

the **ADVOCATE**

Volume 67 | No. 5

May 2024



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CONSTITUTIONAL
RIGHTS FOR VICTIMS**

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IWL CONGRATULATES THE 2024 BIENNIAL GALA AWARD RECIPIENTS

On April 17, 2024, we gathered to celebrate the innovators, rising stars, leaders, volunteers and those who are working to create a more inclusive legal community across Idaho. Please join ALL OF US in celebrating these incredible women!



JULIE KANE
Kate Feltham
Award



SUNRISE AYERS
Bertha Stull Green
Award



IMELDA RAMIREZ
Innovator
Award



HON. JESSICA LORELLO
Setting the Bar
Award

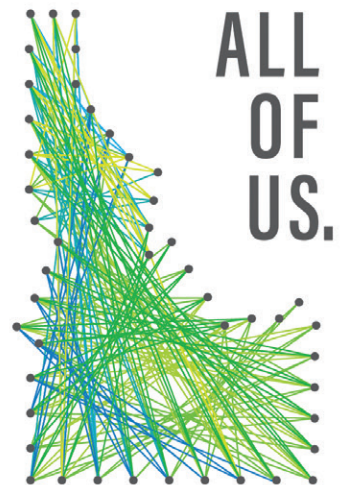


TARA MALEK
Notable Achievement
of the Year Award



JESSALYN HOPKIN
Rising Star
Award

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On the Cover



This issue's cover photo is of a stunning white lotus flower. Starting their bloom in thick mud, these flowers rise up to open their petals unmarred. The flower often symbolizes rising anew from a dark place and is a representation of the healing process for victims of crime. This issue's Featured Article follows multiple stories, including one in particular, of how victims of crime in Idaho have found respite in their rights provided by the Idaho Constitution. Photo credit: Adobe Stock, White lotus flower in pond, by danhvc.

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Pause, Breathe Deep & Refresh

Lindsey M. Welfley

Thank you for picking up the May issue of *The Advocate*! Hopefully this month means we've turned the corner on Idaho's unpredictable Spring weather, though time will tell. This issue is sponsored by the Idaho Prosecuting Attorneys' Association and it is their first time sponsoring an issue of the magazine!


To start this issue, Robert Wood discusses the dynamic role prosecutors play as leaders and community members, highlighting the importance of community partnerships and collaboration. Next, Brian Naugle asks the question, "Are career prosecutors going the way of the dinosaur?" and explores the societal challenges facing prosecutors today.

This issue's cover story and Featured Article is written by Ada County Prosecutor Jan Bennetts and highlights the real-life impact of the rights provided to victims of crime by Idaho's Constitution. Next, Chris Boyd writes his defense of the prosecutor in light of several current events. And finally, Louis Marshall provides his perspective on the intricacies of answering discovery as a prosecutor.

This issue also includes ABA Delegate Jonathan Shirts' report on the ABA Mid-Year Meeting, as well as a recap of this year's Idaho High School Mock Trial Competition.

As always, we hope you enjoy this issue and find the articles to be thought-provoking. May this month bring you plenty of sunshine, fresh air, and opportunities to pause, breathe deep, and refresh!

Best,



Lindsey M. Welfley
Communications Director

Idaho State Bar & Idaho Law Foundation, Inc.

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JAMES A. SHINAULT (Suspension)

On April 3, 2024, the Idaho Supreme Court entered a Disciplinary Order suspending Idaho Falls attorney James A. Shinault from the practice of law for a period of three years, with two years of that suspension withheld, effective retroactively to February 26, 2024, the date Mr. Shinault ceased practicing law.

The Idaho Supreme Court found that Mr. Shinault violated I.R.P.C. 1.7(a) (2) [Conflict of interest based on the lawyer's personal interests], 1.4 [Failure to reasonably communicate with client], and 8.4(d) [Engaging in conduct prejudicial to the administration of justice]. The Idaho Supreme Court's Disciplinary Order followed a stipulated resolution of an Idaho State Bar disciplinary proceeding in which Mr. Shinault admitted that he violated those Rules.

The formal charge case related to Mr. Shinault's representation of a client, "J.H.," in a pending criminal case. Shortly after finalizing a plea agreement for J.H. in the criminal case, Mr. Shinault engaged in sexual relations with J.H.'s wife on one occasion. As J.H. awaited sentencing, Mr. Shinault also exchanged explicit and personal text messages with J.H.'s wife and suggested in those messages that J.H.'s wife keep their relationship secret from J.H. Approximately one month after her intimate relationship with Mr. Shinault commenced, J.H.'s wife disclosed that relationship to J.H. Mr. Shinault then filed a motion to withdraw, informing the court that a conflict of interest had come to his attention and requesting that the motion to withdraw be granted without a hearing. Mr. Shinault did not consult with J.H. about the conflict of interest and did not inform J.H. about the motion to withdraw. The court granted the motion to withdraw without a hearing and appointed new counsel for J.H. in the criminal case. Mr. Shinault's lack of any prior discipline and his acknowledgement of the misconduct were considered as mitigating factors.

The Disciplinary Order provided that upon reinstatement after the one-year

period of imposed suspension, Mr. Shinault will serve a two-year period of probation with terms and conditions that include counseling, the completion of six CLE credits relating to conflicts of interests, and the immediate imposition of the two-year withheld period of suspension if Mr. Shinault violates the terms of his probation or admits or is found to have violated any Idaho Rules of Professional Conduct for which a public sanction is imposed for conduct that occurred during the probationary period.

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

ADAM MICHAEL STARR (Public Reprimand)

The Professional Conduct Board has issued a Public Reprimand to Portland, Oregon attorney Adam Michael Starr, 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 January 22, 2024, the Disciplinary Board of the Oregon Supreme Court entered an Order Approving Stipulation for Discipline issuing a Public Reprimand to Mr. Starr for a violation of Oregon Rule of Professional Conduct ("O.R.P.C.") 1.5 [Fees]. This O.R.P.C. corresponds to the same Idaho Rule of Professional Conduct.

The Public Reprimand relates to the following circumstances. On September 9, 2023, the State Professional Responsibility Board of the Oregon State Bar authorized formal disciplinary proceedings against Mr. Starr for alleged violations of O.R.P.C. 1.5(a). On January 17, 2024, the Oregon State Bar and Mr. Starr entered into a Stipulation for Discipline whereby Mr. Starr admitted that he violated O.R.P.C. 1.5(a) with respect to his firm's modified fee agreement with a corporate client and Mr. Starr's conduct in attempting to charge a fee that was not owed at the conclusion of a lengthy breach of contract case. The parties agreed in the

Stipulation for Discipline that the appropriate sanction in this matter was a Public Reprimand.

The Public Reprimand does not limit Mr. Starr's eligibility to practice law. Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, Idaho 83701, (208) 334-4500.

Order to Cancel License to Practice Law for Non-payment of 2024 License Fees

The Commissioners of the Idaho State Bar by and through their Executive Director have filed with the Clerk of this Court evidence that the following named attorneys have not paid the 2024 Idaho State Bar license fees required by Idaho Bar Commission Rule 305(b)(2) and have not given notice of resignation from the practice of law to the Idaho State Bar and this Court;

IT IS ORDERED that the LICENSE TO PRACTICE LAW IN THE STATE OF IDAHO of the following named persons are, CANCELED FOR FAILURE TO PAY THE 2024 IDAHO STATE BAR LICENSE FEES:

GEORGE M. AHREND; HOLLIS JANE ANDERSON; KENNETH ROBERT ARMENT; BRIAN J. BABCOCK; JOANNA TOTORICA BAND; RICHARD STEWART BAYER; MARK ALLEN BEEBE; WILLIAM L. BISHOP JR.; RICHARD CHARLES BOARDMAN; WILLIAM CHARLES BOHRER; LESLIE SKINNER BROWN; GEORGE DAVID CAREY; CHRISTOPHER CODY CASH; DYLAN LEE CHENOWETH; DEBRA ANNE CLIFFORD; LINDA J. COOK; ANN LARGENT COSHO; CHRISTOPHER STEPHEN CRAGO; DOUGLAS JOHN CRAPO; HANNAH SUZANNE DA VIS; WARREN S. DERBIDGE; DANIEL BRIAN DERUYTER; DAVID MORGAN STEVEN DEWHIRST; DAVID ERIC DOKKEN; KELLY M. DREW; SHELBI ANN ELLER; SUZANNE MARY FEGELEIN; SHEILA PENELOPE FISCHER; TREVOR BURLEY FRANK; JANELLE RAE GATES; JEFFREY DENNIS GOOCH; NICOLE ELIZABETH

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

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

DATED this 7th day of March 2024.

**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:

Kelly M. Drew; Active Status, March 14, 2024
 Suzanne Mary Fegelein; Inactive Status, March 21, 2024
 Mark Andrew Shaffer; Inactive Status, March 21, 2024
 Claire Eileen Sharp; Active Status, March 21, 2024
 Robert John Young Wetherell; Active Status, March 21, 2024
 Robert Thomas Wetherell; Active Status, March 21, 2024
 Brian J. Babcock; Active Status, March 25, 2024
 Trevor Burley Frank; Active Status, March 25, 2024
 Andrew G. Martin; Active Status, March 25, 2024
 Andrea Nelson; Inactive Status, March 27, 2024
 Matthew S. Echo Hawk; Inactive Status, April 17, 2024

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Letter to the Editor

Dear Editor of *The Advocate*,

As an attorney specializing in the representation of tenants in housing disputes, I praise Katelin E. Bartles excellent article “Navigating the Idaho Eviction Process: A Guide for Attorneys Representing Landlords” contained in the February 2024 edition of *The Advocate* and I recommend it to both landlord and tenant attorneys.

Although Ms. Bartles’ article is a comprehensive guide to Idaho landlord-tenant law, I feel it is important to keep in mind that in addition to the state law requirements discussed in the article, there are also federal legal requirements that regularly arise in housing cases that I handle that need to be considered before proceeding with a state court eviction action.

The first such federal requirement arises under the federal Fair Housing Act, 42 U.S.C. §3601 *et seq.*, and it requires that disabled individuals be granted reasonable

accommodations that may be necessary to afford such individuals equal opportunity to use and enjoy a dwelling. This protection often applies when a landlord has terminated a lease or is pursuing an eviction with regards to a disabled tenant. A landlord may have to allow a tenant additional time to vacate the premises after termination to accommodate their disability, for example, and may have to rescind an eviction action if the reason for the noncompliant behavior was the result of the tenant’s disability and the tenant can provide verification that they have taken corrective action, such as obtaining appropriate medical care or a change in prescription medications. Failure to grant a reasonable accommodation under such circumstances may result in a significant damages award to the tenant.

The other federal requirement that regularly arises applies to federally-subsidized housing units. The United

States Department of Housing and Urban Development (“HUD”) has imposed specific requirements that must be complied with by such landlords when seeking to terminate a tenant’s housing. Failure to strictly comply with those requirements will typically result in a dismissal of an eviction proceeding.

There are many other federal requirements that apply to housing disputes with which housing attorneys need to be familiar. However, the two discussed above have constituted significant pitfalls for unwary landlord attorneys.

Very truly yours,

Ken Nagy
Managing Attorney
Idaho Legal Aid Services, Inc.,
Lewiston Office



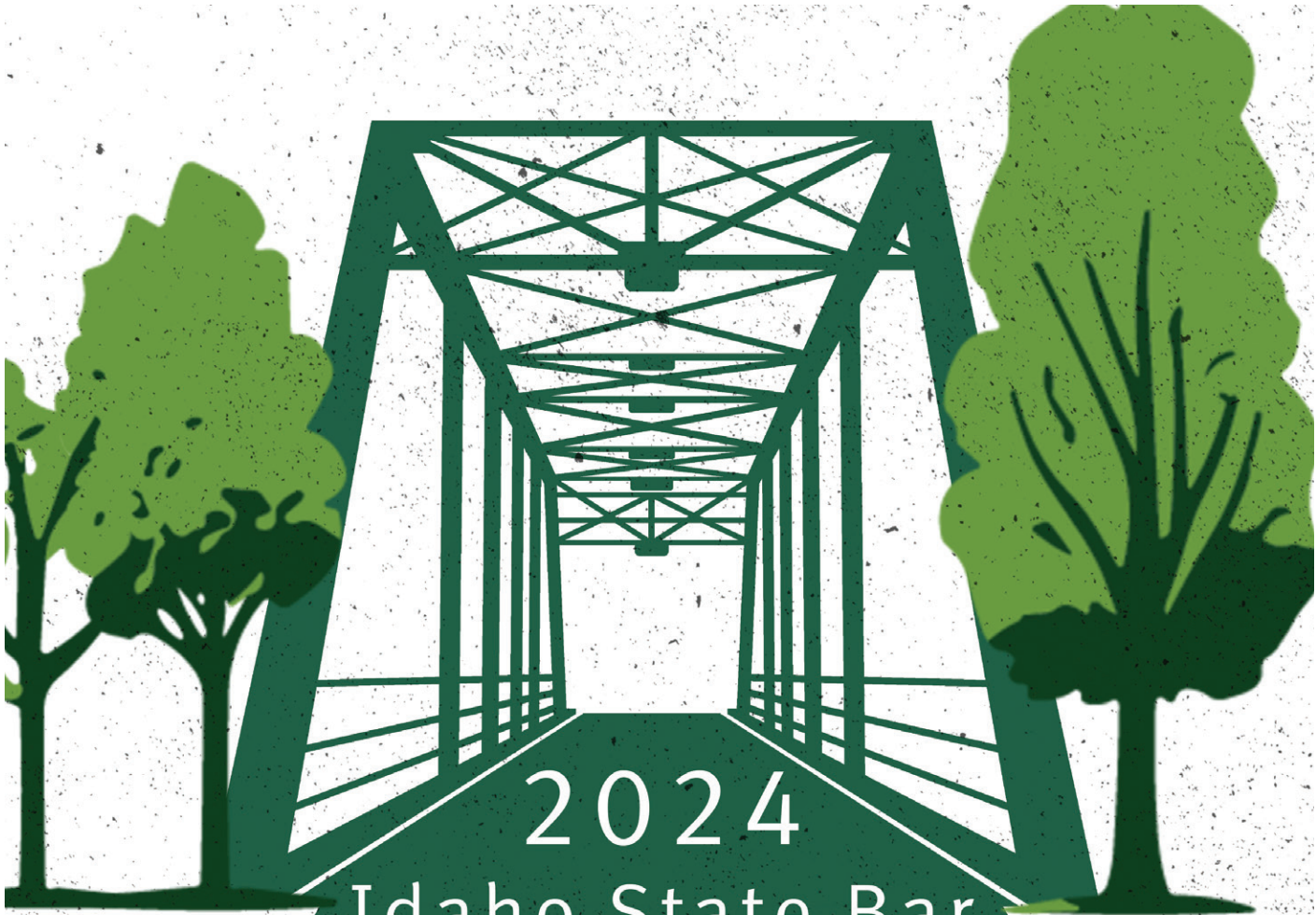
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2024

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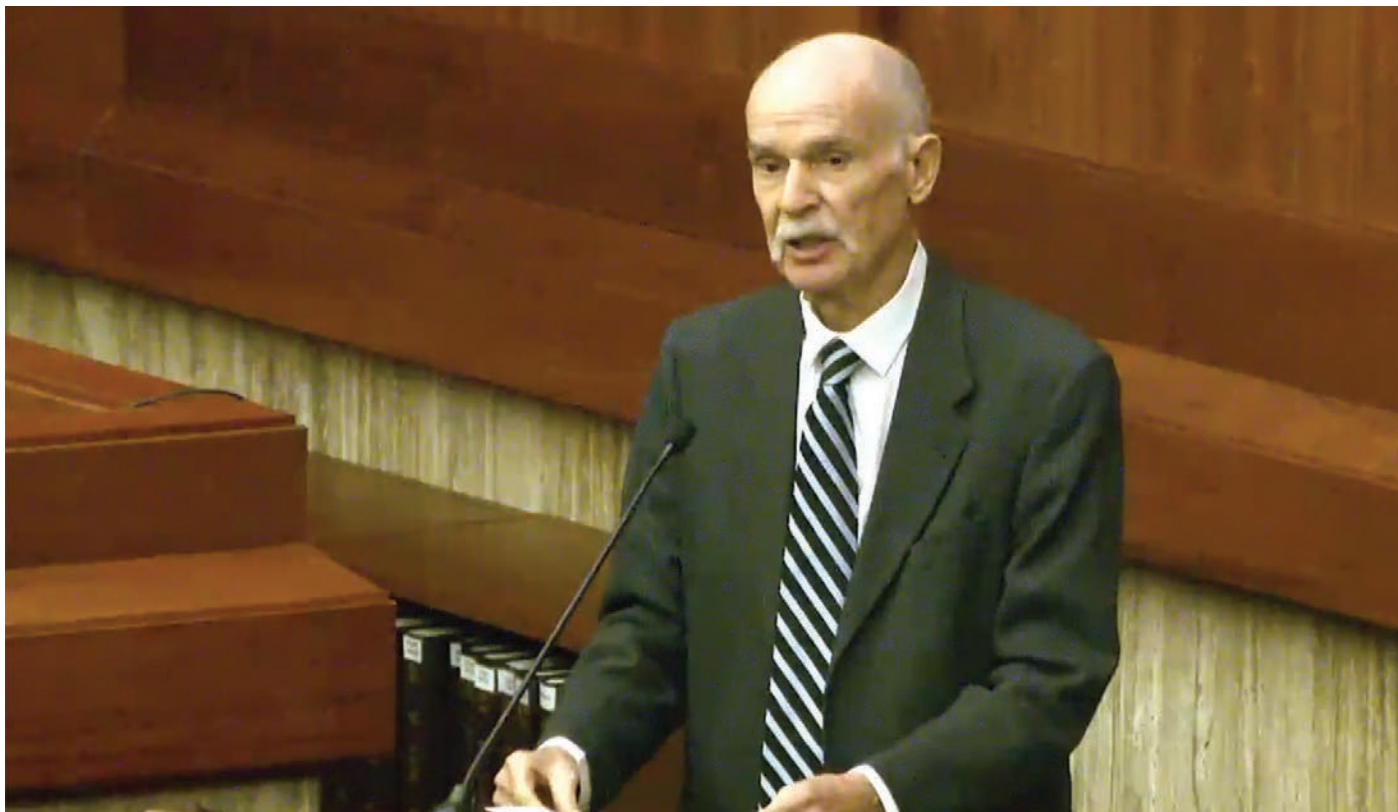
Annual Meeting

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- Ethics



Judge Charles Hosack providing remarks during the Idaho Supreme Court's Memorial Service.

