

the **ADVOCATE**

Volume 69 | No. 5

May 2026

RECONSIDERING MEDICAL
LIENS AFTER *DEKLOTZ*

PLUS

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The Exclusive Remedy Rule and
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2023



Moscow orientation 2023

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On the Cover



This issue's featured article takes a look at the *DeKlotz* case, a key decision from the Idaho Supreme Court. The article will look at the case's implications for insurance billing requirements and statutory constraints. Read more on page 14.

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AARON J. TOLSON (Resignation in Lieu of Disciplinary Proceedings)

On March 9, 2026, the Idaho Supreme Court entered an Order accepting the resignation in lieu of disciplinary proceedings of Idaho Falls attorney Aaron J. Tolson. The Idaho Supreme Court's Order followed a stipulated resolution of a disciplinary proceeding that related to the following conduct.

In October 2024, the United States Bankruptcy Court for the District of Idaho ordered that Mr. Tolson shall not file new bankruptcy petitions as debtor's counsel for chapters 11, 12, 13 or 15 of the U.S. Bankruptcy Code. In August 2025, the Bankruptcy Court amended its order stating that Mr. Tolson shall not file chapter 7 bankruptcy petitions as debtor's counsel for six months. Notwithstanding the amended order, Mr. Tolson continued to prepare chapter 7 bankruptcy petitions for clients and failed to inform those clients about the Bankruptcy Court's amended order prohibiting such work. Mr. Tolson was later held in contempt by the Bankruptcy Court for violating the amended order. The Bankruptcy Court ordered Mr. Tolson to refund attorney fees prepaid by some clients. However, Mr. Tolson failed to properly hold the unearned attorney fees in trust.

With respect to that conduct, Mr. Tolson admitted that he violated Idaho Rules of Professional Conduct ("IRPC") 1.2(a) [failure to abide by client objectives], 1.4(a) (5) [failure to reasonably communicate with client about any relevant limitation on the lawyer's conduct], 3.3(a)(1) [knowingly false statement of fact to a tribunal], 3.4(c) [knowingly disobeying an obligation under the rules of a tribunal], 1.15(c) [a lawyer shall deposit in a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred], and 5.5(a) [a lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction].

The Idaho Supreme Court accepted Mr. Tolson's resignation in lieu of disciplinary proceedings. By the terms of the Order, Mr. Tolson may not make

application for admission to the Idaho State Bar sooner than five (5) years from the date of his resignation. If he does make such application for admission, he will be required to comply with all the bar admission requirements in Section II of the Idaho Bar Commission Rules and shall have the burden of overcoming the rebuttable presumption of the "unfitness to practice law."

By the terms of the Idaho Supreme Court's Order, Mr. Tolson's name was stricken from the records of the Idaho Supreme Court and his right to practice law before the courts in the State of Idaho was terminated on March 9, 2026.

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

RICHARD L. STACEY, JR. (Public Censure)

On April 14, 2026, the Idaho Supreme Court entered a Disciplinary Order publicly censuring Boise attorney Richard L. Stacey, Jr. The Order followed a stipulated resolution of an Idaho State Bar disciplinary proceeding in which Mr. Stacey admitted that he violated the Idaho Rules of Professional Conduct.

The formal charge case related to Mr. Stacey's failure to accurately state the factual and procedural history of a case while on appeal. Specifically, in Mr. Stacey's opening brief on appeal, he included facts and arguments without attributing those facts or arguments as having been raised for the first time in a motion for reconsideration. Mr. Stacey never referenced, argued, or otherwise mentioned the motion for reconsideration or the district court's decision declining to consider the new facts and arguments in his opening brief on appeal. Prior to oral argument, the opposing party moved the Court to sanction Mr. Stacey for non-disclosure of material facts in his opening brief. The Idaho Supreme Court imposed sanctions against Mr. Stacey for his violation of Idaho Appellate Rule 11.2.

The Idaho Supreme Court found that Mr. Stacey violated IRPC 3.1 [Bringing a proceeding or asserting or controverting an issue therein without a basis in law

and fact for doing so that is not frivolous], IRPC 8.4(d) [Engaging in conduct prejudicial to the administration of justice] and IRPC 3.4(c) [Knowingly disobeying an obligation under the rules of a tribunal].

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 2026 License Fees

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 2026 IDAHO STATE BAR LICENSE FEES:

ASHLEY INEZ AHLQUIST; NATHAN HAHN ALFORD; ELISEO HIDALGO AREBALOS JR.; SUSAN NEHER BAKER; JEFFERY WAYNE BANKS; BRUCE LOREN BELZER; RONALD S. BEST; WILLIAM CALHOUN BOINEST III; RONALD WALTER BRILLIANT; ASPYN SYDNEY BUTZLER; KEVIN M. CHEN; E. BRIAN CHERNECKE; BRAD CHINN; SCOTT R. CLEERE; GREGORY L. CROCKETT; VAL DEAN DALLING JR.; RICHARD LEE DANIELS; JEFFREY BO DAVIES; J. PATRICK DENTON; DOUGLAS K. DYKMAN; DONALD JAMES EATON; FRANK ALWIN EDGAR JR.; BRIAN ROBERT FILLMORE; JACOB CURTIS FRY; MARK SYMINGTON GESTON; ANN ELIZABETH GOLDES SHEAHAN; TYE JACOB GONSER; ANGELICA MONIQUE GONZALEZ; JOHN F. GREENFIELD; KIMBERLY LYNN GRIFFIN; BRANDON KYLE GUERNSEY; JOEL HAROLD GUTH; ANTHONY GRANT HALL; CLIFTON NILES HARTY; BRANDON BODEN HOBBS; MICK HODGES; PETER J. JOHNSON; DENNIS RAY JONES; KIM R. KILDEW; DEBORAH ALLEN NEHER KRISTAL; MICHAEL LAWRENCE LACLARE; JOE R. LARSON; ELIZABETH A. LASSETER; LEAH C. LIVELY; JOHN CHRISTOPHER LYNCH; ELIZABETH ANNE MACLACHLAN; DANIEL JAMES MANNING; JULIA

ALEX MARSH; ERICA LYNN MARSHALL; TERRY KENT MARTIN; REESE BRADLEY MASINGILL; ROYCE KEVIN MAYO; MICHAEL FREDERICK MCCARTHY; H. KNOX MCMILLAN; JEFFREY L. MENDELMAN; ANDREA NELSON; ADAM NICOLAI OLSEN; MARK THATCHER OLSON; MOL PARKER-KAFKA; JOSEPH CHARLES PASSAMANI; GEORGE HAROLD PIKE; RINA RAI; PAUL BECHTER RIPPEL; AMY LYNN ROTHERMEL; KATRINA MARJE RUNYAN; BRETT PRESTON SCOTT; ARYN MICHELLE SEILER; JOSEPH "MARK" SHOCKLEY; CAROL DEHAVEN SKERJANEC; GREGORY MICHAEL SODERBERG; SCOTT RICHARD STAAB; ASHLEY LYNNE STILWELL; BRANDON J. STOKER; ERIK STRINDBERG; TALIA DANIELLE STURKIE; JASON ANTHONY THOMAS; PAUL DUNN VEASY; CRAIG DOUGLAS WAGNER; LARY C. WALKER; GLEN EUGENE WEGNER; DAYID LAWRENCE WHITNEY; ARNOLD M. WILLIG; KEITH ARTHUR ZOLLINGER.

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 10th day of March, 2026.

Idaho Supreme Court Order to Cancel License to Practice Law for Non-compliance with Mandatory Continuing Legal Education (MCLE) Requirements

WHEREAS, 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 are not in compliance with the Mandatory Continuing Legal Education Requirements (MCLE), pursuant to Idaho Bar Commission Rule 305 and 406;

NOW, THEREFORE, IT IS ORDERED that the licenses to practice law in the State of Idaho of the following named attorneys shall be CANCELED for failure to comply with the Mandatory Continuing Legal Education Requirements (MCLE):

BRADLEY BECKSTROM; JOSHUA BROWNSTEIN; CADE HOLMSTEAD; RANDY LOFGRAN; ANDREW MARTIN.

IT IS FURTHER ORDERED that the attorneys listed above shall be REMOVED from the roll of attorneys entitled to engage in the practice of 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 hereby directed to distribute, serve or publish this Order as provided by the Idaho Bar Commission Rules.

DATED this 20th day of April, 2026.

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:
Bethany Lyn Harder; Active Status, March 13, 2026

Ronald Walter Brilliant; Active Status, March 13, 2026

Adam Nicolai Olsen; Active Status, March 13, 2026

Arnold M. Willig; Active Status, March 13, 2026

Aspyn Sydney Butzler; Active Status, March 16, 2026

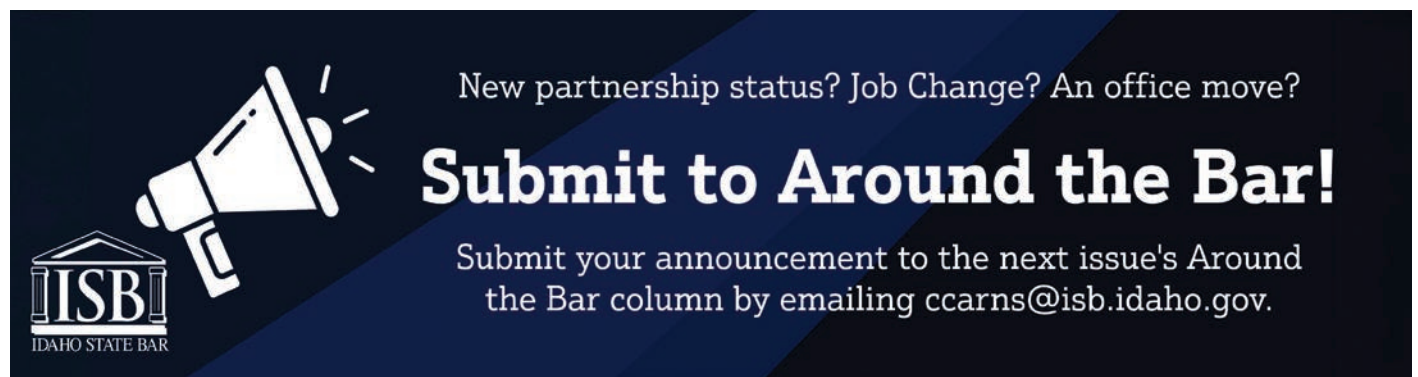
Julia Alex Marsh; Inactive Status, March 24, 2026

Kevin M. Chen; Active Status, March 30, 2026

Brandon J. Stoker; Inactive Status, March 31, 2026

Rina Rai; Inactive Status, April 10, 2026

David Lawrence Whitney; Active Status, April 10, 2026



New partnership status? Job Change? An office move?

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



Remembering the Bar: Reviving the Tradition of Local Memorial Tributes

Patricia E.O. Weeks

On March 6, 2026, the Idaho Supreme Court held a dignified and moving Memorial Service honoring judges and attorneys who passed away in 2025. The ceremony, streamed by Idaho Public Television, offered a statewide moment of reflection, an opportunity for the legal community and the public alike to recognize the lives, service, and contributions of those who shaped the law in Idaho.

While this statewide observance continues an important tradition, it also

invites reflection on a once-vibrant local practice that has largely faded from view. Closer to home, the Second District Bar, historically known as the Clearwater Bar Association, once maintained a deeply personal and meaningful custom of holding formal “In Memoriam” proceedings for deceased members of the bench and bar.

These tributes were not informal remembrances. Rather, they were structured court proceedings. A committee would be appointed, a formal resolution drafted, and colleagues would gather in

a courtroom to present testimony honoring the life and career of the departed. The proceedings were recorded and transcribed, preserving not only individual legacies but also a rich slice of local legal history.

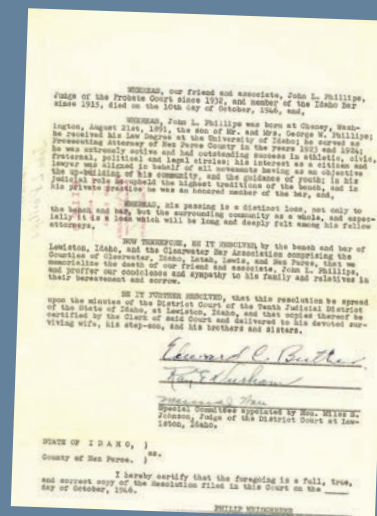
In Nez Perce County, records of these memorials date back to 1946, with the most recent found in 1982. Though the practice has since fallen into disuse, the surviving transcripts offer a vivid and often eloquent window into the professional and personal lives of those who came before us.

One of the earliest recorded tributes honored John L. Phillips (1891–1946), a graduate of the University of Idaho College of Law. Phillips served as Nez Perce County Prosecutor from 1923 to 1924, later becoming a judge before returning to private practice. He was remembered as an “honored member of the bar,” and the Clearwater Bar formally extended “condolence and sympathy to his family and relatives in their bereavement and sorrow.” Though brief, the resolution reflects the enduring respect accorded to those who dedicated their careers to public service and the law.

Other memorials reveal a more personal and even colorful view of advocacy and courtroom life. At the 1982 tribute for Verner R. Clements (1896–1982), attorney Jim Givens rose with the traditional opening, “May it please the court,” and proceeded to recount a memorable murder trial in Latah County. The case involved a farmer accused of killing his hired hand.

According to Givens, Clements approached the case “with words as his palette and brush painted a picture almost unrecognizable to the jurors”. He depicted

John L. Phillips, 1891–1946.



his client not merely as a defendant, but as a hardworking “tiller of the soil” and “the backbone of the nation.” Clements then unfolded the emotional core of the defense: the farmer’s unexpected return from the fields after a horse lost a shoe, “to his horror” discovered there had been more going on in the “chicken house” than picking chickens”. The tiller of the soil “administered a dose of lead poisoning from which the deceased never recovered.”

