for contempt regarding Jeff's failure to timely file the accounting. Mr. Oleson represented Jeff at the contempt hearing, but neither discussed with Jeff his conflict of interest nor received Jeff's informed consent to represent Jeff at the contempt hearing despite that conflict. During the contempt hearing, Mr. Oleson did not call any witnesses on Jeff's behalf or disclose his role in the decision to file a letter instead of Jeff's accounting with the district court. After the district court found Jeff in contempt, Mr. Oleson represented Jeff on appeal before the Court, again without discussing with Jeff the conflict of interest or receiving Jeff's informed consent to represent Jeff on appeal despite that conflict. The Court affirmed the district court's decision and Jeff served three days in jail for contempt.

In the disciplinary case, the Court found that Mr. Oleson violated I.R.P.C. 1.2(a) and 1.4 regarding his failure to consult with Jeff about the potential consequences of failing to timely file the accounting. The Court also found that Mr. Oleson violated I.R.P.C. 4.1 and 8.4(c) regarding his false and misleading statements to Erin regarding the status of the ODRO. The Court held that Mr. Oleson had a conflict of interest when representing Jeff at the contempt hearing and on appeal, in violation of I.R.P.C. 1.7(a)(2). In addition, the Court held that Mr. Oleson knowingly disobeyed the district court's order and engaged in conduct prejudicial to the administration of justice regarding the court-ordered accounting, in violation of I.R.P.C. 3.4(c) and 8.4(d), respectively. The Court further held that there was not clear and convincing evidence that Mr. Oleson violated I.R.P.C. 1.3 by failing to act with reasonable diligence and promptness regarding filing the accounting.

In determining the appropriate sanction, the Court noted several aggravating factors, including Mr. Oleson's prior discipline history, his substantial experience in the practice of law, his multiple I.R.P.C. violations in the same matter, his refusal to acknowledge the wrongful nature of his conduct, and his selfish and dishonest motive for his misconduct. The Court also highlighted the serious harm to Jeff by having to serve three days in jail as a result of Mr. Oleson's misconduct. The Court concluded that the appropriate sanction was disbarment, stating:

We recognize the seriousness of this sanction and are mindful of the consequences for Oleson. This is not a result that was reached lightly. Only after much discussion and reflection have we determined that disbarment is appropriate in this instance because Oleson's violations of the Professional Rules of Conduct were not only egregious of themselves, but also resulted in significant harm to his client and others. Oleson's actions were a deliberate attempt by an officer of the court to frustrate justice by undermining a judge's rulings, rendering his actions an affront to the rule of law, the legal profession, and to the reputation of those who ethically engage in the practice of law.

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

#### **Idaho Supreme Court Orders Granting Petitions for** Reinstatement to the **Practice of Law**

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

Daniel M. Truscott; Active Status, April 28, 2025

Duston K. Barton, Active Status, May 8, 2025

Matthew R. Comstock, Active Status, May 9, 202

#### Letter to the Editor

Dear Editor,

Of course, the decade of the 1940s deserves historical appreciation by Idaho State Bar members. During that decade of total war, Idaho's slightly more than 500 lawyers "did their bit" in many ways defending our common country. Kolby K. Reddish's article (February 2025) shares photos and quotes reminding us "the past is another country."

No short appreciation piece can begin to do justice to American history's most consequential conflict. But an article calling war a "difficult time for both the Bar as well as for many Americans" could have made more room for Idaho's, and America's, most shameful chapter of war-time legal history: the deportation from Northwestern neighbor states and imprisonment for nearly three years of more than 10,000 American

citizens of Japanese heritage on southern Idaho's sagebrush desert.

The article's timeline of significant events does note these first victims of race prejudice and militant panic were unloaded from boxcars near Eden in 1942. It doesn't note how local farmers used their minimally compensated labor and local builders won valuable federal contracts to construct and maintain our own Gem State concentration camp. No doubt more than a few Idaho lawyers drew those contracts and negotiated those labor rates with the War Department.

Judging by the absence of any mention in Kolby's article, not one of those over 500 patriotic Idaho lawyers filed any claim, in federal or state court, challenging the patent unconstitutionality of an action for which our nation now formally apologizes and commemorates in

a striking, solemn memorial just west of the U.S. Capitol.

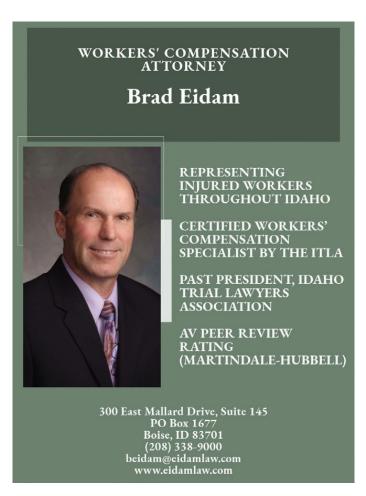
The Advocate has bravely scrutinized Idaho's handling of hard issues about race and power. The Bar's Legal History Section deserves real credit for helping Gem State lawyers appreciate that not all our profession's history merits praise. Kudos to Kolby's article for placing the Bar in its time. Props to the State Bar for helping my home state's over 7,500 practicing lawyers understand how our profession has participated in Idaho's phenomenal changes over the past century.

I hope the Bar Centennial series' future articles acknowledge some sad along with the noble, some regrettable silence along with the fine speechmaking.

Thanks!

**SHAVER & SWANSON** 

Karl Brooks (Bar member since 1983)





### Our customers are talking about us.

"The convenience is favorable, and the ability to forge friendships with your reporting agency is an added bonus! It takes a village."

"YOUR CUSTOMER SERVICE is FIVE STAR

★★★\*

"I would rather use a local court reporter for convenience and keeping the business in the Treasure Valley."

"Your team is fantastic and wonderful to work with."

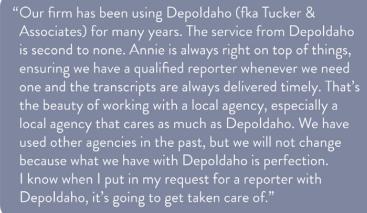
"I chose Depoldaho as my go-to court reporting agency because of their exceptional reliability, availability, and quick response times. I can always count on them to meet my needs, ensuring everything runs smoothly and efficiently every time."

"Your invoices do not have any unexpected fees."

"You provide a personalized touch that other agencies do not."

"You always respond to me promptly and you can take care of pretty much any request I ask of you with regard to out of state court reporting agencies."

"Our accounting department said your fees are very reasonable in comparison to other court reporting agencies."

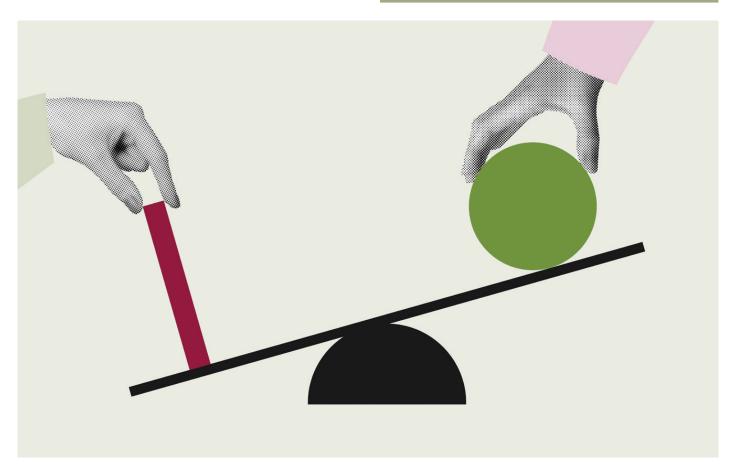




We are proud to provide exceptional and personal service.



depoidaho.com • 208-345-3704
Annie Nice | David Cromwell



#### Truth, Justice, and the Rule of Law: Our Charge as Lawyers

Mary V. York

s my final message as a Bar Commissioner and President of the Board of Commissioners, it does not do justice to merely say that it has been my sincere privilege and honor to serve the Idaho State Bar. We are so fortunate to practice in a Bar where the key tenets of professionalism, civility, and integrity are not only valued but are put into practice every day by the members of our Bar. My tenure as Bar Commissioner has been an educational experience and a poignant reminder of the impact lawyers can have on the lives of others. I am grateful for the opportunity to serve the Bar as Commissioner, and I commend the hard work and dedication of the unsung heroes at the Idaho State Bar and Bar Counsel's Office.

In my first article as Commissioner (November 2022) 1, I quoted former Bar

President Fred Hoopes, who served on the Board of Commissioners from 2000-2003. I did not have the good fortune to know Mr. Hoopes, but from my review of his writings, he keenly understood the importance and significance of being a lawyer. He appreciated the charge we carry as members of the legal profession, the high purpose we hold as officers of the court, and the influence we have to promote equal justice, freedom, and the rule of law. It seems fitting to close my term with another writing of his—one that is timely and bears remembering.

The following text is from Mr. Hoopes's presentation to newly admitted members of the Idaho State Bar, and they ring as true today as ever.2

May it please the court. Members of the Court, distinguished guests, new lawyers, families and friends:

Twenty-seven years ago, I was sworn to uphold the Constitution of the United States of America and of the State of Idaho, just like you did. I remember the solemnity of the judges, all in their robes. I remember the pride in my wife's and family's eyes. I remember their congratulations. My oldest daughter was here in her mother's arms. She was not quite seven months old. Now she is a second-year law student at George Washington Law School. What I don't remember is the speaker, or anything he said. I never thought I would be a speaker. I should have paid more attention. I do have a message, and though I doubt you will remember me, I hope you will remember some of what I say. Consider this:

He drafted the Declaration of Independence, that for more than 200 years is still the most revolutionary document of democracy. His name was Thomas Jefferson, and he was a student of the law.

- He was at the miracle of Philadelphia, the Constitutional Convention, fighting for the inclusion of the Bill of Rights, a model for freedom the world over. His name was James Madison, and he was a lawyer.
- He stood in the rain at Gettysburg, tears in his eye, gaunt, exhausted, and he rededicated our country to equality, saving the Union. His name was Abraham Lincoln, and he was a lawyer.
- Speaking to us from a wheelchair, lifting us up from despair and leading the free world in the fight to save democracy with the words "The only thing we have to fear is fear itself." His name was Franklin D. Roosevelt, and he was a lawyer.
- By self-sacrificing example of passive resistance, he threw off the shackles of empire and brought forth an independent democracy in India. His name was Mahatma Gandhi, and he was a lawyer.
- He drove a stake through the heart of Jim Crow by bringing Brown v. Board of Education and laid the legal foundation for the civil rights movement. His name was Thurgood Marshall and that was real lawyering.

Closer to Home:

- He served the State of Idaho from 1907 to 1940 in the United States Senate. A mountain is named after him. His name was William E. Borah. He was a lawyer.
- Borah said this Idaho governor had "defended, more men and got them acquitted and prosecuted more men and got them convicted" than any man in America. His name was James H. Hawley. He was a lawyer.

- In the tradition of Borah, he served Idaho in the United States Senate, was Chairman of the Senate Foreign Relations Committee and a candidate for President in 1976. We gave his name to a Wilderness. He was Frank Church. He was a lawyer.
- Twenty-four of 56 signers of the Declaration of Independence were lawyers.
- Twenty-nine of the 40 delegates to the Constitutional Convention were lawyers.
- More than half the Presidents of the *United States have been lawyers.*
- America was founded and formed by lawyers, more so than any country on earth. I believe it is no coincidence that we are the freest.

Our Bill of Rights did not, by itself guarantee life, liberty, and the pursuit of happiness for all Americans for all time. The ideal is there. Now we must struggle with the reality to enlarge our freedoms and promote human dignity and eliminate injustice as *lawyers have for the past 200 years.* 

Today you join a tradition of which you can be proud. It is lawyers who make people live by the rule of the law—who right wrongs—who ensure freedom, safety and justice. Lawyering breathes life into the Constitution, the Bill of Rights. Other nations have had constitutions guaranteeing citizens broad human rights, but with no tradition of lawyering they are a dead letter.

When you are so fortunate to be a lawyer, you stand between the abuse of government power and people. You curb abuses of corporate power. You even curtail judicial excess, and you give the individual voice a chance to be heard.

When you are a lawyer, you can be the pin that pricks the balloon of society's smugness and the hairshirt of its complacency.

As a lawyer, you help mold the rights of people for generations to come. You make a difference.

There is dignity here. It is not the product, however, of these high ceilings and paneled walls.

The aura of this place is the product of the high purposes served here: truth, equal justice, and the rule of law.

In my view, those last words bear repeating for it is "truth, equal justice, and the rule of law" that give purpose and dignity to our noble profession. It is my wish for each of you that someday, someone will add your name to Mr. Hoopes's list and that you too will be recognized for your contributions to furthering the principles of truth, equal justice, and the rule of law.

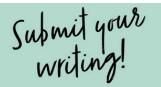


Mary V. York is a proud 31-year member of the Idaho State Bar. She currently serves as the President of the Idaho State Bar Board of Commissioners and as Commissioner rep-

resenting the Fourth District.

#### **Endnotes**

- 1. Mary V. York, Judicial Independence: A Cornerstone of Democracy Which Must be Defended, 65 The Advocate 11/12 (2022).
- 2. Because I find Mr. Hoopes's presentation so meaningful, I have shared it on a number of other occasions, including the Admission Ceremony held on May 2, 2025, and the University of Idaho, College of Law Admitted Student Day held on March 21, 2025.



Authors interested in writing for The Advocate are encouraged to contact Communications Director, Lindsey Welfley at lwelfley@isb.idaho.gov.

Use the QR code below to learn more about our Submission & Selection Policy, Author Guidelines, and Publication Agreement.





#### The Women Who Came Before Us

Allison M. Darnall Leslie M.G. Hayes

Tt's hard to believe, but Idaho Women Lawyers ("IWL") is almost 40! IWL began in 1986 as a community for women to create a safe space to gather and discuss current issues, and it is the birth of that community that keeps IWL steadfast in its mission of "advancing diversity through the promotion of equal rights and opportunities for women in the legal profession."1 This community has now sponsored this edition where a call was made to the membership to: "tell us what's on your mind."

Most of you may know IWL as the powerhouse organization of 286 members statewide as it exists today, but there was a time when an attorney's membership in IWL could bring with it a sense of trepidation. While these authors can proudly state their membership and leadership within IWL, it was decades of hard work by our predecessors that made this so let's revisit the groundwork laid by the women who came before us.

JUSTICE HAS ALWAYS BEEN A WOMAN! IDAHO WOMEN LAWYERS SINCE

"Justice Has Always Been a Woman" by Judy Holcomb. Image credit: Judy Holcomb, Mixed Media Original Artwork.

IDAHO WOMEN LAWYERS

IWL's first logo.

#### **IWL Before the Board of Directors**

"A community of women"2

In 1986, a group of women gathered to discuss issues of the day that were important to them both personally and professionally.3 IWL's founding members consisted of sole practitioners, government practitioners, lawyers working for nonprofits, and a small number of women in large private firms. In the early years, IWL advocated with purpose for women's rights in the Idaho Legislature, the courts, and, yes, they picketed too. It was reported to us that the public perceived IWL as a group of feminists (implying that was a negative thing) gathering to upset the status quo.4 With that reputation, some women lawyers were fearful of repercussions in their career and, for that reason, would not join IWL.

But a community was born, nonetheless.

#### **IWL Focuses on the Judiciary**

"[W]omen on the bench [] builds [] public trust[]"5

In the late 1980s, the members of IWL took action to address the fact that since Idaho's formation (both territory and statehood), no women had been appointed to any Idaho appellate court. With that in mind, IWL formed its first committeethe Judicial Recruitment Committee.6 The committee began encouraging women interested in the judiciary to apply, attended judicial candidate interviews, and generally made itself known to the Idaho Judicial Council. It was with those efforts that IWL saw qualified candidates apply and be appointed to Idaho's appellate courts, first with Justice Cathy Silak's appointment to the Idaho Court of Appeals in 1990,7 then with Justice Linda Copple Trout's appointment to the

Background photo by Carissa Carns. Sculpture: Benjamin Victor, Transcendent Justice, 2022, bronze, Art of Human Rights Collection, Wassmuth Center for Human Rights, Boise, ID. Supported by Idaho Women Lawyers.

Idaho Supreme Court in 1992,8 Justice Silak's subsequent appointment to the Idaho Supreme Court in 1993,9 and Judge Karen Lansing's appointment to fill Justice Silak's vacancy on the Idaho Court of Appeals in 1993.10

This concerted effort to raise awareness of gender diversity in Idaho's judiciary paid off quickly as women applied and were selected as the most qualified candidates in just a few short years. To this day, the Judicial Recruitment Committee continues to be one of IWL's most critical committees, adding value for members regardless of gender who are interested in pursuing a judicial career and to the community by ensuring that the bench reflects the characteristics of the community.<sup>11</sup>

#### The Kate Feltham Award

"Lifting Women Up in the Law"12

The Kate Feltham award was created by IWL in the early 1990s to recognize pioneers in the legal community who support the advancement of women in the law.13 It continues to be IWL's flagship award, recognizing an individual who has made extraordinary efforts to promote equal rights and opportunities for women within Idaho's legal community.

In 1991, the first recipient of the Kate Feltham Award was Mary Smith from Rexburg. In 1935, Mary was the first woman in Idaho permitted to sit for the Idaho State Bar exam and the 10th woman admitted to practice law in the State of Idaho.14 In 2002, 11 years after her recognition by IWL, the Idaho State Bar recognized Mary's accomplishments and awarded her the Distinguished Lawyer award; she was the first woman to receive this honor by the Idaho State Bar.15

#### **IWL Enters Its Current Form**

"Grace Among the Membership" 16

In the late 1990s and early 2000s, IWL continued to exist, but had slowed the growth surge it initially experienced. Then, on July 14, 2008, IWL hit its next milestone when it formally filed a Certificate of Incorporation with the Idaho Secretary of

To this day, the Judicial Recruitment Committee continues to be one of IWL's most critical committees, adding value for members regardless of gender who are interested in pursuing a judicial career and to the community by ensuring that the bench reflects the characteristics of the community.<sup>11</sup>

State. From there, a Board of Directors was formed, and corporate governance processes and procedures were created.17

While the incorporation of IWL may only seem like paperwork, it was the launching point for how IWL exists today.

#### IWL Establishes the Gala and **Membership Retreat**

"Part of the Community" 18

In 2012, IWL undertook another growth surge when it planned and implemented its first Biennial Gala.19 The first Gala grew out of the Idaho Academy of Leadership for Lawyers where participants develop and create sustainable legacy projects. The IWL president at that time decided that a fundraising gala to celebrate the recipient of the Kate Feltham Award would be her legacy project and thus, the Gala was born.

In 2013, IWL held its first Gala and added additional awards to its Kate Feltham Award, including the Bertha Stull Green Award,<sup>20</sup> Notable Achievement of the Year Award, Innovator Award, Rising Star Award, and the Setting the Bar Award.

The success of the 2013 Gala led to IWL's first Biennial Membership Retreat, where IWL offered a day and a half of programming to its members at a financial loss. The Retreat has since become a cornerstone of membership benefits-this year (2025) selling out in less than two hours!

#### **IWL and COVID-19**

"Support, mentorship, and a safe place"21

IWL's evolution and ability to respond to members' needs is perhaps one of the more important aspects of the entirely volunteer-led organization. With COVID-19, IWL saw the postponement of its Biennial Retreat and the cancellation of its Gala. While IWL could have merely shrugged and taken the "this will all be over soon enough" approach, the Board and working committees instead provided opportunities for member education and connection without interruption by pivoting to virtual conferencing.

In 2020, IWL offered its Biennial Retreat virtually with several hybrid in-person opportunities, which resulted in the most widely attended Retreat to date. From COVID-19 the board learned that IWL's community extended well beyond the Treasure Valley and that the organization needed to focus on extending service statewide.

*In April of this year the IWL Board of* Directors hosted a former board member celebration, a nod to the almost 40 years of leadership in the organization.

#### **IWL Builds Regional Chapters**

"Who doesn't want to sit [with] coffee and [] talk"22

Also in 2020/2021, IWL's then-president met with individual members throughout the state to discuss the benefits of IWL membership and the networking/ mentorship opportunities that could occur with the formation of regional chapters.

In 2023, the judiciary graciously consented to participate in IWL "meet and greets" in north Idaho and southeast Idaho. IWL sent members and former members of the Board to each region to speak about both regional chapters and the Judicial Recruitment Committee, and how it could benefit male and female members locally who were interested in the judiciary.

From those two convergent points, IWL grew regional chapters throughout the state for members to gather—over coffee, bingo, trivia, wreath making, etc.-to connect and form community with each other. IWL currently has eight regional chapters that meet with various levels of frequency and the IWL Board invites all regional chapter leads to attend the monthly meeting of the Board so that they know and understand what IWL is doing. IWL's Board of Directors now seats two members outside of the Treasure Valley and this fiscal year, IWL has its largest ever proposed budget devoted to member connection and education throughout the state.

#### The Women of IWL

"[T]he nicest group of lawyers"<sup>23</sup>

In April of this year the IWL Board of Directors hosted a former board member celebration, a nod to the almost 40 years of leadership in the organization. It was a long overdue thank you to the organization's past leaders, and also a spotlight of IWL's vivid history and a showcase of IWL's accomplishments. As we approach IWL's 40th anniversary, we have committed to memorializing this history so that we remember the path that has been tread. From IWL's early days of advocacy and protests to building out a community of women who support and advocate for each other in their career paths, IWL is excited to continue to uncover its history and acknowledge the accomplishments of each woman that helped build the organization that we all know today.

#### **IWL's Pull**

"We're all here because we want to be"24

From those early memories, you can see the allure of the community and how it draws members in. Today, IWL has 286 members statewide, with eight regional chapters (Caldwell, Boise, Twin Falls, Pocatello/Idaho Falls, Moscow, Lewiston, and Coeur d'Alene).25 IWL provides programming and activities at little to no cost to all its members, including, but (obviously) not limited to, coffee chats, scholarships for the Idaho State Bar

"My first IWL meeting was in the basement of Café Ole in 2010 where United States District Judge Candy Dale was being presented with the Kate Feltham Award. Along with the award ceremony, the Board held its annual meeting for members and there was a taco bar—all of this for the low cost of \$10. It was a room packed full of amazing women that I knew, had heard of, or was just now introducing myself to. I loved every minute of it." – Leslie Hayes

"My first IWL meeting was in the downtown Boise Stoel Rives conference room in 2012 where I had been recruited by IWL members in the planning efforts of the first IWL Gala. As a newly minted attorney I was proud to be in a room of leading female attorneys making strides to celebrate the accomplishments of our fellow colleagues—it felt like significant, important work that would set the tone for our community. While we didn't know it at the time, this Gala would be one of the many turning points in IWL's history." – Allison Darnall



Judge Candy Dale (left) and Judge Nancy Baskin (right) at IWL's "Dirty Pour Event" on November 8, 2018. Photo credit: Unknown.



Attendees at IWL's 2022 retreat in Ketchum, Idaho. From left to right, Tara Malek, Johanna Kalb, Hon. Regan Jameson, Jaycee Nall, Brenda Bauges, Katie Daniel. Photo credit: Unknown.



Allison Darnall (right) and Leslie Hayes (left) at the IWL gala in 2024.

Annual Meeting and the Idaho Academy of Leadership for Lawyers, fundraising and support for an art installation at the Wassmuth Center for Human Rights, and resources from the judicial recruitment committee. IWL's resources have always had a tendency to flow with the needs of its community—as a volunteer Board, our membership's time and efforts are as precious as the dollars we spend.

#### "And that's the magic of IWL"26

For many women practitioners in Idaho, IWL has become a known and reliable resource for networking, mentoring, and education. But 40 years ago, IWL was born from the need of our state's first female practitioners to advocate for themselves as minority members of Idaho's State Bar. IWL has been in constant evolution since the 1980s-adapting and changing to meet the changing needs of its membership—but one core value has remained constant: our members' desire for connection.



Leslie Hayes is the current President of IWL and has served in that capacity since 2022. She joined the Board of Directors in 2016 and prior to that served as the Chair of the Health,

Wellness, and Lifestyle Subcommittee. She is an avid supporter of IWL and during her membership tenure has made friends, gained mentors, mentored others, and supported the growth into the regional chapters. Leslie firmly believes that IWL must be accessible to all Idaho practitioners, regardless of gender or geographic location. The thoughts and opinions in this article are Leslie's alone and not those of IWL.