The Legal Profession: Integrity, Character, and Commitment to Values

Mary V. York

I recently attended the Idaho Supreme Court Memorial Service honoring and remembering the attorneys and judges who passed during the last year. Every year that I can attend, I am reminded of the lions of the law – those who helped shape the dignity of our profession, set the standards for us to attain, and served as role models and mentors helping us better serve our clients. It is always a poignant and meaningful remembrance. If you haven't yet read the memorial tributes for those honored at the Memorial Service, I encourage you to do so. The website to access the obituaries can be found here: <https://isc.idaho.gov/files/2024-Memorial-Book.pdf>. The heartfelt stories describe the histories, achievements, and service of these individuals, and importantly, they recount and celebrate the personal side we don't always see.

Among the highlights of the service were the remarks from the Honorable Charles Hosack, Retired District Judge and Chair of the Idaho Supreme Court Memorial Service Committee. I regularly find inspiration in the words of others, so rather than attempt to summarize his comments, with his permission, I quote from his remarks:

There is a spirit, a unique spark of life, within the legal profession that is available to attorneys and judges. The genius of our Founding Fathers was in the creation of the Third Branch of Government—the Judicial Branch—to balance the executive and legislative branches. The Judicial Branch was necessary to apply the rule of law on behalf of 'We the People', and to prevent an authoritarian ruling, as had

been so sadly the case for centuries under the kings and queens in Europe.

The rule of law under the Judicial Branch system values fairness, honesty, integrity, and an even handed legal process for resolving disputes and maintaining civility and public order. Our system of government, and the public at large, relies upon the legal profession to produce attorneys and judges who share a set of values that provides fairness and justice for all. One might characterize attorneys and judges as members of the workforce of the Judicial Branch. Consider the career of Chief Justice John Marshall, and the Supreme Court decisions in the early days of our Republic, that did so much to weave the fabric that united a bunch of colonies into one country.

Judge Hosack’s remarks were a welcome reminder for me and helped underscore the significance of what it means to be part of the legal profession.

In my past Commissioner articles, I have written about the critical importance of an independent and impartial judiciary to our democracy and the functioning of our society. But shifting the focus somewhat and maybe even flipping the same coin to the other side – it is us, the members of the Bar who are an integral part of the Judicial Branch. As Judge Hosack put it, we are “the workforce” of the Judicial Branch. We are officers of the Court.

As stated in the Preamble of the Idaho Rules of Professional Conduct,¹

“A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.”

I.R.P.C., Preamble, ¶ 1. To carry out that charge, the Rules provide that lawyers should:

- Seek improvement of the law, access to the legal system, the administration of justice and the quality of legal services;
- Cultivate knowledge of the law to not only serve clients, but to reform the law and cultivate legal education;
- Further the public’s understanding and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend upon popular participation and support to maintain their authority;

- Devote professional time and resources and use civic influence to ensure equal access to our system of justice; and
- Aid the legal profession in pursuing these objectives and help the bar regulate itself.

Id., ¶ 6.

There are myriad of ways that, as members of the Idaho State Bar, we can and should help advance our “special responsibilities” as lawyers. We can help promote the public’s understanding of the importance of the rule of law, the role of the judiciary in upholding the rule of law, and the importance of an independent and impartial judiciary. We can promote and support efforts to provide greater access to our legal system for those who are not able to afford legal assistance. We can volunteer on committees to help facilitate the administration of justice or run for judicial positions.

These activities are germane to the practice of law and critical to maintaining the high quality of our legal profession, and they are promoted in our Rules of Professional Conduct. They are particularly important today when there is a growing perception of distrust in the legal system and increased threats to attorneys and judges.²

In his closing remarks, Judge Hosack echoed this charge:

[I] submit that the human values that are the essential part of our professional responsibilities and ethical standards, and that have remained the same over the past 50 or more years, will become more important, not less. These duties and values of

our profession will carry us forward, at least into the foreseeable future. Hence the importance of today’s Supreme Court Memorial Service that reminds us all of what is truly important in our profession – the integrity and character of the attorney or judge, and their commitment to the values of the legal profession while serving the greater good of our community.

He further encouraged us to do as well as those who came before us, “as we strive to do better.”

Well said.



Mary V. York is a litigation partner at *Holland & Hart* who has nearly 30 years of experience representing clients in condemnation cases, real estate disputes,

and commercial litigation. In her spare time, Mary enjoys hiking, mountain biking, wake-surfing, cooking, and spending time with her family. Mary currently serves as an Idaho State Bar Commissioner representing the Fourth District.

Endnotes

1. Coincidentally, in last month’s *Advocate*, my fellow Commissioner, Jillian Caires, also referenced the Idaho Rules of Professional Conduct in her Commissioner’s Message. We didn’t confer on our messages, but the fact that we both focused on our professional rules underscores their importance.

2. <https://www.law360.com/retail/articles/1810417/judges-say-facing-threats-and-vitriol-now-part-of-the-job>; <https://news.bloomberglaw.com/us-law-week/the-judiciary-is-under-attack-lawyers-have-a-duty-to-defend-it>; <https://www.reuters.com/world/us/threats-us-federal-judges-double-since-2021-driven-by-politics-2024-02-13/>.

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Admissions Department Report

Maureen R. Braley

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

Idaho Bar Examination News and Statistics

In May 2023, the Idaho State Bar membership considered and approved Resolution 23-01, which recommended to the Idaho Supreme Court that Idaho Bar Commission Rule (“I.B.C.R.”) 217 be amended to provide that the passing score on the bar examination be 270. On June 1, 2023, the Idaho Supreme Court entered an order amending I.B.C.R. 217 consistent with Resolution 23-01, effective for the July 2023 bar examination.

There was a significant decline in the number of people taking the Idaho Bar Examination in 2023 compared to 2022. 275 people took the examination in 2022, while only 213 people took the examination in 2023, representing a 22.5% decrease. The decline was anticipated due to the Concordia University School of Law’s

closure in the spring of 2020 and those students having transferred to the University of Idaho College of Law and graduating in 2022. The overall pass rate for the 2023 bar exams was 54.9%, which is down 4.7% from the 2022 overall pass rate of 59.6%.

We predict there will be fewer people taking the Idaho Bar Examination going forward, given that Idaho again has only one law school and the changes to admission requirements for experienced attorneys from other states, which are addressed later in this article.

Admission for Experienced Attorneys

In November 2023, the Idaho State Bar membership considered and approved Resolution 23-02, which recommended to the Idaho Supreme Court that the admissions rules be amended to make

admission based on practice experience available to attorneys from any jurisdiction and to include judicial law clerk work in the definition of the "Active Practice of Law." On December 28, 2023, the Idaho Supreme Court entered an order amending the admissions rules consistent with Resolution 23-02, effective March 1, 2024. This rule change enables more experienced attorneys to be admitted to practice law in Idaho without having to take the Idaho Bar Examination.

In 2023, 96 people applied for reciprocal admission under former I.B.C.R. 206, which was up 18.5% from 81 applicants in 2022. As of March 28, 2024, 47 people have applied for admission under I.B.C.R. 206, with 24 applying after the rule change became effective on March 1, 2024.

UBE Admissions Trends and the NextGen Bar Exam

In 2011, Idaho was the third state to adopt the Uniform Bar Examination

("UBE"). Currently, 41 jurisdictions administer the UBE. Applicants taking the UBE earn a portable bar exam score that can be transferred to other states to be admitted there without having to take another bar examination. Applicants applying to transfer their UBE score to Idaho must still undergo a character and fitness background investigation before being approved for admission. In 2023, 58 attorneys applied for admission in Idaho through UBE score transfer.

The National Conference of Bar Examiners ("NCBE"), the entity that develops the UBE, is currently developing a new bar examination, dubbed the NextGen Bar Exam, which is designed to be a better test of the knowledge and skills entry-level lawyers should be expected to know. The NextGen Bar Exam will be available for the July 2026 bar examination. The NextGen Bar Exam will eventually replace the current UBE, which will be unavailable after the February 2028 bar examination.

In February 2023, the Board of Commissioners of the Idaho State Bar established the NextGen Bar Exam Task Force to monitor developments with the NextGen Bar Exam and consider whether it should be implemented in Idaho. Seventeen jurisdictions have already announced their plans to administer the NextGen Bar Exam, including Oregon, Utah, Washington, and Wyoming.



Maureen Ryan Braley is the Associate Director of the Idaho State Bar and the Idaho Law Foundation. Her job duties include overseeing bar admissions in

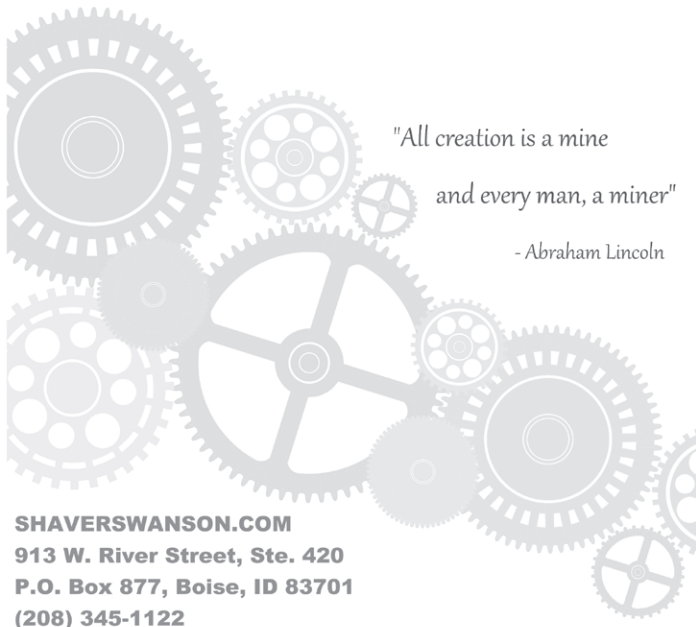
Idaho. She clerked for Chief Justice Gerald F. Schroeder of the Idaho Supreme Court and practiced law for six years in Boise before joining the Idaho State Bar staff in 2011. Maureen is a "double Zag," having earned an undergraduate degree in history and a law degree from Gonzaga University.

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The Dynamic Role of County Prosecutors: Nurturing Local Leadership and Community Engagement

Robert H. Wood

The conventional image of a county prosecutor as a courtroom figure tasked solely with handling cases brought by local law enforcement is antiquated. To whatever extent this perception may have been accurate in the past, it no longer encapsulates the multifaceted role of county prosecutors in Idaho.

Today, county prosecutors fulfill a vital function that transcends the courtroom: serving as community leaders in the pursuit of justice, public safety, crime prevention, and legal counsel for their respective counties. Community engagement has emerged as a linchpin in the prosecutor's mission, with outreach serving as a conduit for fostering partnerships and collaboration among stakeholders.

A Prosecutor's Authority, Responsibilities, and Leadership Role

The legal authority of county prosecutors to prosecute cases is firmly rooted in the Idaho Constitution and statutes.¹ According to Idaho's Constitution, a prosecuting attorney is elected for each organized county by its qualified electors.² The Constitution further mandates that the prosecuting attorney must be a practicing attorney at law and a resident and elector of the county for which they are elected.³

Additionally, Idaho Code Section 31-2604 delineates the duties of county prosecutors, including: (1) the prosecution of felonies and misdemeanors within their jurisdiction, (2) provision of legal counsel to county commissioners, and (3) handling of city/municipal misdemeanors through contractual agreements. They shall receive such compensation for

services as may be fixed by law.⁴ County prosecutors are also responsible for holding local governments and officials legally accountable to the people. In the execution of these responsibilities, prosecutors spend extensive time in courtroom proceedings/litigation. Preparation for these proceedings requires reading police reports and witness statements, examining evidence, providing discovery, witness preparation and often requesting follow-up investigation from law-enforcement.

The time spent prosecuting crimes in court is increasingly just one facet of a county prosecutor's duties. In today's landscape, prosecutors find themselves engaged in both broad and niche areas such as child protection cases with the Department of Health and Welfare and collaboration with mental health services for individuals facing mental health crises. County Prosecutors share jurisdiction over child protection actions with the Idaho Attorney General.⁵

Idaho's evolution from a district attorney system to the office of the County Attorney, was accomplished in 1896 by a constitutional amendment to Article 5, Section 18.⁶ As amended the Idaho Constitution today provides: "A prosecuting attorney shall be elected for each organized county in the state, by the qualified electors of such county, and shall hold office for the term of two years, and commencing with the general election in 1984 shall hold office for the term of four years, and shall perform such duties as may be prescribed by law; he shall be a practicing attorney at law, and a resident and elector of the county for which he is elected. He shall receive such compensation for services as may be fixed by law."

Since that time, the election of County Attorneys underscores the significance of local representation in selecting county prosecutors. Allowing the members of each county to choose their local prosecutor was wise in 1896, and it is still wise 128 years later. Local governments generally have more influence on our lives and livelihood than state and national government, making it even more important that individuals in each county have a voice in choosing who represents them.

Additionally, prosecutors serve at the center of the criminal justice ecosystem, providing important checks and balances that allow the system to work properly. By actively listening and communicating, prosecutors can foster transparency and understanding for anyone working in or affected by that ecosystem. Gallup polling reports that Americans tend to trust local government more than other forms of government.⁷ Local prosecutors should continue to build on that trust by being open in their outreach to community members.

Challenges of a Growing Idaho and Local Responsiveness

Government closest to the people is more likely to be responsible to the people it represents, more effective in that representation, and more responsive to the individuals and local needs of a community.

In 2022, Idaho was the second fastest growing state,⁸ and in 2023, Idaho was deemed the fourth nationally in percentage growth in the country.⁹ As Idaho experiences rapid growth, each county grapples with distinct challenges, demographic shifts, and evolving priorities. For instance, the transformation of

Madison and Teton Counties – which border each other in the Southeastern corner of the state – from small agricultural communities to diverse economic landscapes illustrates the dynamic nature of Idaho's counties.

When originally settled, these two counties were both primarily small agricultural communities that shared many of the same pioneering families. With the growth in Southeast Idaho in recent years¹⁰, the two counties are now very different from one another. While both counties fortunately still maintain much of their agricultural heritage, Teton County has relied increasingly on tourism and the outdoor industry for growth.¹¹ Meanwhile Madison County has rapidly grown and become more of a "college town" due to the growth of BYU-Idaho in Rexburg.¹² This growth has created changes in demographics, local priorities, and political values.

County prosecutors elected by the local populations are best situated to effectively respond to these changes. The imperative for local responsiveness has never been more pronounced. With the current trend of low trust and confidence in government¹³, the democratic process of electing local county prosecutors ensures accountability, effectiveness, and responsiveness to local needs and is more important than ever.

Embracing Community Outreach

In the context of Idaho's growth and evolving communities, community outreach has never been more important and emerges as a pivotal tool for county prosecutors. Each county's outreach strategy must reflect its unique characteristics to engage stakeholders effectively. As leadership author John Graham aptly notes: "It's (leadership) not simply a set of rules to be followed, but *an ability to build relationships* . . . Good leaders don't depend on their position to give them authority; they depend on earning trust. They don't mandate good performance from those they lead; they inspire it."¹⁴

While the prosecutor's traditional role as a courtroom litigator is still important, prosecutors increasingly need to involve their communities and stakeholders to fulfill their mission of pursuing justice, prosecuting crime, and providing for community safety. With the rapid change in Idaho

While the prosecutor's traditional role as a courtroom litigator is still important, prosecutors increasingly need to involve their communities and stakeholders to fulfill their mission of pursuing justice, prosecuting crime, and providing for community safety.

counties, that outreach will look different in each county. What works in one community may not work in another community. Prosecutors can, and should, embrace a style of leadership that accounts for the local values and priorities, invites input from their community, and helps to empower the people who live there. One way to accomplish this is to look for ways to invite public input. This can be done easier than ever before with official social media or websites where the public can comment. Also, the value of meeting face-to-face in a townhall setting can never be overestimated.

Community outreach catalyzes trust-building, transparency, and collaboration. By actively engaging with constituents, prosecutors gain invaluable insights into community concerns, perceptions, and priorities, thereby fostering a stronger sense of accountability and legitimacy.