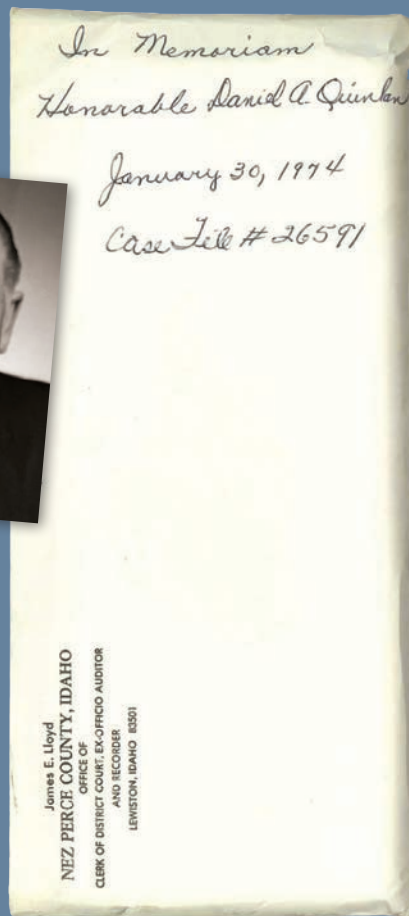
Clements worked to rehabilitate the vision of the deflowered American motherhood back to her vision of American virginity despite the fact she’d given birth to four children. Clements’ twelve friends quickly returned from the jury box and “assisted their friend” “in finding the defendant not guilty.” The story, while colorful and creative, left a lasting impression on both his contemporaries and the historical record.

Similarly, the 1973 tribute to Daniel A. Quinlan (1918–1973), pictured on the right, highlighted not only professional excellence but also personality and humanity. Attorney Owen Knowlton remembered Quinlan as “a man of many talents,” who brought to the practice of law “an Irish wit, gift of storytelling and mimicry,” along with “integrity and compassion and understanding.” Yet Knowlton added a telling note familiar to any litigator: “In a trial or lawsuit Dan was a dangerous adversary.” The balance between collegial respect and adversarial rigor is a hallmark of the profession, one clearly embodied by Quinlan.

The memorial for Ray E. Durham (d. 1951) emphasized service and dedication. A resolution signed by members of the Lewiston bar recounted his military service in World War I, his graduation from Gonzaga University Law School, and his admission to the Idaho bar in 1925. Durham served as Nez Perce County Prosecuting Attorney for fourteen years and was remembered as “fearless and aggressive in the protection of the rights of his clients.” His career reflects the longstanding tradition of lawyers serving both their clients and their communities with distinction.

Even earlier figures, such as Miles S. Johnson (1871–1948), were commemorated not only for their legal work but also for their role in safeguarding public resources. Attorney Leo McCarty recalled Johnson’s appointment as Assistant United States District Attorney, where he was tasked with addressing widespread land fraud in Northern Idaho. Through persistent effort, Johnson helped “clean up” the scandal, preserving vast timber lands from exploitation. His work stands as a reminder that the rule of law often operates quietly but decisively in the protection of the public good.

The tribute to Paul W. Hyatt (1901–1971) offers yet another perspective, one that connects individual legacy to institutional reform. Hyatt began his career with grassroots determination, campaigning door to door in Clearwater



Court records showing memorial service records for Daniel Quinlan.

Inset: Daniel A. Quinlan, 1918–1973.

County to win election as prosecutor in 1925. He later practiced in Lewiston before being appointed to the Idaho Supreme Court in 1947 by Governor Charles A. Robins. However, his tenure on the Court was cut short when he resigned in 1949, in part due to inadequate judicial compensation.

Attorney Wynne Blake reflected that Hyatt’s resignation “stirred the bar into action,” prompting long, overdue attention to judicial salaries. Immediately after his resignation the compensation was increased to \$7,500 and in the years that followed, compensation gradually increased. Hyatt’s legacy for adequate judicial compensation is still relevant today.



Miles S. Johnson, 1871–1948.



Paul W. Hyatt, 1901–1971.

Taken together, these memorials reveal more than individual biographies. They reflect a culture of respect, storytelling, and shared professional identity. They capture the voices of colleagues who knew one another not only as lawyers but as people, advocates, mentors, adversaries, and friends.

The Idaho Supreme Court's annual Memorial Service continues to serve an essential role at the statewide level. But it cannot fully replicate the intimacy and immediacy of local remembrance, the shared stories, the personal anecdotes, and the collective acknowledgment of a colleague's place within a specific community.

There is, perhaps, an opportunity here. Reviving the tradition of local memorial proceedings by providing a forum for reflection, a repository for local history, and a reminder of the values that define the legal profession. It would reinforce civility, foster collegiality, and preserve the history of the local bar.

The records from 1946 to 1982 show that this tradition once flourished in Nez Perce County. There is no reason it could not do so again. By supplementing the Idaho Supreme Court's Memorial Service with renewed local efforts, today's bar can ensure that the stories, contributions, and character of its members are not forgotten.



Patty Weeks obtained her Bachelor of Science from Boise State University and Juris Doctor from the University of Idaho, College of Law. She is a licensed attorney in Idaho and Washington and currently the Clerk of the District Court, Nez Perce County. She previously served as an officer and president of the Second District Bar Association and now is a new Bar Commissioner representing the First and Second Districts. She is a lifelong resident of Idaho and lives on the family farm in Reubens.

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Admissions Department Report

Tasha Sorrells-Landeros

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.

Admissions Statistics

In 2025, our department saw 395 people apply for admission to practice law in Idaho. Of those applicants, 184 were applicants to sit for the bar examination, 62 were applying to transfer their UBE score, five were House Counsel applicants, one for Emeritus Status and 143 were Experienced Attorney applicants.

2025 Experienced Attorney Admission applications leveled off following a large increase in 2024 after the Idaho Supreme Court entered an order amending the admissions rules to allow for a broader group of experienced attorneys from other states to be admitted without having to sit for the bar examination in Idaho.

41 people took the February 2025 Bar Exam, and the pass rate was 51.2 percent. 143

people took the July 2025 Bar Exam, and the pass rate was 81.1 percent. The overall pass rate for both bar exams was 74.5 percent, which is an increase from 66.2 percent in 2024. 48 people took the February 2026 Bar Exam, and the pass rate was 45.8 percent.

2025 Resolution Results & NextGen Bar Exam

On February 21, 2025, the Idaho Supreme Court entered an order amending the admissions rules consistent with Resolution 24-01, replacing the UBE with the NextGen Bar Exam commencing in July 2026. Idaho is among the first nine jurisdictions administering the NextGen Bar Exam this July.

In conjunction with the adoption of NextGen, the Board of Commissioners, the Idaho State Bar, and the Idaho Supreme Court agreed to set the NextGen Bar Exam passing score at 616, which is the equivalent to a score of 266 on the current UBE. The Board and the Court also agreed to lower the current UBE score from 270 to 266, effective for the February 2026 Bar Exam, which was Idaho's last administration of the UBE.

Wrapping Up & Looking Forward

The Idaho State Bar administered its last last UBE in February and is looking

forward to the NextGen Bar exam in July. Although we do not have a final count on applicants who will sit for the July 2026 Bar Examination, we have heard a lot of excitement regarding the rollout of NextGen. The Admissions Department is working through remaining details and adjusting to ensure smooth and successful administration of the NextGen Bar Examination in July.

If you have any questions or need to contact someone in the Admissions Department, you can email Tasha at tsorrells-landeros@isb.idaho.gov or call (208) 334-4500.



Tasha Sorrells-Landeros is the Admissions Administrator of the Idaho State Bar. Her job duties include overseeing bar admissions in Idaho.

She was promoted to this position after working as the Admissions Analyst for the Idaho State Bar. Tasha is a long-term resident of Boise, graduating from Boise High. Tasha comes from a 20-year career in the Mortgage/Real Estate industry before joining the Idaho State Bar staff in 2024.

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Reconsidering Medical Liens: Insurance Billing Requirements and Statutory Constraints After *DeKlotz*

Stacey L. Beaumont
Hart Parr Dal Pra



In the administration of healthcare services, the relationship between providers, insurers, and patients is governed not only by contract, but also by a complex statutory framework regulating billing and collection practices. Disputes may arise when providers pursue payment through mechanisms that circumvent traditional insurance billing, raising questions about the permissible scope of those practices under applicable law. One such mechanism—the medical lien—allows providers to assert an interest in a patient’s potential recovery from a third-party tortfeasor, thereby introducing legal and financial considerations into the post-treatment landscape.

The Idaho Supreme Court’s decision in *DeKlotz v. NS Support, LLC* addresses the extent to which such collection practices are constrained by the Idaho Patient Act. Specifically, the case examines whether the filing of a medical lien prior to billing a patient’s insurance constitutes an “extraordinary collection action” prohibited by statute. Although framed as a matter of statutory interpretation, the Court’s analysis carries broader implications for the regulation of medical debt collection and the procedural obligations imposed on healthcare providers.

This article examines the Court’s interpretation of the Idaho Patient Act (IPA), its articulation of the criteria governing extraordinary collection actions, whether a medical provider may sidestep a patient’s insurance, and the resulting impact on the use and enforceability of medical liens in Idaho.

The *DeKlotz* Decision

On July 2, 2021, Guy DeKlotz was struck by a negligent driver and was rushed to St. Alphonsus Regional Medical Center where he was treated by the on-call physician whom he did not choose, negotiate with, or even meet until after surgery.¹

DeKlotz suffered a spinal fracture as a result of his injuries and required surgery and extensive post-operative care.² DeKlotz had medical insurance through SelectHealth, and naturally assumed (as anyone would) that his surgeon would submit his invoices and bills to insurance.³

Unfortunately for DeKlotz, Paul Montalbano, his on-call and treating physician, did not. Instead, Dr. Montalbano sent DeKlotz separate invoices and then recorded a medical lien for \$183,829.⁴ The lien didn't attach to DeKlotz's home or bank account, but something equally as valuable: his personal injury claims against the negligent driver who caused his injuries.

Dr. Montalbano was able to do this under Idaho Code § 45-704B, which states that medical provider or association licensed in the state of Idaho “shall be entitled to a lien for the reasonable charges for medical care and treatment rendered an injured person *upon any and all causes of action, suits, claims, counterclaims, or demands* accruing to the person to whom such care and treatment was furnished . . . on account of injuries giving rise to such causes of action and that necessitate such medical care and treatment.”

Shortly after the lien was filed, DeKlotz retained legal counsel and fought to remove the lien. Specifically he sought a declaratory judgment that Dr. Montalbano violated the Idaho Patient Act⁵ by failing to bill his insurance prior

to filing the medical lien.⁶ The district court held that Dr. Montalbano's lien did not violate the IPA because it was not subject to the IPA because the lien was not considered an “extraordinary collection action.”⁷ DeKlotz appealed, and the Idaho Supreme Court heard arguments in May 2025.

On August 19, 2025, the Court released its opinion and held that Dr. Montalbano's medical lien fell within and violated the IPA because the lien was considered an extraordinary collection action.⁸ The IPA was enacted in part to “govern the fair collection of debts owed to healthcare providers,” but also to protect Idaho citizens from unfair billing practices where patients “find themselves in collection actions for debts they were unaware of, [and] from health care providers whom they don't recognize.”⁹

The IPA does this by, among other things, prohibiting medical providers from engaging in “extraordinary collection actions” prior to submitting all medical expenses to the patient's insurance within forty-five days from the date they received medical treatment.¹⁰ The court held that there are two criteria that must be met for an action to be considered an extraordinary collection action under I.C. § 48-304: 1) the physician must take one of the actions defined under I.C. § 48-303(3)(a); and 2) the action must have been done “in connection with a patient's debt.”¹¹

The Court explained that under the IPA an “extraordinary collection action” is defined in part as “[c]ommencing any judicial or legal action or filing or recording any document in relation thereto, including but not limited to *placing a lien on a person's property or assets*.”¹² The Court re-emphasized that one's right to initiate legal action is considered personal property under Idaho law.¹³ The Court held that because Dr. Montalbano placed a lien on DeKlotz's personal injury claim, he met the first criteria.

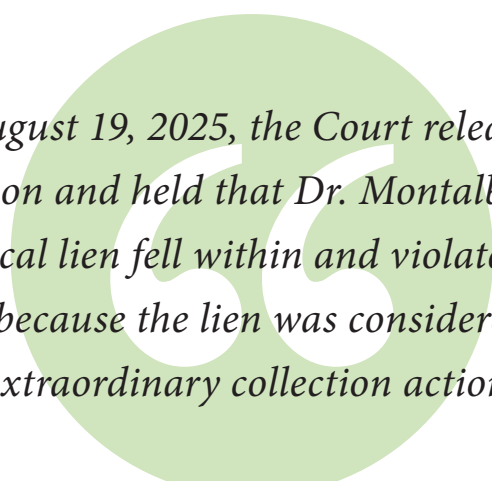
The Court then turned to the question of if Dr. Montalbano's lien was done in connection with DeKlotz's debt. The Court found that it was because the language of a contract signed by DeKlotz in essence stated that Dr. Montalbano could place a medical lien on DeKlotz's claims against the negligent driver for the payment of his services.¹⁴

Beyond resolving a question of statutory interpretation by defining extraordinary collection actions, the Courts ruling impacts the litigation of similar cases for both patients and doctors going forward.

Implications

For doctors, *DeKlotz* requires a physician to ensure that a patient's insurance has been billed prior to filing any lien against the patient for services rendered. This requirement is significant because a failure to comply will likely result in dismissal of the physician's lien. By following the procedural requirements of the IPA as outlined in *DeKlotz*, doctors protect themselves from having to defend against improper lien filings or a complete dismissal of their claim which could result in a delayed resolution of their claims and the unnecessarily increase litigation expenses.

For patients, *DeKlotz* provides a clear procedural basis for seeking summary judgment to dispose of improper medical lien claims at an early stage of litigation. If a doctor fails to bill a patient's insurance prior to filing a lien, that failure constitutes noncompliance under the IPA and renders the lien invalid as a matter of law. In such circumstances, patients should promptly move for summary judgment under Idaho Rule of Civil Procedure 56,



On August 19, 2025, the Court released its opinion and held that Dr. Montalbano's medical lien fell within and violated the IPA because the lien was considered an extraordinary collection action.

as no genuine issue of material fact exists regarding the doctor's failure to satisfy a statutory condition precedent to lien enforcement. By clarifying that physicians must bill a patient's insurance before pursuing lien-based collection, *DeKlotz* allows patients to efficiently terminate noncompliant lien claims without engaging in prolonged litigation.

While *DeKlotz* shapes litigation strategy for the parties, it also places trial courts in a critical gatekeeping role by supplying a clear framework for assessing the validity of medical liens under the IPA. *DeKlotz* empowers judges to evaluate lien validity through a straightforward threshold inquiry: whether the physician billed the patient's insurance prior to filing the lien and whether the lien was filed in connection with a patient's debt for medical services rendered. When these statutory prerequisites are not satisfied, the lien constitutes an improper medical lien under the IPA and should be dismissed as a matter of law. This approach promotes judicial economy by allowing trial courts to resolve noncompliant lien claims at an early stage of litigation, thereby reducing unnecessary discovery and motion practice.

