

The Advocate

Official Publication of the Idaho State Bar Volume 62, No. 6/7 June/July 2019



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The Advocate

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On the Cover:

The cover photo was taken by Boise attorney John Marshall of his friends dropping into Tappan Falls Rapid on the Middle Fork of the Salmon River, an Idaho gem that runs free for over 100 miles from its starting point on the north side of the Sawtooth Mountains to its confluence with the Main Salmon in central Idaho. Along the way there are multiple hot springs, more rapids than you can keep track of, waterfall hikes, and geography that ranges from forested hillsides to granite gorges.

Editors:

Special thanks to the June/July editorial team: Tienielle Fordyce-Ruff, Brian P. Kane, Lea Livingston Kear, and Kenneth C. Shumard.

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The Advocate (ISSN 05154987) is published 10 times in the following months: January, February, March, April, May, June, August, September, October, and November by the Idaho State Bar, *The Advocate* P.O. Box 895 Boise, Idaho 83701. Periodicals postage paid at Boise, Idaho 83701.

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

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

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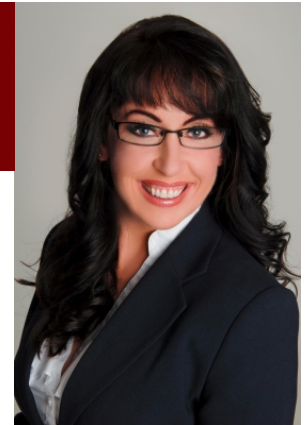
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June 6: *2019 Ethics in Civil Litigation Update: Part 2* – Live Audio Stream, 11:00 a.m. (MDT), 1.0 Ethics credit ~ Sponsored by the Idaho Law Foundation, Inc. in partnership with Abila and WebCredenza, Inc.

June 14: *Ethics in Negotiations: Boasts, Shading and Impropriety* – Live Audio Stream, 11:00 a.m. (MDT), 1.0 Ethics credit ~ Sponsored by the Idaho Law Foundation, Inc. in partnership with Abila and WebCredenza, Inc.

June 18: *Ethics of Co-Counsel and Referral Relationships* – Live Audio Stream, 11:00 a.m. (MDT), 1.0 Ethics credit ~ Sponsored by the Idaho Law Foundation, Inc. in partnership with Abila and WebCredenza, Inc.

June 27: *Animal Law 101*, The Law Center, 525 W. Jefferson St. – Boise / Live Webcast, 9:00 a.m. (MDT), 3.0 CLE credits ~ Sponsored by the Idaho State Bar Animal Law Section.

July

July 19: *Lawyer Ethics & Credit Cards* – Live Audio Stream, 11:00 a.m. (MDT), 1.0 Ethics credit ~ Sponsored by the Idaho Law Foundation, Inc. in partnership with Abila and WebCredenza, Inc.



Details on pages 61-62.

July 31: *The Ethics of Representing Two Parties in a Transaction* – Live Audio Stream, 11:00 a.m. (MDT), 1.0 Ethics credit ~ Sponsored by the Idaho Law Foundation, Inc. in partnership with Abila and WebCredenza, Inc.

**Dates, times, locations and CLE credits are subject to change. The ISB website contains current information on CLEs.

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Renewal

David C. Cooper
 President, Idaho State Bar
 Board of Commissioners

A very important aspect of practicing law (of practicing life, really) is maintaining your mental and emotional well-being, often referred to as “Attorney Wellness.” The Idaho State Bar, and the legal profession as a whole, has become acutely aware of the need to maintain and enhance attorney wellness.

The purpose of this article is to encourage you to take attorney wellness seriously. While every situation is unique, most of us are in the best position to keep ourselves functioning in a healthy and productive manner. We need to take responsibility. If a burden becomes too great, we have to be prepared to take action.

Renewal as strategy

One potential means of enhancing your wellness is to experience intentional and purposeful renewal. In other words, make renewal a strategic part of your life. The definition of renewal that comes closest to what I am referencing is “the replacing or repair of something that is worn out, run-down, or broken.”

The opportunity for renewal in its most basic form happens every single day when we crawl out of bed on at least a few hours of sleep, with fresh (or fresher) eyes than the night before. If you are a morning person like me, have you noticed how problems that seemed insurmountable the night before are often not nearly as onerous the next morning?