Preventing Crime Through Partnership

Partnerships with community stakeholders are indispensable for crime prevention initiatives. Collaboration with the people we represent aids in their understanding of the criminal justice system and their role in keeping their communities safe. Programs like Adolescents Making Progress (“AMP”) in Madison County exemplify these collaborative efforts and help communities shepherd youth away from criminal activity.

AMP consists of prosecutors, school resource police officers, education leaders (school principals, vice principals, teachers, etc.) and juvenile probation. AMP meets regularly to discuss at-risk youth and looks for solutions to help those youth before they become involved in the juvenile justice system. Alternatively, for those children who have been charged, AMP looks for ways to support them in their probation/diversion programs and to help re-engage them in their education.

Educational outreach initiatives aimed at children and young adults play a pivotal role in preventing criminal behavior and promoting legal literacy. Through school

assemblies, community workshops, and public awareness campaigns, prosecutors can educate children and their parents about emerging threats such as internet crimes against children engage youth and empower individuals to make informed decisions and avoid victimization. Addressing elder fraud crimes has a similar approach, as prosecutors work with senior centers to help educate older adults and their adult children to protect their retirement accounts.

Collaborative Relationships

Effective collaboration with law enforcement agencies, victim services, advocacy centers, and social service agencies underscores the prosecutor’s commitment to holistic justice. Maintaining professional relationships with law enforcement ensures seamless information-sharing, adherence to due process, and enhanced public trust in the criminal justice system. While prosecutors must avoid being a rubber-stamp for police, the importance of maintaining appropriate and productive relationships with our law enforcement partners cannot be overstated.

Similarly, the relationship of the Prosecutor’s office with misdemeanor, juvenile, and felony probation is necessary to ensure that probationers follow through on their commitment to probation. In Madison County, a strong emphasis is placed on working with juvenile probation in multiple groups and programs such as the aforementioned AMP, our Multi-Disciplinary Teams, and our diversion program to help youth learn from their mistakes, focus on their education, and grow to become productive citizens.

Victim advocates play a crucial role in supporting and empowering victims throughout the legal process, safeguarding their constitutional rights, and facilitating access to essential social services. Too often, a victim may have apprehension about taking part in the legal process, even when they have been physically harmed.

Victim advocates aid prosecutors in communicating with victims and understanding each victim’s concerns, needs,

and preferences. In cases where a victim may be in danger from a defendant, victim advocates can provide safe housing and help in obtaining civil protection orders. Without local relationships with service providers, our ability to assist in keeping victims safe would decrease dramatically.

Increasingly, advocacy and social service centers for both adults and children are providing resources that help prosecutors and law enforcement by providing rooms for forensic interviews of children and rooms for Sexual Assault Nurse Examinations. These services aid victims by limiting the number of offices, hospitals, and police departments they must visit to properly report abuse. Victim advocates are a voice for victims and help prosecutors ensure that victims’ rights are protected throughout the life of the criminal case.

When collaborating with victim’s services, it is necessary to remember that the victim advocate’s mission will sometimes lead to different goals for a case than the prosecutors. Open, honest, and frequent communication between prosecutors and victim advocates is crucial to maintaining a professional, working relationship.

Conclusion

As Idaho continues to experience population growth and the accompanying shifts, the role of county prosecutors in Idaho necessitates a proactive, customized, and multifaceted approach to leadership, community engagement, and crime prevention. As legal representatives of their communities, county prosecutors must always remain steadfast in their commitment to justice, accountability, and public safety. But by embracing community outreach, fostering collaborative partnerships, and prioritizing local responsiveness, prosecutors can effectively navigate the complexities of modern law enforcement and safeguard the unique interests of their constituents.



Robert H. Wood has been the Madison County Prosecutor since January 2020. He started working in that office in 2014. Prior to that he practiced water law and criminal defense for five years at Rigby, Andrus & Rigby in Rexburg. He enjoys hiking and skiing/snowboarding with his wife and three kids.

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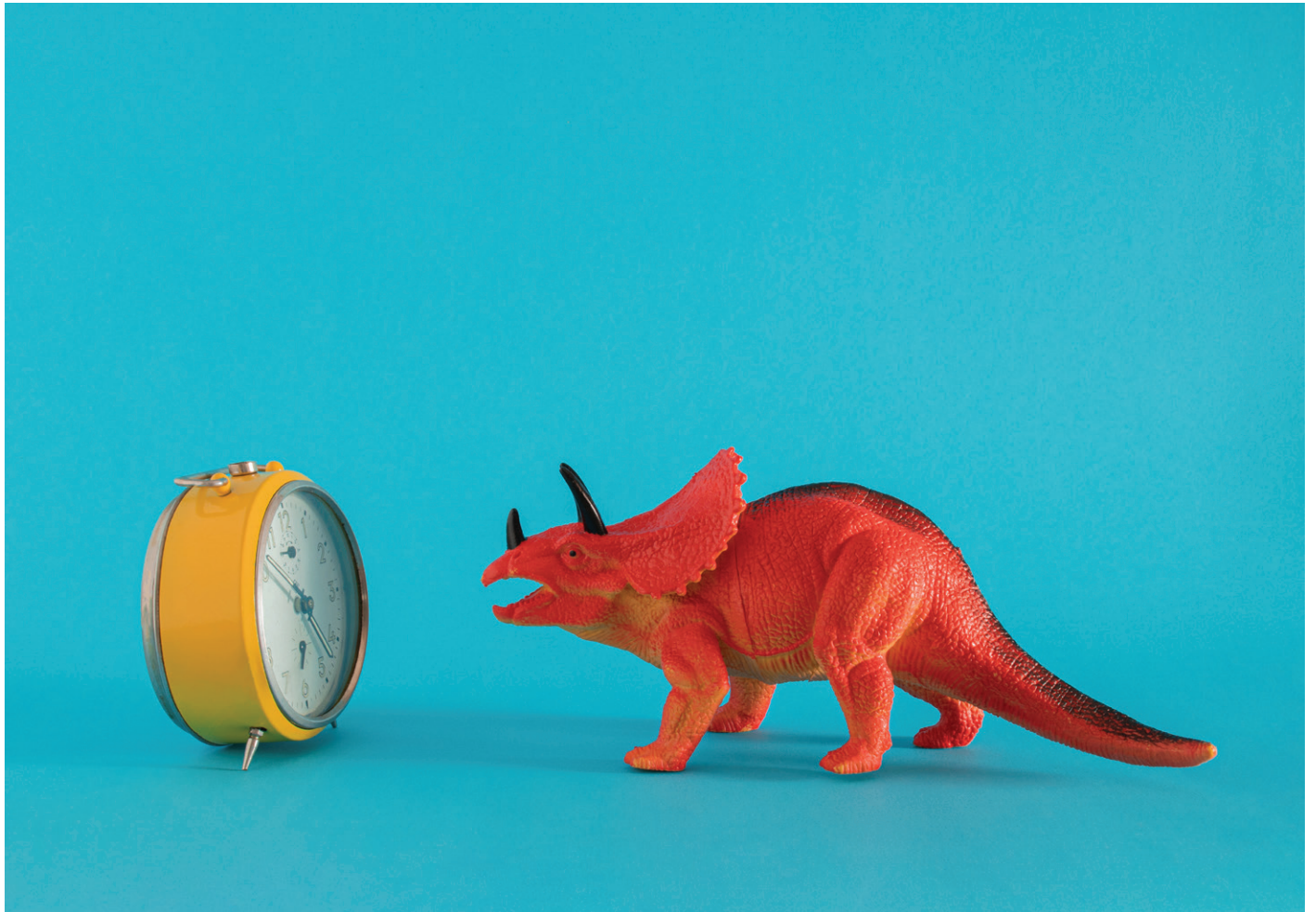
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Are Career Prosecutors Going the Way of the Dinosaur? *Challenging Days for Ministers of Justice in the 21st Century*

Brian D. Naugle

Forty years ago, if you had asked a cross section of the American citizenry how a prosecutor spent his or her days, you'd have been more likely to get answers that spoke of professionalism, integrity, justice, and the like. You'd get different answers today. Today, police officers and prosecutors that do bad things get loads of attention because they are supposed to be good people doing difficult work for the right reasons. And maybe that's the way it should be.

The very nature of law enforcement demands a level of honesty and integrity for which there is no comparison. The power to take away the freedom of any American

ought to be handled with the greatest of care and those that fall short of the calling, lofty as it is, should expect to have farther to fall. On the other hand, it is worth recognizing that when the folks working in law enforcement do live up to the lofty expectations, little attention is paid because the result is that which we (Idahoans at least) have come to expect – safe communities where crime is both punished and deterred, and law-abiding people are allowed to live their lives in peace.

Sure, you occasionally hear about the lifesaving heroics of police officers, but few of those stories ever see the light of day. Your average police officer who keeps the peace, treats people with respect, and responds to your emergencies at a

moment's notice may never be hailed a hero. The prosecutor who charges the criminal with the crime he committed, brings him into court, and holds him to account in a court of law just the way the justice system intended, can expect the whole thing to go unnoticed in all but the rarest of cases. And most of us are just fine with that – prefer it, in fact. But the fact remains that from Atticus Finch to Saul Goodman, we Americans have always been more interested in the story of the clever, underpaid defense attorney single-handedly outsmarting – once again! – the powerful, power-hungry prosecutor who, despite his infinite resources, just can't seem to charge the right guy or see the truth right in front of him.

These days, if you were to ask the average citizen how they believe prosecutors spend their days, a good number of folks would opine that prosecutors find people they don't like, conjure up crimes they didn't commit, and then set about proving said crime in whatever way that suits them, the truth be damned. Though I acknowledge they are out there, I've yet to meet one of these prosecutors. In my near twenty years as a county prosecutor in Idaho, I have never once gone in search of a crime that fit my chosen defendant, nor can I think of a single colleague that has done so. If people were to stop committing crimes tomorrow I would gladly close up shop and acquaint myself with a few trout streams that have no doubt missed me over the last twenty years. I stay plenty busy with the cases that find their way to me; I need not go looking for them.

If you're doing it right, the work of a prosecutor is abundant, not very glamorous, and for lack of a better term, hard. The daily life of a prosecutor is full of hard cases, hard decisions, hard days, and hard nights. And I'm not just talking about the legal work that comes with being a prosecutor. Sure, that can be challenging too, but that's not the hard part. The really hard part is best described day by day. Allow me to share with you some memorable days in the life of this prosecutor.

I remember the day I walked through a house that, just a few hours before my arrival, contained a peacefully sleeping family but now contained that same family, all of whom had been bludgeoned to death, shot to death, or both. This once peaceful family now lay deceased, having just experienced the terror of being murdered in their own home. I remember trying to make sense of the blood smeared on the hardwood floor, the knife stuck in the wall, and the garden shovel laying in the middle of the room. I remember hoping and praying that we would catch the person or people that did this horrible thing.

I remember the day I came to the agonizing realization that I lacked the evidence to charge a guy who brutally beat and raped an eighty-year-old woman. We were pretty sure we knew who committed that awful crime, but we all agreed that given the evidence we had, along with the rules that limited the use of that evidence, we just weren't going to be able to present a criminal case that surpassed the reasonable doubt threshold. Worse yet, we were out of leads in the investigation, so we simply couldn't file charges. The man that committed that horrific crime walks among us today, just as free as you and I. The day we explained to the victim and her family that criminal charges would not be filed, that there would be


no justice for her, no retribution for the horror she suffered, and no punishment for the coward who committed the crime, was a hard day.

I remember the first day I was accused in an official court filing of prosecutorial misconduct for – angels of mercy, defend us! – correcting the defense attorney's inaccurate description of the State's burden of proof for a self-defense claim during my rebuttal closing argument. I also remember the first time a State Bar investigator called to kindly inform me that a child sex offender had filed a bar complaint against me for something I didn't say during his trial and that I was being investigated for the complaint. The Court's dismissal of the misconduct accusation and the State Bar's dismissal of the complaint offered some consolation but the fact that the allegations could be made without impunity is and remains to this day, unsettling.

I remember the day I brought home the mug shot of a particularly deranged defendant I was prosecuting and put it inside one of the kitchen cupboard doors where the kids couldn't see it, but my wife could. I told my wife that if the fella in that picture ever came to our door to call the police, get the pistol, and do not, under any circumstances, open the door.

I remember every one of the dozens of days I've spent sitting with grieving mothers and fathers, sons and daughters, and brothers and sisters who had lost loved ones as a result of some manner of homicide. I remember the pain and grief seared on their faces as I sat across a table from them in a sterile conference room, the confusion and sadness still fresh in their expressions.

I remember making sure not to tell them that I understood how they felt because I didn't and hoped I never would. I remember explaining to each of them that while the wheels of justice turn slow, they still turn and ultimately, we wind up in the right place. I remember the questions bouncing around in the back of my mind every time I said those words. What if this is one of those cases where justice does not prevail? What if I make a



If you're doing it right, the work of a prosecutor is abundant, not very glamorous, and for lack of a better term, hard.

mistake that ruins this case and the person who did this never gets convicted? What will I tell these people then?

Fortunately, I don't remember every day I've spent watching awful videos and graphic pictures or reading heart-breaking descriptions of unimaginable cruelty visited upon children and the elderly and innocent people of every walk of life. Unfortunately, I don't remember them all because there are too many of those days to count.

I could go on, but you get the point. My days, and those of my colleagues, come with some very hard tasks, but we do the work because it is honorable and rewarding and – here is the kicker – because our communities tend to see it as such.

We understand the value in having a society built on the rule of law, where everyone has an equal chance to make something of themselves and to do so without the fear of getting murdered or mugged along with the certainty that those who do commit such crimes will be swiftly and fairly punished for them.

I did not become a prosecutor for money, fame, or glory because there is little of those things to be had and anyone who enters law enforcement for such motivations should be met with suspicion anyway. I do the work, with its sacrifices, challenges, and difficulties, because I believe in it, I am willing to accept the great responsibility that comes with it, and I understand it to be valued by the communities in which we live.

What happens if our citizens, our communities, and our politicians remove that last motivation? What sane person will become a police officer and risk his or her life for others when they run the risk of being perceived not as a hero but as one of the bad guys – the enemy from whom the public must be protected? Who will want to become a prosecutor, doing difficult, demanding, and often overwhelming work for minimal pay if, regardless of the quality of their work, they are seen as overzealous tyrants who seek nothing but to fill prisons with the guilty and innocent alike?

When I started my career as a prosecutor in Ada County nearly twenty years

ago, the thought never occurred to me that I would one day be seen as a villain in this American Justice System of ours but, like it or not, that day is here.

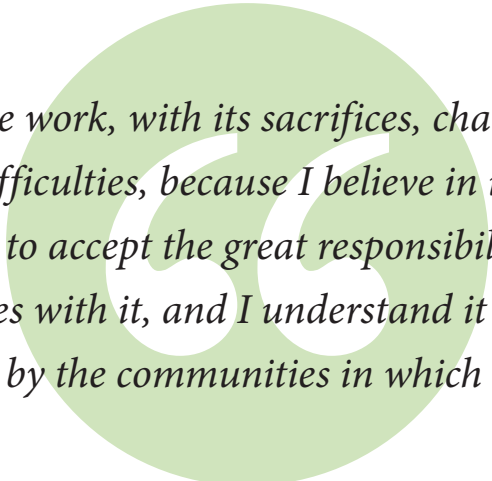
The most common question I get these days from strangers, and sometimes even friends, is, “how do you sleep at night knowing that so many of the people you've convicted and sent to prison are probably innocent?” The question itself is reflective of a narrative that media outlets and various criminal defense organizations have carefully cultivated over the course of the last several decades; the idea that hordes of innocent people are convicted by overzealous or dishonest prosecutors every day. This idea is, of course, nonsense.

Speaking from my own experience, I can say without hesitation that I have never, nor will I ever, convict a factually innocent person of a crime he did not commit. I take as much pride in ensuring that the innocent are spared the weight of the government's authority as I do in ensuring that the guilty are made to stand in a courtroom and either profess their guilt knowingly and voluntarily or be told of it after a fair trial, preferably within 180 days. Having watched and worked with many other prosecutors for nearly twenty years, I have a hard time believing I am in the minority in this respect.

I have, however, watched scores of factually guilty defendants avoid conviction for the crimes they've committed, whether by acquittal, suppression of evidence, crimes that simply go unsolved, or – an increasingly common phenomenon – a lack of law enforcement resources.

Sure, we all understand that the Constitution and our system of justice is built for the very purpose of protecting the innocent at the expense of allowing some of the guilty to go free, but as a prosecutor tasked with safeguarding our communities from those that would do them harm, that can be a tough pill to swallow. As prosecutors, we expect the high burden of proof, the rules of evidence, the prohibition against unreasonable searches and seizures, and the jury system itself to result in some guilty people evading justice. But until recently, I never expected the guilty to evade justice because we lack the people to do the work.