Conclusion

The Courts decision in *DeKlotz* re-enforces the Legislatures intent to protect its citizens from unfair medical collection practices by clarifying that the scope of extraordinary collection actions means the filing of a lien against a patient's personal injury claim against a tortfeasor is considered personal property. It establishes a clear procedural framework for the parties and

trial courts to follow in these types of cases.

For plaintiffs, it requires them to ensure that a patient's insurance has been properly billed prior to filing a lien; this protects the plaintiff from having to defend against improper lien filings or a complete dismissal of their claim which could result in a delayed resolution of their claims and the unnecessarily increase litigation expenses. For Defendants, it provides a straightforward basis for seeking a summary judgment under Idaho Rule of Civil Procedure 56 in the early stages of litigation. For judges, it outlines a clear threshold inquiry for these types of cases that promotes the judicial economy and ensures a consistent enforcement of the legislature's intent.



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Endnotes

1. *DeKlotz v. NS Support, LLC*, 574 P.3d 328, 330 (Idaho 2025).
2. *Id.*
3. *Id.*
4. *Id.*
5. I.C. § 48-300.
6. *DeKlotz*, 574 P.3d at 331.
7. *Id.* at 330.
8. See generally, *DeKlotz, LLC*, 574 P.3d at 328. See also Thomas J. Mortell and Jean E. Schroeder, *Navigating the Idaho Patient Act and Medical Liens: Protecting Patients and Supporting Providers*, *The Advocate*, Nov/Dec 2025 at 20.
9. I.C. § 48-302.
10. I.C. § 48-304(1)(a).
11. *DeKlotz*, 574 P.3d at 333.
12. I.C. § 48-303(3)(a) (emphasis added).
13. *DeKlotz*, 574 P.3d at 333.
14. *Id.*

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Confounding Statutes, How Does Statutory Interpretation Work Again?

Stephen Adams
Christopher Pooser

We are told that “every person is presumed to know the law,”¹ and “ignorance of the law is not a defense.”² Thus it seems reasonable to say that one goal of the law is that everyone knows what the law is. To aid in this goal, statutes are written so that people may understand them and predict how the law applies to the facts at hand. Similarly, when the common law is created by the courts and published, the rule of stare decisis means that the common law is not easily changed.³ The law should be predictable.

However, it often is not. Though “the responsibility of the legislative branch in drafting the laws that govern society . . . is weighty,”⁴ it is often the case that the intent of the legislature cannot be discerned through the plain language of

a statute alone. Thus, we have the canons of construction to help ascertain the intent of the legislators who may have used ambiguous or unclear language.⁵ But as legal theorist Karl Llewellyn has pointed out, any canon of construction may result in an interpretation of a statute that is the opposite of an interpretation resulting from an equally valid and applicable (if opposing) canon of construction.⁶

This is all to say that Idaho’s statutes are often open to interpretation, and there is no guarantee as to what interpretation will prevail. This article provides several examples of statutes where the presence of ambiguities and confusion mean that it is not clear how or which canons of construction will control the interpretation of the statute.

Lis Pendens: A Deadline to Record Notice for a Plaintiff but Not a Defendant?

Idaho Code § 5-505 addresses the legal requirement for a lis pendens. A lis pendens is a notice recorded in the chain of title to real property.⁷ As record notice, it warns all persons that the real property is the subject of litigation and establishes constructive notice that any interest acquired in the property during the suit is subject to the outcome.⁸

The first part of Section 5-505 compels our interest:

In an action affecting the title or the right of possession of real property, *the plaintiff at the time of filing the complaint, and the defendant at the time of filing his answer, when*

affirmative relief is claimed in such answer, or at any time afterward, may file for record with the recorder of the county in which the property or some part thereof is situated, a notice of the pendency of the action, containing the names of the parties, the object of the action or defense, and a description of the property in that county affected thereby.⁹

The Idaho Supreme Court interprets this language to “unambiguously require” a plaintiff to file a lis pendens for record “at the time of filing the complaint,” and a defendant “at the time of filing his answer, when affirmative relief is claimed in such answer, or at any time afterward”¹⁰

In other words, a plaintiff must file a notice of a lis pendens of record when filing the complaint, but a defendant has a “broad time period within which to file a lis pendens” and can file any time after filing the answer.¹¹ That’s great for a defendant but how does a plaintiff know what the law is? How is a plaintiff supposed to know what “at the time of filing the complaint” means in practice and when a lis pendens is timely filed of record?

Let’s set aside the modern-day logistics of filing a notice of lis pendens with the county recorder after filing a complaint.¹² Did the legislature intend to set a deadline for a plaintiff to file a lis pendens? And if so, does “at the time of filing the complaint” mean at the exact same time? Does it mean the same day? What if it’s filed the next day or a few days later? We know of at least one district court that struck a plaintiff’s lis pendens because it was recorded 10 days after the complaint was filed.

The answer must lie in canons of construction. The Idaho Supreme Court’s interpretation of Section 5-505 is based on foundational canons:

The interpretation of a statute “must begin with the literal words of the statute; those words must be given their plain, usual, and ordinary meaning; and the statute must be construed as a whole. If the statute is not ambiguous, this Court does not construe it, but simply follows the law as written.”¹³

But there is also another canon the Supreme Court applied, albeit without direct mention—the last antecedent rule. Under this canon, a qualifying phrase should be interpreted to apply only to the last antecedent; the last antecedent is the word or phrase that immediately precedes the qualifying phrase.¹⁴

In Section 5-505, there are two antecedents preceding a qualifying phrase. The first antecedent is “the plaintiff at the time of filing the complaint,” and the last antecedent is “the defendant at the time of filing his answer, when affirmative relief is claimed in such answer.” The qualifying phrase is “or at any time afterward.” Consistent with the last antecedent rule, the Supreme Court found “or at any time afterward” modified the time for a defendant to file a lis pendens but not a plaintiff’s time to file.

But there is an important caveat to the last antecedent rule that aligns with the foundational canons of construction. A qualifying phrase applies to the last antecedent “unless the extension or inclusion is clearly required by the intent and meaning of the context or disclosed by an examination of the entire.”¹⁵ Punctuation also plays a role. A comma separating the last antecedent and the qualifying phrase is evidence that a qualifying phrase is meant to apply to all antecedents.¹⁶

One can argue that reading Section 5-505 entirely and in context is evidence that the legislature did not intend to set a deadline for filing a lis pendens but simply meant to explain when a plaintiff and defendant “may file for record with the recorder of the county”—the plaintiff after filing a complaint and the defendant after filing an answer claiming affirmative relief. Plus the statute’s punctuation suggests the qualifying phrase applies to both a plaintiff and defendant. Commas set off “or at any time afterward” from the rest of the sentence, indicating the qualifying phrase applies to both antecedents.

This interpretation of Section 5-505 would ensure that plaintiffs and defendants know what the law is. It would also accomplish the purpose of a lis pendens of simply giving notice to the world that a claim affects certain real property and establishing constructive notice. Yet

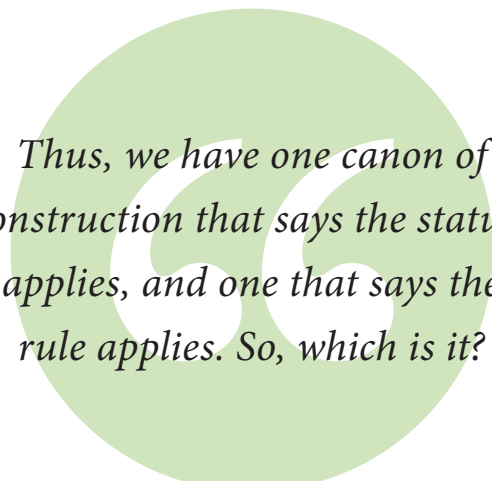
different canons of constructions can be molded to support alternative interpretations and different versions of legislative intent. At times, they may also raise more questions than answers.

Service of Process: Rules or Statutes?

The general rules for service of a complaint and summons are set forth in the Idaho Rules of Civil Procedure, and they generally require personal service or service on an officer of an organization.¹⁷ Once service is completed, the defendant has 21 days to appear and answer.¹⁸ However, this is not the only service deadline. For example, Idaho Code § 41-334(1) states, “Duplicate copies of legal process against an insurer for whom the director is attorney, shall be served upon him either by a person competent to serve a summons or by registered or certified mail.” This is a rare circumstance of service being allowed by mail, but also of a statutorily designated agent.

Not only does the statute require service on the Director of Insurance, but it sets different rules for appearing and answering: “No proceedings shall be had against the insurer, and the insurer shall not be required to appear, plead, or answer until the expiration of thirty (30) days after the date of service upon the director.”¹⁹ Thus, both service and answering deadlines are different from a normal case. There are likely other specific statutory service and answering deadlines, but similar concerns will likely arise for all of them.

There is clearly a conflict between Idaho Rules of Civil Procedure 4 and 12 and Idaho Code § 41-334. So, which one prevails? The simple answer is that Idaho Code § 41-334 is the more specific (as it only applies to cases against insurers and does not apply generally), and therefore it applies.²⁰ However, there is another canon of construction that applies for conflicting rules and statutes: if there is a conflict between a rule and a statute and the matter is procedural, the rule applies over the statute.²¹ Thus, we have one canon of construction that says the statute applies, and one that says the rule applies. So, which is it?



Thus, we have one canon of construction that says the statute applies, and one that says the rule applies. So, which is it?

Though these sorts of esoteric issues seem unlikely to arise, one of the authors recently had to file a motion to set aside a default that was filed in a case against an insurer when an answer was not filed within 21 days. Thus, these sorts of issues do matter. A simple potential solution is to include the words, “unless otherwise provided by statute . . .” at the beginning of any rule where a conflict may occur. For example, this is included in Rule 12(a), which resolves the timeline to answer. However, it does not appear that such language is contained in Rule 4, leaving the question of whether the rule or the statute applies for service purposes.

Treble Damage Statutes

There are a number of statutes that impose treble damages, depending on the circumstances of the case. Such trebling statutes include landlord/tenant claims²² and claims under the Idaho Wage Claim Act.²³ The difficulty with these trebling statutes is that, even though they may contain mandatory language, they may not be mandatory. This is a circumstance where mandatory statutory language is subject to case law restrictions.

For a statute that allows for an award beyond actual damages, the general rule in Idaho requires the court to decide “whether the award is intended to be a penalty or compensation. If it is intended to be a

penalty, the statute’s requirements must be strictly construed; if it is intended to be compensatory, the statutory requirements are not to be strictly construed.”²⁴ Stated another way, if the statute is a penalty, “as a prerequisite to an award of treble damages under [the statute], the district court must make a specific finding that [the act] was committed in a wilful, wanton or malicious manner.”²⁵ If there is no specific finding, the judgment is to be reversed.²⁶

The difficulty is knowing when a statute is punitive or compensatory. For example, historically the Idaho Supreme Court has said that trebling damages under the Wage Claim Act is compensatory, meaning no finding of malice is required.²⁷ However, in 2020, the Supreme Court seems to have reversed course on this analysis:

Idaho’s wage claim act can be punitive in nature to the extent that it was designed to deter bad behavior on the part of an employer. As written, the statutes authorizing wage claim suits provide an incentive to employers to deal fairly with their employees, given the uneven bargaining positions between the two. . . . In other words, the remedy of trebled damages is designed to deter the very scenario the jury found to have occurred . . .²⁸

Thus, arguably the trebling is now punitive in nature, meaning that a finding of malice is required.

So how can you determine, based on the statute, whether an extra finding of malice is required? There are lots of potential canons of construction that could apply. For example, if the statute contains the word “must” or “shall”, it is mandatory in nature.²⁹ However, there does not seem to be any unifying thread between when trebling is automatic versus when a finding of malice is required and when a statute contains the words “must” or “shall.” There are plenty of situations where mandatory statutory language is subject to conditions precedent. For example, Idaho Code § 12-120(3) is mandatory where it applies³⁰, but before any attorney fee award happens, there must be a determination of prevailing party, reasonableness of fees must be determined, timing rules for memoranda of costs and fees must be complied with, etc.³¹ Thus, mandatory language isn’t going to guide.

Arguably, you could look at the legislative history to see if there is any guide there, but in most circumstances, the intent of the legislature is determined by the plain language of the statute (thus making the legislative history unavailable for construction purposes, absent an ambiguity). Unless the statute clearly says it is compensatory or punitive in nature, that canon of construction won’t help.

The same is true for looking at prior versions of the statute. For example, the *Hawes* case, quoted above, occurred after there was a substantial change to the language of the Idaho Wage Claim Act.³² However, *Hawes* does not mention the statutory changes at all. Thus, there really is no useful canon of construction that helps determine when trebling is automatic versus when a finding of malice is required. This is one of those situations where it depends upon case law. Thus, you just have to know that the rule possibly exists; and then look and see whether there is any case law that applies.

Automatically Adjusting Statutes

There are certain statutes that, without changing their language, automatically

adjust each year. Two prominent examples are the rate of post-judgment interest under Idaho Code § 28-22-104, and the amount of the non-economic damages cap under Idaho Code § 6-1603. Both statutes create amounts that need to be calculated and adjusted each year, depending on certain outside factors. So far, so good.

The problem is what they don't do. For example, judgments can remain outstanding for years, accruing interest. Idaho Code § 28-22-104 does not explain whether the rate of interest that accrues is the rate that exists at the time of judgment or the rate for each year the judgment is operative. The authors of this article have debated this issue and come to no conclusion as to which is correct.

Similarly, for the non-economic damages cap, the statute does not say which cap applies, whether it be the cap at the time of the accident, the time the complaint is filed, or when the judgment is entered. Idaho case law suggests that it is the cap that applies at the time the cause of action arose, but that particular case has a strange set of circumstances.³³ That case occurred at approximately the time the non-economic damages cap was reset, lowering the cap back down to \$250,000.³⁴ The Supreme Court said that the cap that applied was the cap that existed at the time of the cause of action arose, which was when there was a higher cap. No analysis was provided as to timing in any other context, and so it could be that the Supreme Court merely gave the higher cap. However, currently, the cap is rising year after year, and so applying the earlier date would lower the amount of available damages under the cap.

What canons of construction apply to assist in understanding automatically adjusting statutes? The authors are not aware of any in Idaho that specifically address this issue. Thus, it goes back to basics: is the language plain, or is it ambiguous? If it is ambiguous, what guides are there to help interpret legislative intent? A practitioner

could just go through the list of constructions, such as reviewing legislative history, reading statutes together that relate to the same subject, etc.³⁵ Until the Idaho Supreme Court says what the rule is, there are only potential arguments, and not clear answers.