Photo courtesy of David C. Cooper.

A newspaper article from David Cooper's high school years described a family tragedy that shaped Cooper's use of 'renewal' as an emotional survival strategy. A higher resolution version of the article is available online at www.isb.idaho.gov/DigitalAdvocate.

Purposeful renewal can be found in events major and minor. Passing the bar exam, starting a new job, or moving to a new location are all fairly obvious examples. I am a runner – whatever form of exercise works for you can also provide renewal.

Time-related milestones can help us. Recurring opportunities for renewal include:

- January 1st of every year – that's why we have “New Year's” resolutions, right?
- Your birthday – especially those birthdays ending in a zero (30, 40, 50, 60, 70, etc.). These are a great reminder that the clock is ticking for

all of us. If we're gonna do something, we can't wait forever.

- The first day of every month, and even the Monday morning of every work week. These days can essentially provide you with an excuse for starting over.

Renewal as survival

If we live long enough, life will throw some significant challenges at us. In my late teens I was fortunate to survive a situation (a drowning accident) that took the lives of my parents and a brother and sister. I've often thought that this tragedy forced me to find emotional survival tricks.

Renewal is one of them. When a person is dealing with loss, you can end up in some dark places and need to find a way out.

Here are some of the things I think I learned along the way:

- Be nice to yourself – sometimes crazy is normal, depending on the circumstances.
- Find people you can be vulnerable around. Probably obvious, but crucial.
- Make sure to give to others when you can, because in challenging times you may need to be a taker. Sometimes it's okay to be selfish. Pay it back (or forward) when you can.
- Don't be afraid to "trial and error" your way through different possible means of helping yourself. Not every solution works for every person.
- One of the most difficult lessons for me: be humble. You have

a breaking point. Sometimes you can't actually do it all yourself.

Do you hate your job? Find a new one. Are you spending too much time at the office due to billable hours? Find another way to get paid. Are key relationships in your life not flourishing? Re-prioritize.

Doing too much or too little of anything in your life? Figure out the root problem and take control.

In summary, having the imagination, strength and strategies to find an excuse to start over can help us to enhance our lives, or let go of prior events and move forward.

David C. Cooper is the Idaho Regional Manager for Northwest Trustee & Management Services based in Boise where he specializes in trust administration and financial planning. David received his J.D. from the University of Kansas and upon graduation served as law clerk for the Honorable Thomas E. Schulz in Ketchikan, Alaska. David is the current President of the Boise Estate Planning Council, past President of the Treasure Valley Estate Planning Council, and past Chairperson of the CLE Planning Committee of the Idaho State Bar Taxation, Probate & Trust Law Section. David graduated from the Idaho Academy of Leadership for Lawyers in 2015. In his spare time he is a runner, plays guitar, and is an avid sports fan.



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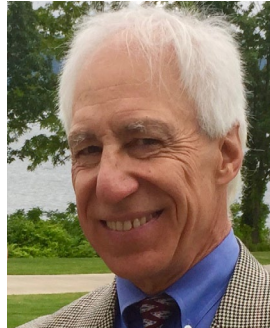
Idaho State Bar Distinguished Lawyer & Jurist Awards Dinner

Wednesday, July 24 | 7:00 p.m. | Boise Centre
President's Reception begins at 6:00 p.m.

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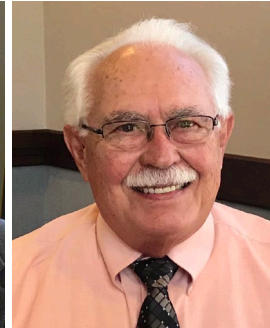
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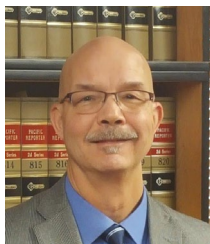


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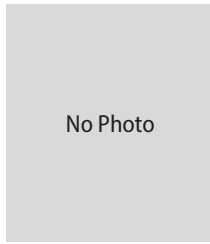
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As our former partner Amanda Brailsford leaves to join the Idaho Court of Appeals, we are pleased to formally recognize *Jennifer Schrack Dempsey* as a named equity partner of the firm.