The ability of state and local governments to effectively respond to crime in their communities is only as good as their ability to hire and recruit law enforcement – both police and prosecutors – willing to do the work for the right reasons. But the simple fact is that the number of people who seek careers in law enforcement these days is not growing.¹ As it turns out, doing a very difficult and dangerous job for little pay



I do the work, with its sacrifices, challenges, and difficulties, because I believe in it, I am willing to accept the great responsibility that comes with it, and I understand it to be valued by the communities in which we live.

and for which you may be shot, killed, sued, or vilified is something smart, capable people are reluctant to sign up for. As I write this article, the number of fully staffed police departments and prosecutor offices in the State of Idaho is rapidly declining. And if similar trends in other states are any indication, we are on the front end of this unfortunate phenomenon. Western states such as California, Oregon, and Washington are seeing massive declines in their ability to recruit and retain law enforcement with no end in sight.²

Whatever we do to solve this problem, we would all – especially those of us in the legal profession – do well to do it with the recognition that a few bad apples in law enforcement does not mean the entire tree is rotten. We do our country and our communities a great disservice by making villains out of the honorable and the dishonorable alike.

I have been fortunate enough to work with a host of outstanding mentors and colleagues in this profession who belong quite squarely in the honorable category. They taught me what it means to be a minister of justice – to remain devoted to

the rule of law, to defend the Constitution and the freedoms it guarantees, and above all, to see that the truth remains my guiding star in every case. I don't know if those mentors and colleagues, if they were choosing careers today, would choose a career in law enforcement.

If we expect honorable people like these to keep doing the hard work that nobody notices, we'd best recognize just where our safe streets and quiet neighborhoods come from, lest we run the risk of surrendering those streets and neighborhoods to the wolves. If we do that, all the defense attorneys in the world, decent and respectable though they may be, will not save us from the wolves, for they seek to save the wolves from me. Here's hoping our future holds enough of us to defend the gates.



Brian D. Naugle is the Valley County Prosecutor, having held that position since January of 2021. Prior to that, he spent sixteen years as a Deputy

Prosecutor in Ada County. He lives with his wife and children in McCall, Idaho.

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Never Forgotten

Jan M. Bennetts

Before I walked into the conference room to meet Tiffany¹ for the first time, I took a deep breath. Neither of us knew it at the time, but this would be the first of many meetings and telephone calls I would have with Tiffany spanning nearly 30 years. Her 20-year-old son, Travis, had been brutally murdered in a particularly tortuous and cruel way at the hands of three men. Those men ignored Travis' desperate pleas for his life as they methodically swung him by his hands and feet, back and forth three times to gain momentum, before they hurled him off a cliff to his death. His murder came after they had beaten Travis, kidnapped him, stuffed him into the trunk of his own car and drove until they found the location they knew would kill him, the Mores Creek High Bridge at Lucky Peak.

This was my first murder case and before I met with Travis' family, I thought: What could I possibly say to Tiffany, Travis' brother, Dustin, and his other family

members? Fortunately, I had Susan Ledford at my side. Susan was the victim-witness coordinator assigned to the case. She would be the family's guide throughout the case, ensuring they were afforded their constitutional and statutory rights. More than that, Susan was, and has been, their lifeline for what was yet to come.

A Brief History of Idaho's Victims' Rights

At the time of Travis' murder in November 1995, Idaho's victims' rights had been part of Idaho's Constitution² for a little over a year, following the national victims' rights movement in the 1970's.³ Thirteen years earlier, in 1982, the Idaho Legislature created the Idaho Council on Domestic Violence and Victim Assistance ("ICDVVA"),⁴ explaining at the time that "[t]he council shall be the advisory body for programs and services affecting victims of domestic violence and other crimes in Idaho."⁵ In its policy statement, the legislature declared:

...that domestic violence is an issue of growing concern. Research findings show that domestic violence constitutes a significant percentage of homicides, aggravated assaults, and assaults and batteries in the United States. Domestic violence is a disruptive influence on personal and community life and is often interrelated with a number of other family problems and stresses. Refuge for victims of domestic violence is essential to provide protection to victims from further abuse and physical harm. Refuge provides temporary safety and resources to victims who may not have access to such things if they remain in abusive situations.⁶

In 1985, the Idaho Legislature codified both the right of victims to compensation for economic losses resulting from a defendant's crime⁷ and several enumerated victims' rights during investigation, prosecution and disposition of the crime.⁸ On February 1, 1985, the Executive Director of the ICDVAA at that time, Dawn S. Statham, testified before the Senate Judiciary and Rules Committee in support of enacting a victims' rights statute.⁹ Ms. Statham provided information from President Ronald Reagan's taskforce on victims of crime to provide the committee members information about what victims experience as they navigate the criminal justice system.¹⁰ Statham states "We must know what it is to have our lives wrenched and broken, to realize that we will never really be the same."¹¹

In October 1985, then Ada County Prosecuting Attorney, Greg H. Bower, hired a victim-witness coordinator to provide services and resources to victims of crime. This position was the first of its kind in Idaho.¹² Today, my office employs ten victim-witness coordinators. This includes one coordinator who is the dog handler for our certified assistance dog, Yuko.¹³ Yuko provides comfort to vulnerable crime victims both in and out of the courtroom.

In 1994, the Idaho Legislature began the process of amending Idaho's Constitution

to include victims' rights with the introduction of House Joint Resolution 16.¹⁴ In its statement of purpose, the legislature stated:

[t]hroughout American history, our fundamental rights have been recognized and guaranteed in the Constitution. Yet currently, criminal defendants have 15 specific constitutional rights and victims have none. Idaho citizens want and deserve the opportunity to vote on the amendment which provides 10 specific rights guaranteeing victims access and participation in the criminal justice system. Approval of this resolution will be the first step to balance the scales of justice.¹⁵

House Joint Resolution 16 was adopted by the House on February 21, 1994, and by the Senate on March 9, 1994.¹⁶ On November 8, 1994, Idaho voters passed the crime victims' rights constitutional amendment with 79.3% approval.¹⁷ Between 1982 and 1993, fourteen states had passed a victims' rights constitutional amendment.¹⁸ In 1994, Idaho was one of six states to include victims' rights in their constitutions.¹⁹ Fourteen states still do not have victims' rights in their constitutions.²⁰

Victims' rights give victims a voice in the criminal justice system. Although victims cannot override the decisions made, victims are entitled to notice and the opportunity to be heard throughout the process. Crime victims have the right to "...prior notification of trial court, appellate, probation and parole proceedings and, upon request, to information about the sentence, incarceration, placing on probation or release of the defendant."²¹ Victims have the right to be "[h]eard upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration, placing on probation or release of the defendant unless manifest injustice would result."²²

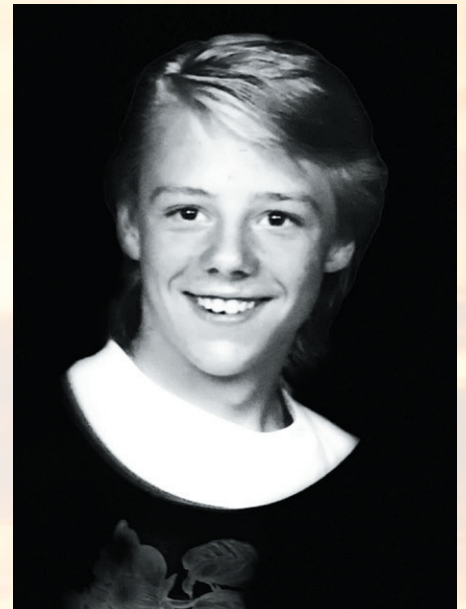
Victims are also entitled to be "[c]onsulted by the presentence investigator during the preparation of the presentence report and

have included in that report a statement of the impact which the defendant's criminal conduct had upon the victim...."²³ In addition, victims are entitled to reimbursement for their economic loss and prosecutors seek restitution on behalf of crime victims.²⁴ If a court determines restitution is appropriate, "...it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim."²⁵

The enumerated victims' rights "...shall apply equally to the immediate families of homicide victims or immediate families of victims of such youthful age or incapacity as precludes them from exercising these rights personally."²⁶ In an historic case in 1998, the Idaho Supreme Court issued an alternative writ of mandate, requiring a district judge to refrain from excluding a murder victim's brother from any phase of the jury trial.²⁷

The Process and Its Impact on Victims

Approximately one year after Travis' murder, the first co-defendant was tried and convicted of first-degree murder. The other two co-defendants pled guilty. Tiffany was, and still is, entitled to exercise her rights as a victim because she is an immediate family member of a murder



Travis, age 16. Photos provided by Tiffany.

victim.²⁸ She exercised her rights as a victim at every stage of this case. She had the right “[t]o be present at all criminal justice proceedings”²⁹ and she exercised that right by attending pretrial hearings, the jury trial, and the sentencing hearings. Tiffany delivered victim impact statements at each of the defendants’ sentencing hearings pursuant to her right as a victim.³⁰

Tiffany has expressed throughout this case that one or more of the defendants could have saved Travis’ life at multiple decision points throughout the hours’ long night of his murder. The defendant who was holding Travis by his hands as they were swinging him over the cliff literally held Travis’ life in his hands and he still made the choice to end Travis’ life rather than save his life. The image haunts Tiffany to this day.

Murder leaves a path of destruction in its wake for the families and friends of the victims. Tiffany’s experience is no exception. The impact of Travis’ murder on her life was devastating. The trajectory of her life was forever changed in the matter of seconds it took Travis to fall to his death. Tiffany’s experience and pain did not end after the defendants were sentenced. In the intervening years, she has grieved the loss of a loving son, kind soul, and talented musician. But she has also mourned what would never be for Travis – a career, a wedding, children, grandchildren, and the full life Travis most certainly had ahead of him.

In the years since I first met Tiffany, I have spent countless hours ushering untold numbers of crime victims through the criminal justice system. Not only have those victims lost loved ones to murder or manslaughter, but they are victims of domestic violence, sexual assault, child abuse, robbery, aggravated driving under the influence and more. Although their journeys may be different, there are striking similarities in the impact crime has had on their lives. For victims who have suffered physical harm, some never fully recover and even if they heal physically, the mental scars remain.

The Myth of “Closure”

There is a common belief that a particular outcome in a criminal case or the passage of time will provide a measure of “closure” for a victim or the victim’s family. There is rarely, if ever, anything resembling closure. In part, because in cases like Travis’, there are appellate and post-conviction proceedings that re-open painful, haunting memories. Tiffany has had to relive the nightmare of Travis’ murder repeatedly during the trial and post-trial process. Susan and I have had to contact her several times in recent years as she prepared to attend and speak at multiple parole hearings. Each hearing was more painful for her than the one before.

My interactions with victims, and with those who provide services to victims, have given me a depth of understanding the young prosecutor in me could never have anticipated when I met Tiffany in 1995. What I have overwhelmingly and consistently observed is that victims are courageous. Their courage shines, whether it is observing Tiffany’s courage throughout her journey, or the child abuse victim who takes the witness stand and describes to a jury what no child should know, let alone be required to share in a courtroom. It is important, however, not to confuse courage with closure.

I vividly remember a case I handled involving a child abuse victim who had been sexually abused when she was five years old. She had written a victim impact letter to the judge for sentencing. In her letter, she expressed to the judge that she “wanted to be the lawyer like Jan.” She contacted me approximately 15 years later because she wanted me to know how she was doing. To say I was moved is an understatement. When I saw her all those years later, I saw the incredible young woman she had become. However, I also saw the five-year-old little girl with beautiful blonde hair who was so brave throughout the criminal case. All those years later, there was no closure, but the courage I saw reflected in her eyes is not something I could even begin to describe.

As I contemplated writing about Travis’ case, I knew I could never do so without Tiffany’s permission. I struggled with whether I would do more harm by dredging up painful memories, which is the very last thing I would ever want to do. That said, I also know beyond a shadow of a doubt that Travis is in Tiffany’s heart every single day. He is in her heart and in her thoughts, not only who he was, but how he died. After consulting Susan and much thoughtful deliberation, I was confident Tiffany would want Travis’ story to be told. This time I took two deep breaths



What I have overwhelmingly and consistently observed is that victims are courageous.



Travis, age 17.

before I made the call. I was so relieved to discover I had correctly predicted her response. She expressed such gratitude that I would write about Travis because it meant I had not forgotten him. “No mother wants her son forgotten,” she said. Keeping Travis’ memory alive is extremely meaningful to her. Knowing others would read about Travis and her journey brought her some comfort. She expressed how difficult it is to learn how to live *with* the details of his murder and *without* him.

Conclusion

Tiffany’s courage shines brightly – in her voice, in her creative writing and in how she pays tribute to Travis. Navigating the parole hearing process with Tiffany, I had the same question I had before I walked through the door in 1995 to meet her for the first time. What could Susan and I possibly say to Tiffany, even after decades, that could ease the heartache? Now, I have my answer – never forget Travis, which was never an option for me.

To know how important it is to Tiffany that he is not forgotten puts my memories into a different perspective. I can still see Travis’ crumpled, lifeless body on the rocks at the bottom of the 140’ cliff. I cannot

even begin to imagine how terrified Travis must have been as he was falling to his death in the dark of night. I know Tiffany has cried a river of tears imagining what Travis endured in his final moments. My memories of Travis will include Tiffany’s descriptions of the kind-hearted person he was and the photos she shared of him living his life.

For all of us who do this work, we observe victims enduring the aftermath of crime with courage and grace. We strive to help victims keep going, through the trauma and toward healing. Meanwhile, it is the victims who motivate, inspire, and give us the strength to persevere. And, in keeping with the lesson learned from Tiffany, we will never forget the victims who walk in and out of our lives – some briefly, some for decades. And, yes, if you are wondering, I still have the letter from a five-year-old little girl whose courage will also stay with me forever.



Jan M. Bennetts has served as the Ada County Prosecutor since 2014. She began her career clerking for the Honorable Thomas G. Nelson, Ninth

Circuit Court of Appeals, before joining the Prosecutor’s Office in 1994, where she has passionately and professionally advocated on behalf of victims and the community she serves ever since.

Endnotes

1. Tiffany and Dustin have given me permission to use their names and to share Travis’ story. Susan Ledford, mentioned later in this article, has also given me permission to use her name.
2. IDAHO CONST. art. I, § 22.
3. *Crime Victims’ Rights in America: Historical Overview*, NAT’L VICTIM CTR., Jan. 1, 1994.
4. Idaho Code § 39-5203.
5. *Id.*
6. Idaho Code § 39-5201.
7. Idaho Code § 19-5304.
8. Idaho Code § 19-5306.
9. *Testimony Presented to Senate Judiciary and Rules Committee*, 48th Leg., 1st Reg. Sess. (Idaho 1985) (Statement of Dawn S. Statham, Executive Director for the Idaho Council on Domestic Violence).
10. *Id.*
11. *Id.*
12. Roger Bourne, *It’s time to honor a champion of victims’ rights*, IDAHO STATESMEN, Apr. 29, 2009, at A13.
13. Yuko is certified by the Canine Companions for Independence, a member of Assistance Dogs International.
14. H.R.J. Res. 16, 52nd Leg., 2d Reg. Sess. (Idaho 1994).
15. *Id.* at Statement of Purpose.
16. H.R.J. Res. 16.
17. *Idaho General Election Results*, IDAHO SEC’Y OF STATE (Nov. 8, 1994), <https://archive.sos.idaho.gov/ELECT/results/1994/general/RSLTGN94.HTM>.
18. *See State Victim Rights Amendments*, Nat’l Victims’ Const. Amend. Passage, nvcap.org/states/stvras.html.
19. *History of Victims’ Rights in America*, Md. Crime Victims’ Res. Ctr. (2024), <https://www.mdcrimevictims.org/legislative-efforts/history-victims-rights/>. The other five states were Alabama, Alaska, Maryland, Ohio and Utah.
20. Nat’l Victims’ Const. Amend. Passage, *supra* note xviii.
21. Idaho Code § 19-5306(1)(d); *see also* IDAHO CONST. art. I § 22(3).
22. Idaho Code § 19-5306(1)(e); *see also* IDAHO CONST. art. I § 22(6).
23. Idaho Code § 19-5306(1)(h).
24. In 2023, with the assistance of the clerk’s office, our office collected and distributed over \$2.2 million to crime victims.
25. Idaho Code § 19-5304(2).
26. Idaho Code § 19-5306(3).
27. *Varie v. Bail*, No. 24929 (Idaho Aug. 28, 1998).
28. Idaho Code § 19-5306(3).
29. IDAHO CONST. art. I, § 22(4); *see also* Idaho Code § 19-5306(1)(b).
30. Idaho Code § 19-5306(1)(h).

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In Defense of the Prosecutor

Christopher D. Boyd

Over the past decade we have witnessed the rise of troubling narratives about the American prosecutor. Prominent national organizations like the ACLU blame prosecutors for mass incarceration and “ruining lives,” claiming they can rectify the “harm they’ve caused” by, among other things, “sentencing reductions.”¹ Entertainment and media, like the series *Making a Murderer*, present one-sided, emotionally manipulative takes on the justice system and prosecutors as a whole. Some narratives have become popular wherein many prosecutors are painted as villains, and many defendants as railroaded innocents.

These narratives threaten much worse than mere decline in morale for prosecutors. They threaten the whole point of the justice system, “that guilt shall not

escape, nor innocence suffer.”² Villainous prosecutor narratives hurt the entire judicial department’s efforts to hold offenders accountable. Serious efforts are made to ensure that defendants are presumed innocent and that the burden of proof remains with the prosecutor.³ Appropriately so. Yet the rising danger of naming the prosecutor a villain has gone largely unaddressed. This should change. It is not by accident that in Idaho, prosecuting attorneys are officers of the *Judicial Department*.⁴

Idaho’s Bar and its Courts should resist these narratives that claim the prosecutor’s role is villainous. The entire judicial system loses integrity if prosecutors are assumed to be such. Instead, we should: (1) change the judicial labels of “misconduct” to “error” where appropriate, (2) hold ourselves to a higher standard, and (3) encourage fairness in the narrative.