Allison Darnall is the current Vice President of IWL and has served in that capacity since 2021. She joined the Board of Directors in 2017 and prior to that she served on the

Membership Subcommittee. Allison credits her career growth to her involvement in *IWL* having found each career opportunity through connections forged in the organization. She serves IWL in hopes of giving others similar opportunities to learn, grow, and connect. The thoughts and opinions in this article are Allison's alone and not those of IWL.

#### **Endnotes**

- 1. Idaho Women Lawyer's mission statement, https:/ idahowomenlawyers.com.
- 2. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Hon. Regan Jameson, Ada County Magistrate Court, https://www.youtube.com/watch?v=wJeyomWTTzk&t=9s.
- 3. While we would love to name all of the wonderful women and men that helped shape IWL over the years in this article, we find that there are too many to name, and. frankly, we ran out of time. So, in the interest of not overlooking any particular milestone or accomplishment and those involved, we have opted to name no one
- 4. This perception is in fact true, as "feminism" is defined as "belief in and advocacy of the political, economic, and social equality of the sexes expressed especially through organized activity on behalf of a women's rights and interests "Feminism Definition Merriam-Werster com https:// www.merriam-webster.com/dictionary/feminism (last accessed April 4, 2025). As this definition closely mirrors our mission statement, we are in fact, a group of feminists.

- 5. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Anne Henderson Haws, former IWL Board Member, https://www.voutube.com/watch?v=w.levomWTTzk&t=9s at 5:11-5:26 ("Having women on the bench and having diversity at large on the bench to reflect our population builds that sense of trust and builds the sense of our public trusting this third branch of our government.").
- 6. The Judicial Recruitment Committee continues to this day in providing education, recruitment, and training to IWL members interested in pursuing a career in the judiciary.
- 7. Cathy Silak, Wikipedia (2024), https://en.wikipedia.org/ wiki/Cathy\_Silak (last accessed April 4, 2025).
- 8. Linda Copple Trout, Wikipedia (2025), https://en.wikipedia. org/wiki/Linda\_Copple\_Trout (last accessed April 4, 2025).
- 9. Cathy Silak, Wikipedia (2024), https://en.wikipedia.org/ wiki/Cathy\_Silak (last accessed April 4, 2025).
- 10. Press Release, Idaho Supreme Court, Court of Appeals Judge Announces Retirement (January 14, 2015), https://isc. idaho.gov/sites/default/files/press-release-documents/ Release%20Judge%20Karen%20Lansing%20 Announces%20Retirement.pdf(last accessed April 4, 2025).
- 11. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Hon. Annie McDevitt, Ada County District Court, https://www.youtube.com/watch?v=wJeyom-WTTzk&t=9s at 3:50-3:57 ("The resources form the judicial recruitment committee absolutely helped me in achieving my goals of becoming a judge").
- 12. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Cassandra Cooper, IWL Board of Directors, https://www.youtube.com/watch?v=wJeyomWTTzk&t=9s at 3:04-3:06
- 13. Kate Feltham was fifth women admitted to the Idaho State Bar and the first women to hold an elected prosecuting office in the State of Idaho. Debora K. Kristensen, 1985-1975: The First 50 Women in Idaho Law, Idaho State Bar (2005), https://isb.idaho.gov/wp-content/uploads/ First\_50\_Women\_in\_Idaho\_Law\_1277.pdf at. 9-10.
- 14. Id. at 18-20; Linda Heywood, Mary Smith, Idaho's Senior Woman Attorney, Idaho State Bar (Aug. 1988), https://isb. IDAHO.GOV/WP-CONTENT/UPLOADS/MARY \_ SMITH \_ IDAHOS \_ SENIOR \_ WOMAN \_ ATTORNEY.PDF.

- 15. Kristensen, supra note 17, at 20
- 16. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Abby Kosteka, https://www.youtube.com/ watch?v=wJeyomWTTzk&t=9s at 0:31-0:32.
- 17. This includes, monthly meetings of the Board of Directors, formation of subcommittees, annual membership dues, annual filings, and an annual meeting of the members
- 18. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Hon. Annie McDevitt, Ada County District Court. https://www.youtube.com/watch?v=wJeyom-WTTzk&t=9s at 3:58-4:00
- 19. IWL was unaware at the first gala that the gala would become a biennial event.
- 20. Bertha Stull Green was the second woman admitted to the Idaho State Bar and had a career marked with public service, engagement and educating women's clubs, and legislative activities. Kristensen, supra note 17, at 5-6.
- 21. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, May Witt, 2023-2024 Women's Law Caucus Liaison to IWL Board, University of Idaho School of Law, https://www.youtube.com/watch?v=wJeyomWTTzk&t=9s at 0:53-0:57.
- 22. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Jessica Perez, https://www.youtube.com/ watch?v=wJeyomWTTzk&t=9s at 2:00-2:07.
- 23. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Hon. Fafa Alidjani, Ada County Magistrate Court, https://www.youtube.com/watch?v=wJeyom-WTTzk&t=9s at 3:35-3:39.
- 24. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Abby Kosteka, https://www.youtube.com/ watch?v=wJeyomWTTzk&t=9s at 0:26-0:27.
- $25.\,If you are interested in joining one of IWL's \, regional$ chapters or starting your own, please visit IWL's website for more information!
- 26. "All Of Us." 2024 Idaho Women Lawyers, Biennial Gala Video, Anne Henderson Haws, former IWL Board Member, https://www.youtube.com/watch?v=wJeyom WTTzk&t=9s at 5:27-5:29

#### DO YOU NEED SOME LEGAL RESEARCH?





Teressa Zywicki, J.D.

Legal Research Specialist ◆ Powered by Westlaw® Affordable Rate ◆ Sample work on request





teressazywicki@gmail.com



#### McClaran Legal Research & Writing, LLC

Amie McClaran

- Comprehensive research and drafting services provided by a licensed attorney with over 20 years of experience.
- · Polished and well-organized briefing for all aspects of pre- and post-trial motion practice and appellate work.
- Thorough, accurate, and efficient research utilizing Westlaw Edge.
- · Specializing in criminal defense and post-conviction
- · Member of the Idaho State Bar and IACDL.

(208) 994-2020 | mcclaranlrw@gmail.com

#### YOU BECAME A PUBLIC DEFENDER TO FIGHT AGAINST THE HARMS OF THE CRIMINAL LEGAL SYSTEM.

#### JOIN THE FUTURE OF PUBLIC DEFENSE.

At the King County Dept. of Public Defense (DPD), we're implementing new caseload standards that are long overdue.

Starting in July 2024, DPD began implementing groundbreaking new caseload standards from the ABA/RAND Study, weighting cases from 1 to 8 based on seriousness and significantly lowering caseloads. For example, a murder case is worth 7 credits.

#### **WSBA's New Caseload Standards**

- In 2025, a maximum of 110 weighted felony credits
- In 2026, the limit reduces to 90 weighted felony credits
- In 2027, weighted felony credits limited to 47

#### Be the lawyer you always wanted to be

#### At King County DPD, you'll have:

- Felony and misdemeanor caseload limits
- Robust funding for expert witnesses
- Support from skilled, in-house investigators and mitigation specialists
- Supportive and inclusive workplace

#### We value your passion and experience

- Comprehensive medical benefits
- Well-funded and secure pension
- Ongoing training opportunities

#### CONSIDERING RELOCATING TO THE PROGRESSIVE PACIFIC NORTHWEST?



Join a mission-driven, forward-thinking community



Generous leave to help support work-life balance



**Washington State Bar Admission costs** covered

If you have 3+ years as a criminal defense attorney or civil litigator and trial experience, join us.

#### **READY TO LEARN MORE?**

Visit kingcounty.gov/dpd/jobs or email dpd-hr@kingcounty.gov Equal opportunity employer





#### The Future of DEI in Law: Impact of Recent Government Action to Our Profession

Christina M. Hesse Emma C. Nowacki

#### Introduction

As we watch our federal government ban or disavow Diversity, Equity, and Inclusion ("DEI") programs, we are seeing varying responses from the private sector, and in particular, law firms.1 The purported intent in cutting DEI programs is to promote based on merit—to not consider one's gender, race, or identity. But as DEI programs are dismantled, we must consider the impact on our legal community. Can we continue to encourage and celebrate diversity and inclusion among lawyers in our profession? Is there an impending threat to our Diversity Section of the Idaho State Bar? Are DEI positions within law firms at risk? Will certain CLE topics administered by our Idaho State Bar be prevented? At this point, the questions appear more prevalent than the answers.

While there are legal limits to the government's ability to regulate our private associations, we must nevertheless recognize the trickle-down effect of what the government can legally regulate, and how the private sector may follow suit. This article will ponder the various ways in which government interference may impact our Bar.

#### **Initial Federal Action: Government Action Limiting DEI**

On the federal level, the Trump Administration has issued a slew of executive orders targeting DEI programs in federal agencies, public education, military, and even private sector. The first such Executive Order on January 20, 2025 (Exec. Order 14151) sought to ban federal DEI programs.<sup>2</sup> Exec. Order 14151 states that the previous administration "forced illegal and immoral discrimination programs, going by the name 'diversity, equity, and inclusion' ("DEI") into virtually all aspects of the Federal Government," and "Americans deserve a government committed to serving every person with equal dignity and respect, and to expending precious taxpayer resources on making America great."3 Exec. Order 14151 further directed the Director of the Office of Management and Budget ("OMB"), along with assistance of the Attorney General, to "coordinate the termination of all discriminatory programs, including illegal DEI and diversity, equity, inclusion, and accessibility ("DEIA") mandates, policies, programs, preferences, and activities in the Federal government."4

In a separate Executive Order issued on January 21, 2025 ("Exec. Order 14173"), President Trump ordered "all executive departments and agencies (agencies) to terminate all discriminatory and illegal preferences, mandates, policies, programs, activities..." and "combat illegal private-sector DEI preferences, mandates, policies, programs, and activities."5

These two initial Executive Orders sought to reach the private sector through the federal government's ability to regulate federal contractors and recipients of federal funding.6 The Executive Orders direct the Attorney General to identify private sector companies and work "to advance in the private sector the policy of individual initiative, excellence, and hard work."7 The Attorney General must report on "measures to encourage the private sector to end illegal discrimination and preferences, including DEI."8 The Attorney General report must include a plan to deter programs or principles that constitute illegal discrimination or preference within State and local bar and medical associations, and institutes of higher education with endowments over \$1 billion.9

Significantly, neither Executive Order defined any of the relevant terms, such as "DEI," "equity-related," or "illegal discrimination or preferences." <sup>10</sup>

On January 27, 2025, the OMB issued a memorandum directing federal agencies to "temporarily pause all activities related to [the] obligation or disbursement of all Federal financial assistance, and other relevant agency [activities] that may be implicated by the executive orders..." The memorandum defined federal assistance in the form of grants, loans, loan guarantees, and insurance. 12

#### **Federal Action Against Law Firms**

After the two initial Executive Orders banning DEI in the federal government and programs receiving federal assistance, the Trump Administration began specifically targeting DEI programs within private law firms. On March 6, 2025, an Executive Order ("Exec. Order 14230") was directed towards "unlawful" DEI programs within Perkins Coie. Exec. Order 14230 specifically directed against Perkins Coie alleges that

Perkins Coie racially discriminates against its own attorneys and staff, and against applicants. Perkins Coie publicly announced percentage quotas in 2019 for hiring and promotion

on the basis of race and other categories prohibited by civil rights laws. It proudly excluded applicants on the basis of race for its fellowships, and it maintained these discriminatory practices until applicants harmed by them finally sued to enforce change.<sup>13</sup>

As part of its mandate, Exec. Order 14230 tasks the Attorney General to investigate practices of "large" law firms who do business with government entities. Exec. Order 14230 directed the chair of the Equal Employment Opportunity Commission ("EEOC") to "review the practices of representative large, influential, or industry leading law firms for consistency with Title VII of the Civil Rights Act of 1964," and determine "whether large law firms: reserve certain positions, such as summer associate spots, for individuals of preferred races; promote individuals on a discriminatory basis; permit client access on a discriminatory basis; or provide access to events, trainings, or travel on a discriminatory basis."14

On March 17, 2025, the EEOC chair Andrea Lucas sent letters to 20 law firms requesting information about their DEI related employment programs. "The EEOC is prepared to root out discrimination, anywhere it may rear its heading, including our nation's elite law firms," Lucas said.<sup>15</sup> Those law firms that received the letter included Latham & Watkins; McDermott Will & Emery; Skadden, Arps, Slate Meagher & Flom; Kirkland & Ellis; WilmerHale; Cooley; and others.

Subsequent Executive Orders have been issued targeting Jenner & Block, WilmerHale, Paul Weiss, and Susman Godfrey, and while these Executive Orders seemingly target the firms for their political affiliations, <sup>16</sup> each Order also references Exec. Order 14230, stating "Racial Discrimination. Nothing in this order shall be construed to limit the action authorized by Section 4 of Executive Order 14230 of March 6, 2025 (Addressing Risks from Perkins Coie LLP)."<sup>17</sup>

#### Idaho Government Action Against DEI

While we have not seen Idaho government target law firm DEI programs, our public education has been subjected to government regulation related to its DEI programs. In December 2024, the Idaho State Board of Education passed a December 18, 2024 Resolution ("Resolution") that limits DEI programs at state public colleges and requires institutions to fully implement the Resolution by June 30, 2025. The Resolution mandated institutions "shall not establish or

While we have not seen Idaho government target law firm DEI programs, our public education has been subjected to government regulation related to its DEI programs.

maintain a central office, policy, procedure, or initiative that promotes DEI ideology," and institutions "shall ensure that no student resource or student success center serves students based on DEI ideology." Amongst the affected institutions are Boise State University, the University of Idaho, Idaho State University, and Lewis-Clark State College.

On February 21, 2025, Idaho Senate Bill 1123 proposed legislation that would enact this Resolution into Idaho law.<sup>20</sup> The language of the bill closely mirrored the language of the Resolution and was passed in the Senate, but it did not advance past committee in the House.<sup>21</sup>

#### Reactions from the Legal Profession

We have seen our profession react to government intervention in varying ways. Notably, legal bar associations, both at the national and state levels, have long championed DEI efforts. The American Bar Association advertises its goal to "to eliminate bias and enhance diversity in our Association, legal profession, and justice system." Under the umbrella of the American Bar Association is the National Association of Attorneys with Disabilities, the Hispanic National Bar Association, the National Association of Women Lawyers, the National LGBT Bar Association, and the National Bar Association. These

associations use DEI programs to support initiatives such as minority mentorship programs, diversity scholarships, and inclusive recruitment practices.<sup>23</sup>

Idaho's State Bar Association's own Diversity Section remains active, with a mission to promote "the education, training and networking of diversity practitioners." The stated purpose of the Diversity Section is to "foster diversity within the Idaho State Bar and Judiciary and to promote the Bar's professional development to serve the interests of a diverse public."24 The bylaws provide that the Diversity Section promotes the "recruitment and retention of diverse persons within the Idaho State Bar and its leadership." Further, the Section offers a "Love the Law!" program to expose Idaho high school, college, and university students from diverse, minority, and low-income backgrounds to the legal profession, and awards a "Justice for All" Award "to highlight the progress and impact an individual has made in bringing opportunities of the law to bear in the areas of discrimination and diversity, including but not limited to race, ethnic background, and national origin, religion, gender, disability, sexual orientation, and sexual preference, poverty, age, and family status."25

The legal profession's response to banning of DEI programs remains fluid. as

The legal profession's response to the banning of DEI programs remains fluid as bar associations at the national and state levels navigate the legal and ethical implication of the federal DEI ban.

bar associations at the national and state level navigate the legal and ethical implication of the federal DEI ban. In the wake of the Executive Orders, the American Bar Association voted to suspend its DEI standard for law schools while the ABA reviews revisions to the rule. <sup>26</sup> But on March 3, 2025, the ABA issued a statement that the language of Exec. Order 14230 is precisely the type of effort "to undermine the courts and the profession," to "remake the legal profession into something that rewards those who agree with the government and punishes those who do not."<sup>27</sup>

Perkins Coie, Jenner & Block, WilmerHale, and Susman Godfrey filed federal lawsuits against the Trump Administration in part due to the administration attacking their DEI programs.<sup>28</sup> As of the date this article was submitted for printing, judges for the United States District Court for the District of Columbia have: held the Perkins Coie Executive Order invalid; granted Jenner & Block's motion for summary judgment; "struck down in its entirety as unconstitutional" the Executive Order as to WilmerHale; and granted Susman Godfrey's motion for temporary restraining order.<sup>29</sup>

While these four law firms pursued litigation, other big law firms have elected to reach a settlement agreement and agreed to contribute legal services to mutually agreed upon projects.; for example, Skadden has committed to what Trump referred to as merit-based hiring and retention of employees<sup>30</sup>, while Paul Weiss "acknowledged the wrongdoing of its former partner Mark Pomerantz" and agreed to "dedicate[] the equivalent of \$40 million in pro bono legal services during [President Trump's] term in office to support causes including assisting our Nation's veterans, fairness in the justice system, and combating anti-Semitism; and other similar initiatives."31 It has also not gone unnoticed that AmLaw 100 law firms have removed DEI language and links from their websites.32

Our Idaho State Bar thus far has not made any public statement as to its position on DEI programs in our legal community. The reach of local or federal government on bar associations remains to be seen. The Idaho State Bar does not receive federal funding, so it seems unlikely that the Executive Orders have true implications on our ability to promote diversity and associate as diverse members within the Bar. But the Idaho State Bar operates under the authority delegated by the Idaho Supreme Court through its rulemaking power and under the statutory authority of the legislature. Title 3 of the Idaho Code provides laws related to the practice of law, and the creation of the Board of Commissioners of the Idaho State Bar. While there is no current statute that specifically allows for government control or monitoring of the ability of Bar associations, Section 3-418 arguably gives broad authority to the legislature to regulate the Bar governance.

> 3-418. ADMINISTRATION OF JUSTICE — INVESTIGATIONS, STUDY AND RECOMMENDA-TIONS OF BOARD. The governor, Supreme Court, or the legislature of the state of Idaho, may request of the board an investigation and study of and recommendations upon any matter relating to the courts of this state, practice and procedure therein, practice of the law, and the administration of justice in Idaho, and thereupon it shall be the duty of said board to cause such investigation and study to be made, reported to an annual meeting of the Idaho State Bar, and, after the action of said meeting thereon, to report the same to the officer or body making the request. The board may, without such request, cause an investigation and study upon the same subject-matters, and after a report thereon to an annual meeting of the Idaho State Bar, report the same and the action of said meeting thereon to the governor, Supreme Court, or the legislature of the state of Idaho.

The Idaho Women Lawyers Association is intentionally unaffiliated with the Idaho State Bar. When it was formed in 1986, it recognized itself as an organization that is a non-profit that promotes and advances diversity through the promotion of equal rights and opportunities for women in the legal profession.<sup>33</sup>

#### **Legal Efforts to Stop Government Intervention**

The legal authority of the Executive Orders on the private sector through its regulatory powers remains in limbo as courts throughout the nation address lawsuits against the federal government. In a lawsuit filed by Perkins Coie, it argued that Exec. Order 14230 violated First and Fifth Amendment rights.34 A judge initially granted a temporary injunction due to its punitive nature.<sup>35</sup> Numerous amicus briefs were filed by 361 Law Professors, 376 former judges, 518 law firms, 21 litigation firms, 334 solo & small firm lawyers, legal ethics professors, bar associations, the International Academy of Trial Lawyers, former government officials, 23 NGOs, 61 Media Organizations and Press Freedom Advocates, and legal advocacy organizations.36 As of May 2, 2025, the Court granted Perkins Coie's summary judgment motion in its entirety and permanently blocked Exec. Order 14230, explaining that the "instant case presents an unprecedented attack" on foundational principles including an informed, independent judiciary and bar.37 Jenner & Block's lawsuit alleged violations of the First Amendment, violations of the Due Process Clause of the Fifth Amendment, violations of the right to counsel under the Sixth Amendment, and ultra vires presidential action and violation of the separation of powers, on the grounds that the Executive Order impairs the firm's ability to practice law.38 The Court permanently enjoined Exec. Order 14246 from taking effect, deeming it "null and void" and "unlawful because it violates the First Amendment to the United States Constitution".39

WilmerHale's lawsuit similarly alleged that the Executive Order violated at least eleven different constitutional principles, including multiple violations of the First Amendment, an ultra vires Presidential Action, multiple violations

of the Fifth Amendment, violation of the Sixth Amendment, and violation of The Spending Power of the United States Constitution.40 WilmerHale successfully obtained a Temporary Restraining Order on March 28, 2025, and via Memorandum Opinion issued on May 28, 2025, the Court "struck down in its entirety as unconstitutional" Exec. Order 14250.41 By its Complaint, Susman Godfrey argues that the Executive Order targeting it is unconstitutional, retaliatory, and violates the First and Fifth Amendments, as well as separationof-powers principles on the grounds it causes irreparable harm to the firm and its clients by restricting access to federal buildings, suspending security clearances, and interfering with government contracts.42 On April 15, 2025, the Court granted Susman Godfrey's motion for temporary restraining order and as of the date this article was sent to print, Susman Godfrey is awaiting the Court's ruling on its motion for summary judgment seeking a declaration that Exec. Order 14263 is unlawful and that Defendants are permanently enjoined from implementing or enforcing the Order.<sup>43</sup>

There are also several legal efforts to block Executive Orders 14151 and 14173. A coalition of nonprofit organizations filed a lawsuit, National Council of Nonprofits v. Office of Management and Budget arguing that the OMB's memorandum, which directed federal agencies to pause funding activities related to DEI programs, violated the Administrative Procedure Act.44

The plaintiffs in National Council of Nonprofits argue that the federal grants and funding implicated by the OMB memorandum are crucial for the operations and programs of many nonprofits. They claim that even a temporary pause in funding could significantly impact the services provided to communities, potentially depriving them of life-saving services. The lawsuit contends that the OMB's actions were arbitrary and capricious, and that they unlawfully restricted the plaintiffs' constitutional rights.<sup>45</sup> Immediately after the lawsuit was filed,

the OMB directive was rescinded, and the defendants sought dismissal of the lawsuit based on mootness. On February 3, 2025, the district judge issued a TRO prohibiting the defendants from implementing or trying to reinstate the disbursement of funds for open federal funding awards.46 The Court issued a preliminary injunction on February 25, 2025 that used similar language to that contained in the TRO, and Plaintiffs filed a motion to clarify the scope of the preliminary injunction on March 4, 2025, which the Court denied on March 14, 2025; at the time of publication of this Article, litigation remains ongoing.47

Moreover, in National Association of Diversity Officers in Higher Education v. Trump, a Maryland district court granted a preliminary injunction on three specific provisions in Exec. Orders 14151 and 14173 based on vagueness grounds.48 The plaintiffs, who are organizations representing higher education diversity officers, filed a lawsuit arguing that Exec. Orders 14151 and 14173 are unconstitutionally vague under the First Amendment and violate the Commerce clause. As argued by the plaintiffs in briefing, the "private entities around the country have started to censor themselves or face the immediate or imminent loss of federal funds or other enforcement actions" by removing from their websites any mention of "equity" or "DEI." 49 The government, at the time of publication of this Article, is appealing the decision granting the Preliminary Injunction.<sup>50</sup>

#### Impact on our Legal Profession and Community

The banning of DEI programs in our law schools and the threat to our Bar association may affect how law firms approach diversity hiring, mentorship, and retention initiatives. Minority law candidates may feel less inclined to attend law school if they are not provided with a support system through DEI groups on campus or DEI initiatives. But what cannot be denied is that a less diverse legal community will negatively impact our profession. As individuals, we often look to those who have had shared or similar life experiences for advice and counsel. With a less diverse workforce, we may end up reducing our ability to adequately provide legal service to all Idahoans. Minority communities may feel that their unique legal issues cannot be represented or adequately advocated. We must consider these negative consequences as we navigate our response to federal and state regulation.



Christina M. Hesse is a partner at Duke Evett, PLLC, where she specializes in medical and professional malpractice defense and business/commercial litigation. Prior to joining Duke

Evett, Christina worked at firms in Boston and Boise and was the Chief Legal Officer for a Boise-based software-as-a-service startup company. Christina is a Board Member of Idaho Women Lawyers and of the Boys & Girls Clubs of Ada County, and is the Secretary for the U.S. Law Network Medical Practice Group Leadership Team. While not working, Christina enjoys spending time in the great outdoors with her husband and two young sons, watching Carolina Tarheel basketball, and aspiring to return to her days of marathon running.