Conclusion

Though the purpose of the law is to give predictability, it sometimes does not. The canons of construction sometimes help us, sometimes confuse us, and sometimes fail us. That is why we have lawyers. Good luck.



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Endnotes

1. *Anderson v. Ferguson-Bach Sheep Co.*, 12 Idaho 418, 422, 86 P. 41, 42 (1906).
2. *State v. Fox*, 124 Idaho 924, 926, 866 P.2d 181, 183 (1993).
3. *Thompson v. Burley Inn, Inc.*, 173 Idaho 637, 646, 546 P.3d 649, 658 (2024).
4. *State v. Fox*, 124 Idaho 924, 927, 866 P.2d 181, 184 (1993) (Bistline, J., dissenting)
5. See *In re Doe*, 156 Idaho 345, 349, 326 P.3d 347, 351 (2014).

6. Karl N. Llewellyn, Remarks on the Theory of Appellate Decision and the Rules or Canons About How Statutes are to be Construed, 3 Vand. L. Rev. 395 (1950).

7. *Montierth v. Dorssers-Thomsen*, 173 Idaho 100, 112, 539 P.3d 578, 590 (2023).

8. *Id.* at 112-13, 539 P.3d at 590-91.

9. Idaho Code § 5-505 (emphasis added).

10. *Montierth*, 173 Idaho at 112, 539 P.3d at 590.

11. *Id.*

12. With electronic filing and delays in receiving acknowledgement and return of a complaint, it can be difficult to immediately file a notice of lis pendens for record when the complaint is filed.

13. *Id.* (quoting *Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 893, 265 P.3d 502, 506 (2011)).

14. See *BHC Intermountain Hosp., Inc. v. Ada County*, 150 Idaho 93, 96, 244 P.3d 237, 240 (2010); *State v. Troughton*, 126 Idaho 406, 411, 884 P.2d 419, 424 (1994).

15. *Troughton*, 126 Idaho at 411, 884 P.2d at 424 (citation omitted).

16. *Ada County Prosecuting Attorney v. 2007 Legendary Motorcycle*, 154 Idaho 351, 354, 298 P.3d 245, 249 (2013) ("Evidence that a qualifying phrase is supposed to apply to all antecedents instead of only to the immediately preceding one may be found in the fact that it is separated from the antecedents by a comma.") (citation omitted).

17. I.R.C.P. 4(c).

18. I.R.C.P. 12(a)(1).

19. Idaho Code § 41-334(3).

20. *Elgee v. Ret. Bd. of Pub. Emp. Ret. Sys. of Idaho*, 169 Idaho 34, 41, 490 P.3d 1142, 1149 (2021).

21. *State v. Abdullah*, 158 Idaho 386, 483, 348 P.3d 1, 98 (2015).

22. Idaho Code § 6-317

23. Idaho Code § 45-615(2).

24. *Barth v. Canyon Cty.*, 128 Idaho 707, 712, 918 P.2d 576, 581 (1996).

25. *Watts v. Krebs*, 131 Idaho 616, 623, 962 P.2d 387, 394 (1998).

26. *Pearson v. Harper*, 87 Idaho 245, 258-59, 392 P.2d 687, 694 (1964).

27. See, e.g., *Goff v. H.J.H. Co.*, 95 Idaho 837, 839, 521 P.2d 661, 663 (1974); *Gilbert v. Moore*, 108 Idaho 165, 169, 697 P.2d 1179, 1183 (1985); *Barth v. Canyon Cty.*, 128 Idaho 707, 712, 918 P.2d 576, 581 (1996).

28. *Hawes v. W. Pac. Timber, LLC*, 167 Idaho 896, 916-17, 477 P.3d 950, 970-71 (2020).

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30. *P.O. Ventures, Inc. v. Loucks Fam. Irrevocable Tr.*, 144 Idaho 233, 237, 159 P.3d 870, 874 (2007).

31. I.R.C.P. 54(d) and (e).

32. 1999 Idaho Sess. Laws ch. 51 (S.B. 1034).

33. *Horner v. Sani-Top, Inc.*, 143 Idaho 230, 234, 141 P.3d 1099, 1103 (2006).

34. *Id.* at 234 (n. 1), 141 P.3d at 1103 (n. 1).

35. Stephen Adams, *Listing the Canons of Construction*, 59 Advocate 48 (2016).



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The Physical Aggression Exception to the Exclusive Remedy Rule

Naomi Olds

Introduction

Immunities and bars to suit serve as bookends within modern American law. From sovereign immunity to statutes of repose, state legislatures routinely draw firm boundaries around what sort of disputes are actionable in civil litigation, and which are not. These limits are not accidents but rather reflect policy choices and deliberate trade-offs.

Idaho's workers' compensation system reflects such a trade-off, frequently characterized as "the grand bargain" where individualized litigation for worker injuries is traded for the worker's "sure and certain relief" through the workers' compensation scheme into which the employer pays. This bargain—memorialized in what has come to be known as the *exclusive remedy rule*—serves to further the ends of predictability, efficiency, and economic stability. Under the exclusive remedy rule, the only remedy available for an injured worker as against

her employer is through the workers' compensation scheme.

But the exclusive remedy rule is not absolute. Idaho law includes a narrow statutory exception designed to permit civil tort litigation where the employee's injury is caused by the "willful or unprovoked physical aggression of the employer." This exception is not a broad carve-out from the rule but rather is meant to be a key cut to a specific lock, allowing recovery beyond the workers' compensation scheme only in rare circumstances. Judicially-created definitions in this context, however, have challenged courts and practitioners alike. This article briefly examines the exclusive remedy in Idaho, the "physical aggression exception," and case law a practitioner needs to know to successfully navigate this narrow exception.

The Exclusive Remedy Rule

Workers' compensation schemes arose across the United States in the early 1900s as a form of social insurance to provide

no-fault coverage for workplace accidents.¹ Idaho's first workers' compensation laws were enacted by the state legislature in 1917, and even through an extensive amendment in 1971, the purpose of the scheme remained fundamentally unchanged: to provide "sure and certain relief" for injured employees and their dependents.²

What has come to be described as "the grand bargain" assures an employee that her medical expenses, lost wages, and future loss of earning capacity will be provided for in the event of a workplace accident. As described by the Idaho Supreme Court, "[i]n exchange for providing that 'sure and certain relief,' employers are not required to admit fault, and the cost for certain medical procedures is capped at predetermined amounts set by regulation."³ When coverage under the Idaho Workers' Compensation Act is disputed, the Idaho Supreme Court has routinely reiterated it should be "interpreted liberally in favor of employees 'to serve the humane purpose for which it was promulgated.'"⁴

As part of the extensive 1971 amendments, the Idaho Legislature enacted what is the statutory basis for the exclusive remedy rule today, I.C. § 72-209(1), which reads: “Subject to the provisions of section 72-223, Idaho Code,⁵ the liability of the employer under this law shall be exclusive and in place of all other liability of the employer to the employee, his spouse, dependents, heirs, legal representatives or assigns.”⁶ In other words, the exclusive remedy rule provides sure and certain relief, but also exempts employers from additional liability above and beyond what is bought and paid for through the workers’ compensation insurance system.

The “Physical Aggression” Exception

The 1971 Legislature also enacted the basis for the only exception to the exclusive remedy rule that Idaho recognizes, located at Idaho Code section 72-209(3). This provision has only been amended once, in 2020, adding legislative clarification to the critical language establishing the “physical aggression exception.” Today, the exception applies “in any case where the injury or death is proximately caused by *the willful or unprovoked physical aggression of the employer*, its officers, agents, servants or employees, which *physical aggression must include clear and convincing evidence* the employer, its officers, agents, servants, or employees either *specifically intended to harm the employee or engaged in conduct knowing that injury or death to the employee was substantially likely to occur.*”⁷

The physical aggression exception gets its name from the phrase “willful or unprovoked physical aggression,” which until 2020 was not defined or clarified in statute.⁸ As such, a string of case law developed as the Idaho Supreme Court attempted to apply the exception to different fact patterns presented to it, beginning in 1988.⁹ What emerged was a standard that emphasized “evidence of some offensive action or hostile attack,”¹⁰ rejected negligent conduct (even gross negligence) as the basis for the exception’s application,¹¹ and reiterated the physical component: “only offensive actions or

hostile attacks aimed at the bodily integrity of the employee—opposed to mental, emotional, pecuniary, or other types of aggression—are implicated.”¹²

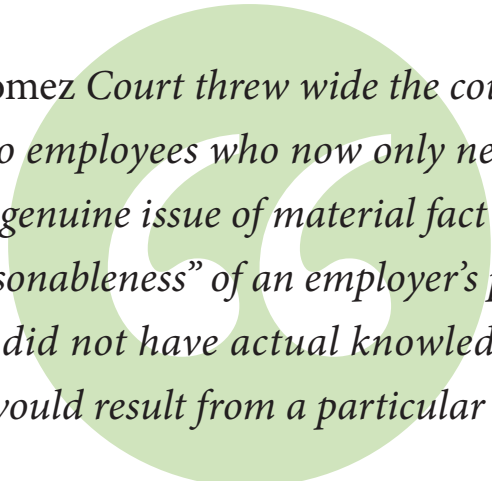
In 2016, the Idaho Supreme Court articulated two separate ways of satisfying the exception: “willful” or “unprovoked.”¹³ Establishing “willful physical aggression” required “a level of intent that is deliberate and purposeful.”¹⁴ “Unprovoked physical aggression,” on the other hand, required only a showing that “the employer actually knew or consciously disregarded knowledge that employee injury would result from the employer’s action.”¹⁵ The Court applied this newly articulated standard in a pair of cases involving the Hecla Mining Company after two separate mining accidents in the Lucky Friday Mine.¹⁶ Notwithstanding the disjunctive (“knew or consciously disregarded knowledge”), the Court’s application made it clear that the critical question was actual knowledge by the employer that injury would result from the employer’s action.¹⁷

Four years later, the Idaho Supreme Court’s decision in *Gomez v. Crookham Company* rocked the landscape of the physical aggression exception.¹⁸ In evaluating a wrongful death appeal from summary judgment where an employee was fatally injured while cleaning a seed-sorting table with an unguarded central drive-shaft, the *Gomez* Court latched onto the *Hecla* cases’ “consciously disregarded

knowledge” language to conclude that the exception was meant to apply where an employee did not have evidence of actual knowledge by the employee that injury would result, but could establish that it was unreasonable for the employer to claim ignorance of an obvious and grave risk to an employee’s life and limb.¹⁹

Put plainly, the *Gomez* Court threw wide the courthouse doors to employees who now only needed to create a genuine issue of material fact as to the “unreasonableness” of an employer’s position that it did not have actual knowledge that injury would result from a particular action, i.e., conscious disregard of information suggesting a significant risk. While the Court did not itself conclude there was a genuine issue of material fact as to the “consciously disregarded knowledge” pathway in the facts presented to it, the Court remanded the case to the trial court to decide whether there was a genuine issue of material fact “as to whether Crookham consciously disregarded knowledge of a serious risk” to the decedent employee.²⁰

The *Gomez* decision appears controversial even among the members of the Court. Chief Justice Burdick and Justice Bevan concurred with the majority opinion penned by Justice Moeller, but Justice Stegner concurred only in the result, and Justice Brody penned a dissent. The concurrence and dissent both criticize the “conscious disregard” standard but in



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different ways. Justice Stegner urged adoption of the “substantial certainty” standard (“knowledge . . . that harm to the employee will be a substantial certainty and not just a high risk”),²¹ while Justice Brody argued that the “conscious disregard” language that first appeared in the *Marek* and *Hecla* decisions was wholly judicially crafted and statutorily incorrect. Indeed, Justice Brody pointed out that the majority was essentially “articulat[ing] the standard for recklessness.”²²

The Idaho Legislature responded to the *Gomez* Court’s interpretation quickly. On the same day the *Gomez* opinion was released—February 10, 2020—Senate Bill 1321 was introduced in the Idaho Legislature to amend Idaho Code section 72-209(3).²³ This amendment did two things: first, it established that the employee must prove by “clear and convincing evidence” that the injury was caused by willful or unprovoked physical aggression;²⁴ and second, it for the first time clearly articulated what “unprovoked” physical aggression requires, specifying that the employer must have “engaged in conduct knowing that injury or death to the employee was substantially likely to occur.”²⁵

The practitioner can take three key points from this legislative correction. First, this articulation by the Legislature expressly rejects anything short of actual knowledge by the employer as to the result of its action. Second, the amended

language specifies that the knowledge by the employer should be particularized to the employee: “injury or death to *the* employee.” And third, the Legislature established that the requisite level of actual knowledge, i.e., the thread of awareness connecting the “conduct” to the result, turns on a substantial likelihood of injury or death to the employee.

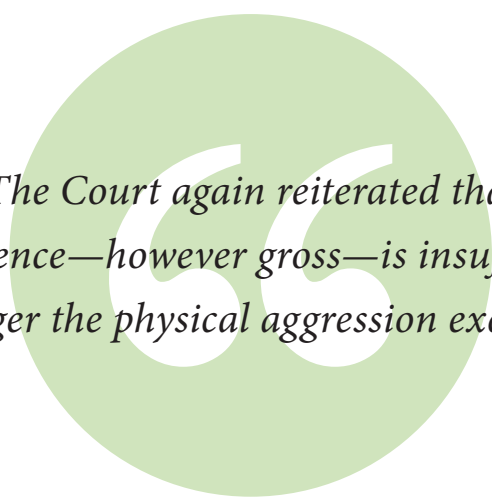
The Idaho Supreme Court has only applied the new provision twice, in *Arellano v. Sunrise Homes, Inc.*²⁶ and *Johnson v. Beadz Brothers Farms*.²⁷ In *Arellano*, the plaintiff was a roofer who was injured when in a fall from a roof.²⁸ Neither Arellano’s direct employer (a roofing subcontractor) nor his statutory employer (Sunrise Homes) had provided him with a safety harness or other fall protection equipment, nor had either ordered him to work on the roof without such equipment.²⁹

On appeal from a grant of summary judgment, the Court declined to examine whether failure to provide safety equipment could constitute “conduct” under the exception, but concluded that Arellano had not submitted evidence sufficient to raise a genuine issue of material fact as to the knowledge element. There was no evidence, for example, that Sunrise Homes knew that Arellano was inexperienced as a roofer or was going to be working on the roof without fall equipment; generic knowledge that falls could result in injury was also insufficient.³⁰ Generic knowledge

as to the existence of OSHA standards touching upon fall safety was also insufficient: “The existence of OSHA standards and the failure to comply with those standards, alone, does not establish that Sunrise Homes engaged in conduct knowing that injury to Arellano was substantially likely to occur.”³¹ As such, the Court affirmed the trial court’s grant of summary judgment.³²

Unlike *Arellano*, the Court’s recent decision in *Johnson* turned on evidentiary determinations, containing with limited substantive discussion of what the evidence proved, but reiterating how OSHA citations are approached for purposes of the physical aggression exception. In *Johnson*, a young man was killed in an unwitnessed workplace accident when he was caught and pulled into the gears of a self-unloading truck bed.³³ Upon suit by the decedent’s father, the employer moved for summary judgment; in opposition, the plaintiff submitted a brief with twenty exhibits attached to it, including but not limited to a police report and the OSHA citation that had been issued to Beadz Brothers following the death.³⁴ The trial court excluded the vast majority of the submitted material as inadmissible and granted summary judgment.³⁵

On appeal, the Idaho Supreme Court agreed with the trial court’s evidentiary decisions and summarily concluded that there was no admissible evidence creating a genuine issue of fact as to the applicability of the physical aggression exception.³⁶ In so deciding, the Court took a unique approach to the appellant’s argument that the OSHA citations were self-authenticated and admissible as “factual findings from a legally authorized investigation by a public office.”³⁷ Without passing on whether these arguments were evidentially correct, the Court concluded that if it *were* error to exclude the citations, such error was harmless because the “serious” violations “only support a finding that Beadz Brothers was negligent.”³⁸ The Court again reiterated that negligence—however gross—is insufficient to trigger the physical aggression exception.³⁹



The Court again reiterated that negligence—however gross—is insufficient to trigger the physical aggression exception.