Change Judicial Labels: Error Isn’t Always Misconduct

The term “prosecutorial misconduct” is one that necessarily invokes a large body of law intended to protect a defendant’s constitutional rights against an unfair trial or other prosecutorial actions.⁵ While it may be intended as a legal term of art, it invokes visceral reactions from defendant and prosecutor alike. The dictionary definition of “misconduct” includes not merely improper behavior, but intentional wrongdoing, deliberate violations of law, and malfeasance.⁶

There is a real cost to the linguistic oversimplification. It has the dual impact of (1) watering down *actual* misconduct, which should be addressed with the seriousness that it deserves, and (2) placing a label of deliberate “misconduct” upon even inadvertent mistakes. Idaho’s

jurisprudential language unfortunately reinforces this phenomenon. An inadvertent error by an inexperienced prosecutor receives the same label as deliberately abusive trial behavior or even willful misrepresentations – all are labeled “prosecutorial misconduct.”

Our Courts would do better to reserve that label for intentionally abusive conduct. Lumping the unintentional error in with intentional abuses serves only to undermine confidence in the judiciary and dishearten the prosecutors charged with fair dispensation of justice. A prosecutor’s genuine mistakes can be corrected on appeal using more descriptive terms than prosecutorial misconduct. Would not “prosecutorial error” be more judicious in instances of inadvertent mistakes? When mistakes are made in the civil realm, or even by judges in the criminal realm, such mistakes are given the benefit of being labeled errors rather than uniformly being called misconduct. Such consideration ought to be extended by Courts to their prosecutorial officers.

Hold Ourselves to a Higher Standard

In the rare instances where actual misconduct is found, the best way to combat these narratives that prosecutors are shadowy operators who can act with impunity is to hold ourselves to a higher standard. Idaho’s elected Prosecuting Attorneys have a key role to play in ensuring that ethical principles are followed by their deputies. If we wish to keep the public’s confidence, we must be rigorous in demanding high standards of ethical conduct from ourselves.

Prosecutors wield a tremendous amount of power in our roles. Judges rely on the representations of prosecutors when they seek search warrants, arrest warrants, and bring criminal charges. When a prosecutor willfully misrepresents factual information to a judge in seeking the arrest, detention, or criminal charging of a citizen, that prosecutor should be swiftly terminated – at a minimum. We can resist the narratives of the villainous prosecutor only if we transparently eject those who misuse the office from among ourselves. We must demonstrate that we believe the mantra that we “may strike hard blows...” but we are “not at liberty to strike foul ones.”⁷ While the overwhelming majority of prosecutors are fulfilling their duty, if there is even one found to be engaging in misconduct, that one should not be allowed to tarnish prosecutors as a whole. We as prosecutors must hold ourselves to the highest ethical standards if we hope to combat villainous-prosecutor narratives.

Encourage Fairness in the Narrative

It can hardly be expected of lawyers – who have a duty to act as advocates – to consistently harmonize always with their party-opponents. But just as every prosecutor should defend the sacred and necessary role of the defense attorney, so too should the defense bar resist the urge to paint all prosecutors, who are officers of the court, with a broad brush and assume bad intent. Similarly, judges should defend equally the role of prosecutors and defense attorneys in the court system. A measured comment from a defense attorney or judge about the proper role of the prosecutor

goes a long way to temper emotion. Hesitation and due consideration before assuming the worst intentions of prosecutors would help.

We should encourage fairness in response to prosecutor-villain narratives – our personal experiences with good, ethical prosecutors should be recounted and retold to the public. Good prosecutors – those who take seriously their sacred obligation to support and defend the Constitution; who diligently safeguard the procedural due process rights of those who have been accused, even as they vigorously hold them accountable under the law; and who temper justice with mercy where appropriate – should be lauded and encouraged.



Chris Boyd has served as the Adams County Prosecutor for the past six years. He began his prosecuting career in 2013 at Canyon County, where he served as a deputy for just under five years. He is an Iraq war veteran and graduate of University of Idaho College of Law. He lives in Nampa with his wife and five children.

Endnotes

1. <https://www.aclu.org/news/smart-justice/our-vision-to-transform-what-it-means-to-be-a-prosecutor>.
2. *Berger v. United States*, 295 U.S. 78, 88, 55 S. Ct. 629, 633 (1935).
3. Idaho Criminal Jury Instruction (ADD).
4. Idaho Const. Art. V Judicial Department, § 18 Prosecuting Attorneys.
5. *State v. Diaz*, 163 Idaho 165, 168, 408 P.3d 920, 923 (Ct. App. 2017).
6. Merriam Webster Dictionary Online, Mar. 2024, <https://www.merriam-webster.com/dictionary/misconduct>.
7. *Berger v. United States*, 295 U.S. 78, 88, 55 S. Ct. 629, 633 (1935).

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Answering Discovery as a Prosecutor

Louis E. Marshall

Discovery

For those of you that practice mainly civil law and never have to forge your way through the trenches of criminal prosecution and criminal defense, discovery is something that is likely of the utmost importance to your practice. Things like interrogatories, requests for production, requests for admissions, and depositions are critical for both the plaintiff and defendant in civil cases. Countless hours are spent forming the questions and answers by the attorneys who are litigating these matters. Lawyers are extremely hands-on during the discovery phase of civil litigation.

In the criminal world, things are very different. The rules of discovery found in Criminal Rule 16 require some level of

reciprocity between the prosecution and defense; however, the vast majority of production of documentation flows from the State to the Defense. Rarely do defendants have to provide information to the State other than potential witnesses.

Prosecutors work with several local and state agencies. Before a prosecutor can respond to a defense request for discovery, the reports and media must first be requested and obtained from applicable agencies, such as the Idaho State Police and local law enforcement agencies. This takes time. Prosecutors are not in control of those agencies, their internal practices, staffing levels, or response time. Each agency is different. Also, the volume of information received from each agency has increased as technology has advanced, and more agencies are utilizing body cameras and in-car cameras for their officers.

Prosecutors are also not in control of how long it takes labs to test evidence. Each individual lab, whether the Idaho State Lab or a private lab, sets their own procedures for testing. They prioritize the requests coming in based on their internal policies. This, of course, is not the fault of the prosecutor who oversees that case.

It should be noted that the type of discovery we are talking about does not exclude exculpatory materials. Exculpatory materials are required not only by Criminal Rule 16 but also clearly delineated by Federal and State case law as being mandatory for prosecutors to disclose to the defendant with or without a request.¹ Practically speaking, exculpatory materials often set off alarm bells to most prosecutors and it is the best practice to disclose those type of materials immediately even when discovery is not

A typical prosecutor in this state has hundreds of cases going on at any one time.

ready to send as an entire packet to the defendant or defense attorney. No prosecutor wants to withhold this type of information. Failure to disclose exculpatory materials is likely the fastest road to a prosecutorial misconduct finding by an appellate court.

There is very little potential motive for a prosecutor to purposely withhold giving the discovery to a defense attorney. Unlike whiskey and wine, our cases do not get better with age. A defendant's case, on the other hand, often gets better with delays. Sometimes complaining witnesses, officers, and even deputy prosecutors have less zeal to prosecute a defendant after memory has faded and the initial shock of the crime has worn off. Witnesses move away. Officers retire or take jobs in other states. Memories fade. Delays cause backlogs in already overburdened caseloads of deputy prosecutors and make their jobs more difficult. A typical prosecutor in this state has hundreds of cases going on at any one time. It simply does not make any sense for a prosecutor to purposely delay the discovery process.

Many criminal defense attorneys in Sandpoint and Coeur d'Alene would attest that oftentimes my office will provide discovery early for them if they provide a reason why it is needed early, such as a separate Administrative License Suspension

("ALS") hearing or a civil collateral matter such as a divorce. We provide these things not based on a Criminal Rule and the fourteen-day limit, but because these attorneys are colleagues, and we have no desire to make their job more difficult.² The result is a relationship which works well in the court system. On the other hand, if local attorneys here were filing motions to compel and requests for sanctions, it is entirely possible that the collegial atmosphere would dissipate and the practical result would be all our jobs – for prosecutors, defense attorneys, judges, and court personnel – would be more difficult.

The Bigger Picture

The job of being a prosecutor has become more difficult.

If a defense attorney makes a mistake, it may amount to ineffective assistance of counsel and, perhaps ironically, prosecutors are charged with defending the effectiveness of such assistance in post-conviction proceedings. If a prosecutor is unsuccessful in that defense, the court may order a re-trial. If a prosecutor makes a mistake, it may amount to misconduct and the court may order a re-trial. I agree with the author's conclusion in the March-April 2023 *Discovery Delayed is Justice Denied* article that prosecutors still have a tremendous amount of power in the

criminal justice system. Prosecutors should fully embrace the responsibility that comes with that power. But, as the President of the Prosecutor's Association, I believe it is important that we continue to recruit and employ excellent deputy prosecutors throughout this wonderful state.

Prosecutors are under attack from members of the public and media in ways that other attorneys and, quite frankly, judges, are not. It seems to me that attorneys should not contribute more to this with questionable claims of prosecutorial misconduct but rather should work within the confines of the paradigm that has worked so well for so long.



Louis E. Marshall graduated from the University of Idaho College of Law in 2001 and has been the Prosecuting Attorney for Bonner County since January 2009. He is the current President of the Idaho Prosecuting Attorneys' Association ("IPAA") and sits on several other boards. He is personally finishing his fourth term as the Elected Prosecutor in Bonner County. He has had the privilege of serving on the IPAA Board previously from 2009-2013 and from 2022 through the present day. Louis has three grown children and two grandchildren. His wife, Angela, is an attorney in Sandpoint.

Endnotes

1. See *Brady v. Maryland*, 373 U.S. 83 (1963).
2. See *Discovery Delayed is Justice Denied: Discovery Delays in Misdemeanor Cases*, *ADVOCATE* (March/April 2023).



A sign greeting attendees at the Kentucky International Convention Center. Photo by R. Jonathan Shirts.

ABA Midyear Report

R. Jonathan Shirts

This year's American Bar Association Midyear meeting was held in Louisville, KY from January 31 to February 5. For a baseball nerd like myself, I'll admit I was a little excited when I found a break in my schedule that allowed me an opportunity to visit the Louisville Slugger Museum and Factory – not every day you get to hold bats that were used in games by Hall of Famers Carl Yastrzemski and Babe Ruth. (I might be a Red Sox fan and 1920 still stings, but my kids absolutely love the Sandlot, so a chance to hold a bat used by “the Great Bambino, the Sultan of Swat, the Titan of Terror, the Colossus

of Clout,”¹ was something I couldn't pass up). If you ever get a chance to visit Louisville, I highly recommend a visit – there's a behind-the-scenes tour of the factory that lets you watch how the bats get made. I wasn't able to get to the other great Louisville attraction – Churchill Downs – but there wasn't the excitement there the first weekend in February like I'm sure there will be the first weekend in May.

Outside of baseball, there are a number of things that happen in and around the ABA's Midyear Meeting. Each Midyear Meeting, the ABA's Judicial Division puts on a major event – the Judicial Clerkship Program. This program is designed to put together law students and judges from

across the country and from every level, State and Federal.² This year, “[n]early a hundred students from 21 law schools around the country got an up-close-and-personal look at what it's like to work as judicial clerks.”³ Every judge and law student I had an opportunity to speak with about this program raved about it, especially the law students, who also expressed their appreciation for the opportunity to get to know and work with these judges. As a law student not-so-long-ago myself, I had the opportunity to be involved with the ABA and the ABA's Judicial Division in particular. The Judges I met and worked with during that time made an enormous difference in my life, and I now consider many

of them to be great friends. The Midyear Meeting next year is in Phoenix⁴ – much closer to Boise, and warmer, too – and I would encourage any Judges reading this (active, past, or retired) to consider participating in this program. For anyone from a law school, this is an amazing opportunity for your law students – especially those that are traditionally underrepresented.

The lead-up to the House of Delegates meeting was packed with meetings and ceremonies honoring some amazing lawyers from across the country. During the last couple years, I have been able to get to know two individuals who were honored this year with Spirit of Excellence Awards:⁵ Capt. Benes Z. Aldana and Juan Thomas. They are both true trailblazers, with stories that are truly inspiring, and getting to know them, and many others like them, is one of the greatest things I've been able to do through the ABA. How else could someone like me – born and raised in tiny towns in Southern Utah, graduate of a North Idaho high school, and a first-generation lawyer – have the opportunity to rub shoulders with

legal leaders like that? It's humbling, yet exciting.

Throughout the entire Midyear Meeting, there were a great number of conversations about the future of the ABA and how to make membership more valuable and attractive. I would venture a guess that many people who pick up this issue of The Advocate won't read this article; it will just be skipped because "ABA" is in the title. So why aren't more Idaho lawyers interested in joining the ABA? I've heard from some attorneys that they don't feel the ABA is "right" for them, that it doesn't represent their interests, or that it costs too much. While I would love to have a conversation with each person reading this, individually, that's a tall task, so let me have a hypothetical conversation with each of you:

You: "What is the point of the ABA? What does it even do?"

Me: "The ABA is primarily made up of volunteer lawyers and judges who are trying to 'Advocate for the Profession, Eliminate Bias & Enhance

Diversity, Serve [Its] Members, and Advance the Rule of Law."⁶

"OK, but what does that mean to me as an Idaho lawyer?"

"Well..."

"Exactly. And it's not like I can find anything on that website anyway..."

"Oh, I know – I swear it's being worked on."

"So, the website's broken, and it's going to cost me extra because the ABA just raised dues..."

"Yes, but it's the first time since 2015 and the increase is only \$45 a year, \$0.12 a day..."⁷

"OK, that's all good and fine, but why should I spend even just a little more of my very hard-earned cash to join something that's just an 'old man's club'? Or that will only advocate for me if I believe in the same thing as people who don't have the same beliefs as me? What's in it for me, personally?"

"Well, here are a couple reasons I think ABA membership could be worth it for you: First – there are over 500 CLE included for members..."⁸

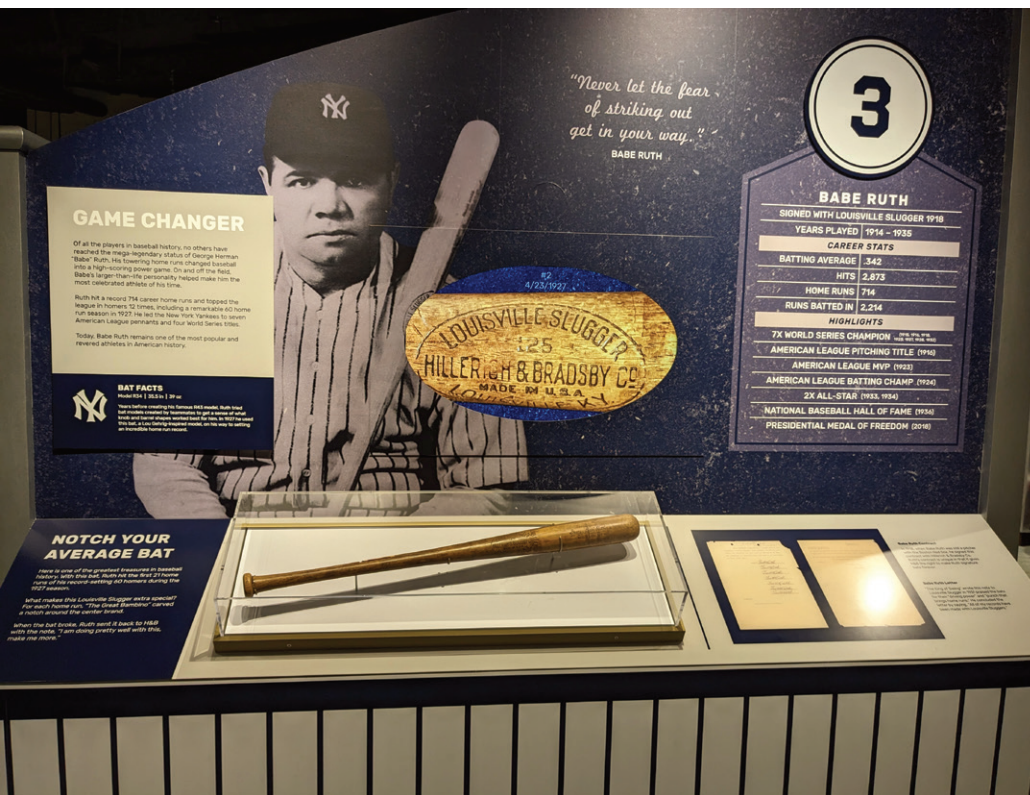
"Wait, did I hear that right?"

"Yes, you did. Isn't your CLE reporting period coming up the end of this year? I'd challenge you to find that many CLEs for that cheap somewhere else."⁹

"OK, what else? You have my attention, for about 30 seconds..."

"Second, what are you interested in as part of your practice? Construction Law? There's a Section for that.¹⁰ Intellectual Property Law? There's a Section for that.¹¹ Family Law?¹² Health Law?¹³ Environmental Law?¹⁴ Yeah, there are Sections for each of those, too.