Emma C. Nowacki is a partner at Duke Evett, *PLLC*, where she specializes in professional malpractice and employment law. She also regularly defends lawyers in ethics complaints

before the Idaho State Bar. Emma has tried several cases to verdict in state and federal court. Prior to joining Duke Evett, Emma worked as a Deputy Attorney General in the Civil Litigation Division of the Office of the Attorney General for the State of Idaho. Emma began her career as a prosecutor in Chicago in the domestic violence division. Emma is a board member of Idaho Association of Defense Counsel and an active member of Idaho Women Lawyers. In her spare time, Emma enjoys reading, trail running, and bike rides with her son and husband.

#### **Endnotes**

- 1. Exec. Order No. 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, 90 Fed. Reg. 8633, 8634-35 (Jan. 21, 2025); Exec. Order No. 14151, Ending Radical and Wasteful Government DEI Programs and Preferencing, 90 Fed. Reg. 8339, 8339 (Jan. 29, 2025).
- 2. Exec. Order No. 14151

- 5. Exec. Order No. 14173.
- 6. See Exec. Order 14151, Exec Order 14173.
- 7. See Exec. Order 14173.

- 10. Exec. Order 14151, §§ 1-2; Exec. Order 14173, §§ 1.
- 11. Memorandum from the Off. of Mgmt. & Budget, Exec. Off. of the President, Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs (Jan. 27, 2025), available at https://perma.cc/69QB-VFG8.
- 12. Id. ¶ 18; see 2 C.F.R. § 200.1. See Nat'l Council of Nonprofits v. OMB, Civil Action No. 25 - 239 (LLA), 2025 U.S. Dist. LEXIS 17662, at \*1-2 (D.D.C. Jan. 28, 2025)
- 14. See Exec Order 14230
- 15. See Press Release, U.S. Equal Emp. Opportunity Comm'n, EEOC Actina Chair Andrea Lucas Sends Letters to 20 Law Firms Requesting Information About DEI (Mar. 13, 2025), available at https://www.eeoc.gov/newsroom/eeoc-acting-chairandrea-lucas-sends-letters-20-law-firms-requestinginformation-about-dei#:~:text=WASHINGTON% 20%E2%80%93%20Today%2C%20U.S.%20Equal% 20Employment,(DEI)%20related%20employment% 20practices
- 16. See Addressing Risks from Susman Godfrey, The White House (Apr. 9, 2025) ("Susman spearheads efforts to weaponize the American legal system and degrade the quality of American elections. Susman also funds groups that engage in dangerous efforts to undermine the effectiveness of the United States military through the injection of political and radical ideology, and it supports efforts to discriminate on the basis of race. Susman itself engages in unlawful discrimination, including discrimination on the basis of race. For example, Susman administers a program where it offers financial awards and employment opportunities only to 'students of color.' My Administration is committed to ending such unlawful discrimination perpetrated in the name of 'diversity, equity, and inclusion' policies and ensuring that Federal benefits support the laws and policies of the United States, including those laws and policies promoting our national security and respecting the democratic process."); Addressing Risks from WilmerHale, § 1, The White House (Mar. 27, 2025) ("WilmerHale engages in obvious partisan representations to achieve political ends. supports efforts to discriminate on the basis of race, furthers the degradation of the quality of American elections, including by supporting efforts designed to enable noncitizens to vote.... WilmerHale is also bent on employing lawyers who weaponize the prosecutorial power to upend the democratic process and distort justice. For example, WilmerHale rewarded Robert Mueller and his colleagues -Aaron Zebley, Mueller's "top aide" and "closest associate," and James Quarles — by welcoming them to the firm after they wielded the power of the Federal Government to lead one of the most partisan investigations in American history. Mueller's investigation epitomizes the weaponization of government...."); Addressing Risks from Jenner & Block, § 1, The White House (Mar. 25, 2025) ("Jenner was 'thrilled' to re-hire the unethical Andrew Weissmann after his time engaging in partisan prosecution as part of Robert Mueller's entirely unjustified investigation. Andrew Weissmann's

career has been rooted in weaponized government and abuse of power, including devastating tens of thousands of American families who worked for the now defunct Arthur Andersen LLP, only to have his unlawfully aggressive prosecution overturned by the Supreme Court. The numerous reports of Weissmann's dishonesty, including pursuit of nonexistent crimes, bribery to foreign nationals, and overt demand that the Federal Government pursue a political agenda against me, is a concerning indictment of Jenner's values and priorities."); Addressing Risks from Paul Weiss, The White House (Mar. 14, 2025); Addressing Risks from Perkins Coie LLP, The White House (Mar. 6, 2025); Suspension of Security Clearances and Evaluation of Government Contracts, The White House (Feb. 25, 2025).

- 18. Idaho State Board of Education, Board Resolution on DEI Ideology in Higher Education (Dec. 2024), available at https://boardofed.idaho.gov/resources/board-resolutionon-dei-ideology-in-higher-education/.
- 19. Idaho State Board of Education, Board Resolution on DEI Ideology in Higher Education (Dec. 2024), available at https://boardofed.idaho.gov/resources/board-resolutionon-dei-ideology-in-higher-education/.
- 20. S. 1123, 68th Leg., 1st Reg. Sess., (Idaho 2005).
- 21. S. 1123, 68th Leg., 1st Reg. Sess., (Idaho 2005).
- 22. American Bar Association, Diversity, Equity, and Inclusion Center available at https://www.americanhar org/groups/diversity/; see also Press Release, American Bar Association, The ABA Rejects Efforts to Undermine the Courts and the Legal Profession (Mar. 3, 2025), available at https://www.americanbar.org/news/abanews/ aba-news-archives/2025/03/aba-rejects-efforts-toundermine-courts-and-legal-profession/.
- 23. See American Bar Association, Diversity, Equity, and Inclusion Center, available at https://www.americanbar.org/ groups/diversity/.
- 24. Idaho State Bar, Diversity Section By-Laws, available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/ https://isb.idaho.gov/wp-content/uploads/By-Laws-DIV-March-2019.pdf.
- 25. IDAHO STATE BAR, Diversity Section, https://isb.idaho. gov/member-services/practice-sections/div/ (last visited
- 26. Michael Dorgan, American Bar Association Votes to Stop Enforcing FDI Standard for Law Schools Fox News (Feb. 22) 2025), https://www.foxnews.com/us/american-bar-association-votes-stop-enforcing-dei-standard-law-schools.
- 27 Press Release American Bar Association The ABA Rejects Efforts to Undermine the Courts and the Legal Profession" (Mar. 3, 2025), available at https://www.americanbar. org/news/abanews/aba-news-archives/2025/03/

- aba-rejects-efforts-to-undermine-courts-and-legalprofession/; Press Release, American Bar Association, Bar organizations' statement in support of the rule of law (Mar. 26, 2025), available at https://www.americanbar. org/news/abanews/aba-news-archives/2025/03/ bar-organizations-statement-in-support-of-rule-of-law/.
- 28. See Susman Godfrey LLP v. Executive Office of the President et al., 1:25-cv-1107 (D.D.C. Apr. 11, 2025); Jenner & Block LLP v. United States DOJ, et al., 1:25-cv-00916 (D.D.C. Mar. 28, 2025); Wilmer Cutler Pickering Hale and Dorr LLP v. United States DOJ et al. 1:25-cv-00916 (D.D.C. Mar. 28 2025); Perkins Coie LLP v. United States DOJ, et al., 2025 U.S. Dist. LEXIS 46423, at \*2-3 (D.D.C. Mar. 12, 2025).
- 29. See Wilmer Cutler Pickering Hale and Dorr LLP v. United States DOJ, et al., 1:25-cv-00916 (D.D.C. May 27, 2025); Jenner & Block LLP v. United States DOJ, et al., 1:25-cv-00916 (D.D.C. May 23, 2025); Susman Godfrey LLP v. Executive Office of the President et al., 2025 U.S. Dist, LEXIS 73780 (D.D.C. Apr. 15, 2025); Perkins Coie LLP v. United States DOJ, et al., 2025 U.S. Dist. LEXIS 46423, at \*2-3 (D.D.C. Mar. 12, 2025).
- 30. David Thomas, Mike Scarcella, & Sara Merken, Trump Settles with Skadden While Two Law Firms Sue Over Executive Orders, REUTERS (2025), available at https://www.msn. com/en-us/news/politics/trump-settles-with-skaddenwhile-two-law-firms-sue-over-executive-orders/ ar-AA1BS4x1?ocid=TobArticle
- 31. See Exec. Order No. 14244, 90 Fed. Reg. 13685 (Mar 26 2025)
- 32. See, e.g., Habiba Cullen-Jafar, Avigail Adcox, Big Law Firms Quietly Update Diversity Language, as Deadline Passes to Disclose Data, LAW.COM (Apr. 16, 2025) ("at least seven firms that received the EEOC's letter — including Debevoise & Plimpton; Ropes & Gray; Sidley Austin; Reed Smith; White & Case; Goodwin Procter; and Morgan, Lewis & Bockius have quietly made changes to their webpages on diversity, equity and inclusion commitments and firm programming. appearing to reduce their risk of an extensive investigation with the EEOC"), available at https://www.law.com/ americanlawyer/2025/04/16/big-law-firms-quietlyupdate-diversity-language-as-deadline-passesto-disclose-data-/: Kristen Parisi, DEltracker: Severallaw firms retreat from DEI following the Trump administration's threats, HR Brew (Apr. 2, 2025) ("Just two weeks ago, for example, 12 of the 15 biggest US law firms by revenue had publicly available information on their websites touting their commitment to DEI. Now, half of those 12 have reversed course in an apparent response to a Mar. 17 letter from the Equal Employment Opportunity Commission's (EEOC) acting chair, Andrea Lucas.... While some of the firms, including A&O Shearman and Hogan Lovells, rebranded their DEI programs, others scrubbed their sites of their diversity messaging."), available at https://www.hr-brew.com/stories/2025/04/02/dei-tracker-

- several-law-firms-retreat-from-dei-following-thetrump-administration-s-threats; Meghan Tribe, DLA Piper Dishands Minority Employee Groups After Trump Probes BLOOMBERG Law (Mar. 19, 2025) ("Americas chair Frank Ryan said Tuesday the firm "will evolve from our previous diversity and inclusion initiatives" and will "discontinue resource groups based on demographic categories, cease participation in certain external surveys, and take other steps to remain compliant with the law."), available at https:// news.bloomberglaw.com/business-and-practice/dla-piper $disbands\hbox{-}minority\hbox{-}employee\hbox{-}groups\hbox{-}after\hbox{-}trump\hbox{-}probes.$
- 33. Idaho Women Lawyers, https://idahowomenlawyers.
- 34. Perkins Coie LLP v. United States DOJ, et al., 2025 U.S. Dist. LEXIS 89439 at \*5-6 (D.D.C. Apr. 25, 2025).
- 35. Perkins Coie LLP v. United States DOJ, et al., 2025 U.S. Dist. LEXIS 46423, at \*2-3 (D.D.C. Mar. 12, 2025).
- 36. See generally Filings & Milestones, Perkins Coie, available at https://www.perkinscoiefacts.com/filings
- 37. Id. (linking to Memorandum Opinion by Judge Beryl A. Howell, May 2, 2025).
- 38. Jenner & Block LLP v. United States DOJ, et al., 1:25-cv-00916 (D.D.C. Mar. 28, 2025).
- 39. Jenner & Block LLP v. United States DOJ, et al., 1:25-cv-00916 (D.D.C. May 23, 2025).
- 40. Wilmer Cutler Pickering Hale and Dorr LLP v. United States DO Let al. 1:25-cv-00916 (D.D.C. Mar. 28, 2025).
- 41. Wilmer Cutler Pickering Hale and Dorr LLP v. United States DOJ, et al., 1:25-cv-00916 (D.D.C. May 27, 2025).
- 42. Susman Godfrey LLP v. Executive of the President, No. 1:25cv-01107 (D.D.C. Apr. 9, 2025).
- 43. Id. at Plaintiff's Motion for Summary Judgment and Declaratory and Permanent Injunctive Relief, filed May 12,
- 44. National Council of Nonprofits v. OMB, Civil Action No. 25 - 239 (LLA), 2025 U.S. Dist. LEXIS 33750, at \*53 (D.D.C. Feb. 25, 2025).

46. National Council of Nonprofits v. OMB, Civil Action No. 25 - 239 (LLA), 2025 U.S. Dist. LEXIS 33750, at \*53 (D.D.C. Feb. 25, 2025).

48. National Ass'n of Diversity Officers in Higher Educ. v. Trump, 2025 U.S. Dist. LEXIS 31747

49. 2025 US Dist Ct. Motions LEXIS 40209

50. See National Ass'n of Diversity Officers in Higher Educ. v. Trump, No. 25-cv-0333-ABA, 2025 U.S. Dist. LEXIS 36956, at \*15 (D. Md. Mar. 3, 2025) (denying Government's motion to stay injunction pending appeal).





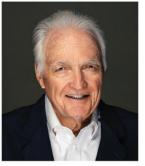
# MEDIATION AND ARBITRATION



Merlyn W. Clark



David W. Knotts



Craig L. Meadows



Marvin M. Smith



Cathy R. Silak

Our ADR attorneys are experienced in a wide variety of subject matter areas and skilled at conducting sessions both in person and remotely. They approach each matter with commitment to reaching a fair and cost-effective resolution.

We can host in person at any of our firm's six offices.





# HON. JOHN R. STEGNER

(RET.)

Signature Resolution has welcomed former Idaho Supreme Court Justice John R. Stegner, with over a quarter century of judicial experience, to our exceptional panel of mediators and arbitrators.



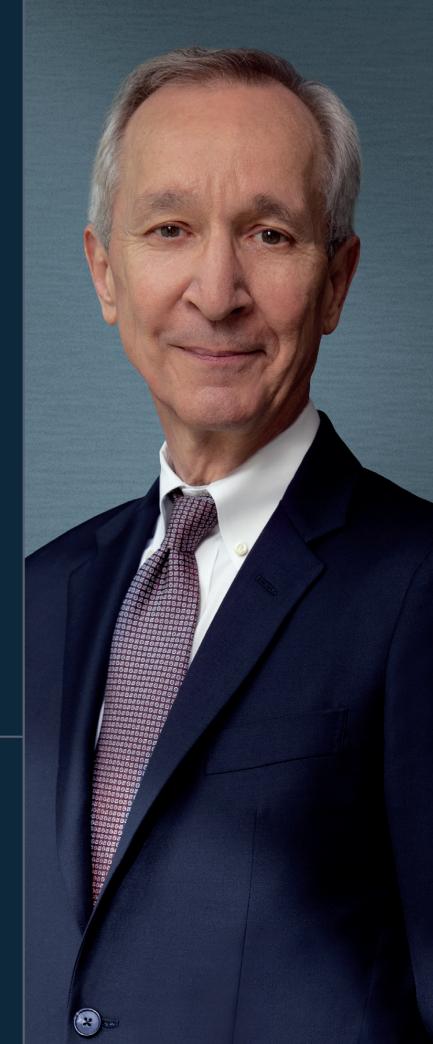
John a. Liegre

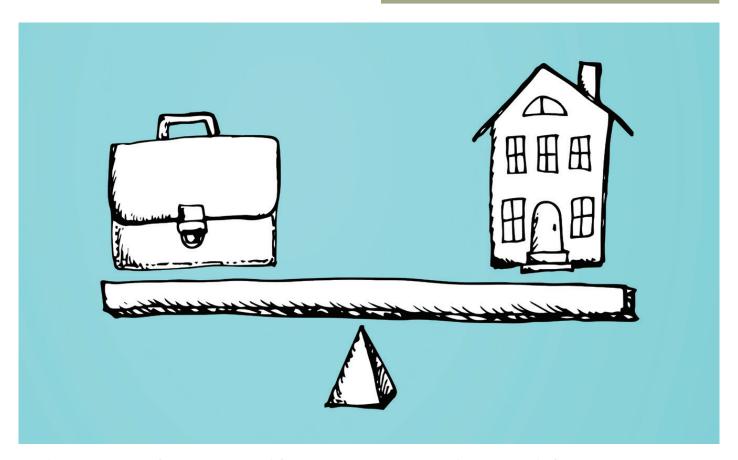
Exclusively at

SIGNATURE

RESOLUTION

SIGNATURERESOLUTION.COM





#### Advocating for Yourself as a Parent in the Workforce

Logan E. Weis-Hurzeler Madison N. Miles

s more young attorneys—especially women—enter the legal profession in Idaho and arrive at the age where they are also thinking of starting a family (biological, adoptive, step, or otherwise), a number of unknowns present themselves. While parenthood isn't right for everyone, it will be the right decision for some of those young lawyers, and those young lawyers will have questions. Questions like, what can parents in the legal community do to effectively advocate for themselves as parents in the workforce? What if you want to take time off? What if you want to keep working? How much parental leave will you get? How will your role as a mom or dad affect your role as an attorney? How do you broach this topic with your employer and when?

It is important to note here that this article will differentiate between mothers and fathers—rather than just 'parents'—at various times, because both biologically and societally, women are often tasked with the lion's share of raising (and, well... growing) a child. In many areas, mothers have special considerations—mothers often have to tell their employers earlier than fathers to address the impact that carrying a child can have on work and often are forced to reveal a pregnancy earlier because of the changes to their bodies.

While this is by no means a comprehensive guide, here are some considerations, from two women who have experienced this (and wish there was a guidebook!). Note: the thoughts and ideas presented in this article are solely the views of its authors, and do not represent the views of their employers.

#### **Everyone's Parenting Journey Looks Different**

To begin this discussion, it's important to note that what works for some may not work for all. Don't automatically assume that just because your colleagues or friends did parenthood one way, you must do it that way too. There are a lot of variables at play: some families have lots of support, some have little, and some are doing this motherhood—or fatherhood thing alone. Some parents, of any gender, have the financial resources and partner support to take an extended time off with baby (or babies)—and some do not.

Some parents have a desire to stay home, and some can't wait to get back to work. Either way, just remember that whatever you choose to do (or have to do) it's OKAY! Whatever you choose, it must be acknowledged that fathers often come from a place of privilege. In our experience, it is never assumed that a father would not want to return to the workforce after having a child. But for many mothers, that is assumed, or at least suspected. Those assumptions can place particular burdens on mothers as they try to chart the correct course for them.

#### **Parental Leave**

What are you entitled to, and how do you know if you qualify? Under the Family and Medical Leave Act ("FMLA"), 28 U.S.C. § 2601 et seq., you are entitled to twelve weeks of *unpaid* leave within a rolling twelve-month period, once per child, for parents who have or adopt a child. But FMLA leave is not a given. First, you must work for a "covered entity" meaning your employer has 50 or more employees. Second, you must have worked for your employer for at least 12 months and have worked at least 1,250 hours for your employer within the twelve months prior to the start of leave.1

When both parents are entitled to FMLA leave, they can do what is sometimes referred to as "leave stacking." This is a benefit that is underutilized and often overlooked. This is an opportunity for each parent to take their leave sequentially, offering additional time prior utilizing other forms of childcare, such as daycare, nanny share, relative care, etc. This can be beneficial for a multitude of reasons, such as allowing the child to grow and develop their immune systems before entering a more formalized care setting.

Separate from the FMLA, many employers have some form of paid parental leave, though not all do. If you are not given paid parental leave, you may still have options. You may have to take unpaid time or use sick or vacation leave in combination with your FMLA. For those attorneys who don't use much of their sick or vacation leave annually, accrued leave can fund a quite reasonable period of paid parental leave. In any situation, we recommend reaching out to your employer's Human Resources ("HR") department, managing partner, supervising attorney, etc. Even when FMLA leave is not available, oftentimes, employers are willing to work with employees to accommodate at least some period of parental leave. Additionally, depending on the benefits offered through your employer, you may have the ability to apply for part-time disability and receive a portion of your salary while on leave.

An additional consideration for anyone that carries a pregnancy is the potential need for leave prior to baby's birth. Some women may have pregnancy-related conditions that require bedrest or other leave from work. If needed, discuss with your employer how this will affect your use of maternity leave and what options you have for remote work and/or leave. Protections for pregnant individuals include the Pregnant Workers Fairness Act, 42 U.S.C. § 2000gg et seq., which applies to private employers and public sector employers (state and local governments) that have 15 or more employees, and provides reasonable accommodations for known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions.

Ultimately, the important takeaway here is that we recommend asking your employer about parental leave policies before you need to use them. If you are not comfortable asking HR or a supervising attorney, for any number of reasons (fear that it may negatively affect your trajectory, not wanting to reveal a pregnancy yet, etc.), we recommend finding someone that you trust within your organization who may be able to guide you discreetly to relevant information. Even if you think you are years out from having kids, it's never too early to educate yourself on your company's policies. Knowledge really is power!

#### Reentering the Workforce

So, you're preparing for your leave. The next question pops up: how soon do you want or need to reenter the workforce?

If you plan to reenter immediately, think about childcare.

If you are returning immediately, or even after a few months of leave, you'll need to think about childcare before the baby arrives. There is a myriad of different childcare options available for new parents, all with their own pros and cons. Some parents choose to hire a nanny or au pair to keep their children at home. This is a great option as your child will receive individualized attention, be in a familiar setting, and you can put parameters on play, food, screens, etc. However, this option is often the most expensive, and it poses the highest risk that your childcare provider suddenly won't be available, leaving you high and dry, so this might not be the best option for everyone. In order to make this option more cost effective, some will opt for a nanny-share situation with other parents they're familiar with.

Some parents may choose to enroll their children in daycare. This is also a great option and provides children with socialization from the get-go. It is often

...we recommend asking your employer about parental leave policies before you need to use them. a fun and educational environment. But prepare for the germs. Speaking from experience, you may miss more work in the beginning because you are home with a sick child (or a sick self), until their (and your) little immune system can catch up. Most parents benefit by making this decision prior to the child's birth so that you can tour the facilities, understand your options, and get on waitlists early—some waitlists can be months long.

Relatives are often the most costeffective form of childcare. You know them, and you trust them. Your kids are familiar with them. We love this! However, this isn't a viable option for all. Some people don't have relatives available to help for a number of reasons. And, as with a nanny, putting all your eggs in a one-person childcare basket can be risky if a relative suddenly isn't available due to illness or otherwise.

Finally, don't feel compelled to fit in only one box: you may have a nanny-share Monday through Wednesday and grandparents on Thursday and Friday. Get creative on what works for your family—from a financial and comfort level. Ultimately, you need to do whatever is best for you and your child(ren). That looks different for everyone!

Have a plan for feeding your child.

Will you breastfeed, bottle feed, pump, or formula feed? Will you do a combination of all four? It is worth giving some thought to how you will be able to execute each of these choices before you return to work. Each method has pros and cons.

Under the Providing Urgent Maternal Protections for Nursing Mothers Act ("PUMP Act"), for one year after a child's birth, covered employees may take reasonable break time "each time such employee has need to express the milk," meaning an employer must provide covered employees needed breaks, and a private space, to pump.<sup>2</sup> In order to qualify as a "covered employee," you must work for a qualifying employer with 50 plus employees.<sup>3</sup> These breaks also apply to teleworking employees.

Direct-from-breast feeding is, for many, the most convenient method of feeding. You aren't cleaning bottles, which (as you'll Flexibility looks different for every parent in the workforce. It is important to communicate with your management or supervisor your ideas for flexibility.

likely learn quickly) is the bane of most parents' existence. However, exclusively breastfed babies can't be away from mom for long periods of time, which can make return-to-work difficult. Some may not be comfortable disrobing in a public place, as may be necessary. Additionally, this option isn't available to all, as some babies struggle to latch, or mom is on a medication that precludes breastfeeding, etc.

Many parents opt for a combo of breast and bottle feeding. Some mothers aren't recommended to feed directly from the breast due to preemie babies and weight concerns, so they may be pumping and mixing in formula as needed. You may go in with one plan and find that it doesn't work out the way you wanted. Parenthood is about adjusting to the needs of your child(ren) and finding what works for you as a family unit.