Lingering Questions

Despite the Legislature’s response to *Gomez*, many questions remain. For example, the Court’s refusal in *Arellano* to examine whether failure to provide safety equipment could be “conduct” could either be dicta or a signal that it would consider omissions (i.e., failures to act) to rise to the level of “conduct.” The Legislature’s choice of the phrase “substantially likely” (rather than the “substantially certain” language proposed by Justice Stegner in his concurrence in *Gomez*) should be assumed to be deliberate, but raises the question as to what the difference of those standards would be, if any.⁴⁰ Moreover, the Idaho Supreme Court has yet to articulate what portions of the (albeit limited) pre-amendment, pre-*Gomez* case law are still good law. Even so, the defense practitioner should be aware of the exception’s history to be equipped for the next case that implicates the exclusive remedy rule.



Naomi Olds, J.D., works in medical malpractice claims for Medical Insurance Exchange of California (MIEC), where she uses her previous experience as an associate attorney for Scanlan Griffiths + Aldridge to assess risk, manage claims, and ensure excellent defense for medical professionals. Her work with SGA gave her special appreciation for statutory bars to suit and their exceptions.

Endnotes

1. See, e.g., John E. Bohyer, *The Exclusivity Rule: Dual Capacity and the Reckless Employer*, 47 MONT. L. REV. 157, 157 (1986).
2. *Miklos v. L&W Supply Corp.*, 582 P.3d 60, 71 (Idaho 2026).
3. *Id.* (citing *Thompson v. Burley Inn, Inc.*, 173 Idaho 637, 648, 546 P.3d 649, 660 (2024)); see also I.C. § 72-201; IDAPA 17.01.01.803 (2022).
4. *Id.* (quoting *Wernecke v. St. Maries Joint Sch. Dist.*, 401, 147 Idaho 277, 282, 207 P.3d 1008, 1013 (2009)).
5. Idaho Code section 72-223 addresses, *inter alia*, third party liability and subrogation. Notably, although it is not the subject of this article, section 72-223(1) serves as the basis for another creature of statute, the concept of “statutory employers” in the absence of an actual employee-employer relationship. See, e.g., *Kelly v. TRC Fabrication, LLC*, 168 Idaho 788, 792, 487 P.3d 723, 727 (2021).
6. I.C. § 72-209(1).
7. I.C. § 72-209(3) (2020) (emphasis added).
8. The exception provision initially read: “[p]rovided that such exemptions from liability shall not apply in any case where the injury or death is proximately caused by the wilful or unprovoked aggression of the employer, its officers, agents, servants or employees, the loss of such exemption applying only to the aggressor and shall not be imputable to the employer unless provoked or authorized by the employer, or the employer was a party thereto.” I.C. § 72-209(3) (1971).
9. See *Kearney v. Denker*, 114 Idaho 755, 760 P.2d 1171 (1988).
10. *Id.* at 757, 760 P.2d at 1173.
11. *Id.*; see also *Marek v. Hecla, Ltd.*, 161 Idaho 211, 219, 384 P.3d 975, 983 (2016).
12. *Marek*, 161 Idaho at 216, 384 P.3d at 980.
13. *Id.*
14. *Id.*
15. *Id.* at 217, 384 P.3d at 981. Notably, this was the first time that the “consciously disregarded knowledge” language was used in relation to the physical aggression exception.
16. See *Barrett v. Hecla Mining Co.*, 161 Idaho 205, 384 P.3d 969 (2016); *Marek*, 161 Idaho at 211, 384 P.3d at 975.
17. *Id.* at 210, 384 P.3d at 974; *Marek*, 161 Idaho at 219, 384 P.3d at 983.

18. *Gomez v. Crookham Co.*, 166 Idaho 249, 457 P.3d 901 (2020).
19. *Id.* at 258, 457 P.3d at 910. The Court suggested that this would constitute “engaging in a perverse form of plausible deniability—if [employers] claim they ‘saw no evil,’ then there is no evil.” *Id.* at 259, 457 P.3d at 911.
20. *Id.* at 260, 457 P.3d at 912.
21. *Id.* at 261, 457 P.3d at 913 (Stegner, J., concurring).
22. *Id.* at 264, 457 P.3d at 916 (Brody, J., dissenting).
23. SENATE BILL 1321, IDAHO LEGISLATURE, <https://legislature.idaho.gov/sessioninfo/2020/legislation/S1321/> (last visited February 17, 2026).
24. The Idaho Supreme Court has since concluded that the “clear and convincing evidence” standard in this provision is not for the trial court to use at summary judgment, but rather is what the jury should use when evaluating any questions of fact on the applicability of the exception. See *Arellano v. Sunrise Homes, Inc.*, 175 Idaho 627, ___, 569 P.3d 129, 132 (2025).
25. 2020 Idaho Laws Ch. 208 (S.B. 1321).
26. *Arellano*, 175 Idaho at ___, 569 P.3d at 129.
27. *Johnson v. Beadz Brothers Farms*, No. 50970, 2026 WL 568892 (Idaho Mar. 2, 2026).
28. *Arellano*, 175 Idaho at ___, 569 P.3d at 131.
29. *Id.* at ___, 569 P.3d at 131–32.
30. *Id.* at ___, 569 P.3d at 135.
31. *Id.* at ___, 569 P.3d at 136.
32. *Id.* at ___, 569 P.3d at 137.
33. *Johnson*, 2026 WL 58892 at *1–2.
34. *Id.*
35. *Id.* at *2.
36. *Id.* at *12.
37. *Id.* at *7.
38. *Id.* at *8.
39. *Id.* (quoting *Hickman v. Boomers LLC*, 174 Idaho 1048, 1058, 554 P.3d 99, 109 (2024)).
40. See *Gomez*, 166 Idaho at 261, 457 P.3d at 913 (Stegner, J., concurring).



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- Noon – 1:30 p.m.** **Service Award Luncheon & Idaho Law Foundation
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- 1:45 p.m. – 3:00 p.m.** **CLE: NextGen Bar Exam: What Attorneys Need to Know**
- 3:15 p.m. – 4:30 p.m.** **CLE: Ligertown: The Escape and the Legal Saga That
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From Hesitation to Implementation: A Practical Guide on Implementing AI into Your Firm

Hart Parr Dal Pra

Introduction

What if there was a way for attorneys to spend less time being bogged down by administrative tasks and more time actively serving clients and generating billable hours? On November 30th, 2022, OpenAI's release of ChatGPT marked a technological breakthrough comparable to the creation of the internet.¹ Since then, industries ranging from healthcare to finance have rapidly explored ways to integrate artificial intelligence (AI) to seek greater efficiency and innovation. AI presents legal professionals with an opportunity to revolutionize the workload and redefine how their services are delivered. As of right now, generative AI

(Gen AI) can streamline legal research by quickly identifying relevant sources across large databases and can enhance drafting and document review by suggesting clauses and automating edits.² The question is no longer "Should we adopt AI?" but "How do we do it right?"

However, the legal profession has been slower to adopt AI, largely because many of those in the legal profession do not know what it is and how to actually integrate AI without sacrificing professional standards. This article proposes the solution lies in the establishment or enhancement of technology committees specifically tasked with guiding AI integration. These committees should lead AI adoption efforts, set firm-wide policies, pilot new tools, oversee attorney training, and ensure that AI integration aligns with

the firm's goals and professional obligations. By focusing on actionable strategies to build and empower technology committees, this article provides a blueprint for firms to navigate AI integration with both innovation and caution.

Why Firms Need Technology Committees

A 2023 study conducted by the American Bar Association (ABA) found that 57 percent of attorneys surveyed lacked sufficient knowledge and understanding of AI and other emerging technologies.³ Yet, despite this knowledge gap, a 2024 ABA survey found that 30.2 percent of attorneys were using AI-based technology tools in their practice.⁴ This disconnect has caused issues for practicing attorneys

because of the phenomenon known as AI hallucinations. An AI hallucination is a situation where the AI “perceives patterns or objects that are nonexistent or imperceptible to human observers,” and creates “outputs that are nonsensical or altogether inaccurate.”⁵ The most well-known and infamous hallucinations that most practicing attorneys should be aware of is when AI included completely fabricated and false case citations in a U.S. District case briefing in New York in June 2022.

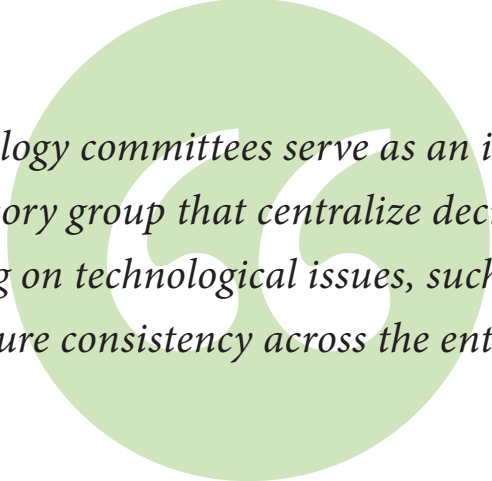
This disconnect highlights a central obstacle to effective AI adoption. Many firm leaders and attorneys lack the technical background necessary to make informed and strategic decisions about AI implementation. Without knowledgeable people providing internal guidance on how to integrate AI, firms risk poor adoption, inefficiencies, ethical risks, and reputational harm.

Technology Committee

At the core, a technology committee is a board committee within a firm that is dedicated to understanding and supporting the organization’s technology strategy, investments, and risk profile and then shares its insights with the firm.⁶ This committee essentially allows development of a diverse portfolio of technological projects and initiatives that enable the firm to adapt to changing and evolving technology, such as AI.⁷ Technology committees serve as an internal advisory group that centralize decision-making on technological issues, such as AI, and ensure consistency across the entire firm.

To be effective, a technology committee must include members who bring diverse perspectives and expertise to ensure well-rounded and informed decisions about AI integration and technology use. At a minimum this committee should include three main groups: attorneys at all levels of the firm, IT professionals, and administrative leaders.

First, the attorneys’ representatives should be made up of both partners and associates. Partners provide leadership and authority to more easily drive technological initiatives to fit the firm’s strategic goals. Without buy-in from leadership, even



Technology committees serve as an internal advisory group that centralize decision-making on technological issues, such as AI, and ensure consistency across the entire firm.

well-designed policies and decisions will lack real implementation power. Associates, on the other hand, bring fresh perspectives, familiarity with client expectations, and often feel more comfortable experimenting with new technology. Associates are also more likely to foresee how the technology will impact the day-to-day practices.

Second, the committee must have IT professionals or technology officers to provide expertise on infrastructure, security, data privacy, and, most importantly, operational feasibility. Their inclusion is critical in vetting AI tools, managing vendor relationships, and ensuring that new technologies integrate securely and effectively into the firm’s system.

Finally, the committee should include administrative leaders, such as Practice Managers and a Chief Operating Officer. These individuals understand the firm’s operational flow, budgeting, resource management, and can support scaling new systems across departments. Their input is essential to understanding how technology, especially AI, will impact workflow beyond just the legal practice, including billing, human resources, marketing, and client communications.

What the Committee Should Focus On

One of the most crucial functions of a technology committee is serving as the

policymaker for the firm’s technological advancements. The committee must have a defined scope of responsibilities, or it risks becoming unfocused or ineffective. In order for the committee to be as effective as possible, it should focus on the following four areas: (1) Policy Development; (2) Training and Education; (3) Pilot Programs and Testing; and (4) Feedback Collection and Iterative Improvement.

Policy Development

One of the technology committee’s core responsibilities is to develop clear, firm-wide policies that govern the use of AI. Currently no universal standard exists, but effective policies should address three primary concerns: responsible use, professional oversight, and transparency.

First, policies should define appropriate uses of AI tools and set clear boundaries, such as prohibiting the input of confidential client information into unsecure third-party AI platforms. Second, attorneys must be required to critically review any AI-generated content as they would the work of a new junior associate. AI tools can assist in drafting or research, but final responsibility lies with the attorney to ensure accuracy, ethical compliance, and legal soundness. Finally, the firm should establish disclosure expectations around AI use—both internally and externally—to maintain transparency with clients and, more importantly, the courts.

Communicating when and how AI tools are used helps build trust and clarifies the human role in the decision-making process.

As a jumping off point and to maximize the benefits of AI, the committee should identify routine tasks where automation could increase efficiency, such as automating billing processes, organizing case files, or streamlining intake forms. Additionally, the committee should create policies to have AI assist attorneys in drafting, summarizing large volumes of text, or flagging inconsistencies in legal documents. By targeting these areas, the committee can ensure that AI adoption is strategic, well-governed, and align with the firm's broader objectives.