Or are you looking for something that isn't just in a specific area? For instance: Do you need some help running your law practice?¹⁵ Are you currently thinking about hanging your own shingle or already running a solo or small firm?¹⁶ Maybe you haven't been practicing that long and are looking for a place where everyone around you is going through the



A bat notched by Babe Ruth for each of his first 21 home runs in 1927. Photo by R. Jonathan Shirts.

same challenges with student loans and getting used to billable hours?¹⁷ There is a home for each of those in the ABA.”

“So, what makes the ABA so important to you?”

“Personally? Well, I’ve been part of the Judicial Division¹⁸ since I was elected to be the ABA Representative my 1L year of law school. Because of that, I have been able to get introduced to State and Federal judges and justices from across the country. But I’ve also been able to get to know attorneys in various practice areas around the country with my role as the Idaho State Bar’s Delegate to the ABA’s House of Delegates. I am also currently serving as the Judicial Division’s Liaison to the Commission on Lawyer Assistance Programs,¹⁹ and as a member of the Judicial Security Committee.²⁰ Because of my membership on the Judicial Security Committee, I was able to present a Resolution to the ABA House of Delegates last year,²¹ and as a result of that effort, the Judicial Security Committee will be presenting another Resolution this August in support of a newly introduced bi-partisan Senate Bill²² that would create a State judicial threat intelligence and resource center at the State Justice Institute.”²³

The point I’m trying to make to each of you is that the ABA has a place for everyone if you want it. As John F. Kennedy famously said when he paraphrased Edmund Burke, “The only thing necessary for the triumph of evil is for good men to do nothing.”²⁴ I am not content with doing nothing, which is why I am grateful for the opportunities the ABA has presented me to make a difference and do something. This Midyear Meeting, for example, the House of Delegates passed Resolutions regarding academic freedom standards for law schools,²⁵ more transparency and enforcement regarding how deaths in custody are reported,²⁶ and the plight of

Native Americans – especially women – who are at a higher risk of abduction or violence.²⁷ As the new Executive Director of the ABA said, the ABA is and should be the “ultimate resource” for every attorney across the country.²⁸ It has been for me, and I know it could be for each of you, regardless of whether you’ve been practicing for just a couple months or for a couple of decades.

But if all of this hasn’t been enough to convince you that membership in the ABA is worthwhile, a report was published that details what impact the ABA has had in advancing the rule of law, both here in the United States and across the world – it’s worth a read.²⁹ As always, please feel free to contact me – I’d be happy to have an individual conversation with anyone who has questions about how the ABA might be able to help them.



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

Endnotes

1. THE SANDLOT (Twentieth Century Fox 1993).
2. To learn more about this program and what opportunities it provides law students and judges, please visit https://www.americanbar.org/groups/judicial/events_cle/jcp/.
3. <https://www.americanbar.org/news/abanews/aba-news-archives/2024/02/judges-court-diverse-law-students/>.
4. https://www.americanbar.org/groups/departments_offices/meetings_travel_dept/future-past-meetings/.
5. The Spirit of Excellence Awards are given at each Midyear Meeting to honor and celebrate “the efforts and accomplishments of lawyers who work to promote a more racially and ethnically diverse legal profession.” <https://www.americanbar.org/news/abanews/aba-news-archives/2023/11/aba-2024-spirit-of-excellence-honorees/>.
6. https://www.americanbar.org/about_the_aba/.
7. https://www.americanbar.org/news/reporter_resources/midyear-meeting-2024/house-of-delegates-resolutions/177c/.
8. <https://www.americanbar.org/cle-marketplace/cle-library/>.
9. While the ABA has done a lot of work to verify the CLE it offers are accepted in most jurisdictions, don’t just take

my word that everything will be accepted. To paraphrase Ronald Reagan, “Trust, but verify [with the Idaho State Bar].” <https://isb.idaho.gov/licensing-mcle/mcle-info/>.

10. https://www.americanbar.org/groups/construction_industry/.
11. https://www.americanbar.org/groups/intellectual_property_law/.
12. https://www.americanbar.org/groups/family_law/.
13. https://www.americanbar.org/groups/health_law/.
14. https://www.americanbar.org/groups/environment_energy_resources/.
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18. <https://www.americanbar.org/groups/judicial/>.
19. https://www.americanbar.org/groups/lawyer_assistance/.
20. <https://www.americanbar.org/groups/judicial/committees/judicial-security/>.
21. https://www.americanbar.org/news/reporter_resources/annual-meeting-2023/house-of-delegates-resolutions/200/.
22. <https://www.congress.gov/bill/118th-congress/senate-bill/3984/all-info> I can’t take credit for anything related to this bill, but most legislation relating to judicial security – proposed and passed – for the last few decades has focused only on the judges themselves. This is the first major piece of legislation since that Resolution was passed, and it specifically highlights the impact of threats on judicial staff, as well as judges. Correlation or coincidence? I don’t know, but I’d like to imagine someone who might have helped draft this bill heard about our Resolution last year highlighting the impact on judicial staff and considered it.
23. <https://www.sji.gov/>.
24. Reuters investigated the claim that Burke said this exact quote and could not find anything that supported that claim. See Reuters Fact Check, *Edmund Burke did not say evil triumphs when good men do nothing*, Reuters.com (Aug. 9, 2021, 11:33AM MDT) <https://www.reuters.com/article/idUSL1N2PG1EY/> (last accessed 03/29/2024). From that article, “Burke did say something resembling the quote in his ‘Thoughts on the Cause of the Present Discontents’ (1770): ‘When bad men combine, the good must associate; else they will fall, one by one, an unpitied sacrifice in a contemptible struggle.’”
25. https://www.americanbar.org/news/reporter_resources/midyear-meeting-2024/house-of-delegates-resolutions/300/.
26. https://www.americanbar.org/news/reporter_resources/midyear-meeting-2024/house-of-delegates-resolutions/506/.
27. https://www.americanbar.org/content/aba-cms-dotorg/en/news/reporter_resources/midyear-meeting-2024/house-of-delegates-resolutions/504/.
28. <https://www.americanbar.org/news/abanews/aba-news-archives/2024/02/midyear-2024-aba-exec-director-address-hod/>.
29. <https://www.americanbar.org/news/abanews/aba-news-archives/2024/02/aba-impact-report-2023-achievements/>.

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2024 Idaho Mock Trial Champions, The Ambrose School.

2024 Idaho High School Mock Trial Competition

Carey A. Shoufler

The Idaho Law Foundation's Law Related Education Program hosted its annual High School Mock Trial State Championship from Wednesday to Friday, March 13 to 15. This year, students explored a civil case that centered on an allegation of wrongful death brought by the estate of a person who died while participating in an extreme obstacle course race.

For the 2024 competition, 352 high school students from 32 teams registered to participate in the mock trial competition. 186 teachers, judges, attorneys, and other community leaders donated their time to serve as coaches, advisors, judges, and competition staff.

This year, for the first time, we increased the number of teams advancing to state from 12 to 16, from regional competitions held in Pocatello, Lewiston, and Boise.

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

- The Ambrose School (Meridian, two teams)
- Boise High School
- Capital High School (Boise)
- Centennial High School (Meridian)
- Lewiston High School
- Liberty Charter School (Nampa, two teams)
- The Logos School (Moscow, two teams)
- Mountain Home High School (two teams)
- Pocatello High School
- Renaissance High School (Meridian)

- Timberline High School (Boise)
- Troy High School

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

2022 State Champion: The Ambrose School (A Team)

State Runner Up: Logos School (A Team)

Third Place: Boise High School

Fourth Place: Capital High School

Fifth Place: Troy High School

Mock trial team members who played roles as attorneys and witnesses had the opportunity to be recognized for individual awards. For each trial through four rounds of competition, each judge had the opportunity to select the students they believed gave the best performances for the trial. The top witnesses and attorneys for the 2024 competition include:

Top 12 Attorneys:

Delaney Blankinsop (Boise High)
Samara Coleman (Ambrose)
Emily von Drakk (Ambrose)
David Henreckson (Logos)
Bridget Kelley (Timberline)
Jackson Long (Liberty Charter)
Nick Mann (Mountain Home)
Fiona Michael (Boise High)
Tadman Nettles (Centennial)
Jaxon Pierce (Capital)
Clive Miller (Logos)
Kyleigh Rohrs (Mountain Home)

Top 10 Witnesses:

Fiona Bothwell (Ambrose)
Jack Cornell (Centennial)
Ava Ginn (Logos)
Ada Hunt (Capital)
Alex Kuyper (Pocatello)
Tabitha Miller (Logos)
Molly Montgomery (Boise)
Josh Nelson (Troy)
Audrie Seamons (Timberline)
Eva Steele (Lewiston)

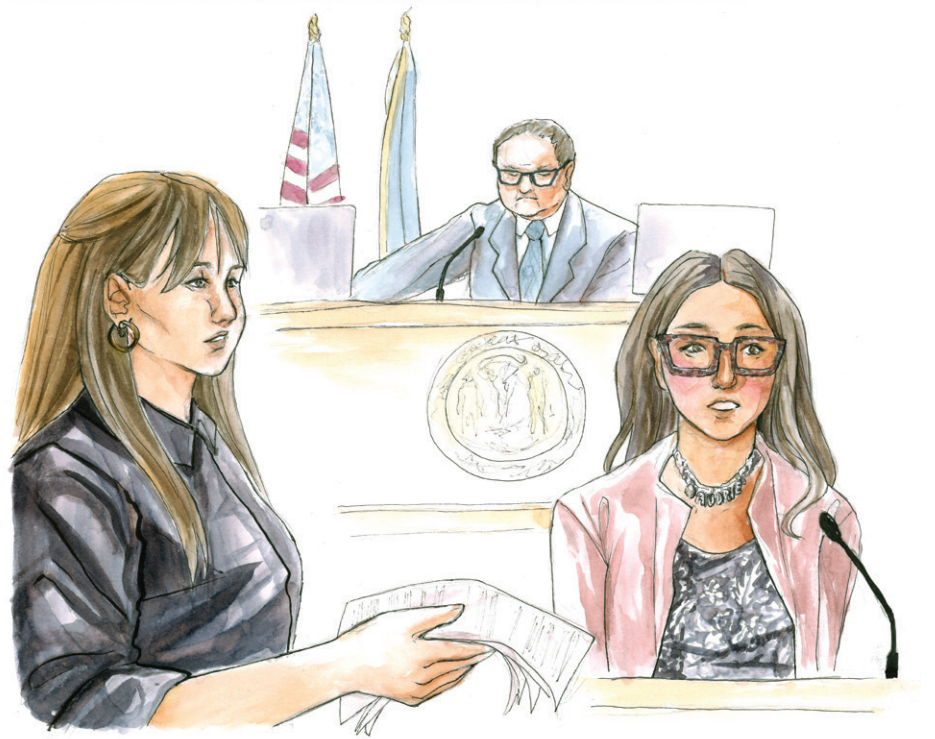
As part of the state competition, Idaho's Mock Trial Program, in partnership with the Professionalism & Ethics Section, developed the Civility & Ethics Award, created to highlight the importance of civility and professionalism among teams participating in mock trial. During the state competitions teams observe and interact with each other and submit their nomination for the award. For 2024, Lewiston High School was chosen by the other teams as the recipient of this year's award.

Idaho's mock trial program also hosts a Courtroom Artist Contest as part of the program. In 2024, 12 courtroom artists participated in the contest, the most artists we've had in a season. Artists observed trials and submitted sketches that depict courtroom scenes. The top three entries for 2024 were:

First Place: Daily Adams, Timberline High School

Second Place: Emma Meyers, Renaissance High School

Third Place: Vanessa Morales, Mountain Home High School



2024 Winning Courtroom Artist Entry, Daily Adams, Timberline High School.



Troy High School. This was the first time Troy High School has competed in Mock Trial, with two law students as their coaches. Photo credit: Carissa A. Carns.



2024 Civility & Ethics Award Winner, Lewiston High School. Photo credit: Carissa A. Carns.

The Ambrose School will represent Idaho at the National High School Mock Trial Championship in May in Wilmington, Delaware and Daily Adams will represent Idaho in the National Courtroom Artist Contest.

The Idaho Law Foundation's Law Related Education Program would like to thank the sponsors and volunteers who helped during the 2024 mock trial season. We couldn't do our important work without your support.

Plans will soon begin for the 2025 mock trial season. For more information

about how to get involved with the mock trial program, visit idahomocktrial.org or contact Carey Shoufler, Idaho Law Foundation Law Related Education Director, at cshoufler@isb.idaho.gov.



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

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

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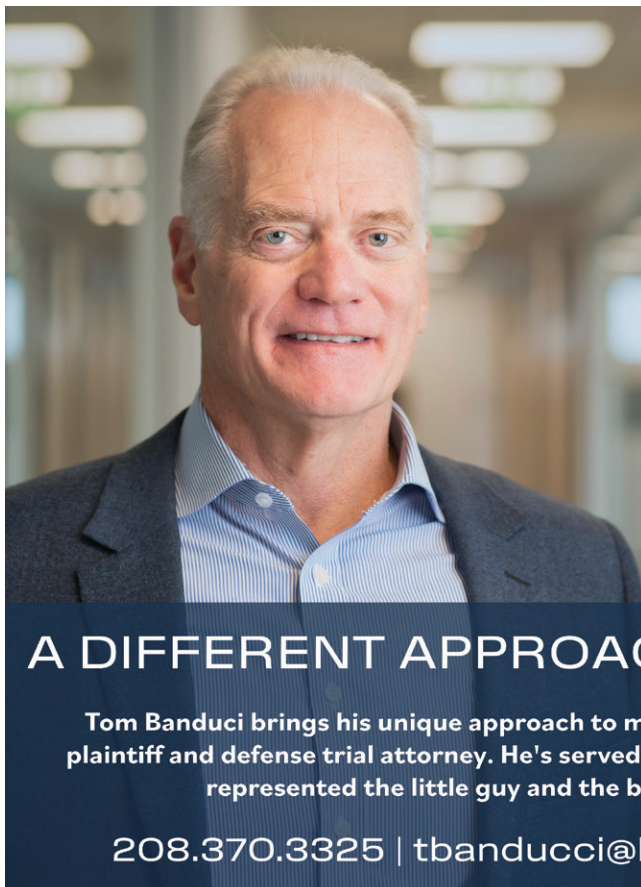
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Colleen D. Zahn
Cynthia K.C. Meyer

Regular Spring Term for 2024
3rd Amended

Boise January 10, 12, and 19
Boise February 5, 7 and 12
U of I, Boise February 14
Boise April 5, 17, and 19
Moscow U of I, Lewiston April 10 and 11
Boise May 6, 10, 13 and 15
College of Idaho May 8
Boise June 3, 10 and 13
Idaho Falls June 5
Pocatello June 6

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2024 Spring Term for the Supreme Court of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

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COURT OF APPEALS OF IDAHO**

Chief Justice
David W. Gratton

Judges
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Jessica M. Lorello

Regular Spring Term for 2024
1st Amended 01/12/24

Boise January 9, 11, 16, and 18
Boise February 6, 8, 13, and 15
Boise April 9, 11, 16, and 18
Boise May 7, 9, 14, and 16
Boise June 4, 6, and 11

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2024 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 2024
1st Amended — February 7, 2024

Boise August 19, 21, 23, and 26
Boise September 9, 11, and 13
Coeur d' Alene September 18 and 19
Boise October 4, 7, 9, 11, and 16
Boise November 1 and 4
BYU-Idaho November 7
College of Southern Idaho November 8

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2024 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.