Formula-fed and pump-fed babies can be away from mom for longer periods of time, which gives many mothers back the ability to work full days. Formula feeding requires planning ahead—packing bottles and formula wherever your child goes. And pumping is an undertaking. There is a lot of planning and equipment involved. I have distinct memories of studying for my 3L White Collar Crime final in my school's nursing room, memorizing the elements of embezzlement while hooked up to a breast

pump. It will be important to discuss pumping accommodations with your employer before you need them. Will you have a fridge to store breast milk in? Will the nursing mothers' room be locked? How often are my pump breaks? All important questions to ask. It is also important to do your own research and understand your rights under the FLSA and the PUMP Act. Seriously, (you'll get tired of me saying this by the end of this article, but . . .) knowledge is power!

It is important to have a discussion with your partner (if you have one) about division of labor related to feeding. Who takes nighttime feeding? Will you wake in shifts? Maybe one of you takes 9 p.m. to 2 a.m., and the other takes 2 a.m. to 7 a.m., to allow for some periods of sleep. This may again take some coordination, depending on how your child is being fed. Figuring out a way to get SOME sleep can be essential to a successful return to work.

If you plan to take an extended leave, think about your reentry strategy.

If you are going to take an extended leave from the workforce, what is your plan to re-enter? If you are able and would like to take extended leave to stay home with your child(ren), there are things that you can do while on leave to help ease the transition back into the workforce. Primarily, this will

consist of networking. This will keep your references up-to-date, and you may even meet other working moms.

Having a larger network will ease the transition back into the workforce. Seriously, go get the coffee. (Shameless plug here) Attend an IWL networking event,4 you'll be glad you did! If you have a good relationship with your employer, ask about the possibility of contract work. Even just a few hours a week can keep your references fresh, avoid a significant resume gap, and bring in a little extra income. You might even find that a few hours away from baby exercising your lawyer brain is just what you need to stay sane.

#### Think About What Type of Job **Best Fits Your Lifestyle**

Every type of job has pros and cons. Think about what type of job best fits your lifestyle. Some parents prefer to be fully in office. I have heard many parents say that they are able to be more mentally present for their children if their workspace is completely separate from their parenting space. However, fully in-office jobs do tend to have the least flexibility.

Alternatively, some parents prefer to be fully remote. This generally provides the most flexibility for parents. You are able to be there for your child(ren) if they need you, which often occurs with minimal warning. However, it can be isolating and difficult to separate work life from home life (you're more likely to respond to that late-night email if your office is *right* there.)

Some parents in the workforce prefer a hybrid working model. You're working in office, but you can be flexible and work from home if needed, or even have set work-from-home days. For a lot of working families, this is a great middle ground. However, not all employers permit this, and many jobs require you to be physically in person. In any case, be aware when exploring the possibility of remote or hybrid work that some employers will not be happy if they find out that you don't have separate childcare while you are working from home.

#### **Questions to Ask Your Employer**

Depending on your relationship with your supervisor and/or your company's HR Department, it would be beneficial to bring these questions up before you are expecting (or preparing in other ways for a child). Ask the hypotheticals—how much parental leave do our employees get? What happens if they have a sick kid? Is telework permitted? Can I adjust my work schedule or add in other forms of flexibility, and how will that affect my pay structure? If you are not comfortable asking the question, do your own research. Ask colleagues who have been through it. Read your company's policies on parental leave and/or pumping, on sick leave, and on hybrid work.

Additionally, you're in the legal field, so do what you do best! Read the acts, and review the case law. Read about the Fair Labor Standards Act ("FLSA"), the Pregnant Workers Protection Act, and the PUMP Act. I bet you already know what I'm going to say here—knowledge is power!

#### **Determine What Flexibility** Means to You

Really take the time to think about what flexibility means to you. Getting into the office a little later in order to drop kids off? Being permitted to set telework days? Telework flexibility if you unexpectedly have a sick kid? Dropping down in your billable hours? Flexibility looks different for every parent in the workforce. It is important to communicate with your management or supervisor your ideas for flexibility. Some employers will be very flexible, and others may not. You need to make a determination on priorities. Many higher paying jobs are more demanding with less flexibility, while more flexible jobs may come with lower pay rates. This applies both in the private sector and the public sector. You need to do what works best for you and your child. That will look different for every parent in the workforce.

#### Have a Contingency Plan

So, you've returned to work, and it's the first day of the trial that you've been prepping for since last November, and your child is sick with a fever of 103 degrees what do you do? Think through scenarios like this so that you have a contingency plan. Do you have someone you can call on short notice to cover for you, or to take care of your child? This may be a coworker who can step in, or an aunt or uncle who can watch your child on short notice. There have been a number of times that I have called a coworker (and trusted friend, Tracy) to pick my child up from school when I was stuck in court, or times that I have worked in my office with the door shut and my sick child asleep on my office couch.

#### How Do You Balance It All?

A lot of this may sound overwhelming. And oftentimes it can be. Working full time while parenting (also a full-time job!) can get tough. But planning ahead can make it easier. That's why it is best to think about these things before you end up in the throes of parenthood. Come up with a plan. Your plan will adjust and change as your life changes, along with your priorities. Ultimately every parent in the workforce will have a different journey. The question is how to strike a balance best fits work into the mix for you. Just remember, balancing work and parenthood might be difficult, but there are so many parents both in the thick of it and empty nesters in our community to support you.



Logan Weis-Hurzeler is a Deputy Prosecuting Attorney for Ada County, in the Civil Division. She's a graduate of the University of Richmond School of Law and was a visiting student at the University

of Idaho College of Law. She's the proud mom to an awesome tweenager and winged it at single parenthood during her early career (okay, still winging it). She's currently the vice chair of the Idaho State Bar Government and Public Sector Lawyers Section and on the IWL Lunch & Learn Committee. When she's not frantically running her child to various after-school activities, she can be found birding, knitting, or reading.



Madison Miles is a mother, wife, and attorney at Gjording Fouser Hall, PLLC. Madison is a dedicated legal professional and passionate advocate for mothers in

the workforce. With over 12 years of experience, Madison has consistently strived to create a more equitable and supportive environment for women balancing career and family. As a mother herself, she brings a unique perspective and deep understanding of the challenges faced by working mothers. Through this article, Madison aims to empower women to advocate for themselves and achieve their professional goals without compromising their personal aspirations.

#### **Endnotes**

- 1. 28 U.S.C. § 2611(2)
- 2. 29 U.S.C. § 218d(a).
- 3. 29 U.S.C. § 218d(c).
- 4. https://idahowomenlawyers.com/event-calendar/.

#### The Idaho State Bar has job postings on its website. Searching & posting is free and easy.

Visit isb.idaho.gov to find your next opportunity or your next candidate!





Winston 🍣 Cashatt

Winston & Cashatt, Lawyers is looking for lawyers with three plus years of experience that want to develop their skills and practice in a collaborative team environment. Lawyers that strive for professional excellence and desire to become our next partners should apply.

Compensation will be dependent on experience and qualifications; for qualified candidates, compensation is expected to range between \$80,000-\$115,000, with performance and discretionary bonuses, and a contribution of up to 15% of your compensation to a 401(k)-profit sharing plan (without matching contributions). Other benefits include paid medical insurance for attorney and all qualifying family; life, long-term disability and long-term care insurance; parking; cell phone allowance; and bar and professional dues.

If you are interested, please submit a cover letter and resume to jobs@winstoncashatt.com.

#### winstoncashatt.com



# IN-OFFICE • VIRTUAL • TRAVEL-TO-YOU ARBITRATION & MEDIATION EXPERTS

208.765.6000 www.RiversEdgeMediation.com



#### The Fight for Civil Rights in Idaho: Women's Edition

Jenna L. Furman Abigael Schulz

#### History of Women in the Civil Rights Movement in Idaho

Idaho's history is filled with major civil rights victories, including the amendment to its Constitution providing women the right to vote in 18961—years before the 19th Amendment to the U.S. Constitution was passed—and the 1961 civil rights bill outlawing the Ku Klux Klan from wearing masks in public was also passed.2 A year before women had the right to vote in Idaho, Helen L. ("Nellie") Nichols Young was granted admission to the bar by the Idaho Supreme Court during a time when Idaho statutes limited the admission of attorneys in Idaho to "white males."3 Women have been at the forefront of Idaho civil rights legislation since the territory became a state. The accomplishments women have fought for will never be forgotten and have propelled the current civil rights leaders to where they are today.

#### The Current Women Lawyers Involved in Civil Rights in Idaho

The following women have dedicated their careers to advocating for civil rights for Idahoans at their law firms. These firms include Disability Rights Idaho,4 which provides free civil legal and advocacy services to Idaho citizens with disabilities, Idaho Legal Aid Services,5 which provides free civil legal services for low-income and senior Idahoans, and the Intermountain Fair Housing Council, whose mission is to ensure open and inclusive housing for all persons.6

#### Amy Cunningham, Executive Director of Disability Rights Idaho



Amy has been with Disability Rights Idaho ("DRI") since 1996, first serving as staff attorney before transitioning to Legal Director and then being appointed Execu-

tive Director in October 2020.

What made you pursue public service?

I began my legal career as a public defender where I learned the majority of my clients experienced some sort of a disability. Upon moving to Idaho, I pursued an opening at Disability Rights Idaho where I could combine my work as a public defender and my personal experience of growing up in a home with a brother who experienced chronic persistent mental illness.

There were many times when my family could not help my brother and had to rely on others to provide that assistance. Working at DRI has allowed me the opportunity to pay back those who helped my family and pay forward by helping others with disabilities.

What has been the biggest highlight of your career?

The biggest highlight of my career was when my team worked to make large systemic changes to help Idahoans with developmental disabilities, with mental

illness, and deaf individuals in the prison. My team and I conducted an abuse and neglect investigation at the Southwest Idaho Treatment Center, issued a public report on our findings, hired an expert to monitor the facility, and made recommendations to the administrator and the Idaho Department of Health and Welfare.

This investigation ultimately led to a restructuring of the adult developmental disability crisis system,7 which is still a work in progress. The process has involved an introduction to the START model in Idaho, which builds crisis support in the community to reduce the need for crisis support in institutions.8 My team also initiated a licensing rule change, requiring all psychiatric hospitals to follow Medicaid regulations on the use of restraint and seclusion. And finally, my team sued the Idaho Department of Correction to provide video remote interpreting for deaf inmates.

What has been the biggest challenge in your line of work?

My biggest challenge has been the recurrence of previously litigated or settled issues.

What do you want your legacy to be?

I would encourage all lawyers to consider practicing in public service for at least some part of their career. Idaho needs attorneys to represent people who do not have a voice. While the practice can be frustrating, it is also immensely rewarding.

What is one piece of advice for future generations pursuing a similar career?

Do not let the work consume you. People do not call DRI because good things are happening. This can be overwhelming, but it is also why public service attorneys are needed. While you can become overwhelmed by the calls or reading and learning about the injustice the clients are experiencing, it is important to find the work-life balance. You need to make sure you take care of yourself, or you will not be able to take care of your clients.

Sunrise Ayers, Executive Director of Idaho Legal Aid Services, Inc.



Sunrise Ayers is the Executive Director of Idaho Legal Aid Services ("ILAS"), where she has worked for over 18 years. She is a graduate of Northwestern School of Law of Lewis

and Clark College and the College of Idaho. She resides in Boise with her husband, two boys, a cat, and two dogs. Sunrise is the 2024 recipient of the Bertha Stull Green Award presented by Idaho Women Lawyers for her demonstrated commitment to her community and public service.

What made you pursue public service?

I grew up in a very low-income family; my mom was a waitress and my dad was a logger, so we were just scraping by when I was younger. There were times when we were relying on food stamps and donations from our community to meet our basic needs. So, I felt really lucky that, thanks to the great public schools I attended, and having parents who cared about education, I was able to go to college and then to law school.

It felt so improbable that I would ever get to be in that position, so I knew I wanted to use my education to give back in some way. When I saw the job opening at Idaho Legal Aid to work with seniors, I thought that sounded really interesting. I had no background with elder law and hadn't taken any elder law classes in law school, but I applied for the job and I loved it from the beginning. I realized within the first few years of being at ILAS that working in poverty law could be a passion and lifelong career for me.

What has been the biggest highlight of vour career?

It's hard to pick one highlight from my career but I'll try. I really enjoyed doing the guardianship cases for developmentally disabled adults and minors because a lot of times with these cases, at the beginning, you would encounter a person at risk and there was a lot of chaos and uncertainty in their life, but by the end of the case you feel like you've set someone up with certainty, security, and a clearer pathway forward. On the casework side of things, that's a highlight.

A highlight for me on the administrative side of my career, comes from when the pandemic was first hitting Idaho. I had to build from scratch an infectious disease policy, a telecommuting policy, and a new service delivery model, so that our staff would be able to continue helping our clients. It was really challenging, because you're nervous that you're not getting it right, and there was no guidance at first. I'm really proud of the fact that we were able to keep services going during the pandemic and keep helping clients during a time of a lot of uncertainty.

What has been the biggest challenge in your line of work?

The biggest challenge came recently with the change in my position from Deputy Director to Executive Director. We were coming out of a period of growth at ILAS where we had received a lot of federal funding over the years, but a lot of that funding went away in 2025.

So, the biggest challenge has been having to adapt quickly and analyze some complex questions in a short timeframe. How do we diversify our funding? How do we adapt our services based on changes in federal grants? And another challenge is assessing how funding concerns affect staff morale statewide—because there is so much uncertainty for me and for staff.

That has been really difficult because all of our staff are wonderful and I feel like they shouldn't have to worry about the federal funding cuts and, in an ideal world, should be able to keep their focus solely on the really difficult work they are doing for our clients every day. I am still navigating how to keep staff really well-informed without burdening them with worry.

What do you want your legacy to be?

I would love for my legacy to be, that by the time I leave ILAS, it's a place that is able to recruit and keep some of the most talented attorneys, support staff, and outreach workers in the state. That I was able to make that happen through both the quality of the workplace experience and by ensuring the staff and the community clearly see the impact of our work. That combination of meaningful work and an appealing workplace—that is what I would be happy to see as my legacy. If we can create that environment, it will improve our services to clients and broaden ILAS's positive impact across the state.

What is one piece of advice for future generations pursuing a similar career?

I feel like what has helped me the most in doing such a demanding job—that also doesn't have the same salary as something in the private sector—is that I was intentional about creating ease and contentment in my personal life. My piece of advice would be to center contentment in your life over the constant need to strive for more or compare yourself to others. To have that lower stress level and lower sense of hustle outside of work has allowed me the energy I need to be able to manage a high-demand work environment really well.

#### Zoe Ann Olson, Executive Director of **Intermountain Fair Housing Council**



Zoe Ann Olson is the Executive Director of the Intermountain Fair Housing Council, Inc. ("IFHC") and has been there for 13 years. In 2022, she was the recipi-

ent of the Idaho Woman Lawyers' Bertha Stull Green Public Service Lawyer Award and the Inns of Court Unsung Hero Award. She has represented numerous complainants in fair housing complaints to the United States Department of Housing and Urban Development and in eviction prevention and housing cases.

What made you pursue public service?

My dad and my sister are lawyers so that probably had something to do with it. I graduated from the University of Washington, and I wanted to be a teacher, but there were some things that were happening that made me feel that children were not being treated justly within our systems. I went to Seattle University for law school, to focus on public service law. When I got a public interest grant from my law school, I was able to go to Idaho Legal Aid Services and work there for a summer, and I really loved it. I decided that was what I really wanted to do.

After law school, at ILAS, I fell in love with housing law. At the time, IFHC was in the same building as ILAS, so we collaborated a lot. When the job opened up to be the director at IFHC, I just knew that it was what I wanted to do—to continue to do the work that we do around the state and in the community and do what I love every day.

What has been the biggest highlight of your career?

I think when I started at IFHC, we had three full-time and two part-time employees. We grew the organization during the pandemic, which was really, really hard, and at that time we had a staff of 30 helping with eviction prevention, rental assistance, and doing fair housing work.

Some highlights include: getting over \$1 million in rent to people; handling some systemic eviction issues dealing with ADA, FHA, and Olmstead violations and removing barriers for people with disabilities to access housing; working with the NAACP, the Idaho Organization of Resource Councils, College of Idaho, realtors, Senator Wintrow, county clerks, and others to create a law to remove racial covenants from deeds without cost to homeowners, eliminating racial barriers to the creation of generational wealth; and keeping people housed for over two years in northern Idaho where a mobile home park owner was engaging in mass evictions so that affordable, unsubsidized housing for people that was maintained.

Build a work environment that works for you and your colleagues. I could bring my kids to work when they were younger at ILAS and IFHC. At IFHC, this includes being able to work remotely, having flexible hours, and a shorter workweek, generous leave policies, including elder and pet leave policies.

I ultimately think to myself: "What kind of world do I want to live in?" and try to make that happen so that people are treating people better. I also love when we have college and law students because we learn new things by engaging the next generation in our work.

What has been the biggest challenge in your line of work?

I think funding for this line of work is a huge challenge all the time, and we should just always have housing protections in place and security for our community members, but I think always trying to write grants, litigate cases, and worrying about how to get more funding to support our wonderful clients and work families and coworkers is difficult. Also, balancing family and work life while navigating community, clients, and staff where people do not always get along with everyone is always challenging.

Not everyone is going to love the way you resolve conflicts or make choices and you have to work hard to navigate those issues. I just think the importance of justice and civil rights are who we are as a country, and we should always be striving for a better world and that's why we're here. If you're creating justice, people are fed, have housing, have good healthcare, and access to all the things that make us thrive.

What do you want your legacy to be?

I want to leave my organization and the community better off than it was before me and my work. I would love to put myself out of a job by ending discrimination in housing. I look to the next generation to continue this work—we work with undergraduate and graduate students and I feel like they will move the fair housing movement forward.

You leave something better than you found it and have a group of people to carry on the work after you leave so that it outlasts us and continues to give to the community.

It's more than me—it's creating a community of civil rights and justice, and I am truly grateful to be a part of that.

What is one piece of advice for future generations pursuing a similar career?

Don't do it the hard way—I hope that we all can be really good mentors to those that want to do this kind of work and understand that each person is an expert in their own lived experience. Connect them with people you know who do something similar-what can I do to make it easier for them to learn the law and who knows more than I do? All the resources you have, you should use.

Every clinic and experience—ask, "Is this right for me?" Try everything—small and large firms, nonprofit and private practice—think, "What do I love?" I think it's necessary to seek out mentors along the way and I really recommend that for a young or new attorney to both learn and network. How can I be a good learner and listener and also a good mentor? Find a good mentor or group—it's just so important as a public interest lawyer to have a network or village of people to help you create the community you want to create and go where you want to go.

#### Conclusion

These women have shaped civil rights law for Idahoans and continue to make an impact to this day. As reflected in these interviews, there is still work to be done in this area of law. All of us in the Idaho legal profession can follow these women's example and fight for the civil rights of all Idahoans.



Ienna L. Furman is the Deputy Director of Idaho Legal Aid Services. She is a member of the Board of Directors for Idaho Women Lawyers and serves on The Advocate's

Editorial Advisory Board. She was formerly licensed as an attorney in Michigan and has been a licensed attorney in Idaho since 2020.



Abbey Schulz is a staff attorney at Disability Rights Idaho. Abbey has been an advocate for the disabled community since her younger brother, Sam, was diagnosed with

Autism. She worked at both the Indiana and Illinois Protection & Advocacy agencies before moving to Idaho. Beyond work, Abbey loves traveling with her husband.

#### **Endnotes**

- 1. Idaho State Historical Society. Women's Suffrage in Idaho, Women's Suffrage in Idaho | Idaho State Historical Society (last visited Jan. 15, 2025).
- 2. Fields, Kim, Local civil rights leader: People often forget Idaho's progressive history, KTVB7, April 4, 2018, Local civil rights leader: People often forget Idaho's progressive history ktvb.com.
- 3. Idaho Legal History Society, Idaho's First Woman Lawyer Practiced Law Before She Could Vote, Volume II, Issue 1. Jan. 2010. ILHS Newsletter 3.
- 4. Disability Rights Idaho, What We Do, What We Do | Disability Rights Idaho (last visited March 7, 2025).
- 5. Idaho Legal Aid Services, Inc., About Us, About Us Idaho Legal Aid Services, Inc. (last visited March 7, 2025).
- 6. Intermountain Fair Housing Council, Home, Housing Resources | Housing Discrimination | Tenant Rights (last visited March 7 2025)
- 7. A copy of the public report from this investigation can be found at Disability Rights Idaho, 2018 DRI Public Report on SWITC Investigation, Reports Archives -Disability Rights Idaho (last visited April 28, 2025).
- 8. University of New Hampshire, Institute on Disability, National Center for START Services, National Center for START Services® | Institute on Disability (last visited April 28 2025)

#### **Becky Anderson Mediation Services**

Knows People.

Knows the Law. **Delivers Solutions.** 

- Top-Rated by Martindale-Hubbell in Dispute Resolution
- · 30+ years' experience as transactional and dispute resolution lawyer
- Highly successful track record resolving disputes







#### Idaho State Bar 100th & Idaho Law Foundation 50th Anniversary Celebration and Gala

Wednesday, July 16th
Jack's Urban Meeting Place - Boise
All Times Mountain

12:00 p.m.

## Idaho Law Foundation Annual Meeting & Luncheon

Service Awards & Section of the Year Award
Tickets: \$50

1:30 p.m.

#### **Idaho Legal History CLE Series**

- Crimes of the Last Century: Idaho's Most Famous Trials
  - A March Through Idaho's Most Famous Appeals

Individual CLE: \$75 | Series Bundle: \$100

5:30 p.m.

**Speakeasy Social Hour** 

6:30 p.m.

Gala Dinner & Tents to Towers Book Launch

Stories of Idaho's Legal History presented by Hon. Debora K. Grasham

2025 Distinguished Lawyer Awards and Outstanding Young Lawyer Award

Tickets: \$150 | 1920s Cocktail Attire Encouraged



# Celebrate with us!

Order "Idaho Law, in the Beginning" by Dan Looney



Note: Print will not include watermark logo.

Order the long-awaited *Tents to Towers* book!





Registration, Tickets, and Wore!

isb.idaho.gov/anniversary/



# **Urgent Change Is Needed for Women in the Criminal Justice System**

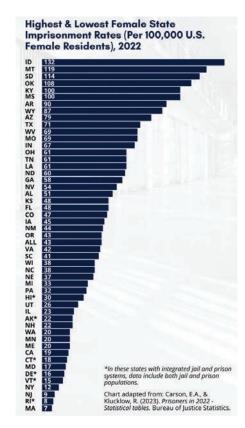
Erica L. Marshall

It was a warm spring day in May, and the sun was pouring in through the windows of a cozy living room in Boise. The walls were fresh white, contrasted by a hunter-green carpeting that lined the floor. I sank into a plush beige couch adorned with floral-print throw pillows. A plate of tacos and tortilla chips, chosen as the dinner option to celebrate Cinco de Mayo, rested on my lap. A large group of women filtered into the room with their own plates, rearranging sofa chairs and other furniture into a circle. We began to converse over our meal, sharing stories, laughs, hopes, concerns, and goals for ourselves and our families.

But soon, the conversation took on a more serious tone. We weren't just in any living room; we were in the living room of a transitional living facility for women coming out of incarceration. Many of the women were in recovery after battling substance use disorder for years and had recently been in either jail or prison. Some had lost custody of their children along the way, and some were working with the child welfare system to regain it.

The women shared stories about their difficulty finding jobs with a decent wage, making monthly payments to probation while also paying off huge bills to the courts, working cases to try to get their kids back where what Idaho Department of Health and Welfare representatives wanted to see contradicted with what their probation officer wanted, their struggles with recovery and sobriety through the years, difficulty getting access to care and medications, and how they were trying to stay optimistic but felt that they continued to encounter one hurdle after the next.

Unfortunately, the women in this room are not alone. Since 2019, Idaho has had the highest rate of incarceration for women in the nation. While there were just 25 women in prison in Idaho



in 1980,2 by 2022, that number had risen to 1,296 women—an increase of more than 5,000 percent during a period where Idaho's population had only doubled.3 Idaho's incarceration rate for women is so high that the state would need to reduce the number of women in prison by 63 percent-or nearly 800 fewer women in prison at any given time—just to be at the national average.4 These numbers don't account for the hundreds of women in local jails on any given day or the thousands of women on probation or parole.