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TROY E. RASMUSSEN
(Suspension, Withheld
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On May 9, 2019, the Idaho Supreme Court issued a Disciplinary Order suspending Rexburg attorney Troy E. Rasmussen for one (1) year, with six (6) months withheld, and a one-year probation upon reinstatement. The Idaho Supreme Court's Order followed a Professional Conduct Board recommendation and stipulated resolution of an Idaho State Bar disciplinary proceeding.

In early 2018, Mr. Rasmussen did not have a malpractice policy and therefore did not pay his license fees. His license was canceled by a March 7, 2018, Idaho Supreme Court Order, which Mr. Rasmussen received the second week of March 2018. However, on March 28, 2018, Mr. Rasmus-

sen deposed the opposing party in a case without promptly disclosing that he did not have an active license to his client, the court, or opposing counsel. Once opposing counsel became aware of these circumstances, he filed a Motion in Limine. One of the bases of that motion was to preclude any evidence relating to his client's deposition testimony since Mr. Rasmussen was not licensed when he took that deposition. The district court granted the motion and instructed Mr. Rasmussen to report his conduct to Bar Counsel, which he did. Mr. Rasmussen's later response to specific inquiries from Bar Counsel contained statements he knew were not accurate.

The Idaho Supreme Court found that Mr. Rasmussen violated I.R.P.C. 1.4 [Communication with Client], I.R.P.C. 5.5(a) [Unauthorized Practice of Law], I.R.P.C. 8.4(d) [Conduct

Prejudicial to the Administration of Justice], and I.R.P.C. 8.1(a) [Knowingly Making a False Statement of Material Fact to Bar Counsel].

Mr. Rasmussen's suspension commences on June 15, 2019. The Disciplinary Order provided that six (6) months of the one-year suspension will be withheld. Upon reinstatement, Mr. Rasmussen will serve a one-year probation, subject to the conditions of probation specified in the Order. Those conditions include that Mr. Rasmussen will serve six (6) months of suspension if he admits or is found to have violated any of the Idaho Rules of Professional Conduct for which a public sanction is imposed for any conduct during Mr. Rasmussen's period of probation.

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

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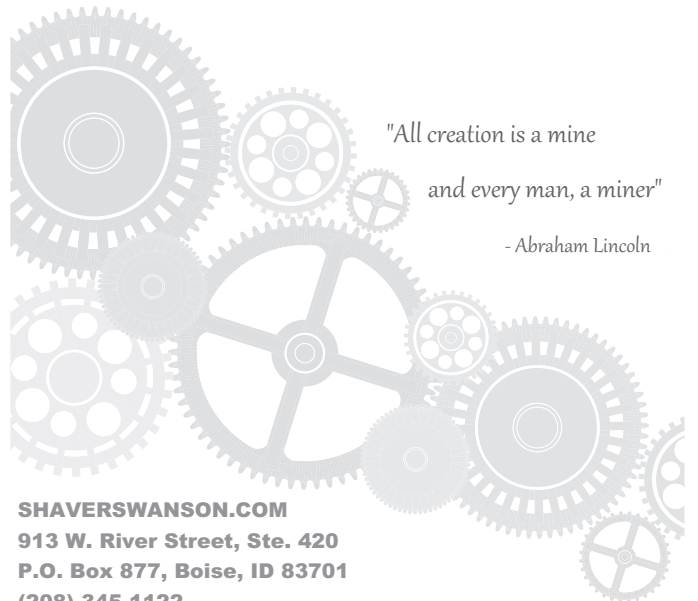
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LETTER TO THE EDITOR

Dear Editor,

This letter is a summary of a larger article which I submitted to *The Advocate* entitled, "Is Global Warming Bad? If So, Is There a Better Way to Stop It?" That article is a response to articles published in the January 2019 issue of *The Advocate* prepared by the Environment & Natural Resources Law Section.

Contrary to reports in the media and some in the scientific community, carbon dioxide (CO₂) is not an air pollutant. The atmosphere consists of nitrogen (78%), oxygen (21%), argon (.93%); carbon dioxide is only .04% (400 parts per million-ppm). However, even in that minuscule amount carbon dioxide is the gas that supports all life on earth through the process of photosynthesis, in which plants convert sunlight, water and carbon dioxide into vegetation. That vegetation forms the base of the food chain which supports all creatures, humans, animals and insects. And the oxygen we breathe is a byproduct of that photosynthesis.