**Idaho Supreme Court
Oral Arguments for May 2024**

04/10/24

Monday, May 6, 2024 - Boise

8:50 a.m. *Gomez v. Hurtado* #50279
10:00 a.m. *Araiza v. State* #51046
11:10 a.m. *Pinkham v. Plate* #48954

Wednesday, May 8, 2024 - College of Idaho

8:50 a.m. *State v. Martin* #49919
10:00 a.m. *Nelson v. Industrial Special Indemity Fund* #50485
11:10 a.m. *Schriver v. Raptosh* #49818

Friday, May 10, 2024 - Boise

8:50 a.m. *Evans v. Wright* #50094
10:00 a.m. *Upper Valley v. Madison County* #49856
11:10 a.m. *Carter Dental v. Carter* #50408/50455

Monday, May 13, 2024 - Boise

8:50 a.m. *Hennig v. IDOL* #50457
10:00 a.m. *Wurdemann v. State* #50403
11:10 a.m. *Brunobuilt, Inc v. Auto-Owners Insurance* #49587

Wednesday, May 15, 2024 - Boise

8:50 a.m. *Coray v. Idaho Regional* #50570
10:00 a.m. *Sullivan v. Blaine County* #50507
11:10 a.m. *Medical Recovery v. Melanese* #49996

**Idaho Supreme Court
Oral Arguments for June 2024**

04/10/24

Monday, June 3, 2024 - Boise

8:50 a.m. *Clover v. Crookham Company* #50200
 10:00 a.m. *Angelos v. Schatzel* #49787
 11:10 a.m. *Angelos v. Schatzel* #49788

Wednesday, June 5, 2024 - Idaho Falls

8:50 a.m. *JK Homes v. Brizzee* #50662
 10:00 a.m. *Wiseman v. Rencher* #50667
 11:10 a.m. *TCR v. Teton County* #49487

Thursday, June 6, 2024 - Pocatello

8:50 a.m. *Heath v. Denny's Wrecker* #50549
 10:00 a.m. *Hess v. Hess* #50719
 11:10 a.m. *Hickman v. Boomers* #50543

Monday, June 10, 2024 - Boise

8:50 a.m. *State v. Soliz* #49848
 10:00 a.m. *Porter v. Remmich* #49967
 11:10 a.m. OPEN

Thursday, June 13, 2024 - Boise

8:50 a.m. *Labrador v. Idaho State BOE* #51580
 10:00 a.m. OPEN
 11:10 a.m. *Roy v. IDHW* #50830

**Idaho Court of Appeals
Oral Arguments for May 2024**

04/10/24

May 9, 2024

10:30 a.m. *Crane v. Godfrey* #50835
 1:30 p.m. *State v. Rodriguez* #50445

May 14, 2024

9:00 a.m. *State v. Hendricks* #50253
 10:30 a.m. *State v. Regan* #49876

**Idaho Court of Appeals
Oral Arguments for June 2024**

04/10/24

June 4, 2024

9:00 a.m. *Dept. H&W v. Doe (2024-09)* #51601
 10:30 a.m. *Dept. H&W v. Doe (2024-10)* #51602
 1:30 p.m. *State v. Lee* #50335

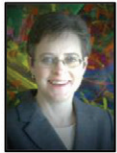
June 6, 2024

10:30 a.m. *Bautista v. Vowels* #51618
 1:30 p.m. *Jones v. Jones (VIA Zoom)* #51599

June 11, 2024

10:30 a.m. *Robinson v. State* #50744
 1:30 p.m. *Sprott v. Simmons* #50982

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Cases Pending

CASES IN ALPHABETICAL ORDER BY CATEGORY – MARCH 2024

CIVIL APPEALS

Contracts

Whether the district court erred by granting summary judgment on Landlords' claim that Tenants breached their lease agreement by overstaying the term of their lease, despite the existence of a genuine issue of material fact as to whether Tenants exercised an option to extend the lease beyond its original term.

Turley v. Koonce
Docket No. 51053
Court of Appeals

Divorce/Custody

Whether the district court on intermediate appeal erred by striking all pleadings, motions, and memoranda filed by an attorney who purported to represent the minor child in a divorce/ custody action, but who was removed from the divorce/custody action by order of the magistrate court.

Lowman v. Smart
Docket No. 50973
Supreme Court

Juror Misconduct

Whether the district court abused its discretion by finding that no juror misconduct occurred where the uncontroverted facts showed that one of the jurors who sat on the case failed to disclose that she had a personal relationship with trial counsel's law partner.

Hill v. Emergency Medicine of Idaho
Docket No. 50686
Supreme Court

Post-Conviction

Whether the district court erred by summarily dismissing Petitioner's claim that trial counsel rendered ineffective assistance of counsel by failing to consult with him about filing a direct appeal from the judgment of conviction in his underlying criminal case.

Leonard v. State
Docket No. 50596
Court of Appeals

Whether the district court erred by summarily dismissing Petitioner's claim that trial counsel was ineffective for failing to obtain and introduce evidence to support Petitioner's credibility and his defense on the only contested element of the drug trafficking charge.

Robinson v. State
Docket No. 50744
Court of Appeals

Statute Of Limitations

Whether the district court erred by concluding that the tolling provisions of I.C. § 5-234 and/or 28 U.S.C. § 1367(d) did not toll the limitation period in which Plaintiffs were required to file their complaint in state court.

*Bray v. Idaho Dep't of Juvenile
Corrections*
Docket No. 50935
Supreme Court

Statutory Interpretation

Whether the City's prohibition on short-term rentals in residential zones violates I.C. § 67-6539, which generally prohibits a city from enacting or enforcing any ordinance that has the express or practical effect of prohibiting short-term rentals or vacation rentals in the county or city.

Taylor v. City of Lava Hot Springs
Docket No. 50888
Supreme Court

CRIMINAL APPEALS

Evidence

Whether the district court abused its discretion when it admitted testimony that defense counsel did not file a motion to suppress the statements Defendant made during a police interview.

State v. Votroubek
Docket No. 50522
Court of Appeals

Mistrial

Whether the district court committed reversible error by denying Defendant's motion for mistrial, made after the jury was improperly informed that Defendant

had invoked his Fifth Amendment right to counsel during a police interview.

State v. Lee
Docket No. 50335
Court of Appeals

Motion To Suppress

Whether the evidence obtained during a traffic stop should have been suppressed because officers unreasonably extended the stop to await a drug dog's arrival.

State v. Dobson
Docket No. 50609
Court of Appeals

Whether the Court should overrule *State v. Rebo*, 168 Idaho 234 (2020), and hold that a person prohibited from entering his or her home pursuant to a no contact order still has standing under the Fourth Amendment to challenge a police officer's warrantless entry into the home.

State v. Ortiz
Docket No. 50127
Supreme Court

Whether the district court erred by concluding that the warrantless search of the exterior of Defendant's shirt pocket was a valid *Terry* frisk, and that the subsequent search of the interior of the pocket was justified under the plain feel doctrine.

State v. Saucedo
Docket No. 50850
Court of Appeals

Speedy Trial

Whether the Idaho Supreme Court's emergency orders suspending jury trials during the COVID-19 pandemic tolled the six-month statutory period for bringing Defendant to trial.

State v. Smith
Docket No. 49909
Supreme Court

Summarized by:

Lori Fleming
Supreme Court Staff Attorney
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In Memoriam

Robert L. Magnuson 1938 - 2023

Our loyal, steadfast husband, father, grandfather, godfather, and friend Robert Magnuson left this earth with a giant “Boppa” laugh and a solid “I love you and I’m proud of you” for each of his loved ones.



Bob was born to Harry James and Mary Clara Magnuson on July 21, 1938 in Wallace, Idaho, which he always considered home. His iron-willed Italian mother instilled a strong work ethic in her children from an early age, which carried Bob through high school jobs bartending, driving the town laundry truck, and summers spent laboring in the Golconda and Lucky Friday Mines. A natural leader, he joined the Wallace High Royal Order of the Rocky Mountain Goats and went on to become social chair and president of his fraternity, Kappa Sigma, at the University of Idaho. His time at U of I was precious to him: there he met the love of his life, Elinor, on Hello Walk, and he remained a die-hard Vandals fan for the rest of his life.

Bob attended law school at George Washington University and joined the Witherspoon, Kelley, Davenport, and Toole law firm for 53 years, eventually serving as president of the firm. He was admitted to the Idaho State Bar in 1963. Bob specialized in banking, mining, and business law.

Bob marveled at the intellect and loving kindness of his children and grandchildren, who only half-joked that he was The Godfather. He will be remembered for his kind spirit, compassionate heart, and unwavering devotion to his family. They, of course, are his most important legacy. Bob is survived by his children Robbi (Chalon), Becky (Erick), Kammy (John), and Sam (Katie); his grandchildren and some great grandchildren.

Bob was a U of I Vandal Booster, proud charter member of Costco, committed Spokane Indians and Gonzaga basketball fan, and an avid clammer, always in search of the elusive Mossyback Clam. In his later years, Bob showed a tender

sweetness that he absorbed as a boy from his father in their long walks on the hills around Wallace. Bob loved and collected classic cars, usually found at a Mitch Silver auction with one of his kids or grandkids.

He is also survived by his in-laws, Roberta Dolana and Anne and Al Caravone, who named him Master of the One-Liner. He also leaves loved nieces and nephews.

Robert A. Maynard 1953 - 2024

Robert (Bob) A. Maynard of Boise passed away in February 2024. Bob graduated from the University of Michigan Law School and was admitted to the Idaho State Bar in 1997.

Barry J. Luboviski 1943 - 2023

The first of three sons born to Jerry and Bonnie Luboviski arrived on Jan. 16, 1943, in San Gabriel, California. He grew up around Los Angeles with his brothers, Michael and Greg, and graduated from Arcadia High School in 1960. He loved developing his tan on the California beaches or around the family swimming pool.

After high school, Barry, aka “Lubo,” took a leisurely decade to test higher education, from community college to a couple universities, and graduated from San Diego State University in 1968 with a degree emphasizing land use. After graduation, some of his friends invited him on a trip up to Sun Valley, Idaho. Even with falling on his head numerous times that first winter because his cowboy boots weren’t cutting it, he loved it! Even living out in Warm Springs with several friends and subsisting on brown rice and trout Joe Lebard pulled from the Warm Springs River, he loved it!

While working as a drywaller on the Elkhorn development in the early 1970s, Barry concluded that he didn’t want to be a drywaller the rest of his life. He didn’t love it. So, he took the Law School Admissions



Exam and applied to the University of Idaho Law School. Barry’s three years attending law school in Moscow, Idaho, formed the basis for life-long friendships. Several of those law school buddies visited him in his final days.

While in law school, Barry still spent a considerable amount of time in Sun Valley. More specifically, in the Pioneer or the Ore House bars. It was on one of those evenings at the Ore House bar that he met a University of Colorado law student named Jan Wygle, who was also graduating in Spring 1976. They developed a friendship that lasted even after Jan moved to take a job with a Seattle law firm and Barry hung out his shingle in Ketchum. In early 1978, Barry encouraged Jan and his law school friend and former roommate, Robert Fallowfield, to form a law firm with him in Ketchum. He was admitted to the Idaho State Bar in 1976. On April 15, 1978, Luboviski, Wygle & Fallowfield Attorneys at Law was established. Memorably, for 25 years Barry served as the attorney for the Friedman Memorial Airport.

Barry entered political life when his softball friends motivated him to run for a seat on the Ketchum City Council in November 1977. He was instrumental in the passage of the Hillside Ordinance, preventing buildings from looming over the town. He resigned from the City Council to become a Blaine County Commissioner in January 1980.

In early 1978, Barry drove to Boise to attend Jan’s Idaho swearing in ceremony, and he and Jan caravanned back to Ketchum with her car carrying her worldly goods. Barry took Jan out for a celebratory dinner. They went back to Barry’s, and they spent the next 45 years together. They married on September 12, 1981.

Barry began his retirement at the end of 2014. He loved it! Barry always had season passes to Baldy and golf course memberships. He took numerous raft trips down Idaho rivers. Barry and Jan went camping every summer with friends and family. They travelled the world by air, boat, train, car, and cruise ship and shared a love of foreign cultures, foods, and wonders of the world. In 2019, Barry began

his battles with cancer. Cancer won. Barry is survived by his wife, Jan Wygle, and other family members.

Reginald Ray Reeves 1927 – 2023

Lt. Col. (Ret.) Reginald Ray Reeves, 95, longtime Idaho Falls attorney, Sun Valley resident, civic leader and humanitarian died on November 17, 2023, in Idaho Falls.



Reginald was born to James Holt Reeves and Ellen Theresa Boyd Reeves on December 20th, 1927, in Greensboro, North Carolina. Reginald received his early education in Greensboro, graduating from James B. Dudley High School in 1943, at the age of 16. He received a Bachelor of Science degree in mathematics with honors from North Carolina Agricultural and Technical College graduating magna cum laude at the age of 19.

Reginald broke ground by becoming the first person of color to enroll in and graduate from the College of Law at the University of Idaho. He was admitted to the Idaho State Bar in 1952. Following graduation, Reginald joined the father of a classmate, Alvin L. Denman, and practiced law in Idaho Falls for more than 61 years until his recent death.

He married Verna Martin, and they had two children from their union, Ray Reeves and Regina Reeves, however the marriage ended in divorce. He then married Donna Gerard West (who insisted that she first met him when he was eight years old); sadly, she passed away in 2021.

From the days of his youth, the generous and selfless disposition of Reginald Reeves was fixed upon the need to serve others. In 1950, during his second year in law school, Army General Omar Bradley issued an urgent plea to the American people asking for blood needed by wounded soldier during the Korean War. Answering the call, Reginald helped organize the first college blood drive in American history and gave his first pint of blood. Starting with that first pint of blood, he continued

donating throughout his life and reached an astounding total of 51 gallons donated by 2021, which according to blood bank officials is probably an Idaho record.

He also founded the Sun Valley Charitable Foundation through which humanitarian aid has been provided to destitute families and individuals in ten eastern Idaho counties and into Western Wyoming and Montana. Millions of dollars of donated items from businesses and individuals which included medicine, medical equipment, food, clothing, household goods, books, toys, etc. were gathered. Hundreds of computers were sent to schools in low-income communities in the United States and to developing countries.

Reginald also served his nation and community through military service, volunteering for Army service at the age of 17 during World War II. He eventually reached the rank of Lt. Colonel in the Army. Working closely with Captain Jerry Wadsworth, he promoted patriotic community events and helped establish the elite “Cedar Badge” program for the Boy Scout Council. As an attorney, Reginald annually donated over 180 hours of free legal service to local veterans.

He served on the Idaho State Mental Health Advisory Council and the Idaho Commission of the Arts and Humanities. He founded the Idaho Alpine Club, the Lions Sight Foundation, the Idaho Falls Ski Club, the Idaho Falls Arts Club, the “I Have a Dream” Sun Valley Foundation and dozens of other charitable, educational, and cultural organizations. For twelve years he played the Clarinet in the Idaho Falls Symphony without any compensation.

Reginald is survived by his daughter, Regina Reeves of Pocatello, ID; his son, Ray (Tiffany) Reeves of Pocatello, ID; his stepson, Matt and his grandsons.

David W. Cantrill 1942 – 2024

David W. “Tony” Cantrill of Boise, a beloved father, husband, friend and fixture of Idaho’s legal community, was surrounded by family as he passed



away February 28th. Tony lived a life with many passions. Topping the list is his wife, Susan, and their children Michelle (Tony), Ryan and Matthew (Nicole). He cherished his grandchildren. Tony is survived by the whole family. Tony was born in Pocatello, ID, in 1942 to parents Everette and Mary Cantrill. He was the oldest of four boys and was soon joined by siblings Dante, Jerry and Archie.

He graduated from Pocatello High School in 1960. In 1966 he graduated with a bachelor’s degree from Idaho State University and went on to receive his Juris Doctorate from the University of Idaho Law School in 1970. All through his education he served in the Army Reserves (1963 – 1969). He married Susan Young in 1966. Following his graduation from law school, Tony and Susan moved to Boise. They have resided there since. Throughout his life, those closest to Tony could joke they could always find him in four places — at home, in his office, at the YMCA or at Crane Creek. But he was also a traveler, a voracious reader, a long-suffering Angels fan and a stalwart supporter of local causes. He was a dedicated, enthusiastic runner who completed nine marathons — including two New York City Marathons — and ran in the first 23 official Robie Creek races, often with his old friends Bob Barney and John Lung. It was the same weekend as Robie, a greater priority. Golf was a lifelong joy for Tony, who still can still boast the only hole-in-one achieved in the Cantrill family. A longtime member of Crane Creek and former club president, Tony will likely be remembered by members for his friendly demeanor (and as an easy mark).

His contributions to the legal profession in Idaho were not a topic Tony enjoyed discussing, but they remained significant, nonetheless. Tony was a respected, talented attorney who remained active in the profession for 51 years. He was admitted to the Idaho State Bar in 1970. Among his accomplishments were founding Cantrill, Skinner, Sullivan, and King in 1980 and serving as Executive Director of the Idaho Judicial Council from 2015 to 2021.

He will be remembered for his kindness, his gentle demeanor, his wit, his loyalty to his friends and his extreme discomfort in being singled out or fussed over in public.

Gregg M. Haney 1957 – 2024

Gregg Murray Haney, 66, of Soda Springs, Idaho passed away on March 17, 2024. The son of Robert and Barbra Haney in Newton, Kansas under a small tree on September 22, 1957. He Served a two-year mission for The Church of Latter-Day Saints in Salt Lake City, Utah. He loved the change from the Midwest, and he then attended BYU.



He later graduated from the University of Idaho with his Law Degree and was admitted into the Idaho State Bar in 2005. He practiced in Kennewick, Washington until 2004 when he moved to Soda Springs, Idaho. He worked as the county prosecutor and later the city attorney. He had a great love for his church and his grandchildren.

He is preceded in death by his parents Robert and Barbra Haney and his sister Alana Miner. He is survived by his children Joseph Haney, daughters Senna and Elinor Haney, Rebecca Ruiz, and her children Kali, Raelynn, and Nicolas Ruiz.

Richard King Smith 1929 – 2024

Richard “Dick” King Smith, a 95-year-old resident of Twin Falls, and formerly of Burley, passed away peacefully on the morning of Sunday, March 10, 2024, with his wife, daughter, and grandchildren by his side.



Born January 5, 1929, he was the second son and fifth child born to James and Myrtle Smith. A snowstorm forced a change of venue for Dick’s entrance into the world and he was born at home in Blackfoot, Idaho. Witnessing the Great Depression and Second World War

during childhood etched Dick with resilience. While many men, including his brother Russ, were away at war, he filled the breach at the family creamery and car dealership. He was driving the butter trucks by fourteen and the gas and oil trucks by sixteen.

In 1946, he graduated high school and moved to Moscow to attend the University of Idaho. As a freshman, Dick lost his father. In his senior year, despite being a distinguished military student, he was disqualified from the ROTC corps of cadets due to his eyesight. He persevered and earned an economics degree in 1950 and dreamed of traveling. His dreams came true when he was chosen to work on an international student project in France and embarked on a European odyssey.