#### **Pathways to Incarceration**

While each woman and her story are unique, studies show that the pathway to the justice system for women often involves experiences with trauma, abuse, and physical or sexual violence. Among women in jail, 86 percent reported that they experienced sexual assault and 77 percent experienced domestic violence in their past.5 In one study of women in prison in Idaho, 64 percent reported experiencing sexual abuse before the age of 14.6 This victimization is often a predictor for depression, post-traumatic stress disorder ("PTSD"), and substance use that often leads to incarceration for many women, particularly in rural counties where there are limited resources to help women cope with these experiences.<sup>7</sup> One study of women in jail found that 43 percent had a mental illness,8 82 percent had a substance use disorder,9 and 53 percent met the criteria for PTSD.10

#### **Understanding the Data**

Idaho has one of the lowest violent crime rates in the country and, according to data from the Idaho Office of Drug Policy, there is no evidence that women in Idaho use drugs more often than women in other states. So, what is causing Idaho to be the leading incarcerator of women in the nation?

Last year, the Idaho Justice Project set out to answer this question. We analyzed data from the Idaho Department of Correction about the women who were in prison on Dec. 31, 2021, and reviewed data

gathered by researchers at the University of Idaho working with women in Idaho jails and prisons. We found that the answer lies in how Idaho is handling substance use disorder and mental health challenges for women.

First, according to data from the Federal Bureau of Investigation, Idaho arrests more people per capita for drug crimes than 80 percent of the other states. Idaho State Police data shows that more and more women are entering the system each year following an arrest for a drug crime.11 In 2005, a total of 2,063 women were arrested for a drug crime, representing 25 percent of drug arrests.12 By 2023, data shows that 4,226 women were arrested for drug crimes that year, representing 32.5 percent of drug arrests.13 If you think of the justice system as a funnel starting with arrest and ending with incarceration, right from the outset, more women are entering the justice system in Idaho for drug arrests compared to women in other states.

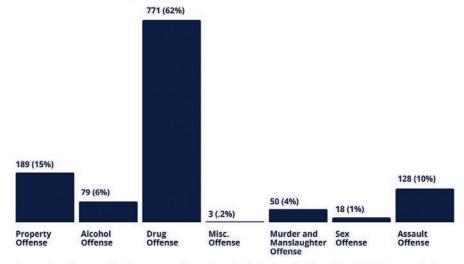
Second, the majority of women—62 percent in prison in Idaho on December 31, 2021—were incarcerated with their most serious crime categorized as a drug offense.14 Only 16 percent of those women were in prison for a violent crime. Nationally, in 2021, only 24.6 percent of the women in prison were incarcerated for a drug offense, making Idaho a THE AVERAGE SENTENCE LENGTH SERVED NATIONALLY FOR A POSSESSION CHARGE IS 13 MONTHS. IN IDAHO, THE AVERAGE SENTENCE LENGTH SERVED FOR A POSSESSION CHARGE IS 22 MONTHS.

severe outlier.15 Further, women in Idaho serve almost twice as long on average (22 months) for a possession charge compared to the national average sentence for a possession charge (13 months).16

The interventions that women are receiving in the justice system today are not working. Over 60 percent of the women in prison on Dec. 31, 2021, were there following some failure on community supervision, meaning they had been on probation or parole and were returned to incarceration. The pathway to recovery is rarely straight, and many women find themselves in the revolving door of the justice system for years. This incarceration only adds to the trauma and life disruptions that these often already vulnerable women must endure.

This has serious ramifications not just for Idaho women, but for their families as well. Recent data from the University of Idaho shows that over 80 percent of women in Idaho jails and prisons are mothers.<sup>17</sup>

#### Offenses for Which Women Are Incarcerated (Out of 100% Percent of Inmate Population)



Source: Sean Falconer, Idaho Department of Corrections Population Snapshot December 31, 2021 Data Analysis (October 2023)

Recent data from the University of Idaho shows that over 80 percent of women in Idaho jails and prisons are mothers.

In roughly 67 percent of those cases, the children were living with their mother immediately prior to her arrest.<sup>18</sup> A child whose parent is incarcerated is three times more likely to end up incarcerated in their life compared to peers without a parent in prison,<sup>19</sup> meaning that incarceration can impact a family for generations.

#### Opportunities for a New Path Forward

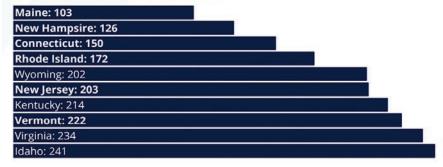
In a report released earlier this year, Idaho Justice Project called on lawmakers and leaders running the criminal justice system to focus on improving outcomes for women in the justice system and their children-and to take action to end Idaho's status as the lead incarcerator of women in the nation. Idaho can either keep locking up women at a cost of over \$27,000 per year, or it can invest in recovery solutions, job and education programs, and mental health care to help justice-involved women and their children succeed. In the countless conversations I've been privileged to have, like the ones referenced earlier in this article, this is what so many women are hopeful for—a system that gives them a hand up and helps them recover and empowers them—rather than one that judges them and holds them back for a lifetime.

There are a number of policy solutions that have been implemented in other

states that could safely reduce the number of women in prison while positively impacting public safety. In fact, as we discuss in the report, many of the states that, like Idaho, enjoy the lowest crime rates in the nation, actually also have some of the lowest incarceration rates for women. Idaho, too, can make changes to improve outcomes for women and their families while prioritizing public safety.

First, Idaho providers have been unable to keep up with the demand for recovery and treatment services in the community. Idaho ranks number 45 of 50 for mental health care in the nation.<sup>20</sup> And it remains difficult for low-income women on Medicaid to get the in-patient recovery services they need—especially if they have children. Allocating more resources to recovery in the community could help prevent crime in the first place. Second, Idaho should create more programs focused on deflecting and diverting women out of the justice system entirely where possible. Kootenai and Canyon Counties recently launched pilot programs focused on diverting people with substance use disorder out of the system, which is a promising start, but more programming is needed

In 2022, the states with the lowest rates of violent crime, per capita, were (violent crimes per 100,000): 135



Five of these states—Rhode Island, New Jersey, Vermont, Maine, and Connecticut—also had the least women in prison per capita.

## The states with the lowest rate of incarceration for women in 2022 were (incarcerated women per 100,000 women): 136



...this is what so many women are hopeful for—a system that gives them a hand up and helps them recover and empowers them—rather than one that judges them and holds them back for a lifetime.

across the state. States such as Hawaii and Oklahoma have implemented diversion programs focused specifically on women to address the unique needs that drive women to the system with promising results.

Third, Idaho should increase resources and expand eligibility criteria for drug courts and mental health courts to serve more people. Fourth, counties should expand policies to offer Medication-Assisted Treatment Medication for Opioid Use Disorder) to individuals in jail and partner with community health providers so that a person can continue to access a prescription for these medications after release. Fifth and finally, Idaho should implement genderresponsive programming and treatment for those already in the system and prioritize reentry programs that consider the unique needs of women upon release.

Idaho is facing a decision point. The overincarceration of women isn't making us safer. But it is destabilizing families and using millions of dollars in resources that could be better spent on communitybased treatment for trauma, mental health, and substance use disorders to prevent crime in the first place and allow women to thrive. As Idaho's public defense system struggles to keep up with the demand, there seems no better time than now to try something new. For the thousands of women in the justice system, this need for change is urgent.



Erica L. Marshall is the President of the Board of Directors of the Idaho Justice Project where she uses her background as a policy attorney to work to improve outcomes for justice-im-

pacted individuals and to end Idaho's status as the lead incarcerator of women in the US.

#### **Endnotes**

- 1. E. Ann Carson, Bureau of Justice Statistics, NCJ 307149. Prisoners in 2022—Statistical Tables, Table 7, Nov. 2023 (Oct. 2024); E. Ann Carson, Bureau of Justice Statistics, NCJ 255115, Prisoners in 2019, Table 2 (Oct. 2020).
- 2. Bureau of Justice Statistics, NCJ 805520, Prisoners in State and Federal Institutions on December 31, 1980, p. 15 (Mar. 1982).
- 3. E. Ann Carson, Bureau of Justice Statistics, NCJ 307149, Prisoners in 2022—Statistical Tables, Table 2, Nov. 2023 (Oct. 2024).

- 4. Calculated using data from E. Ann Carson, Bureau of Justice Statistics, NCJ 307149, Prisoners in 2022— Statistical Tables, Table 7, Nov. 2023 (Oct. 2024).
- 5. Elizabeth Swavola, Kristine Riley, Ram Subramanian, Vera Institute of Justice. Overlooked: Women and Jails in an Era of Reform, p. 11 (Aug. 2016); Shannon Lynch, Dana DeHart, Joanne Belknapp, Bonnie Green, Bureau of Justice Assistance, NCJ 240558, Women's Pathways to Jail: The Roles and Intersections of Serious Mental Illness and Trauma, p. 14 (Sept. 2012) (hereinafter "Lynch et al.").
- $6.\,K.\,A.\,Johnson\,and\,S.M.\,Lynch, Predictors\,of\,Maladaptive$ Coping in Incarcerated Women who are Survivors of Childhood Sexual Abuse, 28(1) J. of Family Violence, 43-52
- 7. Shannon Lynch, April Fritch, Nicole M. Heath, Looking Beneath the Surface: The Nature of Incarcerated Women's Experiences of Interpersonal Violence, Treatment Needs, and Mental Health, 7 Feminist Criminology 4, p. 10 (2012).
- 8. Lynch et al., p. 14.
- 9. Lynch et al., p. 14.
- $10.\,See\,\mathsf{IDAHO}\,\mathsf{STATE}\,\mathsf{UNIVERSITY}, New national study \,by\,\mathsf{Idaho}$ State University, colleagues, confirms women in jail have high rates of serious mental illness (Oct. 24, 2012). https:// www.isu.edu/news/2012-fall/new-national-study-byidaho-state-university-colleagues-confirms-womenin-jail-have-high-rates-of-serious-mental-illness.html.
- 11. See Idaho State Police, Crime in Idaho Data Dashboard (last visited Dec. 5, 2024).
- 12. See id.
- 13. See id.
- 14. The Idaho Department of Corrections provided anonymized data for each woman in state prison on Dec. 31, 2021. A data sheet detailing the analysis and methodology undertaken for this report is available online at idahojusticeproject.org. See Sean Falconer, Idaho Department of Corrections Population Snapshot December 31, 2021 Data Analysis (October 2023) (hereinafter "Data Sheet").
- 15. E. Ann Carson, Bureau of Justice Statistics, NCJ 307149, Prisoners in 2022—Statistical Tables, Table 16, p. 29. Nov. 2023 (Oct. 2024).
- 16. Danielle Kaeble, Time Served in State Prison, Bureau of Justice Statistics, 2018, p. 2 (Mar. 2021), available at https://bjs.ojp.gov/content/pub/pdf/tssp18.pdf.
- 17. This statistic is based on data collected and analyzed by Dr. Shannon Lynch, Idaho State University. A data sheet detailing the analysis and methodology is available online at idahojusticeproject.org. See Dr. Shannon Lynch, Idaho State University, Incarcerated Mothers in Idaho Jails and Prisons (Dec. 2024) (hereinafter "Shannon Lynch Data Sheet").
- 18. See Shannon Lynch Data Sheet.
- 19. James M. Conway, Edward T. Jones , Inst. for Municipal and Regional Policy, A Review of Research on the Likelihood of Children with Incarcerated Parents Becoming Justice-Involved, Central Connecticut State University, Dept. Psychological Science, p. 5 (Mar. 2015): see also Eric Martin. National Institute of Justice. Hidden Consequences: The Impact of Incarceration on Dependent Children (Mar. 1 2017).
- 20. Maddy Reinert, Danielle Fritze, & Theresa Nguyen, "The State of Mental Health in America 2024." Mental Health America, Alexandria VA (July 2024).





## Idaho's Abortion Bans Explained: A Primer on the Complicated Laws that Govern Reproductive Rights in Idaho and the Changes That We Can Make

Mary E. Shea

#### Introduction

I have rarely met a person who does not have personal opinions about abortion. Many have opinions that are deeply held, and often these strong opinions are spiritually or religiously based. This article is not about personal, religious or spiritual beliefs. This article is not about any moral judgment, nor does it intend to answer hard questions about whether it is proper or improper for the government to try to "legislate morality." By polling, most Americans, and most Idahoans, see this issue as far more nuanced than Idaho law currently accommodates.1It speaks for itself that although many of our Idaho politicians on both sides of the aisle have expressed support for expanding access to abortion care in Idaho, and many have expressed concern about the continued negative impact of our current bans, the Idaho legislature has not been able to agree on a path forward since our trigger bans took effect.2

There are still a few legislators who would restrict our abortion laws further. They would remove even our extremely limited exceptions, and they would prosecute women criminally for having an abortion.3 If the morality of this nuanced issue was easy to legislate, we would have a lot more consensus on this issue in our statehouse, and particularly within the supermajority party controlling it. If the morality was easy to legislate, we would not have so many abortion statutes in Idaho that contradict each other, as I will explain further herein.

While Roe v. Wade4 remained the law of the land, we really did not have to discuss our laws surrounding abortion, and individual choices and tragic stories did not need to be shared, nor scrutinized. Privacy was respected. While the issue was frequently weaponized for political purposes, no matter what laws legislators drafted, Roe v. Wade limited the state's authority to legislate. Today, we need to talk about it again, because we are seeing increasing harm come from harsh abortion bans nationwide and within Idaho. As has been widely reported, Idaho has seen a mass exodus of doctors and closures of labor and delivery units since our abortion bans have taken effect.5 As the state that ranks dead last in the nation for per capita health care providers, these losses affect us all.6 Women, families, and doctors have also suffered mightily in Idaho, and all around the nation, as has been widely reported and litigated in the lawsuits that will be discussed in this article.

As lawyers, we are often the gatekeepers of this kind of legal information, and it is critical that we share it accurately and thoughtfully. I particularly invite you to explore the resources I have provided in the endnotes, to help you understand the medical and other societal implications of restricting abortion too severely. My hope is to give you accurate information about the current state of Idaho law to help you make informed decisions about what Idaho policy on reproductive rights should be.

#### **Idaho's Current Abortion Bans**

The Defense of Life Act: Idaho Code § 18-622

In 2020, Idaho passed Senate Bill 1385, adding a new code section, Idaho Code § 18-622.7 The Statement of Purpose of the bill says it would become effective "when the United States Supreme court restores to the states their authority to prohibit abortion, or the United States Constitution is amended to restore to the states their authority to prohibit abortion."8 This new Idaho abortion ban criminalizes all abortions at any stage of the pregnancy as a felony, carrying a two to five year prison sentence. Medical providers additionally risk loss of their medical license for six months for a first offense, and permanently for future offenses.

The bill as originally passed contained no exceptions, other than removing criminal liability for accidental or unintentional loss of fetal life. Instead of exceptions, the bill contained affirmative defenses for life of the mother, and rape and incest. The prosecutor was not required to show that an abortion fell outside of these affirmative defenses; the burden of proof was rather on the doctor to prove that the defense(s) applied to their case.

Life of the Mother Defense. This language of the total ban has been the subject of no less than five separate lawsuits filed since the Dobbs decision9 triggered this statute to take effect. It was recently litigated in a state court decision, and the Honorable Jason D. Scott, District Judge expanded the definition to help protect doctors and women, as I will discuss further in the following.<sup>10</sup> This language is currently still being litigated as part of a federal court action seeking to insert additional language to protect maternal health, and not just maternal life. It is also currently being litigated in the remaining EMTALA case brought by St. Luke's Hospital.<sup>11</sup>

> The language of the bill as written is problematic for medical providers, who frankly did not understand at what point they would be "safe," legally, to offer an abortion to their patient to treat serious medical complications. The statute allows abortion when a physician exercising "good faith medical judgment" finds that the abortion was "necessary to prevent the death of the mother." Fearing the mother may self-harm is specifically excluded from this defense.12 Complicating the definition is additional language that states that the physician must provide "the best opportunity for the unborn child to survive," unless the doctor can show that saving the fetus would pose a "greater risk of death" to the pregnant woman.13

Doctors cannot predict with precision how likely a patient is to die with a pregnancy complication. The language used in the bill not only encourages doctors to hesitate to provide care; the language requires it. Doctors must be able to say that they have done everything else possible to protect the fetus before terminating the pregnancy. It is the delay in providing care—the hesitation—that is costing pregnant patients their lives as they bleed out or die of sepsis with failing pregnancies.<sup>14</sup>

In 2023, the Idaho Supreme Court ruled in a 3-2 decision that the Idaho trigger bans were constitutional, following the reasoning of Dobbs.15 The Court held that the life of the mother language of the two controlling trigger bans imposes a subjective standard of medical decision making, and that it was not unconstitutionally vague even though the statute does not tell doctors exactly when they can or cannot perform an abortion.16 As a result, and as was confirmed by the State of Idaho in oral argument to the United States Supreme Court in the EMTALA case last year, each medical decision will be judged on a caseby-case basis.<sup>17</sup> Given that there are doctors in America who will testify that abortion is "never" necessary to save the life or protect the health of the mother, a position that is hotly disputed by the medical community at large, Idaho doctors are understandably reluctant to make themselves the test case in a hard situation.18

The Idaho Supreme Court held that even though the original bill did not

The prosecutor was not required to show that an abortion fell outside of these affirmative defenses; the burden of proof was rather on the doctor to prove that the defense(s) applied to their case.

specifically exempt the termination of ectopic pregnancies, ectopic pregnancies were excluded by the definition of abortion as termination of a pregnancy that is "developing."19 An ectopic pregnancy develops outside of the uterus, and therefore it has no chance of developing into a live born baby. Ectopic pregnancies are life threatening to the mother, representing fifteen percent of all maternal mortality, and they can also result in loss of fertility if not addressed quickly.20 Given other definitions in the code that define a pregnancy or fetal life as beginning with fertilization, and with the medical understanding that ectopic pregnancies do "develop" until they can no longer develop, this legal clarification was important for patients and doctors.

In 2023, the Idaho legislature amended Idaho Code § 18-622 to make these exclusions for "non developing" pregnancies explicit, and it also included molar pregnancies. A molar pregnancy results from a fertilized egg that develops into abnormal tissue that can sometimes cause pregnancy symptoms and the development of some fetal tissue, but it will never develop into a live born baby.21 The amendment also states that removal of a "dead unborn child" or the treatment of a woman "who is no longer pregnant" is not considered a criminal abortion. The amendment additionally provides that the defenses are no longer affirmative defenses, they are true exclusions, shifting the burden of proof back to the prosecutor.22

A miscarriage or pregnancy loss in progress is just as threatening to maternal health and life as a complete miscarriage. Previable and peri viable preterm rupture of membranes ("PPROM"), for example, will often result in a pregnancy that continues for a few more weeks or even months, with the baby dying slowly, and mother risks sepsis and other serious medical conditions as the pregnancy continues.23 Idaho law is very unclear as to when abortion care can be provided in a case of PPROM even when fetal survival is highly unlikely, or in any other situation where a miscarriage is in progress and is compromising or risking maternal health, but the fetal tones can still be detected.24

It is also important to understand that this "life of the mother" defense does not include the termination of pregnancies involving lethal or catastrophic fetal anomalies. Catastrophic fetal anomalies are often not discovered until the midpoint of pregnancy with the 18-20-week ultrasound. In Idaho, these pregnancies cannot be terminated until or unless they become a risk to maternal life, to some unknown degree. Carrying such a pregnancy to term greatly increases risks to maternal health and life. It also causes serious mental and emotional trauma to pregnant patients and their families to be forced to carry these doomed pregnancies to term, or to seek care out of state.25

Rape and Incest Defenses. The total ban enacted in 2020 included extremely limited exceptions for rape and incest as defined by the Idaho criminal code. The difficulty with the defense as written is that the victim is required to report the crime to law enforcement or Child Protective Services and obtain a report from them to proceed with care. Additionally, the victim must act within the first trimester of pregnancy to obtain a legal abortion.<sup>26</sup> These defenses, now designated as exclusions with the 2023 amendments, are problematic and largely unenforceable, for several reasons. There are very good reasons why victims of these kinds of crimes are reluctant to report. Justice is rare, and victims are re-traumatized in the process.<sup>27</sup> As a practitioner who has represented child victims and the parents of child victims in child welfare court, child custody court, and the criminal courts, I can attest that the process is even less kind to children. Many victims lack the capacity and/or family or other emotional support to report. Governor Little expressed similar concerns with the 2022 trigger bans discussed further below, but he signed them into law regardless.28

The Fetal Heartbeat Preborn Child Protection Act: Idaho Code § 18-8701

In 2021, Idaho enacted the Fetal Heartbeat Preborn Child Protection Act. The statement of purpose is to prohibit abortion when a fetal heartbeat can be detected, defined as six weeks into the pregnancy, with similar exceptions for rape, incest, and life of the mother to the bill passed the previous year. 29 The 2021 bill, however, would allow for abortion in a "medical emergency," "to avert death, or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function."30

The criminal penalties for HB 366 were identical to SB 1385, the trigger ban passed the previous year discussed above. The bill was passed as an apparent "insurance policy" if Idaho's 2020 total ban did not survive an anticipated challenge to Roe v. Wade, but a six-week ban did.31 This bill stated that if Roe v. Wade was overturned, that the total ban bill passed the previous year would control.

The Amended Fetal Heartbeat Preborn Child Protection Act: Idaho Code § 18-8801

In 2022, the Idaho legislature amended the bill they passed the previous year and renumbered the Idaho Code.32 The Amended bill is very similar to the language contained in the previous trigger bans, with one important addition. The 2022 trigger ban added a civil cause of action available to the close family members of an aborted fetus, with \$20,000 minimum damages, and a four-year statute of limitations. The bill does not permit someone who committed rape or incest to sue civilly under this provision, but it does not prevent their family members from suing.

This bill allows more family members to have standing to sue than our Idaho wrongful death laws permit.33 The bill further severely limits the ability of a defendant to collect attorneys' fees and costs for frivolous litigation.34 Like the bill passed the previous year, and unlike the 2020 total ban, this statute also contains an exception for medical emergencies that is broader than simply protecting maternal "life." This bill explicitly states that if both the 2020 and the 2021 trigger bans became enforceable with the fall of Roe v. Wade, that the 2020 total ban

Judge Scott recently ruled in that case that doctors in Idaho cannot face criminal liability for providing an abortion whenever a woman faces a "nonnegligible" risk of death, so long as the doctor tried to preserve fetal life, but continuing the pregnancy would increase the risk of death for mother.

outlined in Idaho Code § 18-622 would control, and this bill would only be effective to the extent they did not conflict.

The civil penalties portion of this bill was modeled on a similar Texas law, and it was designed with the specific intent to avoid or limit judicial review of its constitutionality.35 At the time this bill was amended by the Idaho legislature, the United States Supreme Court was already considering the Dobbs case,36 and it had allowed this Texas abortion ban to be enforced,37 signaling to court watchers that they may be prepared to limit or reverse Roe v. Wade.

In summary, the two trigger bans that apply in Idaho today are Idaho Code § 18-622, the total ban with criminal penalties and no health exception; and Idaho Code § 18-8801, the six week ban/"bounty hunter" civil penalties ban that contains a limited health exception for "medical emergencies."

Other "Zombie" Laws Potentially Back in Play

Idaho's abortion laws are a hodgepodge, and the civil and criminal penalty statutes are in three separate Chapters of Title 18. It is beyond the scope of this short article to discuss laws surrounding public funding for abortion, or the First Amendment issues involved with attempts to criminalize advertising or "promoting" of abortion. Generally, no taxpayer funds can be used for abortion care except to save maternal life or in cases of rape or incest.38 No health care provider can be compelled to provide abortion care,39 but the State is not permitted to restrict anyone from talking about access to legal health care, including abortion.40

Since 1973, Idaho has enacted statutes that challenged the holdings of Roe v. Wade but were still enforced under a Roe v. Wade standard.41 In 1998 Idaho passed a partial birth abortion ban,42 in 2011 a 20-week Pain Capable Unborn Child Protection Act,43 and in 2015, a Chemical Abortion Ban.44

Practitioners should advise their clients to assume that all of Idaho's abortion bans are enforceable, to the extent they are not inconsistent with Idaho Code §§ 18-622 and 18-8807. One important question concerning the criminal liability of a pregnant patient who terminates her pregnancy remains. At common law, mothers were immune from criminal prosecution in Idaho and in most places around the country. 45 To abrogate a common law immunity, a legislature must speak with clarity. Idaho Code § 18-622, the 2020 total trigger ban, specifically preserves that common law immunity and exempts the pregnant patient from prosecution.46

The Pain Capable Unborn Child Protection Act also preserves this common law immunity against prosecuting pregnant women.47 However, one of the statutes passed by Idaho immediately after Roe v. Wade was decided, Idaho Code § 18-606, permits women to be prosecuted for abortion as a felony. It was declared unconstitutional by the Ninth Circuit in 2012, but it is unclear whether that holding survives the Dobbs decision.48 I would certainly argue that because Idaho indicated a clear intent that Idaho Code § 18-622 be the controlling criminal statute, and because when Idaho Code § 18-606 was enacted it was already unconstitutional, the Idaho legislature has not clearly abolished the common law immunity protecting women from criminal prosecution, and it intended in 2020 to preserve that immunity in the event Roe v. Wade was overturned. As a practitioner, of course I urge caution, because we do not have any case law giving clarity.