Training and Educations

The committee should provide all attorneys and staff with AI literacy training. This includes a practical overview of how Gen AI works and a clear explanation

of its limitations. Broadly speaking, when we use the word AI we are referring to "technology that enables computers and machines to simulate human learning, comprehension, problem solving, decision making, creativity and autonomy."⁸ While this definition evokes futuristic and sci-fi imagery, the AI that we have in our day and age is more accurately recognized as generative AI (Gen AI). Gen AI is an AI that creates "original content—such as text, images, video, audio or software code—in response to a user's prompt or request."⁹

To understand how Gen AI works, it is important to explore the process known as "deep learning." Deep learning is a subset of machine learning in which the creators of Gen AI attempt to simulate the link between neurons of a human brain using what is called an Artificial Neural Network (ANN). In ANN there exist nodes that process and transmit information (acting

as the neurons) and weighted edges which assign numbers or importance to the information that passes through the nodes (acting as the synapses).¹⁰

The process starts with real-world data and information being input into the first layer of nodes known as the input layer.¹¹ The data then passes through multiple hidden layers of nodes via the weighted edges, where it is analyzed and transformed. Each layer extracts and refines specific features of data until it gets passed through to the final layer referred to as the output layer.¹² The output layer then creates in essence a result or educational prediction based on the information it was given.¹³ Essentially, the network generates a highly educated guess that reflects the patterns the system has identified during its training.

To teach these Gen AIs how to understand and generate information, they are trained through Large Language Models (LLMs).

BLUEPRINT: CHECKLIST FOR FIRMS

Form a Technology Committee

- Committee should reflect different perspectives and technology comfort levels
- Groups to include
 - Partners
 - Associates
 - IT Professionals
 - Administrative Leaders
- Establish clear scope of responsibilities
- Align committee goals with the firm's broader strategic goals

Develop Firm Wide AI Policies

- Outline acceptable uses of AI
- Outline unacceptable uses of AI
 - Prohibit the input of confidential client information
- Clarify attorney responsibilities for review of AI generated work
- Create standards for when and how to disclose AI use to clients and courts

Provide AI Training

- Offer a baseline literacy for all attorneys and staff
- Provide tool specific training for attorneys and support teams
- Reinforce ethical and professional duties tied to AI use

Run Pilot Programs

- Start small with low risk applications
- Define goals of the pilot programs
- Track performances of the pilot programs
- Document issues with each pilot program
- Use findings to inform future rollouts and policy revisions

Monitor Risks

- Watch for AI hallucinations
- Watch for data security risks
- Watch for system vulnerabilities
- Establish protocols for reviewing tool performance
- Encourage internal reporting of AI related Concerns

Collect Feedback and Adjust as Needed

- Collect feedback from
 - Pilot programs
 - Attorneys
 - Staff
- Adjust
 - Policies
 - Training
 - Tool usage
- Embrace continuous improvement as technology evolves

Basically, an LLM is an enormous amount of data and texts from various sources.¹⁴ The AI then analyzes the data and starts to recognize “patterns, structures, and context,” which then enables the Gen AI to generate coherent and contextually relevant responses to a user’s prompt.¹⁵ This training process allows the Gen AI to generalize from its data, and create content that mimics human communication or other forms of output.

Pilot Programs and Testing

To ensure safe and effective integration, the technology committee should begin with a pilot program. Pilot programs are a well-known educational tool that allow firms to “run small experiments and use the findings to determine large-scale viability.”¹⁶ By starting small the committee can more easily control implementation, monitor outcomes, and make adjustments as needed.

For each pilot, the committee should define a specific goal—such as reducing the time spent on routine tasks or improving accuracy in document review. The committee should then track performance, document errors and limitations, and assess how the tool aligns with the policies of the firm. These findings can then inform the committee of how AI tools should be scaled firm-wide and what adjustment to training or policy might be needed.

Feedback Collection

Successful implementation of AI requires ongoing feedback from all of those involved. The technology committee should create a formal process for gathering input from attorneys and staff because well-formed feedback allows for constructive insights that help organizations thrive.¹⁷ This could include surveys, user interviews, or brief discussions after pilot rollouts. This feedback should be

used by the committee to identify issues, risks, and opportunities to either expand or refine the use of AI. The committee could then update policies, improve training, or modify AI applications depending on the feedback received.

Conclusion

AI presents a transformative opportunity for the legal industry to enhance efficiency and maintain competitiveness in a rapidly evolving professional landscape. However, to harness this potential responsibly, law firms must approach integration with structure, caution, and a clear sense of purpose. Establishing a dedicated technology committee offers a practical and effective path forward—one that allows firms to guide AI adoption strategically, ethically, and in alignment with their professional obligations.

By following the blueprint outlined in this article (and a quick summary provided above), firms can integrate AI in a way that not only improves internal operations but also strengthens client service, safeguards professional standards, and positions the firm for long-term success in an increasingly digital future.

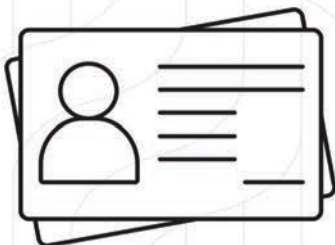


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workers’ compensation, technology law, estate planning, and business transactions.

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The Alamo in San Antonio, TX, the location of the 2026 ABA Midyear Meeting.

ABA Midyear Report

R. Jonathan Shirts

This year we have the opportunity to celebrate the signing of one of the greatest documents penned by humanity. By the time the few of you who will actually read this article have it in your hands, 250 years will have passed since a few brave men and women¹ started gathering in hot rooms in Philadelphia, trying to express in words how they felt about the way the British were managing the Colonies. Just under 60 years later, a similar group of brave men gathered in dusty rooms to pen a similar document declaring how the Texians felt about the way the Mexican government was treating the settlers,² at the same time as another

small group was holed up in the walls of a former monastery facing overwhelming odds outside the walls.³ Walking the halls of the Alamo was a solemn moment that reminded me of the freedoms we have here in the United States, and in Idaho, freedoms that we quite often take for granted.⁴ All of that was the backdrop for the 2026 ABA Midyear Meeting held in the sunny, warm, delightful city of San Antonio. There were 31 Resolutions before the House of Delegates, a number of which had ties to issues important to us in Idaho, and as attorneys.⁵ I want to only discuss a few of them, but I would encourage you to read the full Resolutions and Reports.⁶

First, I want to discuss the final Resolution of the meeting because it

involved something the people of Idaho, indeed, most of the West, can sympathize with; the reach of the federal government and its impact on the local people. Guam and the other Pacific territories have both extensive natural resources and abundant pristine ecology. The government wants to exploit the resources but does so at the risk of spoiling the environment. The local people want to take advantage of the resources, but in a responsible way that will not destroy the expense of the ecology that has sustained and supported them for countless generations. Resolution 402⁷ passed unanimously. For similar reasons, there were several Resolutions presented about the way some perceive the current Administration to be overreaching with the powers of the

Executive Branch.⁸ Passing Resolutions like these is just the first of many steps, but it's an important one.

Along the same lines, another important step was taken regarding Judicial security, something I have written and spoken about many times over the last few years.⁹ The House adopted Resolution 200, which strongly “opposes threats and acts of violence, harassment, and intimidation directed at federal, state, local, administrative, tribal and territorial judges, court personnel, and their families.”¹⁰ Unfortunately, Idaho has not been immune to these type of threats.¹¹ We can do better. We should do better. We *must be* better.

Resolution 702¹² was expected to be the biggest controversy of the meeting, until it wasn't. As I discussed after last year's Midyear Meeting,¹³ a lot of discussion happened behind the scenes on revisions to allow support from earlier opposition to the idea behind the Resolution itself. Essentially, the Resolution asked that when considering its Goal III “diversity” requirements,¹⁴ the ABA should consider diversity of thought alongside the other traditionally considered factors such as race, sex, and so on.¹⁵ The general idea behind this Resolution is something I find to be incredibly important for the ABA, and also our country in general. Many people insulate and surround themselves only with those who hold the same views. The problem with this way of thinking is we soon find ourselves in a silo or echo chamber, cutting ourselves off from potentially great opportunities to learn and grow. I believe this is the situation the ABA has put itself in over the last 20 – 30 years. Certain voices became amplified as the ABA inserted itself into what some have condescendingly referred to as social justice issues. While I believe the ABA needs to continue to be involved in those issues because they impact all of us in one way or another, I also feel—as do many others—that it has become so over-focused on them it has neglected the views of those who may disagree with either the ideas or their applications.

I could spend a dozen more pages discussing the other Resolutions that were passed, but I'm sure many of you that started reading this article have long since moved on (and those of you still reading



The Tower of the Americas in San Antonio, TX.

are anxiously scanning for the end), so I will just briefly mention a few that may be of interest to many of you. Resolution 100 updated Model Rule of Professional Conduct 1.14 addressing attorneys' obligations when dealing with clients who have diminished capacity in some form.¹⁶ Resolution 605 amended the Model Rules dealing with lawyers' funds for client protection.¹⁷ Resolution 400 “urges state and territorial bar associations to conduct periodic economics of law surveys covering income, billing practices, receivables, and benefits, with demographic breakdowns where practicable.”¹⁸ There were also a few patent-related Resolutions (500,¹⁹ 501,²⁰ 502²¹).²²

As I wrap this up (mercifully, many of you might say), I want to express my gratitude for the freedoms we enjoy in this beautiful country. I have had the freedom to move to many different places without restriction, to change my occupation on many occasions,²³ and to associate with those I choose. I do not have the government leaning over my shoulder and dictating that I worship a certain way or not at all. I even have the ability to express disagreements with those in power and to campaign for replacements I feel would better represent me. Without the words penned by those brave men and women 250 years ago, I would not have any of those things. Preparations are being finalized for a grand celebration of the Declaration of Independence at the August Annual Meeting in Chicago.²⁴ You should come join us and see for yourselves what the ABA can actually offer you. It promises to be quite the celebration.



Jonathan Shirts is now a Bankruptcy Attorney in Boise after spending the majority of his time since passing the Bar working with some of the most fantastic Judges in Idaho. (Thank you, Judge Baskin, Judge Southworth, and Judge Grove). He was a professional student for way too long, graduating from Western Governors University with a Bachelors in Social Science Education, a Masters in Education with an emphasis in technology implementation, and an MBA with an

emphasis in Strategic Leadership, all before attending the University of Idaho College of Law. When he's not in the office or stuck in traffic on I-84, he spends his time with his amazing wife of almost 24 years and three incredible kids. He can frequently be found craning his neck to see what kind of plane just flew over, moonlighting as an organist or pianist with his local church, or looking at the very unstable tower of books in his To-Read-Later pile as he waits for his latest Amazon delivery.

Endnotes

1. Many of those who signed the Declaration were married, and many of these women, such as Abigail Adams, were significant influences on their husbands, and another woman, Mary Katherine Goddard, actually "signed" it as the official printer and postmaster for the Second Continental Congress. See <https://www.constitutionfacts.com/us-declaration-of-independence/women-behind-the-signers/>; also <https://time.com/5320499/woman-signed-declaration-of-independence/>.
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3. Contrary to what some have believed, due to the siege they had been under since February, the small force at the Alamo was never aware that Texas had declared independence from Mexico. See <https://www.thealamo.org/remember/myths-and-legends>.
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A citizen is free to stroll the streets, hike the mountains, and float the rivers of this state without interference from the government. That is, police treat you as a criminal only if your actions correspond.").

5. For example, Resolutions 504 and 505 ask for Public Student Loan Forgiveness applications to be restarted. See <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2026/504-midyear-2026.pdf>; and <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2026/505-midyear-2026.pdf>.
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10. <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2026/200-midyear-2026.pdf>.
11. See, e.g., <https://www.ktvb.com/article/syndication/associatedpress/federal-judges-read-death-threats-and-defend-judiciary-amid-rising-attacks/616-2c1d4f8c-ab6d-467b-b2a8-477cdbc71ba7>; https://www.nbcrightnow.com/regional/man-sentenced-for-threatening-idaho-judge/article_efb88c26-7dfc-5b11-92cf-0e6833054edb.html?mode=nowapp; <https://idahonews.com/news/nation-world/idaho-judge-receives-nationwide-threats-after-sentencing-of-former-byu-baseball-player>; <https://blog.idahoreports.idahoptv.org/2023/07/21/threats-to-judges-remain-a-concern-in-idaho/>. Sadly, these are just a few of the reported issues in the last few years.
12. <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2026/702-midyear-2026.pdf>.
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16. <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2026/100-midyear-2026.pdf>.
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20. <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2026/501-midyear-2026.pdf>.
21. <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2026/502-midyear-2026.pdf>.
22. I'm happy to discuss Vioxx and the issues it brings up regarding Resolution 502 with anyone... "Bueller? Bueller? Anyone? Anyone?" FERRIS BUELLER'S DAY OFF (Paramount Pictures 1986).
23. Too many, my family might argue.
24. https://www.americanbar.org/groups/departments_offices/meetings_travel_dept/annual-meeting/.



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2026 Idaho Mock Trial Champions, The Ambrose School.

Law Related Education Wraps Up 2026 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 Tuesday to Thursday, March 10 to 12. This year, students explored a civil case that involved a suit brought by professional tennis player, Sloane Wilder, who sued Brogus Basin Ski Resort when they were severely injured in a collision with a snowmaking machine.

For 2026, 316 high school students from 38 teams registered to participate in the mock trial competition. 180 teachers, judges, attorneys, and other community leaders donated their time to serve as coaches, advisors, judges, and competition staff.

This year, 16 teams advanced to state, from regional competitions held in Blackfoot, Lewiston, and Boise. These teams participated in four rounds of competition on Tuesday and Wednesday at the Ada County Courthouse with the top two teams facing off for the state championship

at the Idaho Supreme Court on Thursday morning. The following schools participated in Idaho's state tournament:

- The Ambrose School (Meridian, two teams)
- Boise High School (A Teams)
- Greenleaf Friends Academy (A Team)
- Lewiston High School (A Team)
- Liberty Charter School (Nampa, two teams)
- The Logos School (Moscow, two teams)
- Mountain Home High School (A team)
- Renaissance High School (Meridian, two teams)
- Shelley High School (Shelley)
- Timberline High School (Boise)
- Troy High School

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

2026 State Champion: The Ambrose School (B Team)

State Runner Up: The Logos School (A Team)

Third Place: Liberty Charter School (A Team)

Fourth Place: Mountain Home High School (B Team)

Fifth Place: Mountain Home High School (A Team)

Mock trial team members who played roles as attorneys and witnesses had the opportunity to be recognized for individual awards. For each trial through four rounds of competition, each judge had the opportunity to select the students they believed gave the best performances for the trial. The top witnesses and attorneys for the 2026 competition include:

Top 10 Attorneys:

- Samara Steele (Liberty Charter)
- David Henreckson (Logos)
- Ean Gauthier (Mountain Home)
- Cole Stubblefield (Mountain Home)
- Taylor Riggs (Greenleaf)
- Adeline Dina (Ambrose)
- Anna Lee (Boise High)
- Ella Doyle (Greenleaf)
- Jahmil Solis (Liberty Charter)
- Kami Bixby (Boise High)

Top 10 Witnesses:

- Ben Casebolt (Logos)
- Maxwell King (Ambrose)
- Abigail Mitchell (Liberty Charter)
- Kit Tomsha (Mountain Home)
- Reese Quarterman (Boise High)
- Maddy Rand (Greenleaf)
- Aubrey Mullis (Timberline)
- Ella Ferry (Troy)
- Aniyah Wilson (Mountain Home)
- Kylar Gray (Liberty Charter)

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 2026, Greenleaf Friends Academy was chosen by the other teams as the recipient of this year’s award. This is the second year in a row that they have received this award.