The war in Korea changed his life’s course when he found himself drafted. Dick had planned to enlist and was relieved to squint his way through the physical. He deployed to Korea. En route to his first action during a midnight blizzard, he leapt from the transport, and a fellow soldier leapt right on top of him. Dick’s glasses were broken, but fortunately, he also brought prescription sunglasses. So, in his recollection, he “entered the unit looking either very cool or queer as a two-dollar bill, sporting dark glasses in the pitch-black night”. Dick fought through a brutal war and was recommended for a field commission, an honor he graciously declined before, being honorably discharged.

Back home in Blackfoot, Dick considered joining his brother and cousins in running Blackfoot Motor but decided instead to attend the College of Law at the University of Idaho. There he met and fell in love with Jan Morgan, and they decided to marry and “pursue a career overseas.” They married in August 1954, and Dick dropped out of law school and headed to Berkeley where with the help of Jan’s salary as a teacher, his part-time job, and the GI bill, Dick completed an M.A. in economics at Berkeley.

After graduation he contemplated a job in southeast Asia but decided instead to return to University of Idaho to complete law school.

He returned to Idaho for law school and was admitted to the Idaho State Bar in 1958. Dick and Jan settled in Burley, Idaho, where they raised two children, Nancy, and Rick. Despite the ebb and flow of life, they continued to prioritize travel, finding balance between family and Dick’s career. Dick built a thriving law practice with his partners and passionately advocated for justice as a trial lawyer, prosecuting attorney, and city attorney during his 65 years as a licensed attorney. In addition, he served his community volunteering as a Rotarian, a Mason, and a Shriner.

Tragedy struck from 1981 through 1986 with the deaths of Dick’s son Rick; his wife’s father, Les Morgan; his wife, Jan; and his mother, Myrtle. Dick was devastated but he persevered, and he was rewarded when he met Miriam (McVey) Allred while he was on a ski trip in Ketchum in 1986.

Dick and Miriam were married in Ketchum in June 1987. Together they have enjoyed decades of shared joy, conversations, and world travel. They have lived on the banks of the Snake River providing a loving foundation for their children, grandchildren and great-grandchildren. Dick enjoyed close friendships with Scott Sherman, Don Westfall, and his long-term law partners Bill Parsons and Randy Stone. Dick is survived by his wife, Miriam Smith; daughter, Nancy (Jasen) Beste; grandchildren, and some great grandchildren.

Robert J. Becker 1951 – 2024

Robert (“Bob”) Jerry Becker was born to Robert J. and Virginia L. Becker on June 2, 1951, in Twin Falls, Idaho, a fourth generation Idahoan. Bob grew up on the family farms in the small southern Idaho community of Castleford. He started driving tractors, pickups, and trucks around the farm at the age of eight and was so good that at the age of 10 he drove the tractor pulling the spud digger.



Bob helped with farming chores and helped milk the family dairy herd; he used to say the milk cows never took a

day off. Bob did well in school, especially in math and science, and was chosen to be the high school lab assistant to the chemistry and physics teacher. In high school he played basketball, ran track, and played trumpet in the school band.

Bob graduated high school in 1969 and attended Seattle Pacific University as an honors chemistry major and was awarded a merit scholarship. After one year of enduring the rainy Seattle weather, he transferred to Idaho State University and earned a B.S. degree in zoology in 1974.

During the summer breaks Bob worked for the U.S. Forest Service. In the summer of 1971, he was a wilderness ranger on the Middle Fork of the Salmon. He then attended Oregon State University in 1974 and as the top student in the Microbiology Department, was awarded an NIH full scholarship grant in the PhD graduate program in pathogenic microbiology.

Despite doing well in his graduate studies, Bob decided to leave Oregon State in 1976 and enrolled in the joint Boise State University/St. Alphonsus medical technology degree program. While learning to draw blood, a beautiful young graduate nurse (and future wife), Lesa Downs, came to the lab for her pre-employment lab work at St. Al's. Bob was supposed to draw her blood, but his mentor did it instead; Bob tracked Lesa down one day while she was on duty and asked her to join him for coffee in the hospital cafeteria.

Bob graduated from law school in 1983 with a J.D. and certificate in environmental

and natural resources law. Bob was admitted to the Idaho State Bar in 1983. They moved back to Boise where Bob cut his teeth as a new lawyer by serving as the in-house Deputy Attorney General for the Idaho Department of Lands. Then in 1988 an opportunity arose to become an in-house lawyer for Blue Cross of Idaho. It was a natural fit for Bob because of his medical/science background.

During his 21 years at Blue Cross of Idaho, Bob became the go-to lawyer for legal drafting, vendor contract negotiations, medical claims disputes, personnel issues and state and federal regulatory matters. Twice in his career he undertook the rewriting of all Blue Cross of Idaho's health insurance contracts and policies.

Bob and Lesa were blessed with the birth of two sons: Sam in 1986 and Joe in 1988. In 1992 Bob and Lesa built a home on five and one-half acres in Meridian so Bob could continue his farm boy enjoyment of tractor work and open space. Sam and Joe loved being out in the country and playing in the dirt as Bob had done as a child. They made friends with neighborhood children and with a man down the street who raised and back-packed with goats.


Unfortunately, shortly after returning from a wonderful family trip to Disneyland, Bob was diagnosed with MS in April of 1998. He was very sick in the beginning, and friends pitched in to help Lesa with tending to their acreage. After many months Bob recovered enough of

his strength to continue his full-time job as legal counsel with Blue Cross of Idaho, resume most of his activities around their acreage, continue to coach and referee the boys' soccer games, help coach them in basketball, and keep up the tradition of vacationing at the Arrow A and to other places. He and the family resumed their family activities up through Sam and Joe's high school graduation and beyond.


Bob endured burning pain and many other disabilities associated with his MS for the rest of his life. Bob continued to work at Blue Cross of Idaho until his MS-related disabilities made it impossible for him to continue his legal career. He retired in 2009 and pattered around their acreage doing tasks when he was able.

One of Bob's favorite sayings was, "The answer is always no if you don't ask." It was something he told his college roommate when his roommate was nervous about asking a girl out on a date. Bob put his advice to use throughout his life. It was amazing how many times he used his own advice to convince restaurants, breweries, car dealerships, home/condo sellers and other businesses, individuals, and of course his future wife to agree to what he was requesting. Sage advice for sure.

At the age of 72 Bob finally found eternal peace from all his suffering on February 22, 2024, with his wife beside him. He requested that his sons scatter his ashes at a location in the mountains that was dear to his heart.



New partnership status?
Job change? An office move?



Submit your announcement to the next issue's Around the Bar column by emailing lwelfley@isb.idaho.gov.

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STATEWIDE – Member participation is vital to the success of the Idaho State Bar and Idaho Law Foundation. Lawyers can and do make a difference by participating in one of the many volunteer opportunities available. Whether you volunteer on one of our committees or give your time to a specific event, getting involved in what the Bar and Foundation do for our communities is as important as renewing your license! This year's deadline to submit your volunteer interest is Monday, June 3rd! Learn more on our website at www.isb.idaho.gov/get-involved.

Hon. Cheri Hicks Takes Office in the 5th District as a New Judge

FIFTH DISTRICT – The Fifth Judicial District came together on Feb. 9th to support the newest member of its judiciary with an investiture ceremony for the Honorable Cheri Hicks. Judge Hicks was sworn in as the Lincoln County magistrate judge by the Honorable Eric J. Wildman, administrative district judge.

Judge Wildman welcomed everyone in attendance and expressed his confidence that the Fifth District Magistrates Commission really got it right by appointing Judge Hicks. Guest speaker and Blaine County District Judge Ned C. Williamson spoke highly of Judge Hicks' work ethic and her great ability to handle adversity. He said he has always known Judge Hicks to stay the course and truly represent her clients with the utmost professionalism.

Judge Hicks thanked both her family for being her greatest support, and also everyone who wouldn't let her give up on her dream to become a judge. She promised to always be prepared and to do her due diligence to ensure justice is realized.

Governor Appoints New Judicial Council Member

STATEWIDE – Gov. Brad Little has announced the appointment of Scott Madison to a citizen position on the Idaho Judicial Council, filling the vacancy created by the retirement of J. Philip Reberger, the Judicial Council announced.

Madison, from Boise, is a graduate of the University of Idaho. He is a certified

public accountant and executive vice president, business development and gas supply for the MDU Utilities Group (Intermountain Gas Company, Cascade Natural Gas Corporation, Montana Dakota Utility Company).

Dorsey's Boise Office Continues Growth with Two Intellectual Property Partners and Commercial Litigation Partner Elijah Watkins

BOISE – Dana Herberholz and Jordan Stott have joined Dorsey & Whitney LLP as Partners in the Intellectual Property group in Boise.

Dana Herberholz advises and represents clients in technology disputes involving patents, trademarks, copyright, and trade secrets. He comes to Dorsey from Parsons Behle & Latimer, where he chaired its Intellectual Property Litigation practice. Dana has been recognized among the Best Lawyers in America for Litigation – Patent, and he is listed by Super Lawyers Mountain States for Intellectual Property Litigation. Dana received his J.D. from the Gonzaga University School of Law and his B.S. from the University of Washington.

Jordan Stott focuses on the protection of innovative products, the development of brands, and enforcement of rights. He has represented clients ranging from start-ups to multinational corporations, including in patent, trademark, and copyright litigation in federal courts and before the Patent and Trademark Office. He joins Dorsey from Parsons Behle & Latimer. Jordan received his J.D. from the University of Idaho College of Law and his B.S. from Utah State University.

Elijah Watkins has joined Dorsey & Whitney LLP as a Partner in the Commercial Litigation group in Boise. Elijah concentrates his practice



Judge Cheri Hicks dons her robe with the help of her children, Ashley H. Riemenschneider and Dawson J. Hicks. Judge Eric Wildman looks on. Photo provided by ID Courts.

on complex business litigation in both state and federal courts. He regularly represents companies in consumer and unlawful trade practices actions, intellectual property disputes, products liability matters, commercial contract disputes, and real property issues.

Elijah comes to Dorsey from Stoel Rives LLP, where he was a partner. Elijah received his J.D. from the University of Illinois School of Law and his B.S. from Brigham Young University-Idaho.

These arrivals continue the growth of Dorsey's Boise office since it opened in 2023, bringing the attorney count in this office up to nine. This includes the strategic expansion of its corporate group with associates Kristiana Lubomirova, Michael Pietruszewski, and J.B. Evans, exemplifying Dorsey's dedication to providing exceptional corporate legal services in the Idaho market.

Judge Michael Tribe Joins the Court of Appeals



Gov. Brad Little administers the oath of office to Judge Michael Tribe.

BOISE – Idaho Court of Appeals Judge Michael Tribe was publicly sworn in on Friday, March 29th in a ceremony in Boise. Gov. Brad Little in January appointed Judge Tribe as the court's newest member. The governor administered the oath of office to the new appellate judge.

Judge Tribe's former law partners Brent T. Robinson and Sen. Kelly Anthon lauded the judge's integrity, work ethic and his personal approach to others.

Attorney Wes Somerton to Retire

COEUR D'ALENE – Wesley "Wes" J. Somerton, the Chief Criminal Deputy City Attorney, has retired as of April 15, 2024, after more than 32 years in the law, most of which was spent in public service.



Mr. Somerton began his career at a private firm in Sandpoint as an intern in 1991 while still attending law school at Gonzaga University. There, he handled both public defense contracts and prosecution for Bonner County and helped with the municipal functions of the county. He continued handling matters for Bonner County for nine years, during which time he also took on the contract city attorney roles for Ponderay and Kootenai.

Wes was the City Attorney for Sandpoint from 1997 to 2000 before joining the City of Coeur d'Alene as a temporary assistant City Attorney in December of 2000. His position became permanent in January 2001. He became a Deputy City Attorney in 2002 and the Chief Criminal Deputy City Attorney in 2006. In that role, he has led the Criminal Division of the City Attorney's Office for 18 years and supervised and mentored a staff of up to five other attorneys, five legal assistants, one receptionist, many legal interns and externs, and one volunteer Victims' Advocate.

Under his exceptional leadership, the Criminal Division handled over 2,000 new cases every year, involving DUIs, domestic violence, batteries and assaults, property crimes, and drug-related offenses, among many other misdemeanors and infractions. In addition to his prosecutorial role, he worked on many civil projects and issues. Despite that extraordinary caseload and his managerial duties, Mr. Somerton finds time to contribute to a cause very close to his heart, which is combatting domestic violence and advocating for victims throughout Idaho. He is currently serving as the Chair of the Idaho Council on Domestic Violence and Victim Assistance. He also previously served as the Chair of the Committee for the Oversight of

Domestic Violence Offender Intervention Programs and Standards.

Mr. Somerton is a consummate professional, with exceptional skills and vast experience in prosecuting a wide range of crimes, including some very high-profile matters that made national news. After more than 23 years with the City of Coeur d'Alene, and nearly 33 years in the legal profession, Mr. Somerton will be sorely missed by his colleagues in the City and throughout the legal community. He leaves behind a legacy of legal excellence, professionalism, and dedication to achieving justice for defendants and victims alike, and that legacy will endure as the benchmark to which the City Attorney's Office will continue to strive for many years to come.

Attorney Simone Landau Joins Yturri Rose, LLP

ONTARIO, OREGON – Yturri Rose, LLP is pleased to announce Simone Landau has joined the law firm as their newest associate. Simone practices in transactional business, real estate, and litigation.



Simone received her Bachelor of Science degree in plant science and wine-making from Cornell University in 2019. She earned her Juris Doctorate from the University of Oregon in 2023 and was admitted to the Idaho State Bar in 2024.

While in law school, she worked as a law clerk for a solo practitioner in transactional business, assisted in secured transaction research for publication, and served in student organizations as Associate Justice for the Associated Students of the University of Oregon, president of the Law of Intellectual Property Club, and director of the Law and Entrepreneurship Student Association. Originally from southeastern Oregon, Simone is passionate about serving rural communities. When not practicing law, she enjoys spending time with her horses or exploring the high desert.

Gov. Little appoints Ross Pittman to First Judicial District

BOISE – Governor Brad Little announced his appointment of Ross Pittman as District Judge to the First Judicial District on April 2, 2024.

Pittman is a Magistrate Judge in Kootenai County, serving since 2020. He currently presides over the Kootenai County Domestic Violence Court. Pittman brings over a decade of criminal and civil law experience to the bench. He previously served as elected county prosecutor for Boise County and Payette County. Pittman is a former deputy prosecuting attorney for Boise County and Ada County. Pittman



Judge John Lothspeich reads a resolution honoring Judge Thomas H. Borresen.

received his bachelor's degree and juris doctorate from the University of Idaho.

The position Pittman will fill is chambered in Kootenai County. He will fill a vacancy created after Governor Little appointed Justice Cynthia K.C. Meyer to the Idaho Supreme Court. The First Judicial District encompasses Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties.

Idaho Code 1-2101, et seq., addresses how judicial vacancies in the Idaho Supreme Court, Idaho Court of Appeals, and District Courts are filled. The Idaho Judicial Council submits a list of at least three qualified candidates to Governor Little for appointment, consistent with Idaho law.

Idaho Supreme Court Memorial Service

STATEWIDE – Justices of the Idaho Supreme Court, judges, attorneys, and others involved with Idaho's state and federal courts gathered on Wednesday, March 6th to honor judges and members of the Idaho State Bar who recently passed away.

The ceremony included tributes to the lives and impacts of the deceased, and music performed by a choir from Boise's Fairmont Junior High.

Information on the service, including a book with obituaries for all those honored, can be found on the Supreme Court's website. If you were not able to watch the service live, a recording is available at this link: <https://vimeo.com/920475868>.

Attorney Rebecca Sheehan Joins J Eshman Law

KETCHUM – J Eshman Law is pleased to announce that attorney Rebecca Sheehan has joined the firm's estate planning practice.



Rebecca is a third-generation probate and estate planning attorney who is passionate about problem prevention and serving individuals and families. She works with the JEL team in guiding clients through the estate planning, probate, and settlement process, and addressing related issues pertaining to business and real estate matters.

Prior to joining the firm, Rebecca was a corporate healthcare attorney in her hometown of Northern Kentucky/Cincinnati, Ohio, where she represented healthcare systems, hospitals, and providers in litigation, compliance, transactional, and corporate governance matters. She also assisted teams working on the national opioid litigation.

Rebecca moved to the Wood River Valley in 2022 and lives in Hailey with her partner. She is admitted to practice in Idaho, Kentucky, and Ohio, and earned her Juris Doctor *summa cum laude* from Northern Kentucky University Chase College of Law in 2018.



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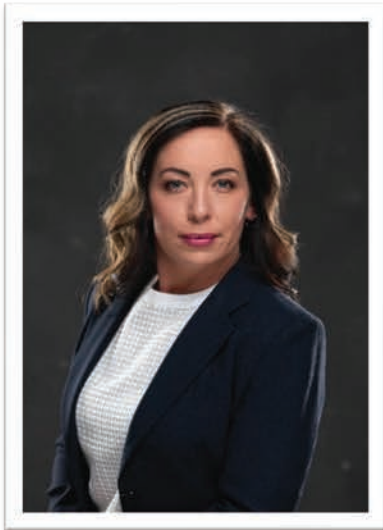
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