#### Litigation

**EMTALA** 

The EMTALA litigation could be its own article, as the issues are complex and the procedural history unusual. The basic theory of the case is that EMTALA requires hospitals that receive Medicare funding to provide abortion care if necessary to stabilize a pregnant patient presenting in an emergency room, regardless of what Idaho law says. 49 The second Trump Administration dismissed the federal case when it was remanded back to the Ninth Circuit from the United States Supreme Court, but St. Luke's had already filed their own EMTALA case against Idaho as an insurance policy.

Currently, we have an EMTALA injunction again in the newer St. Luke's case, but this time Judge Winmill limited the injunction to apply only to St. Luke's hospitals.50 Because the first EMTALA case was fully briefed and argued both to the United States Supreme Court and to an en banc Ninth Circuit before the Trump Administration reversed course, I would anticipate that this second EMTALA case progresses more quickly, procedurally.<sup>51</sup>

Adkins v. State of Idaho and Seyb v. Idaho Board of Medicine

Two private civil lawsuits have been filed in Idaho, both asking the courts to expand Idaho's restrictive abortion bans to include maternal health and/or lethal fetal anomalies exceptions under constitutional theories.<sup>52</sup> There has been some limited success with similar lawsuits filed in other states,53 but Idaho's long history of regulating abortion strictly distinguishes us from other states.

The plaintiffs in the state lawsuit *Adkins v*. State of Idaho include four women who were forced to travel out of state to obtain medically indicated abortions for nonviable pregnancies. Two doctors and the Idaho Academy of Family Physicians are also plaintiffs. The trial was broadcast, as these brave women and doctors want Idahoans to understand the specific harms caused to them by our strict abortion bans. I urge you to read the stories of these brave families and doctors, or to watch the trial, to fully understand the impact of restrictive abortion bans on the lives of women and families.<sup>54</sup>

Judge Scott recently ruled in that case that doctors in Idaho cannot face criminal liability for providing an abortion whenever a woman faces a "nonnegligible" risk of death, so long as the doctor tried to preserve fetal life, but continuing the pregnancy would increase the risk of death for mother. This was a significant victory for the plaintiffs, and at the time of this writing, we are waiting for a decision about whether the State will appeal. This ruling does not help rape or incest victims, or anyone else who wishes to terminate a pregnancy for reasons that are not strictly medical and potentially lethal. It does not help women who seek to extend their life or protect their health unless the pregnancy increases the risk of them dying.55

The plaintiff in the federal lawsuit Seyb v. Idaho Board of Medicine is a doctor who sued the enforcers of the Idaho criminal statute—the Idaho Board of Medicine, and Idaho prosecutors. At the time of this writing, the litigation is still in the pleading stage, with a Motion to Amend the Complaint currently pending.<sup>56</sup>

#### 2026 Ballot Petition: The Reproductive Freedom and **Privacy Act**

Idahoans United for Women and Families has drafted a ballot petition for a revision of Idaho laws surrounding reproductive rights that should be circulating in Idaho later this year and probably by the time this article is published.<sup>57</sup> Assuming it gets the necessary signatures and meets other legal requirements, it should be on the Idaho ballot for the November 2026 elections. This statute would restore the standards of Roe v. Wade and still allow the State of Idaho to regulate abortion where it can show a "compelling state interest" to do so. This statute would additionally protect other reproductive rights including access to contraception, and access to assisted reproductive technology.<sup>58</sup>

#### Conclusion

The creation of life is beautiful and miraculous, and it is a choice I have made myself three times. In 2025, it is a choice that still carries with it profound and permanent life and health changes and risks.<sup>59</sup> The rates of maternal mortality explode when abortion bans are too restrictive, all over the globe. 60 Infant mortality also explodes when abortion bans are too restrictive. 61 Maternal and infant mortality declined dramatically in America after Roe v. Wade expanded abortion access nationwide, particularly for people of color.<sup>62</sup> Other serious harms short of death come to pregnant patients.63 Pregnancy and childbirth can cause devastating lifelong challenges, including organ damage; permanent cardiopulmonary dysfunction; high blood pressure; diabetes; stroke or other brain injuries, and much more.64

Women who are denied access to abortion are far more likely to end up in poverty and in violent relationships, together with the children they must raise. Suicide and homicide remain leading causes of death for pregnant and post-partum women.65 The socioeconomic impact of rigid abortion bans ripples throughout communities, as one new economic analysis finds that strict abortion bans drive people out of state permanently.66 Societies thrive when women are given full autonomy over their lives.<sup>67</sup>

Idaho can support policies that promote women and families and that encourage responsible reproductive and informed choices without causing so much tragedy and collateral harm, and without expressing so much distrust of our mothers and our doctors.



Mary Shea is a shareholder at Merrill and Merrill, Chartered, in Pocatello, *Idaho*, where she primarily practices general civil litigation, with an emphasis

on civil rights, family law, and child welfare law. Prior to joining Merrill and Merrill, Mary was the head instructor and program director for the Paralegal Studies Program at Idaho State University, and she also ran her own law practice. Before coming to Idaho in 1999, Mary worked for the Virginia Attorney General's office primarily litigating federal civil rights cases and state tort actions in state and federal courts at all levels of trial and on appeal. Mary was also a law clerk for the Virginia Supreme Court for three years. Thinking and writing about abortion policy as an undergraduate studying moral and political philosophy at the College of William and Mary is what led Mary to law school. The changes in the law beginning in 2021 are what led Mary to advocacy. In her spare time Mary enjoys the scenic beauty of Idaho in every season.

Due to space constraints, we were unable to print the full list of endnotes. Please scan the QR code to view this article's endnotes online or visit https://isb.idaho.gov/blog/ idahos-abortion-bans-explained/.



# Second Opinion Service

Does your financial advisor help you pursue what matters most?

With so much at stake when it comes to protecting everything you've worked so hard to achieve, it never hurts to get a second opinion about your financial future. At Vasconcellos Spiedel Wealth Management, our approach starts by understanding your life and what you want to accomplish. Then we work together to create a framework designed to give you the confidence to do what matters most. no matter what the markets are doing. We want to help ensure you have all you need for today, tomorrow and for generations to come. Let's start the conversation.





William L. Vasconcellos, CIMA®, CRPC® Senior Vice President - Wealth Management 208-947-2006 william.vasconcellos@ubs.com

# Michael Spiedel, CRPC® Market Director – Idaho Market Financial Advisor 208-947-2017 michael.spiedel@ubs.com

Vasconcellos Spiedel Wealth Management UBS Financial Services Inc.
1161 West River Street
Suite 340
Boise, ID 83702-7065
888-844-7452

ubs.com/team/vasconcellosspiedel

As a firm providing wealth management services to clients, UBS Financial Services Inc. offers both investment advisory services and brokerage services. Investment advisory services and brokerage services are separate and distinct, differ in material ways and are governed by different laws and separate arrangements. It is important that clients understand the ways in which we conduct business and that they carefully read the agreements and disclosures that we provide to them about the products or services we offer. For more information visit our website at **ubs.com/workingwithus**. CIMA® is a registered certification mark of Investment Management Consultants Association Inc. doing business as Investments & Wealth Institute® in the United States of America and worldwide. For designation disclosures visit ubs.com/us/en/designation-disclosures.html. @UBS 2023. All rights reserved. UBS Financial Services Inc. is a subsidiary of UBS Group AG. Member FINRA/SIPC. D-UBS-DF2A8E1F



















































### Effective, Pragmatic Dispute Resolution

### Mediation | Arbitration | Special Masters



Walt Bithell Bithell Law PLLC walter@bithelllaw.com (208) 336-4440



**Deborah Ferguson**Ferguson Durham, PLLC
daf@fergusondurham.com
(208) 345-5183



**David Lombardi**Givens Pursley, LLP
drl@givenspursley.com
(208) 388-1200



John Zarian NCCCO jnzarian@gmail.com (208) 871-6798

With over 150 years of combined legal experience, our panel of well qualified neutrals brings insight and creativity to the most complex disputes. Offering a choice of credible, respected neutrals—individually or as a team—Idaho Mediation Group brings resolution in a timely, unbiased manner.

Virtual Mediation Services Available





-1972-Heated debate at the Annual Meeting over a resolution to require letter-size paper rather than legal-size paper; the resolution passed

-1971-Concept of limited licenses for third-year law students introduced

-1972-The Godfather premiers worldwide

THE IDAHO STATE BAR & IDAHO LAW FOUNDATION

# he 197()s

Hon. Jessica M. Lorello

lvis; Richard Nixon; The Godfather; The Idaho State Bar; The Idaho Law Foundation. I am fairly confident that this article marks the first time, and likely the last, that these five items appear in the same list. What do they have in common? They all made a mark on the 1970s. Elvis left the public stage in 1977. In the face of impeachment, Richard Nixon resigned in 1974—the first American president to do so. In 1972, the now classic film *The Godfather* premiered.1 That same year, a controversy began to brew in the Idaho State Bar, albeit one that was comparatively milder than any controversy in the Corleone family.

#### **CONTROVERSY SURROUNDING** THE IDAHO STATE BAR EXAM<sup>2</sup>

In the Fall of 1972, 86 candidates took the Idaho Bar Exam. Only 38 examinees were successful—a pass rate of only 45 percent. 25 of the 48 unsuccessful applicants petitioned the Idaho Supreme Court for review. Although the Court denied the petitioners relief as to their individual status, on January 22, 1973, the Court ordered the



U.S. Representative (and future Senator) James A. McClure and President Richard M. Nixon in 1972. Used by permission: University of Idaho Special Collections and Archives, [James A. McClure papers, MG 4001.

Idaho State Bar to review the content, administration, and grading of the Fall 1972 Idaho State Bar Examination.

To accomplish this review, the Court appointed three special masters with a Supreme Court staff member (Lon Davis) serving as secretary for the review committee. The special masters included Lawrence Denney, the then-dean of the Willamette University

College of Law; Francis Marshall, the chairman of the Examination Committee for the California State Bar: and John A. Carver, Jr., a professor of law from Denver University College of Law who was also a member of the Idaho State Bar. The Court's order directed the special masters to submit a report regarding its recommended findings and conclusions on two specific issues:

- 1. Whether the Board Commissioners of the Idaho State Bar acted in an arbitrary, capricious, or malicious manner in preparing and administering the Fall 1972 Bar Examination so that it was not reasonably designed to test and determine the professional competence of applicant for admission to the practice of law in the State of Idaho; or
- 2. Whether the Board Commissioners of the Idaho State Bar or its Bar examiners acted in an arbitrary, capricious, or malicious manner in grading the Fall 1972 Bar Examination.

-1975 **-**Idaho Law Foundation is established

Board of Commissioners approved optional contribution of \$10 to the Foundation as part of the annual licensing process

-1974-Richard Nixon becomes the first U.S. President to resign

Vietnam War ends after Saigon falls to North Vietnamese forces

-1977-Elvis Presley dies at age 42

The Court's order gave the special masters the authority to conduct discovery, hearings, and investigations, and to compel the attendance of witnesses in accordance with the Idaho Rules of Civil Procedure. It appears the special masters completed their investigation and review sometime before March 13, 1973, at which time the Court entered an order admitting 34 of the 48 unsuccessful applicants from the Fall 1972 Bar Exam. This number was based on a formula recommended in the special masters' report, which the Court employed as a remedial measure to determine a passing score.3 This calculation encompassed more than the

25 applicants who petitioned for relief and resulted in candidates passing with "less than 1950 points on their exams" while candidates who scored 1955 points and 1971 2/3 points still failed. Pursuant to a petition by the Board of Commissioners, the Court cured this inequitable result and granted admission to these two candidates.

Notwithstanding the language in the March 13, 1973 Order finding "no caprice or malice" in the administration or grading of the Fall 1972 Bar Exam, the Court's order was not without its critics. John H. Bengtson, the President-elect of the Idaho State Bar at the time the order was issued voiced his opposition

in an article appearing in the March 1973 issue of *The Advocate*. Bengston equated the Court's action to a star chamber, noting feelings of "frustration or helplessness" by the Board of Commissioners in relation to the special masters' conduct. Bengtson noted that the Board of Commissioners did "not know how often the 'special masters' met, what facts they considered in evaluating the August 1972, bar exam, or what experience they had in preparing and grading bar examinations in other states." He further observed that "[n]either the Board of Commissioners nor the Examining Committee of the Idaho State Bar was requested to

#### **SPECIAL INVESTIGATION INTO THE 1972 BAR EXAM**

As for the special masters' investigation and review of the Fall 1972 Bar Exam, in its March 13, 1973 Order, the Court described the "faults" of the Fall 1972 Bar Exam as including: (1) ambiguity in some questions that "tended to mislead the examinee and as a result caused a divergence of answers from the model answer," which led to "unduly low grading despite reasonable efforts by the graders to compensate for this difficulty," (2) questions that were "too long and involved too many issues for adequate answering within the 36-minute average time allotted for each question," (3) questions that were "uneven in length and scope, creating serious problems for the examinee in tailoring his own time allotments and length of his answers," (4) some questions that "called for answers to very narrow and highly specialized points of law, frequently not calling for legal reasoning," (5) application of a "grading penalty for not knowing the exact answer to such narrow and highly specialized points" that were disproportionate to "the weight of the question as a test of the examinee's capability for admission to practice," and (6) an examination that, "as a whole[,] was unnecessarily broad in scope" because the subjects tested "went beyond" the

"students' experiences" and the "proficiency necessary to a license to commence the practice of law."

The Court also found fault related to grading the Fall 1972 Bar Exam, citing "a mechanistic procedure" for grading. As evidence of what it characterized as a product of the mechanistic grading procedure, the Court noted that "the best grade received by any applicant was approximately 83 percent which, on an A to F scale, would merely be a C+." According to the Court, this approach to grading "tends to lose sight of the overall objective of ascertaining the degree of proficiency necessary to permit the candidate to enter the practice." Despite these findings, the Court's March 13, 1973 Order included language indicating it found no fault in the Board of Commissioners' administration of the Fall 1972 Bar Exam. The order states the Court found "no caprice or malice the part of either the Board of Commissioners or its Bar Examiners in respect to either the preparation or administration" of the exam "or in the grading thereof." Rather, the Court found the flaws related to "the quality of the examination questions and of the model answers" and the "lack of opportunity to analyze the examination as a whole."

appear before the special masters or present them with any facts," nor did the special masters "confer informally" with any of the Commissioners.

In light of the Court's March 13, 1973 Order, on March 21, 1972, the Board of Commissioners petitioned the Court and requested cancellation of the April 1973 exam, citing changes to "the standards and rules governing the preparation, giving and grading of Bar examinations" that had "evidently

been changed, modified and amended to a degree" that had not been "made known to the Board of Commissioners." Moreover, the Board of Commissioners noted that, as a result of the Court's decision, the proposed questions that had been prepared for the April 1973 exam "would not be acceptable." However, the spring bar exam was offered and graded using temporary standards; the pass rate for that exam was 81 percent.5

By the time of the annual meeting in July 1973, tensions over the aftermath of the Fall 1972 Bar Exam had subsided. It was reported that the Board of Commissioners' relationship with the Court was "fine." Commissioner Mitchell observed: "They have been gentlemen with us; we hope we have been with them."6

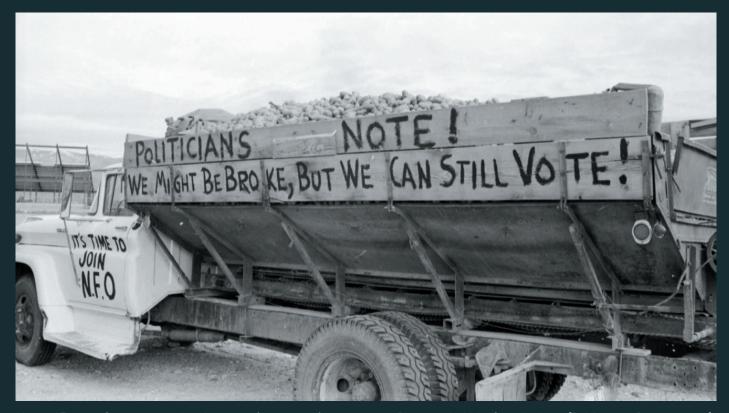
The rest of the 1970s were comparatively mild; a few of the highlights from that decade are detailed in the following.



The old Coeur d'Alene City Hall building in the last year of its official use as city hall in 1978. Photo credit: Idaho State Archives, [Unknown, 78-5-203].



The Egyptian Theater at Capitol Blvd and Main Street in 1979. The building still stands in downtown Boise today. Photo credit: Idaho State Archives, [Leo J. "Scoop" Leeburn, P2006-20-01119-5].

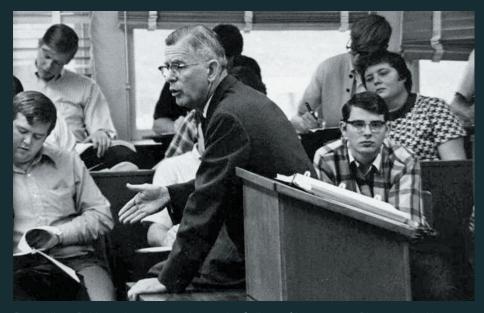


National Farmers Organization political message from potato farmers in 1970. Photo credit: Idaho State Archives, [Bob Lorimer, P2006-18-750].

#### THE CODE OF PROFESSIONAL **RESPONSIBILITY**

At the 1970 Annual Meeting, reference was made to study of the Professional Responsibility Code with a warning that Idaho may end up being the "fiftieth state to accept it" at the next annual meeting.7 The warning was heeded, and at the 1971 Annual Meeting, there was a lengthy discussion of the Professional Responsibility Code, modified to "strengthen the role of the Supreme Court of the State of Idaho as the ultimate authority with respect to the practice of law here and with respect to the judicial system here."8 One item that was deleted from the model version of the Code was making an objectionable fee subject to an ethical dispute; a peer review system was adopted instead.9 The ABA Model Professional Conduct Rules were later adopted in the mid-1980s, making Idaho the 16<sup>th</sup> state to do so.

Commissioner Eugene Thomas, who worked on the modified version of the Code referred to it as a "splendid document."10 Commissioner Thomas noted the modified Code made it "so that no Idaho lawyer will go to any other State and bring shame or embarrassment upon this profession or upon—to a victim of unethical conduct with impunity."11 Commissioner Thomas thought it would be a "great day in our history



Dean Albert R. Menard teaching a class at the College of Law in 1980. Photo credit: University of Idaho Campus Photograph Collection, [University of Idaho Library Special Collections and Archives, 1-203-14].

when we adopt this Code."12 That "great day" happened upon a passing vote at the 1971 Annual Meeting after which Bar President Eugene Miller said the American Bar Association could be advised that "Idaho is now in the Code of Professional Responsibility area."13

#### LIMITED LICENSURE FOR THIRD-**YEAR LAW STUDENTS**

The concept of limited licenses for third-year law students was introduced at the 1971 Annual Meeting. Albert R. Menard, the then Dean of the University of the Idaho College of Law, presented in support of a limited license<sup>14</sup> for third-year law students. Dean Menard explained that a limited license presented an opportunity to give law students with two years of law school the opportunity to participate in a "transitional, education device."15 According to Dean Menard, as of 1971, 36 other states had authorized limited licenses in this context. Dean Menard assured the Board of Commissioners that there would be sufficient "supervisory safeguards," including oversight by a supervisor from the law school, a licensed supervising attorney, the Idaho State Bar, the Idaho Supreme Court, and "the Judge before whom he's appearing." The minutes were sure to reflect that Dean Menard was smiling when, in response to the level of oversight, he commented: "I really feel somewhat sorry for him."16

#### **LEGAL AID IN IDAHO**

The 1970 Annual Meeting included a discussion of legal aid services in Idaho. At that time, there was an Idaho State Bar Association Legal Aid and Services Committee. The Committee's report for 1970 indicated that it had studied "the problem of providing



A Vietnam peace march on the steps of the Capitol building in Boise in May 1972. Photo credit: Idaho State Archives, [Leo J. "Scoop" Leeburn, P2006-20-01052-1].

legal aid to indigent persons in Idaho." Idaho then had "two legal aid programs funded under the Office of Economic Opportunity [OEO]."17 A request for additional funds from the OEO was made to support legal aid services in Elmore and Ada Counties, which services were being provided by volunteers. The request sought approval for funding two full-time attorneys. The Fifth Judicial District also submitted a funding request to OEO.18

In 1971, Bar President Miller reported that he had visited Washington, D.C. and met with two members of the OEO regarding Idaho's legal aid funding request. Although the two OEO individuals Miller met with were "very interested" in the program and viewed it as a potential "pilot program that they could take in a small State with large geographical problems," within thirty days of Miller's return to Idaho, President Nixon "saw fit to change the employment of these two individuals" and "cut off the Federal funds."19 As a result, there was a proposed resolution to continue to study the future of legal aid in Idaho.20

#### **IDAHO LAW FOUNDATION**

Since 2025 marks the fiftieth anniversary of the Idaho Law Foundation, you have likely concluded that the Foundation was established in 1975. The Foundation's mission is to "support[] the right of all people to live in a peaceful community" by educating "all people about the role of law in a democratic society," by "provid[ing] opportunities for people to avoid and resolve conflicts," and by "enhanc[ing] the education and competence of lawyers."21 Attorneys Allyn Dingel and Jess Hawley took the lead on the initial fundraising efforts to support the Foundation.<sup>22</sup> In 1977, the Board of Commissioners approved including an optional provision on the license fee statement to contribute \$10.00 to the Foundation.<sup>23</sup>

#### LETTER SIZE V. LEGAL SIZE

While it is true that, in comparison to the 1972–1973 controversy regarding the Bar Exam, the 1970s were com-



The original logo for the Idaho Law Foundation used from 1972 – 1998.

paratively mild for the Idaho State Bar, I did stumble upon another heated debate taking place in 1972. A resolution was presented at the 1972 Annual Meeting for the Idaho State Bar to "approve and diligently strive to implement the changes necessary to require the use of letter-size paper at all levels of the legal process."24 Many insults were flung at the extra three vertical inches attributable to legal-size paper. Such insults included calling legal-size paper the "last vestige of an anachronism of the big paper," a "habit going back to the days when documents were blue-backed and folded four times in order to be put in a pigeonhole of a rolltop desk," and simply "archaic."25

The representative from the Economics Committee thought it "ridiculous for lawyers to have large files, to have large folders, to spend the extra money for the wasted space" and suggested that he thought the change "would be welcomed by the courts and by everybody, except the paper sellers and the big-file sellers."26 Plus, "the automatic typewriter era" was coming to town. And, although it was still unclear how to "feed the paper into those machines," the paper suppliers were able to provide "standard letter-size continuous forms so you don't have to stuff carbon and paper into your typewriter all the time." Not to mention letter-size continuous paper was "cheaper than single sheets of paper and single sheets of carbon paper" and certainly cheaper than legal-sized paper.<sup>27</sup> There was even talk of conducting a survey, 28 and talk of a future requiring single-space typing since the quill and pen "flourishes" that needed double-spacing were a thing of the past.29 The assault on legal-sized paper prevailed and, with "[a] chorus of 'Ayes,'" the resolution passed. 30 The rest, as they say, is history. Or something like that.

#### CONCLUSION

It seems appropriate to start where I began—with Elvis. As Elvis (sort of) said in his famous lyrics from his 1977 hit, My Way: "and now, the end [of this article] is near." Whatever challenges the Idaho State Bar and Idaho Law Foundation have faced in the past and may face in its future, both organizations and their members have grown stronger for it. It is often said, and I am often reminded (including in the course of my research for this article), that Idaho has a small Bar. But "my friend, I'll say it clear," it also has a mighty Bar. I am proud to be counted among the membership of the Bar and the Foundation. Stay tuned for the 1980s.