Idaho’s Mock Trial Program also hosts a Courtroom Artist Contest as part of the program. In 2028, eight courtroom artists participated in the contest. Artists observed trials and submitted sketches that depict courtroom scenes. The top three entries for 2026 were:

First Place: Charlie Hamblack, Boise High School

Second Place: Abigail Liu, Timberline High School

Third Place: Sylvia Olvalle, Greenleaf Friends Academy

For the second time, we hosted a Courtroom Journalist Contest as part of the program. In 2026, five courtroom journalists participated in the contest. Journalists

observed trials from the perspective of a news reporter. They wrote articles reporting on their observations during the second round. The top three entries for 2026 were:

First Place: Grayson Williams, Boise High School

Second Place: Jerrick Edwardsen, Lewiston High School

Third Place: Kenna David, Greenleaf Friends Academy

The winning entry is printed at the end of this column.

The Ambrose School will represent Idaho at the National High School Mock Trial Championship in May in Des Moines, Iowa. Charlie Hambalek will represent



2026 Winning Courtroom Artist Entry, Charlie Hamblack, Boise High School.



2026 Civility & Ethics Award Winner, Greenleaf Friends Academy.



LRE Director, Carey Shoufler, with Boise High students, Grayson Williams (middle) and Charlie Hamblack (right).

Idaho in the National Courtroom Artist Contest while Grayson Williams will represent Idaho in the National Courtroom Journalist Contest.

The Idaho Law Foundation's Law Related Education Program would like to thank the sponsors and volunteers who helped during the 2026 mock trial season. We couldn't do our important work without your support.

Plans will soon begin for the 2027 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.

Read the winning Courtroom Journalist entry from Grayson Williams, Boise High School.

Sloane Wilder v. Brogus Basin Case's Long-Awaited Verdict to be Delivered Shortly BOISE, ID, March 11, 2026

Tennis star Sloane Wilder in Ada County Courthouse in Boise, Idaho is glancing back at the jury deliberation room with impatience, as his verdict deciding whether the ski hotspot Brogus Basin Ski Resort will be held accountable for his injuries or not is about to be delivered. Wilder sustained career ending injuries on Brogus' slopes, and this decision will dictate the future of the ski resort.

Immediately following the start of Wilder's trial, the story began to be laid out by the attorneys moving about the courtroom, pacing in front of the young jury. As many might know Wilder from his famed tennis career, competing in circuits around the globe, today the focus is on his day trip to Brogus.

Sloane Wilder rode the chairlift to his first run of the day, a black diamond Crusty's Couloir. Very bubbly on the stand, Ms. Carnap, manager of Brogus Basin ski resort, spoke through her blonde wavy hair to testify to the weather on the day of Sloane Wilder's incident "it was very sunny, no clouds in the sky, and there were 10 inches of fresh snow."

Skiing into funnel-like terrain through a grove of trees, Wilder struck Brogus' snow making machine at an incredible speed, sustaining a long list of injuries. These include a concussion, cracked ribs, dislocated shoulder, ligament damage, wrist fractures, and more. He was then promptly driven down to a nearby hospital, not Life Flighted by helicopter contrary to his demands. These injuries made his tournament income now unattainable.

The story thickens when more details are brought into view. One witness, Jordan Ellis, testifies to the quality of Wilder's snow gear, criticizing his binding settings and his helmet. This quality of gear corresponds to a lower level of skier, like an intermediate that Wilder claims to be, though Crusty's Couloir was clearly marked as an expert level run with warning signs.

During a moment that struck the judge's jaw open, the plaintiff's attorney Bixby instructed Casey Kowalski to turn

a warning sign rightside back and attempt to read it. This was meant to represent how a skier would be able to read the warning sign that had fallen in front of the snowmaking machine. It was impossible to read through the paper, and this scene stunned the court. The sole unfazed onlooker to this ordeal happened to be Sloane Wilder, his nonchalance working in his favor.

Earlier in the trial, Sloane Wilder fixed his chestnut hair walking up to the stand, and multiple members of the audience crooked their heads to examine the aloof figure. He brought an air of intrigue to the courtroom, everybody wanted to see the star athlete.

If the defense's claim that Brogus should not be held accountable for this injury as signs were marked and policies were followed is upheld by the jury, Brogus' future will continue on as the community's favorite ski spot for years to come. Meanwhile, if the jury upholds the plaintiff's argument that Brogus was negligent beyond reasonable doubt, meaning they turned a blind eye to the danger more than enough to cause this incident due to their lack of care, Brogus will enact stricter safety policies and their slopes can be skied with less worry.

After a retelling of Icarus and his hubris during closing arguments, plaintiff compared Sloane Wilder to the Greek legend. In the legend, Icarus had wings of wax, and he was warned to not let them melt by inflating his ego and flying too high, too close to the sun. They both "flew too close to the sun," Attorney Smalley compared the two, and "lost control." The defense, in their improvised rebuttal closing, switched the subject and compared the Ski Resort to the story of Icarus, spinning the story on its head. Now the subject was of how close Brogus "flew" to the sun with the hazards they ignored, which left jury members smiling. The witnesses leaned forward in their seats as Honorable judge Fenello sent out the jury to deliberate. As they prepare their verdict, the air is tense with anticipation for the future of the ski resort.

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Court Information

OFFICIAL NOTICE SUPREME COURT OF IDAHO

Chief Justice
G. Richard Bevan

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

Regular Spring Term for 2026 3rd Amended December 22, 2025

Boise January 7, 9, 14 and 23
Boise February 13 and 18
Boise (University of Idaho) February 11
Boise April 6, 15 and 17
Moscow (University of Idaho) April 8
Lewiston April 9
Boise May 6, 8, 11, 13 and 15
Boise June 3, 5 and 8
Rexburg (BYU Idaho) June 10
Twin Falls June 11

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2026 Spring Term for the Supreme Court of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

OFFICIAL NOTICE COURT OF APPEALS OF IDAHO

Chief Judge
Michael P. Tribe

Judges
David W. Gratton
Molly J. Huskey
Jessica M. Lorello

Regular Spring Term for 2026 4th Amended 01/15/2026

Boise January 13
Boise February 10
Boise April 7, 9, 14 and 16
Boise May 12, 14, 19 and 21
Boise June 16, 18, 23 and 25
Boise July 9

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2026 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 2026 November 10, 2025

Boise August 14, 19, 21 and 24
Boise September 9 and 11
Coeur d' Alene September 16 and 17
Boise October 2, 7 and 9
Idaho Falls October 14
Pocatello October 15
Boise November 2, 4, 6 and 9

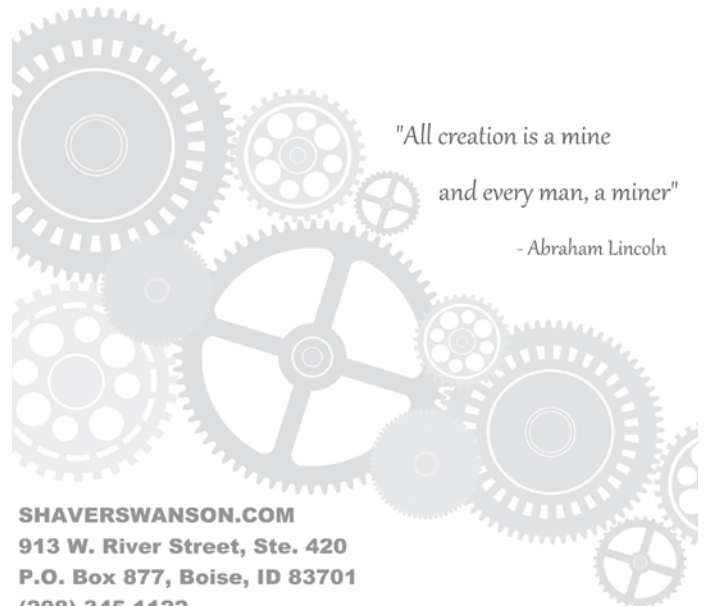
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**Idaho Supreme Court
Oral Arguments for May 2026**

04/13/2026

Wednesday, May 6, 2026 - Boise

8:45 a.m. *Infanger v. State of Idaho*..... #52692
 10:00 a.m. *State v. Mooney*..... #53449
 11:15 a.m. *Colton v. The Overlook*..... #52603

Friday, May 8, 2026 - Boise

8:45 a.m. *Idaho Injury Lawyers v. Litster Frost* #52168
 10:00 a.m. *Bear v. Bear*..... #52888
 11:15 a.m. *State v. Pendleton*..... #53539

Monday, May 11, 2026 - Boise

8:45 a.m. *Decker v. City of Meridian* #52355
 10:00 a.m. *Conger v. Clark* #52800

Wednesday, May 13, 2026 - Boise

8:45 a.m. *Heath v. Olaveson* #52344
 10:00 a.m. *Graham v. Stoppello Law*..... #52585
 11:15 a.m. *Gaylord v. Clifford*..... #52772

Friday, May 15, 2026 - Boise

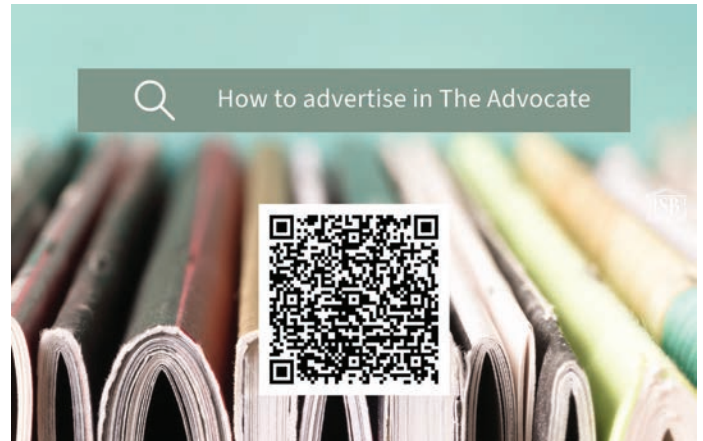
8:45 a.m. *SNAP! Mobile v. Vertical Raise* #52114
 10:00 a.m. *IDOT v. Triple Crown*..... #52872

**Idaho Court of Appeals
Oral Arguments for May 2026**

04/13/2026

May 12, 2026

9:00 a.m. *State v. Abdulhamza*..... #52004
 10:30 a.m. *State v. Nigro*..... #50619/50620/50621





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CASES IN ALPHABETICAL ORDER BY CATEGORY – MARCH 2026

CIVIL APPEALS

Contracts

Whether the district court erred by rejecting all of Plaintiff's claims based on its erroneous conclusion that Plaintiff failed to plead and prove that it was duly registered as a contractor under the Idaho Contractor Registration Act.

Secured Land Transfer, LLC v. Folger Dev. Servs., LLC
Docket No. 52946
Supreme Court

Immunity

Whether Defendant was entitled to quasi-judicial immunity in a suit for declaratory relief where Plaintiff sued Defendant in her capacity as Bonneville County Clerk and not in her individual capacity.

Smith v. Manning
Docket No. 53443
Supreme Court

Whether the district court erred in concluding as a matter of law that Plaintiff's negligence claims were barred by the exclusive remedy provision of Idaho's worker's compensation law.

McKinney v. ID Falls, LLC
Docket No. 53181
Supreme Court

Post-Conviction

Whether the district court erred by summarily dismissing Petitioner's claim that trial counsel was ineffective for failing to timely request jury instructions for an included offense, thereby limiting counsel's ability to object when the State failed to timely request jury instructions for the persistent violator phase of trial.

Augerlavoie v. State
Docket No. 52316
Court of Appeals

Quiet Title

Whether the district court erred by quieting title to the disputed property in the City and holding that land owned by a municipality that is dedicated to a public use is not subject to adverse possession by private claimants.

Mill Park Village Prop. Owners' Ass'n, Inc. v. City of McCall
Docket No. 52944
Supreme Court

Statute Of Limitations

Whether the trial court erred by dismissing the claims in Plaintiff's Complaint as being barred by the three-year statute of limitations for conversion.

Bowen v. Penrod
Docket No. 52886
Supreme Court

CRIMINAL APPEALS

Discovery

Whether the district court erred by denying Defendant's motion for mistrial and motion to strike and finding Defendant was not prejudiced by the State's failure to have disclosed an expert witness lab report that was identical to a previously disclosed report.

State v. James
Docket No. 52019
Court of Appeals

Evidence

Whether the district court abused its discretion and violated Defendant's Sixth Amendment right to present a defense when it prevented Defendant from impeaching the complaining witness with an untranslated audio recording of statements the witness made in Arabic.

State v. Dalfi
Docket No. 51699
Supreme Court

Mistrial

Whether the district court erred in denying Defendant's motions for mistrial made after the State's witnesses testified that Hance had previously been in jail and that law enforcement was familiar with Defendant's family.

State v. Hance
Docket No. 51289
Court of Appeals

Motion To Dismiss

Whether the district court erred by ruling Defendant's prosecution for possession of a controlled substance and possession of drug paraphernalia was not barred by Idaho's former Syringe and Needle Exchange Act, I.C. §§ 37-3401 through 37-3406 (repealed eff. July 1, 2024).

State v. Worosz
Docket No. 52402
Court of Appeals

Procedure

Whether the district court abused its discretion and violated I.C.R. 33(a)(1) by imposing sentence without giving Defendant the opportunity to make a statement or present mitigating information after he was removed from the courtroom.

State v. Holmes
Docket No. 52430
Court of Appeals

Right To Counsel

Whether Defendant was deprived of her Sixth Amendment right to counsel of choice when the district court granted the State's motion to disqualify her retained attorney based on an alleged conflict of interest.