Without carbon dioxide, even in those minuscule amounts, there would be no vegetation on earth, no animals, and nothing for humans to

eat. Put simply, we humans wouldn't exist.

But we do exist, and comfortably too, thanks to conditions eons ago when the earth was much warmer, wetter, and carbon dioxide was in much higher concentrations. Those conditions produced the lush vegetation that was laid down millions of years ago and became the huge seams of coal, and pools of oil and natural gas, which brought humans out of the stone-age. That stored energy has provided the food, electricity and hundreds of thousands of other products that support the seven billion people currently living on this planet.

With the population estimated to reach 10 billion by the end of this century, the world will have to rely even more on that stored energy to feed, clothe and house an additional three billion people. The current global warming started about 150 years ago at the end of the last little ice age. That warming, and the carbon based commercial fertilizers manufactured from natural gas, have increased the production of food necessary to feed the ever increasing global population. Solar, wind, hydro and nuclear power can sup-

plement the electricity supply, but nothing can replace carbon in the thousands of uses and products in which it forms the chemical base.

Increasing levels of carbon dioxide can cause heat to be trapped in the atmosphere, potentially increasing global warming. But global temperatures oscillate naturally between warming and cooling in 1,500 year cycles. If trapped CO₂ in the atmosphere does exacerbate the natural global warming phenomenon, there are geoengineering experiments currently being investigated to block sunlight from parts of the world to remediate global warming. The cost of that geoengineering is estimated to be only .01% of the hundreds of trillions of dollars necessary to deconstruct carbon from our energy mix and replace it with who knows what! The "green" anti-carbon revolution is a misnomer. It is carbon dioxide that makes things "green"!

The full six page article in response to the January 2019 issue is available for viewing on the Bar's website.

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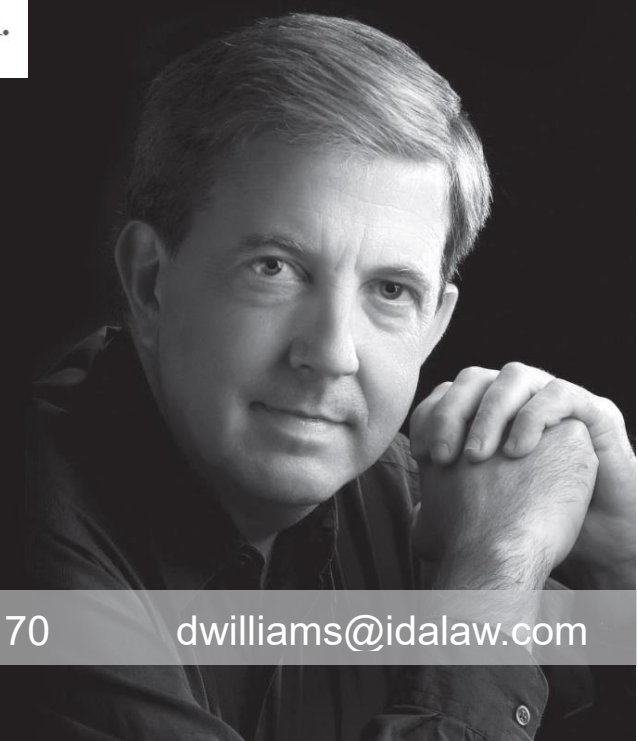
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Executive Director's Report

2019 Idaho State Bar Annual Meeting — July 24-26, Boise Centre

Diane K. Minnich
Executive Director, Idaho State Bar and
Idaho Law Foundation, Inc.

We hope you will join us in Boise for the 2019 Idaho State Bar Annual Meeting. The conference is an opportunity to learn, network, socialize, and honor your colleagues.