#### Judge Jessica M. Lorello

is an Idaho native who graduated from Boise High School. She received a master's degree in health care administra-

tion and her Juris Doctor degree from the University of North Carolina at Chapel Hill. After law school, she worked in private practice until 2004 when she joined the Criminal Law Division of the Idaho Attorney General's Office. Governor Otter appointed Judge Lorello to the Idaho Court of Appeals in 2017. Judge Lorello is also an adjunct professor at the University of Idaho College of Law, is a member of the Law Related Education Committee of the Idaho Law Foundation and is a founding member of Attorneys for Civic Education.

#### **ENDNOTES**

- com/story/timeline-of-the-1970s (last visited April 16, 2025).
- 2. Information from the controversy surrounding the and March 1973 issues of *The Advocate*. Many thanks to Maureen Braley, Executive Director of the Idaho State Bar, for uncovering these sources for me.
- the difference between the assigned grade and 85, (the midpoint of the passing-score range).
- 4. John H. Bengtson, Court Orders Review of Bar Examination, 16 The Advocate 1 (1973)
- 5. See Proceedings of the Idaho State Bar, Business Session (1973), pp.15-16.
- 7. Proceedings of the Idaho State Bar, Volume XLIV, p.25.
- 8. Proceedings of the Idaho State Bar, Volume XLV, p.22.

9. See Proceedings of the Idaho State Bar, Business Session (1972), p.16.

10 *ld* 

11. *Id*. at 23.

12. Id. at 24.

13. ld. at 96.

14. The 1971 meeting transcript uses "legal intern" and "limited license." During the voting phase of the annual meeting, Bar President Miller indicated that "limited license" was changed to "qualified permit" due to an objection from the Idaho Supreme Court with respect to using the term "license." Proceedings of the Idaho State Bar, Volume XLV, p.98.

15. Proceedings of the Idaho State Bar, Volume XLV, p.40.

16 *ld* at 41

17. Proceedings of the Idaho State Bar, Volume XLIV, p.6.

18. ld. at 7.

19. Proceedings of the Idaho State Bar, Volume XLV at 75.

21. About Us, Idaho Law Foundation, https://ilf.idaho.gov/ about-us/ (last visited April 16, 2025).

22. Idaho State Bar Board of Commissioner Meeting Minutes, May 30, 1975.

23. Idaho State Bar Board of Commissioner Meeting Minutes,

24. Proceedings of the Idaho State Bar, Business Session

25. *ld*. at pp.83-84.

26. Id. at p.84

27. ld. at p.85

28 Id

29. Id. at 86.











# SUPERVISOR TRAINING

Every manager needs foundational knowledge of employment law concepts.

Join us for a half-day, comprehensive workshop so you (or your supervisors) can learn everything you need to know!

#### **TRAINING DETAILS:**

**DATE: June 18, 2025** 

TIME: 9:00 am - 1:00 pm

\*Lunch will be provided.

**LOCATION: The Arid Club** 

1137 W River St, Boise, ID 83702

REGISTER HERE!





#### COST:

Private Entity Prices	\$450 + \$350 each additional ticket
Nonprofit/Government Entity Prices	\$350 + \$250 each additional ticket
Law for Leaders Clients	Free

#### **TOPICS COVERED:**

- Title VII Updates and **Key Changes**
- Best Practices and Strategies Regarding:
  - ADA & PWFA
  - Hiring
  - Documentation & Termination

#### Presented by the IEL/L4L Team:





Jennifer Walrath





**Ouestions?** (208) 901-3912

Contact us! contact@idemploymentlawyers.com

#### How Can You Be Sure Your Wealth Will Be Left to Those You Choose?

#### Estate Planning: Accumulating, Preserving, and Passing Wealth

Accumulating wealth is only half the job of comprehensive financial planning. Managing, preserving, and ultimately distributing that wealth is also important. Estate planning can help ensure your estate will pass to your heirs the way you want, when you want, and in a tax-efficient manner. We can work with your attorney and CPA to help ensure your estate planning addresses your needs.

For more information please call or go to www.andersonwealthmanagementgroup.com.



Randy Anderson, JD, CFP® Senior Vice President/Investments andersonr@stifel.com | (208) 401-2036

Kevin Bates, CPA, MBA, CEPA Financial Advisor batesk@stifel.com | (208) 401-2033

Tracy Druzisky
Senior Registered Client Service Associate
druziskyt@stifel.com | (208) 401-2021

800 W. Main Street, Suite 1260 Boise, Idaho 83702

STIFEL | Anderson Wealth Management Group

Stifel, Nicolaus & Company, Incorporated | Member SIPC & NYSE | www.stifel.com

Stifel does not provide legal or tax advice. You should consult with an estate planning attorney and tax professional to discuss your particular situation.

## Brian Donesley LIQUOR LAW

- · Former Idaho Liquor Chief
- · Former Idaho State Senator
- · 40+ years experience in liquor law
  - · Retail/Wholesale
- · Revocations/Suspensions/Criminal
- · Hearings/Appeals/Trials
- · Lobbying/Governmental Affairs
- State, Local, Federal, Multi-State
- National Association of Alcohol Beverage Attorneys (NAABLA)
- Licensed in Idaho and Washington

Brian Donesley, Attorney at Law ISB No. 2313 P.O. Box 419, – Boise, ID 83701 Telephone: (208) 343-3851 bd@bdidlaw.com www.ldaholiquorlaw.com





Sunny Climate Seminar November 8, 2025 Hyatt Regency Resort & Spa, Maui

In conjunction with OCDLA.
Scan for more information:



#### Speakers TBA

Registration fee for IACDL seminar: \$300 Contact Executive Director Debi Presher at 208.343.1000 or dpresher@nbmlaw.com for more information and to register.

# Parsons Behle & Latimer Continues to Expand its Attorney Ranks to Meet Tomorrow's Challenges

Parsons is proud to welcome two talented attorneys to our Boise office, expanding our strength in environmental and natural resources and healthcare law. As we grow, our commitment remains the same—progressing to exceed the evolving needs and expectations of our clients. At Parsons, forward momentum is always part of the plan. parsonsbehle.com



Kaycee M. Royer is a member of the firm's energy, environmental and natural resources practice. She represents municipal, industrial, energy, agribusiness, forestry, utility and mining clients in matters involving environmental permitting, regulatory compliance and real estate development on public and private lands.

Kirsten Wallace is a member of the firm's healthcare practice. Kirsten is an experienced attorney dedicated to serving her clients' interests in various matters, including healthcare, real estate and civil litigation in federal court.

## A Different LEGAL PERSPECTIVE

LATIMER

**PARSONS** 

800 West Main Street, Suite 1300 | Boise, Idaho 83702 | 208.562.4900

### July Bar Exam Applicant List

Anderson, Hannah Elizabeth Gonzaga University School of Law Angstman, Sidney Jordan Gonzaga University School of Law Aplin, Jacob Ryan University of Idaho College of Law Aponte, Josiah Creighton University School of Law Ard, Braxton Jason University of Georgia School of Law Arthur, Steven Matthew The University of Michigan Law School Attinger, Julie Michelle University of Idaho College of Law Avad, Alexander Joseph University of Idaho College of Law Baker, Nicholas Ransom University of Montana School of Law Bangash, Laylaa Khan University of Idaho College of Law **Bangerter, Shelly Brook** Steed, Shelly Brook University of Idaho College of Law Bangs, Erin Blakeley University of Idaho College of Law Barnes, Michael Alexander Oklahoma City University School of Law Belt, Kaitlyn Marie University of Idaho College of Law Bieghler, Annette Paula Steinback, Annette Paula Bieghler-Lamadrid, Annette Paula Lamadrid, Annette Paula University of Idaho College of Law Bizeau, Nathan Douglas Washington University School of Law Bottles, Rachel Caroline University of Idaho College of Law Bremmeyer, Travis Edward Seattle University School of Law Brockley, Piper Chapman University, Dale E. Fowler School of Law Brown, Jordan Tyler Gay, Jordan Tyler University of Idaho College of Law Buttars, Austin Roan Case Western Reserve University Calhoun, Dillon Thomas

University of Idaho College of Law Carver, Allison Paige University of Idaho College of Law Castillo, Ivan Alberto University of Idaho College of Law Castro, Andrew Steven University of Idaho College of Law 58 ⊕ Advocate • June/July 2025

Chang, Pamela Fay University of California, Hastings College of Law Cheatham, Quindaro Elizabeth Frieder, Quindaro Elizabeth Cheatham University of Idaho College of Law Chiles, Xenia Vanessa Alas, Xenia Vanessa Seattle University School of Law Chisum, Ryan David Tiffany-Chisum, Ryan David *University of Idaho College of Law* Clark, Hannah Margaret University of Idaho College of Law Clark, Nicolette University of Idaho College of Law Cresap, Jesse Arizona State University, Sandra Day O'Connor College of Law **Curtis, Dalton Scott** University of Idaho College of Law Davis, Karter Anthony University of Idaho College of Law Diehl, Courtney Michelle University of Idaho College of Law Dominiak, Luke Christopher University of Idaho College of Law Dyer, Jason Fielding George Washington University Law School Egbert, Megan Alleyn University of Idaho College of Law Egusquiza, Marcus Garrett University of South Dakota School of Law Farner, Erik Nielsen University of Idaho College of Law Figueroa, Alexandra Elizabeth Southwestern Law School Fitzgerald, Casey Lynn University of Idaho College of Law Galindo, Carlos Anthony Jr. University of Idaho College of Law Garn, Kinsey Kaitlyn Kerswell, Kinsey Kaitlyn Florida State University College of Law Gauthier, John University of Idaho College of Law Gibson, Alexander Paul Arizona State University, Sandra Day O'Connor College of Law Godfrey, Meghan Lynn University of Idaho College of Law Goff, Alvssa Michelle University of Idaho College of Law

Greenwell, Covleen Pearl

University of Idaho College of Law

Pilkenton, Coyleen Pearl

Hallows, Hunter Ted University of Montana School of Law Hallstrom, Ethan Michael University of Idaho College of Law Harker, Andrew Richard University of Nebraska College of Law Harris, Matteo Everet Harris, Mateo Everet University of Idaho College of Law Hatch, Madalyn Quinci University of Idaho College of Law Hayes, Garic Austin University of Idaho College of Law Hensley, Garrett Fermin University of Idaho College of Law Hibbs, Sydney Oriana University of Idaho College of Law Hillery, Madison Siobhan Leeman Leeman, Madison Siobhan Miller, Madison Siobhan University of Idaho College of Law Hilty, Andrew Washington University School of Law Holmstead, Joshua Bruce University of Idaho College of Law Howard, Brogan Dean University of Idaho College of Law Johnson, Pierce James Mitchell Hamline School of Law Jorgensen, Don Howard University of Idaho College of Law Kaley, Sarah Cunningham, Sarah University of Idaho College of Law Keeter, Thomas Andrew Keeter, Tommy Andrew Keeter, Tom Andrew University of Idaho College of Law Ketchum, Justin David Willamette University College of Law Kline, Matthew Don University of Idaho College of Law Klingler, Jack Michael Santa Clara University School of Law Kotek, Ryan University of Idaho College of Law Krantz, Peter Jay University of Idaho College of Law Lange, Mitchell David University of Idaho College of Law Langfield, John University of Idaho College of Law Laverty, Zebulon Michael Concordia University School of Law Lewis, Brit A University of Idaho College of Law

Lindsey, Spencer R

University of Idaho College of Law

Line, Abigail Elizabeth

University of Idaho College of Law

Loggins, Sidney Alexander Jr. Southern University Law Center

Lyon, Caleb Wesley

William & Mary Marshall-Wythe Law School

Malecha, Kevin John

University of Minnesota Law School

McCormick, Emiliana Marie

University of Idaho College of Law

McIntire, Michael Ryan

Gonzaga University School of Law

Meyer, Justin Travis

University of Idaho College of Law

Miller, Shelly Rae

Huffaker, Shelly Rae

University of Idaho College of Law

Moon, Kea Sha

University of Idaho College of Law

Moore, George Bennett

University of Idaho College of Law

Morgan, Jeffrey Parker

Concordia University School of Law

Moulton, Faustine Aurora

University of Idaho College of Law

Mueller, Nathan Milton

Petri, Nathan Milton

University of Wisconsin Law School

Ngalamulume, George Kanku

University of Idaho College of Law

Nulf, Kensington Paige

University of Idaho College of Law

Oyler, Jocilyn Brieanna

The University of Kansas School of Law

Parr Dal Pra, Hart Alexander

Michigan State University College of Law

Peterson, Luz Sierra

University of Idaho College of Law

Pill, Jacquelyn Charlotte

Arizona State University, Sandra Day O'Connor College of Law

Poppenga, Erin Louise

University of Idaho College of Law

Randall, Brittani

University of Idaho College of Law

Rauenhorst, Katherine Elizabeth University of Oregon School of Law

Reese, Braden John

Brigham Young University, J. Reuben Clark Law School

Reese, Jennifer

Appalachian School of Law

Reilly, Melissa Glasgow

Glasgow, Melissa Sue Anna University of Idaho College of Law Richardson, Austin Michael

University of Oregon School of Law

Ritter, Ashley Wardle

Wardle, Ashley

University of Idaho College of Law

Robertson, Jenny Rose

Brown, Jenny Rose

Lemmons, Jenny Rose

Wagers, Jenny Rose

*University of Idaho College of Law* 

Rojas Flores, Omar Alberto

University of Idaho College of Law

Rone, Madison April

Brigham, Madison April

University of Wyoming College of Law

Ronek, Bruce Tsuboi

Ronek, Joshua Bruce

University of Idaho College of Law

Ruhm, Bailey Emma

University of Alabama

Rupe, Isabelle Ann

Rupe, Isabella

University of Idaho College of Law

Russell, Jill

University of Idaho College of Law

Sain, Miles

Baylor University School of Law

Sarriera-Valentin, Guillermo Rafael

University of Idaho College of Law

Saucedo, Alexis Rose

University of Idaho College of Law

Schelhorn, Jennifer O

University of Idaho College of Law

Schmidt, Natalie Crystal

University of Idaho College of Law

Shema, Fredrick

University of Idaho College of Law

Shull, Russell Turner

*University of Idaho College of Law* 

Simmons, Thomas Michael

University of Idaho College of Law

Slominski, Kyle

University of Idaho College of Law

Smith, Faren Chandler

University of Idaho College of Law

Smythe, Blaykleigh Charlene

University of Idaho College of Law

Snoke, Ashley Elizabeth

University of Idaho College of Law

Spector, Candice Manya

University of Idaho College of Law

Steele, Jacob Wheeler

University of Idaho College of Law

Stephens, Zachary Kay

University of Idaho College of Law

Sybrandy, Nathan Richard Benjamin

Sybrandy, Nathan Richard

Regent University School of Law

Tanner, Natalie Dawn

University of Idaho College of Law

Taylor, William Trent

University of Idaho College of Law

Terry, Michel Robert Jr.

University of Idaho College of Law

Thomas, Madison Leigh

University of Idaho College of Law

Thompson, Christopher Roswell University of Idaho College of Law

Tingey, Wesley

Mitchell Hamline School of Law

Tomlinson, Ashley Marie

University of Nebraska College of Law

Traphagan, Wade

University of Washington School of Law

Tucker, Patsy Ann

Starr, Pat A.

Tucker Starr, Pat

Tucker, Patricia Ann

Tucker, Patsy Ann

Tucker, Pat A University of Idaho College of Law

Tugva, Taylor Nicole

Scruggs, Taylor Nicole

Charleston School of Law

Vasquez, Angelique Marie

Gonzaga University School of Law Wagoner, Nicole

University of Idaho College of Law

Wellcome, James Burke

University of Idaho College of Law

Wheeler, Frederick

Brigham Young University, J. Reuben

Clark Law School

Wilson Watters, Mariel Hope

University of Utah S.J. Quinney College

of Law

Witte, Lewis Preston University of Idaho College of Law

Wodnik, Stephanie Marie

University of Idaho College of Law

Wood, Warren Bruce

*University of Wyoming College of Law* 

Woodvard, Ari Celeste

Woodyard, Aryana Celeste

University of Idaho College of Law

Wren, Matthew University of Idaho College of Law

Zafiris, Tyler S

University of Idaho College of Law

Zaglin, Julia Ann

Gonzaga University School of Law

Zywina, Hayden Reid

University of Idaho College of Law

#### OFFICIAL NOTICE **SUPREME COURT OF IDAHO**

Chief Justice G. Richard Bevan

**Justices** Robyn M. Brody Gregory W. Moeller Colleen D. Zahn Cynthia K.C. Meyer

#### Regular Spring Term for 2025

3rd Amended February 19, 2025

Boise	January 8, 10, 13 and 17
Boise	February 7, 10 and 14
U of I, Boise	February 12
Boise	April 2, 4, 7 and 25
Moscow U of I, Lewiston	April 9 and 10
Boise	May 5, 7, 9, 12 and 14
Boise	June 2, 4, 6, 9 and 11

By Order of the Court Melanie Gagnepain, Clerk

**NOTE:** The above is the official notice of the 2025 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.

#### OFFICIAL NOTICE **COURT OF APPEALS OF IDAHO**

Chief Judge David W. Gratton

Judges Molly J. Huskey Jessica M. Lorello Michael P. Tribe

#### **Regular Spring Term for 2025**

4th Amended 03/11/2025

Boise	January 14, 16, 21 and 23
	February 11 and 13
	March 4 and 6
Boise	April 10 and 17
Boise	May 13 and 15
Boise	June 10, 17, 24 and 26
Boise	July 10

By Order of the Court Melanie Gagnepain, Clerk

**NOTE:** The above is the official notice of the 2025 Spring Term for 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.

#### **OFFICIAL NOTICE** SUPREME COURT OF IDAHO

Chief Justice G. Richard Bevan

**Justices** Robyn M. Brody Gregory W. Moeller Colleen D. Zahn Cynthia K.C. Meyer

#### Regular Fall Term for 2025

2nd Amended March 25, 2025

Boise	August 18, 20, 22 and 25
Boise	September 10 and 12
Coeur d' Alene	September 17 and 18
Boise	October 1, 3, and 6
Blackfoot	October 8
Idaho State University (Pocatello)	October 9
Boise	
Twin Falls	November 5

By Order of the Court Melanie Gagnepain, Clerk

**NOTE:** The above is the official notice of the 2025 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.

#### **OFFICIAL NOTICE COURT OF APPEALS OF IDAHO**

Chief Judge David W. Gratton

Judges Molly J. Huskey Jessica M. Lorello Michael P. Tribe

#### Regular Fall Term for 2025

04/07/2025

Boise	August 5, 12, 14 and 26
	September 11, 16, 18 and 23
Boise	October 7 and 9
Boise	November 6, 13, 18 and 20
Boise	December 9

By Order of the Court Melanie Gagnepain, Clerk

**NOTE:** The above is the official notice of the 2025 Fall Term for Court of Appeals of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

#### **Idaho Supreme Court** Oral Arguments for June 2025

05/15/2025

#### Monday, June 2, 2025 - Boise 8:50 a.m. *Jordan v. Powers.....* #51330 Wednesday, June 4, 2025 - Boise 8:50 a.m. *Thaete v. St. Luke's* #51546 10:00 a.m. Erie Properties v. Global Growth...... #51266/51616 Friday, June 6, 2025 - Boise 8:50 a.m. State v. Crist.....#50737 10:00 a.m. Westman v. State..... #51719 11:10 a.m. First Presbyterian Church v. Ada County...... #51890 Monday, June 9, 2025 - Boise 10:00 a.m. Doyle v. The Harris Ranch Community ...... #51175 Wednesday, June 11, 2025 - Boise 8:50 a.m. Vintage II v. Teton Saddleback..... #51455 10:00 a.m. *State v. Buck......* #52335 11:10 a.m. Corondado v. City of Boise ...... #51722

#### **Idaho Court of Appeals Oral Arguments for June 2025**

05/15/2025

9:00 a.m. Attaway v. Sandmeyer	. #52677
June 17, 2025 10:30 a.m. State v. Savala	
<b>June 26, 2025</b> 10:30 a.m. <i>Somes v. Starnes</i> 1:30 p.m. <i>State v. Long</i>	





1755 N Westgate Drive Ste 230 Boise, ID 83704 208-999-4529 www.tatumwysocki.com Tatum McBride Law, P.C. is now Tatum Wysocki, P.C. Jessica Wysocki, formerly McBride, recently married Michael Wysocki of Nampa, Idaho. We are the same dedicated criminal defense firm focused on representing good people facing difficult situations. We are honored to receive referrals from other legal professionals due to the commitment of Tatum Wysocki, P.C. to represent the interests of our clients, ensure the rights of Idahoans are protected, and work to balance the scales of justice.

#### CASES IN ALPHABETICAL ORDER BY CATEGORY - APRIL 2025

#### **CIVIL APPEALS**

#### Claim Preclusion

Whether the district court abused its discretion in denying Plaintiffs' motion to amend their Complaint and concluding the proposed amendments were futile because the new causes of action were barred by claim preclusion.

LaKamp v. Crigler Docket No. 51561 Supreme Court

#### **Contracts**

Whether the district court erred in finding Counterclaimant failed to prove the existence of a contract when Plaintiff's complaint alleged the existence of a contract, and when Plaintiff performed work pursuant to the contract and was paid for doing so.

R.C. Worst & Co., Inc. v. Williams

Docket No. 51898

Court of Appeals

#### Negligence

Whether the district court erred by improperly instructing the jury that all providers of financial products, including insurance products, owe an affirmative duty, under common law negligence principles, to offer those products with care and in a responsible manner.

Shelstad v. Pac. Life Ins. Co. Docket No. 52014 Supreme Court

#### **Post-Conviction**

Whether the district court's reasons for summarily dismissing Petitioner's ineffective assistance of trial counsel claim are affirmatively disproved by the record.

Whitecotton v. State
Docket No. 50098
Court of Appeals

#### **Property**

Whether a homeowners association may enforce a short-term rental ban against property when neither the current nor any former owner of the property gave written consent to the amendment of the covenants to prohibit short-term rentals, as required under I.C. § 55-3211.

N. Henry's Lake Homeowners Ass'n, Inc. v. Norton Docket No. 51990 Supreme Court

#### **Summary Judgment**

Whether the district court erred by granting Defendant's motion for summary judgment because Defendant failed to prove, as a matter of law, that the product liability claims brought against it are barred by Idaho's statute of repose.

Johnson v. SRM Double L, LLC Docket No. 51893 Supreme Court

#### **CRIMINAL APPEALS**

#### Confrontation

Whether the district court violated Defendant's Sixth Amendment right to confront witnesses by allowing the State to introduce a video of the victim's CARES interview at trial, even though the victim did not testify.

State v. Carter
Docket No. 50666
Court of Appeals

#### **Double Jeopardy**

Whether Defendant's prosecution and conviction for two counts of leaving the scene of an injury accident involving two separate vehicles and injured parties violated his right to be free from double jeopardy.

State v. Smitherman Docket No. 51362 Court of Appeals

#### Evidence

Whether the district court abused its discretion by admitting expert testimony at trial without adequate notice or foundation.

State v. Coe Docket No. 51596 Court of Appeals Whether the district court abused its discretion by improperly admitting latenoticed I.R.E. 404(b) evidence that Defendant stole the gun used in the charged offenses approximately six months before committing the charged crimes.

State v. Almaraz Docket No. 50683 Court of Appeals

#### **Jurisdiction**

Whether the district court lacked jurisdiction to rescind the original judgment of conviction and to enter a superseding judgment of conviction increasing Defendant's sentence.

State v. Mooney
Docket No. 51665
Court of Appeals

#### **Motion to Continue**

Whether the district court abused its discretion by failing to address and properly weigh, the relevant factors in denying Defendant's request for a continuance to obtain alternative counsel.

State v. Gray
Docket No. 51254
Court of Appeals

#### **Motion to Dismiss**

Whether the district court abused its discretion by denying Defendant's motion to dismiss her withheld judgment pursuant to I.C. § 19-2604 when Defendant did not have any adjudicated probation violations but admitted she had not completed her community service and failed to provide any evidence showing she had satisfied her financial obligations.

State v. Wagy Docket No. 51398 Court of Appeals

#### **Motion to Suppress**

Whether the State met its burden of proving that an investigative motive was not the primary purpose underlying the impoundment and inventory search of Defendant's vehicle.

State v. Sauve Docket No. 51324 Court of Appeals Whether the officer's visual estimation that Defendant was travelling 50 mph in a 45-mph zone was sufficient to give rise to reasonable suspicion for the traffic stop.