State v. Vallow (aka Daybell)
Docket No. 51091
Supreme Court

Search And Seizure

Whether the district court erred in denying Defendant's motion to suppress and concluding that Defendant's after-the-fact consent to the drug dog's trespass on her vehicle cured the illegality.

State v. Coon
Docket No. 52642
Court of Appeals

Sentence Review

Whether the district court abused its discretion by relinquishing jurisdiction based on Defendant's failure to have completed a psychosexual evaluation and full disclosure polygraph during the retained jurisdiction period.

State v. Abraham
Docket No. 52256
Supreme Court

Sufficiency Of Evidence

Whether the State failed to present evidence from which a jury could conclude beyond a reasonable doubt that Defendant engaged in a "course of conduct" within the meaning of Idaho's stalking statute.

State v. Mayberry
Docket No. 51655
Court of Appeals

Voluntariness Of Statements

Whether the district court erred by denying the motion to suppress and concluding, based on the totality of the circumstances, that Defendant's confession was voluntary.

State v. Rowley
Docket No. 50816
Court of Appeals

Summarized by:
Lori Fleming
Supreme Court Staff Attorney
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In Memoriam

April M. Wielang 1978 – 2026

April Michelle Wielang, 47, of Idaho Falls, passed away Friday, February 20, 2026, at her home.

April attended law school at the University of Idaho College of Law and was admitted to the Idaho State Bar in 2014.

Sara Darcy Seaborg 1968 – 2025



Sara Darcy Seaborg passed away on May 12, 2025 on after a long struggle with her health. A fierce advocate for justice, a devoted wife and mother, and a

luminous presence in every room she entered, Sara leaves behind a legacy of compassion, resilience, love, and grace.

Born in Würzburg, Germany, to an American military father and Philadelphia Quaker mother, Sara's upbringing instilled both discipline and deep empathy. She brought those values into a life spent championing the voiceless and underserved. After graduating with a double major in English and Political Science at the University of Wisconsin–Madison in 1990 and earning her law degree cum laude from Gonzaga University in 1996, she earned her license in Washington, Idaho, Wisconsin, and Michigan, forging a career that spanned decades. Practicing in all four states, Sara believed deeply in the humanity of her clients—regardless of public perception.

She gained international recognition as the defense attorney for the McGuckin family in Sandpoint, Idaho, yet she worked just as tirelessly for clients whose names never made the news. Her work was marked by integrity, meticulous preparation, and a fierce moral compass.

Outside the courtroom, Sara lived richly, spiritually, and intentionally. She founded a small but devoted book club focused on literary classics, knitted and crocheted with inventive creativity, spent many weekends skiing on Schweitzer Mountain and Indianhead and sailing on lakes Pend d'Oreille and Michigan, and played piano with the same fervid determination she brought to her work.

Sara's greatest pride was her son, Finn Darcy Seaborg, whose future she anticipated with hope and boundless love. Her steadfast partner, Thor Seaborg, was her high school best friend and sweetheart and the love of her life. The family of three shared decades of adventure.

Richard Mollerup 1948 – 2026



Richard "Dick" Mollerup passed away peacefully in Boise, with his wife and daughters by his side on February 1, 2026.

Dick was born in Caldwell on August 30, 1948, to John and Betty Mollerup, the fourth and final child of his family. His childhood was equal parts civilized and wild west. He learned work ethic and how to hustle from his oldest brother Tom, kindness from his sister Bonnie, his sense of humor from his brother Chuck, generosity from his mother, and how to not to drive a car from his father JT.

Dick attended Idaho State University for part of undergrad, ultimately walking away during his last semester there, only two weeks away from completion. After a few years of bouncing around and hustling, he landed a job at a Lawyer's Title Company as a title examiner. Unbeknownst to Dick, this was the start of a relationship with the man who would go on to become his mentor and biggest fan, David Anderson. Dave fired and rehired Dick three times, telling him he had never met someone who had so much potential, who also frustrated him so much. Dick credited him not only as a mentor, but also as the man who saved his life—all because he gave him a chance (again and again) and always believed in his potential.

The most important phase in Dick's life began in 1978 when he met Janet Edmunds. The serendipitous meeting happened at Lock Stock and Barrel restaurant on a previously unremarkable evening after work. They married at the tiny chapel on the Boise State University campus on April 19, 1980, and laughed, danced, and adventured through over 45 years of marriage. Even after his mind and memory began to fade, he would always seek Janet

out, making sure she was close by, never seeming to forget that she was his person.

Dick and Janet had two children Audrey and Erin. His daughters were the lights of his life. Dick raised his daughters to be kind, resourceful, independent, and to take on life's challenges with humility and with a sense of humor.

Despite success in title insurance, Dick left his job with Lawyer's Title in 1989 to pursue a career as an attorney. Although in retrospect this proved to be a wise and successful decision, at the time it was a very courageous gamble. With the support of his wife and family, he enrolled at Boise State University, completing his undergraduate requirements in only a year, taking nearly 20 credits per semester, all while working full time. Despite external skepticism, he excelled thoroughly in classes, earning straight A's.

He graduated from the University of Idaho School of Law and spent the next three years buried in books, seeing his family only on weekends. He graduated *magna cum laude* in 1993. After graduation, he was hired at Meuleman, Miller, and Cummings, a real estate law firm in Boise, Idaho. After only three years as an associate, he became a partner. In 2003, he was named principal partner, and the firm was renamed Meuleman Mollerup. He spent the remainder of his career there until his retirement in 2013, mentoring numerous associates and building strong friendships among his partners and clients. Dick approached the law, and life, with unwavering integrity, honesty, and forthrightness.

In his retirement, he enjoyed spending time with his grandchildren, traveling with his wife, playing golf, continuing his weekly lunch ritual with Erin, making regular visits to see Audrey, and taking long walks with his dog. Not one to ever enjoy the spotlight or praise for his accomplishments, he especially enjoyed fading into the background that often comes with retirement and just enjoying time with his people.

He was a loving husband; a dutiful and devoted father; a steadfast brother and son; a talented craftsman in woodwork; a competent boatman; a loyal and constant friend; a mentor; an incredibly intelligent

and talented attorney; annoyingly good at cornhole, shuffleboard, pool, and darts; and a kind-hearted human. Truly, he was one of a kind.

He is survived by his wife of over 45 years, Janet, his daughters Audrey (Andy) Mesher and Erin (Jason) Hudson, his grandchildren Evelyn, Jamie, and Maya, his sister Bonnie, his brother Chuck (Louann), his nieces and nephews, grand nieces and nephews, and countless friends.

John Rollie Wightman
1955 – 2025



John “Rollie” Wightman passed away in Phoenix, Arizona, August 27, 2025. Rollie was born in Spokane, Washington, son to Joan McCoy and

Roland Wightman. Rollie practiced law at his own firm for 35 years.

He attended law school at Gonzaga University Law School. He was admitted to the Idaho State Bar in 1986. He is survived by his wife Maria Raquel Portillo, daughters Gabrielle Raquel and Gwenyth Joan, and sons Joseph Roland and Justin Rollie.

William Francis Bacon
1956 – 2026



William “Bill” Francis Bacon passed away on March 26, 2026. Born in Omaha, Nebraska, on April 28, 1956, to his parents, Gilbert and Arlene

Bacon, he was the second of four children.

He graduated from Pocatello High School in 1974, before earning his undergraduate degree from Northwestern University in 1978 and his law degree from the University of Idaho in 1981, admitted to the Idaho State Bar that same year. Bill maintained a general litigation practice and served as Bannock County Prosecuting Attorney before joining the Shoshone-Bannock Tribes as their lead attorney. He was licensed to practice in Idaho, Illinois, Shoshone-Bannock Tribal Court, the U.S. District Court for Idaho, the Ninth Circuit Court of Appeals, and the United States Supreme Court.

Bill dedicated 37 extraordinary years of service to the Tribes, including 12 years as Tribal Judge and 24 years as General Counsel, during which he served as a tireless advocate for tribal sovereignty and a steadfast protector of the Tribes’ rights and future. His honors reflect a career of excellence and integrity. He was a member of the United States Supreme Court Bar Association and received the 2023 Martindale-Hubbell Distinguished Attorney award, recognizing his high legal ability and ethical standards.

He was truly the life of the party, known for his infectious laugh and warm smile that could light up any room. He was kind, humble and welcoming. Bill was a man of many talents, he was a trusted resource to those around him, had a passion for music, cooking, skiing, hunting, fishing, watching football and found deep meaning through his participation in various tribal ceremonies.

Above all, he was a proud father and he cherished his role as a grandfather. His

greatest joy was spending time with his family and his beloved dog, Wrigley.

Bill was preceded in death by his father, Gilbert. He is survived by his loving wife of 45 years, Lisa Bacon; daughters, Lindsey Bacon, Mary Bacon Farrell (Colin Farrell), and Jillian Bacon Shervey (Alex Shervey); his grandchildren Eleanor Farrell, Cal Shervey, and Kennedy Shervey; his mother, Arlene; brother Bruce Bacon (Cyd); and sisters Cheryl Beran (Ron) and MaryAnne Britt; along with several nieces and nephews.

Wendy J. Earle
1952 – 2026

Wendy Jordan Earle, of Sandpoint, passed away on January 19, 2026. Wendy attended law school at Gonzaga University School of Law and was admitted to the Idaho State Bar in 2010.

Randall L. Stamper
1947 – 2025

Randall Lee Stamper, of Spokane, Washington, passed away on August 7, 2025. He attended the University of Notre Dame Law School and was admitted to the Idaho State Bar in 1973.

Jack L. Curtin
1942 – 2026

Jack Lynn Curtin passed away on January 15, 2026. He attended the University of Idaho College of law and was admitted to the Idaho State Bar in 1973.

Keeping Track

Despite our best efforts, there are times when the Idaho State Bar is not informed of a member's death. Upon learning of a fellow attorney's death, please feel free to contact Calle Belodoff with the information at cbelodoff@isb.idaho.gov. This will allow us to honor the individual with details in "In Memoriam."



Stoel Rives Welcomes Construction Attorney Ashley Lane as a Partner in Boise



BOISE—Stoel Rives today announced that Ashley Lane has joined the firm's Boise office as a partner in its nationally recognized Construction & Design

practice. A commercial litigator focused on construction and real estate, Lane has more than a decade of litigation experience and advises owners, developers, and general contractors on disputes and transactions across Idaho and nationwide.

Lane joins Stoel Rives from Perkins Coie's construction law group. Earlier in her career, she served in Idaho's Fourth Judicial District as a staff attorney for the Honorable Samuel A. Hoagland and practiced at an insurance defense firm, defending contractors in construction defect matters.

Lane is active in the Boise community. She serves on the board for Idaho Parents Unlimited, Inc., a nonprofit that serves families of children with disabilities, and was recently elected to the board of Idaho Women Lawyers, where she is the board liaison to the Membership Committee and previously co-chaired that committee. She was also a founding organizer of the Special Olympics Idaho's Young Athletes program in Boise. Lane earned her J.D. *cum laude*, from Gonzaga University School of Law and her B.A., *magna cum laude*, in English and French from the University of San Diego. She is admitted to practice in Idaho and Washington.

Duke Evett Welcomes Attorney Erin Poppenga



BOISE—Erin Poppenga is returning home to Boise to join Duke Evett after several months practicing insurance and property law in Oregon.

She will be part of the firm's civil litigation team, where she looks forward to continuing her professional development and serving clients in Idaho and Oregon.

Idaho Legal Aid Welcomes New Managing Attorney Jay Sturgell to Coeur d'Alene Office



COEUR D'ALENE—Idaho Legal Aid welcomes Jay Sturgell to their Coeur d'Alene office as he joined as their new Managing Attorney for

five northern counties.

Jay has been an attorney since 1994. He has been president of the First District Bar, a Bar Commissioner, and a past Bar president. He was the Court Assistance Officer for the First Judicial District for 14 years.

Chief Justice G. Richard Bevan to Retire This Year



STATEWIDE—Idaho Supreme Court Justice G. Richard Bevan will retire from the Court this October.

His retirement will cap a four-decade legal career culminating in nearly six years leading this state's highest court. He has led treatment courts, was the first state judge in Idaho to pilot electronic court records and became a significant voice for the security of courtrooms and the safety of those who conduct business in them amid a nationwide increase in threats against judges. Above all, he has focused on strengthening a professional court system that provides fair, impartial decisions for the public it serves.

Chief Justice Bevan, 66, was born and raised in Twin Falls. He studied at Brigham Young University, where he obtained his law degree in 1987, and returned to Twin Falls to spend 16 years in legal practice. During that time, he served a term as the Twin Falls County prosecutor and became president of the Fifth District Bar Association.

Appointed as a district judge in 2003, he presided over two treatment courts and served for eight years as the administrative district judge, overseeing the operations of courts across south-central Idaho. Twin Falls County was the first to adopt

the electronic case management system that Idaho's state courts use today, and Chief Justice Bevan was the first judge to use it as it rolled out statewide.

His experience led to his appointment to the Idaho Supreme Court in 2017. Four years later, his fellow justices chose him to lead the Court as chief justice. He has remained in that role ever since and plans to do so until he retires Oct. 30.

Hepworth Holzer Welcomes Attorney Ryan Black



Hepworth Holzer LLP is pleased to announce that Ryan Black has joined the firm as its newest trial lawyer. Ryan brings nearly a decade of courtroom

experience, tenacity, and dedication to his work representing clients in personal injury and civil litigation matters.

Before joining the firm, Ryan served as an Ada County public defender where he tried over ten cases to verdict in his first year alone, earning the office's "trial cockroach" award for trying the most cases in a single year. He went on to build a criminal defense and personal injury practice from the ground up, growing the firm from four people to 13. He has accumulated more than forty verdicts across his practice areas. Along the way, he sharpened his trial skills at the Maricopa County Trial School and the National Criminal Defense College. He has been recognized as a Super Lawyers Rising Star in 2024 and 2025. In 2025, he completed the Idaho Academy of Leadership for Lawyers.

A native of Featherville, Ryan earned his law degree from the University of Idaho College of Law in 2016. During law school, he worked with the Nez Perce Tribe, gaining early exposure to advocacy on behalf of underserved communities. After graduating, he clerked for an Idaho District Court Judge Susan Wiebe. While under Judge Wiebe's tutelage he developed a keen understanding of how cases are evaluated from the bench before he ever set foot at counsel's table as lead attorney.



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-  = In Person
-  = Live Webcast
-  = Live Audio Stream

June

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That Followed</i>
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Breakdowns and Withdrawal Obligations</i>
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