You can earn more than 10.0 CLE credits, including over 2.0 Ethics credits. The CLE programs scheduled this year are:

- *An Overview of Criminal Defense Reform in Idaho*
- *A Statewide Look at Domestic Violence and How We Can Help*
- *A View from the Appellate Bench in Idaho*
- *Can I Get This Tweet Admitted? Evidentiary Issues in the Digital Age*
- *Clearing the Barriers to Military Legal Readiness*
- *Cybersecurity Vulnerabilities: You and Your Client*
- *Emotional Intelligence and Lawyers: Opposites Really Do Attract!*
- *Employee Non-Compete Agreements in Idaho*
- *Health Care Laws Every Transactional Attorney and Litigator Ought to Know*
- *Legal Research in the Digital Age*
- *Lessons from the Masters*
- *Potpourri from the Faculty*
- *Tackling Implicit Bias: Personally, Professionally and in the Courtroom*
- *Technology and a New Generation: How Progress Affects Professional Responsibility*

The award recipients who will be honored at the Annual Meeting are listed on pages 14 -15.



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The registration form and schedule of events were emailed to you on May 31st and are also available on our website at www.isb.idaho.gov/AnnualMeeting.

For more information, call 208-334-4500. We hope to see you in Boise this summer!



Bill Parsons (center) at the 2018 Annual Meeting talking to current Bar President David Cooper (right) at the Milestone Celebration Reception.

Photo by Lindsey Welfley.

Welcome from the Diversity Section

Dear Idaho State Bar Members,

It is with great excitement that we present this edition of *The Advocate*. We are grateful to all our contributors for their hard work, dedication, and willingness to cover vast topics. We are also pleased to be part of the Bar's new website revamp/launch that includes exclusive online articles. Please make sure to check out our additional articles at www.isb.idaho.gov/DigitalAdvocate. A special thanks to McKay Cunningham and Bobbi Dominick for being pioneers during this digital transformation. Whether you prefer the online version or the print version we hope that each one of you will find an article that inspires you, educates you, or challenges you to view a specific topic from a different perspective.

Additionally, we would like to take this opportunity to thank you for your continual support of the Diversity Section. Several sections donate money to our various projects and there are too many of you to name who have volunteered your precious time for our panels, CLEs, and other events. The Diversity Section prides itself on devoting our Section's dues to giving back to the community with various Love the Law! events, scholarships, and hosting CLEs. For those who are unfamiliar with our Section here is a brief recap of a few things we've covered in the last 365 days.

First, all the funds that we made during our December 2018 CLE



were donated to the *Access to Justice Idaho* Campaign. Also, during the 2018 Idaho State Bar Annual Meeting we partnered up with the Family Law Section and the Employment & Labor Law Section to host the flagship CLE titled "LGBTQ and #MeToo: A Modern Day Civil Rights Movement." Currently, we are partnering up with the Young Lawyers Section and the Professionalism & Ethics Section to put on an implicit bias CLE during the 2019 Idaho State Bar Annual Meeting, as well as working with Concordia University School of Law on a Summit in the Fall.

Second, we awarded two Jennifer King Memorial Scholarships. These scholarships included a Kaplan LSAT prep course, LSAC Fees, and paying for the LSAT. We intend to continue awarding scholarships.

Third, we hosted several 2018 and 2019 Love the Law! events for high schoolers around the state, including a Legislative/Lobby event at the Capitol, District Court Day in Kootenai County, Court Observations in Bingham County, and two **BIG** firsts – a Federal Courthouse Event in Coeur d'Alene and a Canyon County

Juvenile Justice Tour with a lawyer panel.

Love the Law! was created by the Diversity Section to develop and maintain a pipeline program that exposes Idaho high school, college, and university students from diverse, minority, and low-income backgrounds and underrepresented populations to the legal profession. By hosting various programs and events throughout Idaho each year, Love the Law! seeks to expand student knowledge about legal careers and pathways to the profession and to provide social support and professional role models.

We hope to beat our success during the next 365 days. However, we know that success is not possible without the support of our Bar members. We are always looking for new members and volunteers to offer fresh, new ideas and different perspectives. Though our Section might be small in numbers we are mighty in our efforts thanks to all of you.

Sincerely,

The Diversity Section Officers

Diversity Section

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An Unparalleled Gathering: A Review of the Idaho Interfaith & LGBT Summit on Religious Liberty and Nondiscrimination Solutions

Kylie Abreu
Tanner J. Bean

There are two places to resolve competing civil rights: the courts and the legislature. In the courts, rights are pitted against another, locking parties in an expensive, intractable battle that imperils the human dignity of communities as media outlets paint the communities as “enemy” and “other.” In the legislature, resolution of these rights hinges upon finding common ground between communities with unfamiliar ideas and modes of life.