> State v. Martinez Docket No. 51809 Court of Appeals

Whether a drug dog's behavior signaling that it has identified the presence of controlled substances in a vehicle is sufficient to establish probable cause for a search, even absent a final alert.

> State v. Park Docket No. 51840 Court of Appeals

#### Restitution

Whether the district court abused its discretion by ordering Defendant to pay restitution to the victim to cover the cost of a CT scan the victim underwent ten months after the crime.

> State v. Campos Docket No. 51360 Court of Appeals

#### **ADMINISTRATIVE APPEALS**

#### **Judicial Review**

Whether the Director and the district court erred as a matter of law by applying incorrect legal standards when reviewing the Cities' challenges to the Director's updates to the Methodology Order.

> City of Idaho Falls v. Idaho Dep't of Water Res. Docket No. 52102 Supreme Court

Summarized by: **Lori Fleming Supreme Court Staff Attorney** (208) 334-2246

## **CIVIL MEDIATION** MIKE EALY

208-664-5818 WWW.RMEDLAW.COM

> PERSPECTIVE. PERSISTENCE. PATIENCE.

HOSTED OR REMOTE

RAMSDEN, MARFICE, EALY & DE SMET, LLP

PO BOX 1336, COEUR D'ALENE, ID 83816



#### **James Burchell Crowe** 1931 - 2025



James Burchell Crowe, a cherished husband, father, grandfather, and greatgrandfather, passed away peacefully at the age of 93. Born on July 22, 1931, in Chicago, Illinois, he was

the son of Burchell O. Crowe and Eunice Patricia Treadaway Crowe.

James spent his formative years in Chicago before relocating to Dallas, Texas with his mother after his parents' divorce. He and his cousin, Furnon Darby, were lovingly raised by their grandparents, Marion and Effie Belle Treadaway. In Dallas, James excelled academically and athletically as a standout running back, earning a football scholarship to the University of North Texas.

In 1951, during the Korean War, James paused his college education to bravely serve in the U.S. Marine Corps. His service saw him stationed at Camp Pendleton, Camp Lejeune, and the Marine Corps Recruit Depot in San Diego, where he also proudly played football for the Marines. Though accepted into flight school in Pensacola, his training was canceled when the war ended. He was honorably discharged in 1954 and returned to college, where he earned a B.A. in history and English with honors, followed by a master's degree. He began his doctoral journey at the University of Southern California while imparting knowledge as a dedicated high school football coach in the Newport-Costa Mesa School District.

In 1952, James wed Carolyn Ann Prather, the love of his life. Their marriage of 72 devoted years was an inspiring testament to their love and commitment until Carolyn's passing in July 2024. Together, they nurtured a family of four: Terry, Vickie, James Jr., and Patty.

In 1965, James and Carolyn moved to Dalton Gardens, Idaho where James taught at North Idaho College and rose to Chair of the Social Science Department. The family thrived in Dalton Gardens and later in 1972, James built his dream home on Hayden Lake. He spent many summers teaching all the kids and their friends to swim, water ski and sail.

The 1970s marked James's successful transition into home building, becoming one of North Idaho's leading builders. He served as president of both local and state home builders' associations and even as a national vice president of the National Association of Home Builders. His pioneering efforts gave rise to one of the first computer-based "Fast Track" building programs, setting a standard in the industry across the nation.

In 1978, James entered the political arena, running for governor of Idaho in the Republican primary. A firm Reagan conservative, he remained actively involved in civic life throughout his years.

Never one to slow down, James earned a law degree with honors from Gonzaga University in 1993 at the age of 62. He was admitted to the Idaho State Bar in 1996 and practiced law in Idaho, Washington, and Nebraska. He loved doing pro bono work for clients needing help with any kind of contract or retail law. He retired in 2019.

Beyond his professional endeavors, James cherished his time with family and time spent together. He rode his jet ski until the age of 86.

James leaves behind a strong legacy through his children: daughter and caregiver, Patricia McGinnis Romero RN (J.B. Romero); Terry McKernan; James Crowe Jr.; as well as grandchildren and 14 great-grandchildren. James's memory will endure as a symbol of service, leadership, and unwavering love for his country, community, and especially his family. He will be deeply missed and lovingly remembered.

#### M. Karl Shurtliff 1939 - 2025

Marvin Karl Shurtliff, born November 6, 1939 in Idaho Falls, Idaho to Noah and Melba Shurtliff, passed away on April 18, 2025 at a Boise care facility. Karl was raised and educated with his two brothers Gerald and Ricky in Menan, Idaho, graduating from Rigby High School in 1958.

Karl attended Idaho State University, serving as the Sophomore Class President, followed by terms as Student Body Vice President and then President his senior year. While in college he was a member of Phi Sigma Kappa Fraternity, and an active member of the ISU Young Democrats, Debate club, and ROTC. He graduated with a B.A. in government in 1962.

Karl was commissioned into the US Army as a 2nd Lieutenant. He was in training to be sent to Korea in the Army Intelligence Unit when three months later, on his 23rd birthday, he was elected to the Idaho State House of Representatives for Jefferson County. At the time, he was the youngest person ever elected to the Idaho House. He received an honorable discharge from the Army then, ending his short term of military service.

In the summer of 1963, Karl moved to Washington D.C. while on his legislature break. He worked the overnight shift at the US Postal Service and met and hung out with many students at local law schools and staff that worked on Capitol Hill, including Peggy Griffin from Tallahassee, Florida who was working for her congressman as a secretary. They married in DC on November 23, 1963. The two then moved back to Idaho so that Karl could attend law school at the University of Idaho, after one brief year of Karl teaching Speech and Writing at West Jefferson High School.

While in law school, Karl was a member of the law review, and President of the Student Bar Association. He received his Juris Doctorate (Cum Laude) and served as the Law School's Convocation Speaker. He was admitted to the Idaho State Bar in 1968. Then, he and Peggy moved back to Washington D.C. where he spent the next six years as a senior trial attorney for the US Department of Justice in the Civil Rights Division. While he worked on many important cases during his tenure, he spent a significant portion of his work monitoring polling places and voting practices to ensure compliance to the 1965 Voting Rights Act. In 1972, they had their daughter Jennifer Karyl.

In 1974, Karl was back in Idaho, this time in Boise, where he was appointed to the Idaho Public Utilities Commission, serving as the President from September 1975 to January 1977. From January to June of 1977, he served as Special Assistant and Legal Counsel to Idaho Governor John V. Evans. In June of 1977, Karl was appointed to be the United States Attorney for the District of Idaho by President Jimmy Carter, where he represented the United States in civil and criminal matters.

In 1981, Karl began a long career as a private practice attorney dealing in civil, administrative, and criminal law. He argued numerous cases in the Idaho Supreme Court, Idaho Court of Appeals, and Ninth Circuit Court of Appeals. In 2003, he had the honor and privilege of arguing a case before the United States Supreme Court. He remained active in service, including volunteering for his daughter's Elementary School PTO, when as PTO President he helped successfully argue for the closure of one block of Ada Street, so kids didn't have to cross a road with traffic to get to the playground. He was appointed as a member of the Idaho State Board of Education by Governor Cecil Andrus, including serving a term as President from 1992-1994.

In 2016, following the death of his wife Peggy, Karl moved briefly to St. George Island, Florida. After riding out two hurricanes, he decided it was time to move to higher ground, and relocated to Mount Dora, Florida. For the next few years, he soaked in the warm weather and sunshine. Finally in 2018, in a way that those who knew Karl can appreciate, he wrote "I Quit" on his Idaho State Bar renewal form and fully retired from the practice of law.

In 2021, Karl began suffering through some health issues and exhibiting early signs of dementia. He moved back to Boise to be closer to his daughter and son-in-law. In 2023, his dementia progressed, and he was moved into a local memory care facility. He was provided with quality care with compassion, concern, and dignity. His caregivers were and remain appreciated.

Karl was preceded in death by his infant son; his parents; and his wife. He is survived by his daughter, Jennifer (Mark) Kirkland; his brothers, and their children.

#### Andrew F. Pratt 1970 - 2025



Andrew ("Andy") F. Pratt, 55, of Hailey, died peacefully, surrounded by his family, after a courageous battle with pancreatic cancer on April 30, 2025.

Andrew was born on March 22, 1970, in Los Angeles, California, to Robert and Åshild Pratt, joining his older sister, Leslie. The family soon moved northward, settling in Issaquah, Washington, where Andrew spent his childhood playing soccer, riding bikes, and being a class clown. While American by birth, Andrew grew up equally Norwegian in a household immersed in his mother's culture. Summers spent with family in Norway were among Andrew's happiest memories.

Andrew was an ardent believer in hope and optimism for wayward teens, precisely because that was his own story. After teenage malarkey led him to drop out of school, he had an epiphany that he had to do better. He returned to high school, then went on to graduate from the University of Washington in 1993 with a degree in microbiology.

After graduation, Andrew moved to Anchorage, Alaska, where he worked as a phlebotomist. Over a long, dark winter there, he applied to law school and then enrolled at Temple University in Philadelphia. Andrew's years at Temple formed one of the most important epochs in his life. Not only did he stretch his brilliant mind over three academically grueling years, he also made lifelong best friends. And he met the love of his life, Jody.

Andrew met Jody in a venerable dive bar in Philly named Dirty Frank's. Andrew was there with his classmates, one of whom had just convinced Jody to move to Philadelphia on a lark. Jody remembers being wowed by his sparkling blue eyes and utterly charmed by his impish intelligence. The two became an instant item, inseparable from the start. Jody decided to stay in Philadelphia to wait for Andrew, and when he graduated from law school in 1998, they moved to Seattle, where Andrew began his career as an intellectual property attorney.

Andrew was also a great lawyer for the same reason that he was a great person: He had impeccable integrity, an inquisitive nature and a comic wit that put everyone at ease.

Andrew and Jody were married in Seattle on Oct. 13, 2001. In 2003, they relocated to Chicago, where Andrew had been offered a job and it rained less. Three years later, they welcomed their first child, Anja. Andrew's entire world changed. Andrew was enchanted with fatherhood. His love and devotion as a dad knew no bounds. Two years later—and after a move to Washington, D.C.—Andrew was blessed with another daughter, Ingrid. Three years after that, his happy family was complete with the birth of his son, Stigur.

Andrew and his family lived on Capitol Hill for 14 years. These years were full of love, laughter and world travel with Jody and the kids, professional success and a rich fabric of friends and community. His D.C. life lacked only one thing: skiing.

Having grown up in the mountains with a Scandinavian mother, Andrew could ski as soon as he could walk. He often mused that the mountains were calling him west. So, when his job went remote over COVID-19, he and Jody decided to leap into another adventure and the family moved to Sun Valley which began as some of the happiest times of his life. They spent winters skiing and summers hiking and mountain biking. As they reflected on their beautiful family and incredible surroundings, they truly felt that they had reached peak human happiness. Andrew was admitted to the Idaho State Bar in 2023.

When cancer shattered their world in 2023, Andrew rose to the fight, enduring brutal rounds of chemotherapy and extensive surgeries with grit, hope, and his trademark sense of humor. During a period of remission, he was determined to give back to his community, so he trained to be an EMT, on a path to becoming a volunteer firefighter. Recurrence dashed his plans of becoming a firefighter, but he refused to give up on being an EMT. Studying sometimes with a chemo drip in his vein and coming to class when most people would have stayed in bed, Andrew soared through the course with his usual brilliance.

Being both smart and personable, Andrew was a natural with patients, always eager to hear their life stories and making them laugh while compassionately caring for them. One of the last things Andrew was able to accomplish in this world was successfully completing his course, becoming a licensed EMT and a volunteer for the Ketchum Fire Department.

Andrew is survived by his adored and adoring wife, Jody; daughters, Anja and Ingrid; son, Stig as well as other family.

#### Nick L. Nielson 1958 - 2025

Nick L. Nielson, a devoted family man, esteemed attorney, and cherished member of the Pocatello, Idaho community, passed away on May 10, 2025, from a short battle with cancer at the age of 66. Born to Leland Nels Nielson and Arta Lewis Nielson, Nick was raised with strong values of faith, family, and service.

Nick began his educational journey at Ricks College in Rexburg, Idaho, in 1976. He took a two-year hiatus to serve a mission in Thailand for The Church of Jesus Christ of Latter-day Saints. Nick continued his studies at Brigham Young University, obtaining a bachelor's degree in 1983. He furthered his education at the J. Reuben Clark Law School at BYU, where he earned both a Master of Public Administration and a Juris Doctorate in 1987. He was admitted to the Idaho State Bar in 1998.

In 1988, Nick returned to Idaho to embark on his legal career. For over three decades, he provided knowledgeable legal counsel and steadfast representation to individuals, families, and businesses in the greater Pocatello area. His practice encompassed a wide range of legal matters, including family law, wills and estate planning, personal injury, employment law, and contract law. Nick was known for his detailed service, clear communication, and unwavering dedication to his clients.

Beyond his professional life, Nick was a man of diverse interests. He enjoyed woodworking, rock hounding, gardening, genealogy, and exploring the great outdoors. He served on, and led, several committees and organizations working to preserve and care for historic buildings in Pocatello. His creative spirit and love for nature were evident in all aspects of his life. Nick is survived by his beloved wife, Linda; their five children and their spouses, Emilee Hunter (Jeremy), Kimberly White (Matthew), Nicholas (Tiffany), Kristen, Hailey; and 12 grandchildren, who were the pride and joy of his life. He also leaves behind a legacy of integrity, compassion, and service that will continue to inspire all who knew him.











Gregory R. Giometti, an Idaho Bar member since 1982, is accepting referrals for expert witness consultation services regarding insurance industry standards in insurance bad faith litigation.



#### Gregory R. Giometti, Of Counsel

Giometti & Mereness, P.C. 501 S. Cherry St., # 1000 Denver, CO 80246

ggiometti@giomettilaw.com (303) 333-1957



## UNITED STATES DISTRICT AND BANKRUPTCY COURTS DISTRICT OF IDAHO NOTICE

June 2025



#### TO: INTERESTED MEMBERS OF THE IDAHO STATE BAR

The judges of the United States District and Bankruptcy Courts for the District of Idaho intend to appoint a Lawyer Representative to serve on the Ninth Circuit Conference of the United States Courts for a three-year term to replace Howard Belodoff. In addition to Mr. Belodoff, the District of Idaho's current Lawyer Representatives are Sam Angell and Elijah Watkins, with Sonyalee Nutsch (emeritus) and Katie Ball (emeritus).

Effective November 1999, the Board of Judges adopted a Lawyer Representative Selection Plan, based upon current bar membership, which ensures state-wide representation. Given that last year's lawyer representative was chosen at-large, the selection schedule has changed. The plan now calls for the selection of lawyer representatives as follows:  $2026 - 1^{st}$  or  $2^{nd}$  Districts;  $2027 - 4^{th}$  District;  $2028 - 6^{th}$  or  $7^{th}$  Districts;  $2029 - 3^{rd}$  or  $5^{th}$  Districts;  $2030 - 4^{th}$  District; 2031 repeat above.

Based upon the updated Plan, this year's lawyer representative should come from the 1st or 2nd Districts.

#### Applicants are required to:

- 1. Be a member in good standing of the Idaho State Bar and be involved in active trial and appellate practice for not less than 10 years, a substantial portion of which has been in the federal court system;
- 2. Be interested in the purpose and work of the Conference, which is to improve the administration of the federal courts, and be willing and able to actively contribute to that end;
- 3. Be willing to assist in implementing Conference programs with the local Bar; and
- 4. Be willing to attend committee meetings and the annual Ninth Circuit Judicial Conference.

Typical duties include serving on court committees, reviewing recommendations on the use of the Court's non-appropriated fund, developing curriculum, assisting with the planning for the District conference, serving as the representative of the Bar to advance opinions and suggestions for improvement, and assisting the Court in the implementation of new programs or procedures. Any persons interested in such an appointment should submit a letter setting forth their experience and qualifications, no later than September 26, 2025, to the following:

Stephen W. Kenyon Clerk of Court clerk@id.uscourts.gov

#### Two New Idaho State Bar Commissioners

STATEWIDE—Voting members of the Idaho State Bar in the Northern and Central Districts of Idaho recently elected new members of the Board of Commissioners. The new Commissioners will serve three-year terms, beginning in July 2025.

Lewiston attorney Patty Weeks was elected to represent the First and Second Districts, replacing Commissioner Jillian Caires. Patty is a graduate of the University of Idaho College of Law. She is currently the Clerk of the District Court, Nez Perce County. She previously served as an officer and president of the Second District Bar Association.

Boise attorney Leslie Hayes was elected to represent the Fourth District, replacing President Mary York. Leslie is a graduate of the Gonzaga University College of Law. She currently serves as the Deputy Chief Administrative Hearing Officer in the Idaho Office of Administrative Hearings.

#### **2025 Spring Admissions Ceremony**

STATEWIDE—The Idaho Supreme Court and the United States Courts, District of Idaho, held a joint admissions ceremony alongside the Idaho State Bar on Friday, May 02, 2025, at the James A. McClure Federal Courthouse in Boise. 29 attorneys were admitted to the Idaho State Bar. United States Supreme Court Justice Gregory Moeller presided over the ceremonies. Mary York, President of the Board of Commissioners of the Idaho State Bar, Sunrise Ayers, President of the Board of Directors of the Idaho Law Foundation,

Idaho Supreme Court Justice Colleen Zahn, and United States Chief Bankruptcy Judge, District of Idaho, Noah G. Hillen addressed the new admittees. Friends and family of the new Idaho lawyers attended the ceremony to celebrate their success with a reception held afterward.

#### **Veterans' Legal Seminar Recap**

BOISE—The Veterans Legal Seminar, hosted by Mission 43 and the Idaho Military Legal Alliance, marked an important moment in Idaho's growing commitment to addressing the unique legal needs of the veteran community. Held on April 25, 2025, at the Idaho Outdoor Fieldhouse, the event was designed for legal professionals, veterans, and advocates seeking to better understand how to serve those who have served. The seminar featured a robust agenda of presentations by legal practitioners with deep experience in veteran-related legal issues. From criminal defense and estate planning to military justice and legal clinic operations, the seminar offered practical, actionable insight for attorneys looking to expand their work with veterans or support community-based efforts.

The event kicked off with an introduction to the mission and goals of the Idaho Military Legal Alliance and Mission43, followed by a presentation from Idaho Military legal Alliance Director Jeremy Rausch on establishing and managing community legal clinics—a valuable access point for underserved veteran populations. After a networking lunch hosted by Mission43, attendees participated in a double session on the tracks of military and civilian legal systems. John Shirts, currently serving in



Idaho Military Legal Alliance CLE. Photo credit Yzabella Eggers.

the Idaho House of Representatives and as an AFRC JAG, detailed the unique legal responsibilities and processes involved in military legal proceedings.

Justin Eckman of Parsons Behle followed with an in-depth look at gun trusts and how they intersect with veterans' estate and Second Amendment rights. The seminar concluded with Jessica Wysocki of Tatum Wysocki Law presenting on veterans' constitutional protections during legal encounters, particularly the right to remain silent—an often misunderstood but vital issue in this community. The day wrapped up with a reception and awards ceremony, offering a space for meaningful dialogue, recognition of impactful legal service, and the building of partnerships that will enhance veteran advocacy across the state. For attorneys, this seminar not only provided CLE-relevant education but also a deeper understanding of how to make a lasting difference in the lives of veterans through legal service.

#### 2025 Law Day Across the State

STATEWIDE—Various events were held on May 1, 2025 in honor of Law Day. Read below the recaps from various districts.

Law Day in Shoshone

FIRST DISTRICT—The First District hosted 2025 Law Day in Shoshone County with local students. The first group was a group of high school seniors, and the



New admittees sworn in inside the James A. McClure Federal Building and U.S. Courthouse. Photo credit: Abby Kostecka.

second group was seventh graders who are in the process of learning about the court system and preparing for a mock trial.

There was a presentation of a mock first appearance arraignment for each group, complete with an explanation of rights, charges and penalties, followed by an ICR 46 bond argument. After, an overview of the Idaho courts, the role of each type of judge within Idaho, and the importance of justice and fairness in our judiciary. The students were attentive and had the opportunity to ask questions. One message that came through to the students was that no matter where you come from, you can achieve your dreams.

#### Law Day in Coeur d'Alene

FIRST DISTRICT—In Kootenai County, attorneys donated their time to provide free services for family law issues and wills at the Coeur d'Alene Public Library. The attorneys who gave their time at this event were: Kate Coyle, Rebecca Eyman, Mark Jackson, Stacia Hagerty, Jamila Holmes, Matt Rakes, Jillian Roderick, Anne Solomon, and Jay Sturgell.

Law Day in the Fourth District FOURTH DISTRICT—The Idaho Volunteer Lawyer Program, with support from Idaho Women Lawyer, held an "Ask a Lawyer" phone clinic which helped 34 people.

#### **New Practice Section, Technology** and Practice Management, **Organizational Meeting**



STATEWIDE — The ISB Board of Commissioners has approved the formation of the Technology and Practice Management Section.

The organizational meeting will take place on Tuesday, June 24, 2025, at 12:00 p.m. MT at the Bar office, 525 W. Jefferson, Boise, Idaho, or via Zoom.

Lunch will be served to those who attend in person, please RSVP via the Practice Section page on the Idaho State Bar website. Agenda items include selection of Officers, adoption of By-Laws, and discussion for design and development of Section activities. All Bar members are invited to participate.

> Zoom Meeting Information: Meeting ID: 862 8511 4816 Passcode: 276680

#### **Governor Appoints New Second District Judge**

LATAH COUNTY—Judge Megan Marshall, previously a magistrate judge for Latah County, will now serve as district judge for the Second Judicial District with chambers in Latah County. She succeeds recently retired District Judge John Judge. Gov. Brad Little announced the appointment on May 5, 2025.

#### **Judge Eilert Takes Oath of Office** in Ada County

BOISE—The legal community gathered on Friday, May 9, for Judge Nathan Eilert's formal investiture, marking his appointment to the Fourth Judicial District Court bench. Held at the Ada County Courthouse, the event drew colleagues, family, and members of the local Bar who applauded Judge Eilert's commitment to justice and public service.

Judge Kyle Schou presided over the ceremony, highlighting Judge Eilert's previous experience, kindness, and work ethic. Judge Dianne Walker administered the oath of office.

In his remarks Judge Eilert expressed his gratitude to his family, the courthouse community, and mentors who helped him get to this point in his career. He also spoke of the honor and the responsibility we all carry to ensure fairness and dignity in every courtroom. Judge Eilert will preside over a domestic relations docket.



First District attorneys giving free services at the Coeur d'Alene Public Library for Law Day 2025.



First District attorneys who volunteered between 3-6 hours of their time at Coeur d'Alene Public Library for Law Day 2025.



#### June

Texting While Practicing Law: Ethical RisksAudio Stream1.0 Ethics credit









#### July

31

16 Idaho's Legal History CLEs Crimes of the Last Century: Idaho's Most Famous Trials

> A March Through Idaho's Most Famous Appeals JUMP, Boise & Webcast 2.0 CLE credits





Drafting Waivers of Conflicts of InterestsAudio Stream1.0 Ethics credit



Lawyers Supervising Lawyers: Navigating Ethical Responsibilities Audio Stream 1.0 Ethics credit



#### **August**

- 1 Co-Counsel Ethics in Civil Litigation
- 7 Small Firm Ethics: Tech, Paralegals, and Remote Practice Challenges
- 12 Contract Crafting: Navigating Ethical Issues in Drafting

For more information and to register, visit www.isb.idaho.gov/CLE.

Celebrating 16 years of excellence, integrity and accountability in the provision of Vocational Rehabilitation services.



Layton & Assoc.

Kourtney Layton MRC, CRC, ABVE/D, IPEC, CLCP, CVE, CIWCS-A Rehabilitation Counselor, Vocational Analyst, Life Care Planner

- Worker's Compensation
- Employment
- Personal Injury
- Family Law
- Life Care Plans
- Vocational Assessments
- UCR Medical Bill Analysis
- Rebuttal Opinions
- Expert Testimony
- Prelitigation Packages



One-click referral E-mail us now!

Reach us at 855-831-8880 or find us online at kourtneylayton.com





NEED ASSISTANCE WITH A CATASTROPHIC INJURY, TRUCKING COLLISION OR AUTO CRASH CASE?

CALL KURT. 208 343 7510