Idaho has yet to make up its mind about which approach is more attractive, at least when it comes to LGBT rights and religious liberty. So we convened the *Interfaith & LGBT Summit on Religious Liberty and Nondiscrimination Solutions*¹ to help Idaho along. The *Summit* gathered 20 speakers and 150+ audience members from the faith and LGBT communities across Idaho to sit down and talk about the rights each community seeks. It was an unprecedented gathering in our state.

For compromise

The *Summit* featured four panel discussions and spanned two days at Boise’s two law schools, where speakers voiced their opinions on the best way to resolve the competing rights of LGBT nondiscrimination and religious liberty. President Pro Tempore Brent Hill, who appears to lead the Idaho Legislature in dialogue² on these issues, anchored one group of speakers. This group held fast to the concept that building common ground between the communities was essential to lawmaking because the best (and perhaps the only politically possible) type of legislation will



All photos/graphics courtesy of Kylie Abreu.

Summit Logo & Partnering Organizations.

include protections for the LGBT community *and* the faith community. This concept is often referred to as a “compromise,” a “balanced” approach, or “Fairness for All.”

Speakers like Eric Baxter, Senior Counsel for the Becket Fund for Religious Liberty, emphasized that such legislation “should make room for people to live, on both sides, their lives in the fullest.” Recognizing that the freedom of one community need not be deprived in order to protect the other, Howard Belodoff, Associate Director of Idaho Legal Aid Services, noted, “you don’t protect or preserve the freedom of one group by depriving others of their freedom.”

Representative John McCrostie, the only openly gay legislator currently serving in the Idaho Legislature, seemed to agree. Acknowledging the influence both faith and sexuality play in his life, he asserted that “[c]ompromise does not require an abandonment of your beliefs. Both the LGBT community and the religious community can hold on to the things that we treasure dearly. These

Fears about the ability to live authentically in private and in public motivated much of this discussion about compromise.

are values that make us who we are, and we don’t have to give that up through compromise.”

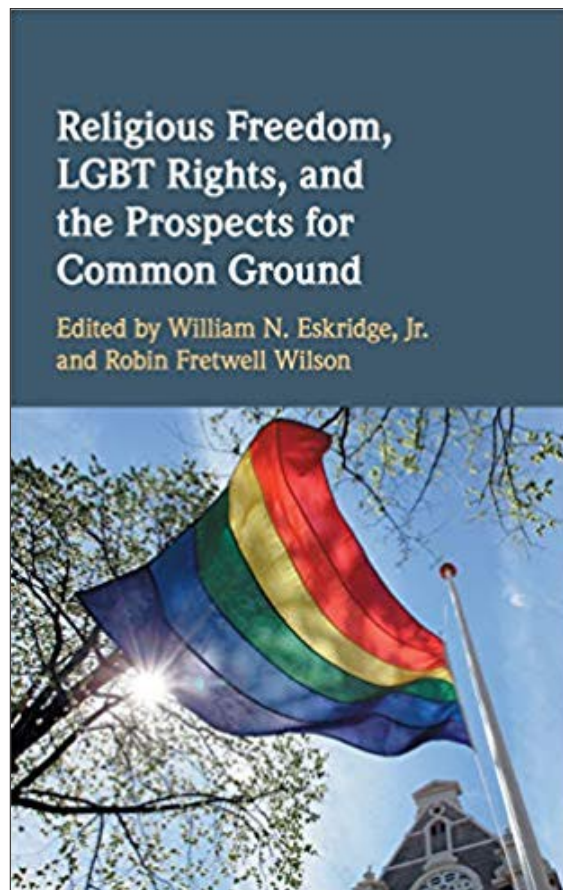
Fears about the ability to live authentically in private and in public motivated much of this discussion about compromise. Doug Werth, Lead Deputy Attorney General at the Idaho Human Rights Commission, catalogued the progress of civil rights and the rate of discrimination claims filed in Idaho. Boise Mayor David Bieter explained the motiva-

tion behind Boise's municipal LGBT nondiscrimination ordinance.³ LGBT people were afraid to make complaints to the police department for crimes committed against them, fearing collateral consequences if an investigation outed them. University of Idaho College of Law Professor Katherine Macfarlane drew an analogy to disability discrimination, noting that discrimination pervades society and injures individuals going about their daily lives. Perhaps most succinctly, Kathy Griesmyer, Policy Director and Chief Lobbyist at the ACLU Idaho, concluded LGBT discrimination is "not a feeling, it's a reality."

Against compromise

Griesmyer joined other speakers at the *Summit* who rejected the notion of legislative compromise. She argued that the LGBT community should hold out and seek protections from the courts until the Idaho Legislature is willing to pass a LGBT nondiscrimination law without any religious liberty protections. This model follows the "Add the Words" proposal,⁴ which would add gender identity and sexual orientation as protected categories to the Idaho Human Rights Act (IHRA), as Chelsea Gaona-Lincoln, Chair of Add the Words Idaho, explained to *Summit* attendees.

Senator Grant Burgoyne shared that from his interactions with LGBT advocates, he has no sense that they are willing to compromise. To Senator Burgoyne, it appears the LGBT community has weighed the risk of (1) receiving some protections now from the Idaho Legislature in a compromise bill against the possibility of (2) receiving all desired protections in the future from the courts or a more sympathetic Legislature. Although former Idaho State Representative Nicole LeFavour expressed that "the cost of doing nothing in our state" can be as drastic as murder-



Several of the *Summit's* panelists reviewed sections of a new, detailed volume titled *Religious Freedom, LGBT Rights, and the Prospects for Common Ground*.¹⁵ One of these panelists, University of Idaho College of Law Professor Shaakirrah Sanders, stated that compromise is enviable, but "[w]hile we're waiting to reach our nirvana on these issues, rights are violated and generations of people are affected." The unabridged version of this article includes an in-depth discussion of this academic dialogue and is available online at www.isb.idaho.gov/DigitalAdvocate.

ous hate crimes and violence against the LGBT community, Senator Burgoyne's estimation is the LGBT community is "willing to wait. They're willing to fight."

Proposed and existing religious exemptions

The disparity in opinion of those amenable and opposed to compromise can largely be attributed to the inclusion of religious exemptions in a compromise bill. LeFavour questioned "What about including [LGBT people] in the law suddenly requires a religious exemption?" For LeFavour, any religious exemption would signal that LGBT people "are less than human." President Pro Tempore Hill's "Concepts for Discussion,"⁵ which outlines future legislative dialogue, seeks protections for religious organizations and small businesses in the contexts of employment, housing, and public

accommodations. These protections would allow employees to "express their religious or moral beliefs without retaliation;" permit business owners to "abstain from celebrating 'expressive activities,' such as demonstrations, weddings and religious events;" allow "faith-based adoption agencies to avoid services that violate their religious policies;" and ensure "business owners will not have their licenses revoked because of their beliefs."

Currently, the IHRA,⁶ much like its federal nondiscrimination cousins,⁷ contains religious exemptions from the nondiscrimination duties it imposes along the lines of race, color, religion, sex, national origin, and disability. For example, IHRA allows religious corporations, associations, and societies to make employment decisions based on religion; permits religious schools to choose students based on religion; exempts religious organizations and places of worship

from the definition of a place of public accommodation; releases small landlords, who may be religious, from nondiscrimination obligations; and allows religious charities to give preference to members of the same religion in real property transactions.⁸

Theoretically, religious exemptions may also be obtained in court under Idaho's Free Exercise of Religion Protected Act (FERPA),⁹ the state-level cousin to the federal Religious Freedom Restoration Act (RFRA), which codifies a multifactorial balancing test between religious free exercise and the government's interest in applying otherwise beneficial legislation. However, since FERPA's enactment in 2000, no appellate court in Idaho has granted a religious exemption—the Idaho Supreme Court has never even addressed the statute.¹⁰

Moreover, no court in the country has ever granted a religious exemption through a RFRA-type law from a LGBT nondiscrimination law.¹¹ Yet, at the *Summit*, Griesmyer and Gaona-Lincoln expressed that FERPA and the religious exemptions already found in the IHRA will sufficiently protect the free exercise of religion when sexual orientation and gender identity are added as protected classes.

A religious exemption in the public accommodations context may be the sticking point that has prevented a compromise bill to date. Representative McCrostie recounted that in the hearings on a previous Add the Words bill, public comment from the faith community did not demonstrate strong objection to LGBT nondiscrimination protections in employment, housing, or education, but the issue of public accommodations invoked concerns similar to those behind *Masterpiece Cakeshop*,¹² where the Colorado Civil Rights Commission sanctioned a Christian baker for declining to bake a wed-



Panel 2 speakers address attendees.

ding cake for a same-sex wedding celebration.

Municipal inconsistency

Although the *Summit* speakers took different views on the matter of compromise, all saw the need for a state-wide measure to be passed in the Legislature. University of Illinois College of Law Professor Robin Fretwell Wilson brought to light that Idaho currently has only patchwork protection for LGBT and faith communities, spread across 13 municipalities that ban LGBT discrimination and the numerous municipalities that do not.¹³

Griesmeyer expressed how patchwork protections make life unpredictable: one may be protected from discrimination while at work in Meridian,¹⁴ but lose protections after traveling home to Nampa. While waiting on a state-wide measure, Luke Caverner, Vice President of the Meridian City Council, encouraged attendees to “take the bull by its horns and go to work at the local level.”

Community voices

Several speakers at the *Summit* spoke less of law and politics and more of compassion. Reverend Sara LaWall of the Boise Unitarian Universalist Fellowship professed that as a person of faith, she views her job as loving people “in the fullest expression of who they are as a human being” to “affirm the inherent dignity of every person.” Father Antonio Eguiguren of St. John's Cathedral shared his conviction that solutions are in our hearts as he extolled the golden rule.

In step with Father Eguiguren, Phillip Thompson, Former President of the Islamic Center of Boise, stated, “If we injure or do harm to one member of humanity, we do injury or harm to all of it.” Or, in the words of religious educator John Thomas, to solve these issues, we must avoid the “Puritan Mistake:” “liberty for me, but not for thee.”

Conclusion

As dialogue rolls forward in 2019, we hope that inclusive models and

creative proposals—taking faith, sexuality, and gender into account—will emerge as frontrunners. In this arena, the law has the capacity to elevate many Idahoans out of second-class status while affirming the human dignity of all. We hope the Idaho Legislature takes that step.

Endnotes

1. Recordings of the Summit, as well as media coverage and panelists' biographical information, are available at: goo.gl/QT8VtP
2. Betsy Russell, *Sen. Hill on LGBT Discrimination Protections: 'The Risks of Doing Nothing Are Great on Both Sides'*, IDAHO PRESS, Feb. 20, 2019.
3. BOISE, IDAHO, CODE §§ 3-14-14, 5-15-1 *et seq.*
4. S.B. 1015, 65th Leg., 1st Reg. Sess. (Idaho 2019).
5. Available upon request from President Pro Tempore Hill's office.
6. Idaho Code § 67-5901 *et seq.*
7. 42 U.S.C. §§ 2000a *et seq.*, 2000e *et seq.*, 3601 *et seq.*; see also Robin Fretwell Wilson, *Bargaining for Civil Rights: Lessons from Mrs. Murphy for Same-Sex Marriage and LGBT Rights*, 95 Boston U. L. Rev. 951, 973-82 (2015) (discussing lasting exemptions from federal civil rights law).
8. Idaho Code § 67-5910.
9. Idaho Code § 73-401 *et seq.*
10. See *Ricks v. Contractors Bd.*, 164 Idaho 689, 435 P.3d 1 (Ct. App. 2018); *State v. Cordingley*, 154 Idaho 762, 302 P.3d 730 (Ct. App. 2013); *State v. White*, 152 Idaho 361, 271 P.3d 1217 (Ct. App. 2011); *Hyde v. Fisher*, 143 Idaho 782, 152 P.3d 653 (Ct. App. 2007); *Lewis v. State, Dep't of Transp.*, 143 Idaho 418, 146 P.3d 684 (Ct. App. 2006); *Roles v. Townsend*, 138 Idaho 412, 64 P.3d 338 (Ct. App. 2003).
11. Robin Fretwell Wilson, *Common Ground Lawmaking: Lessons for Peaceful Coexistence from Masterpiece Cakeshop and the Utah Compromise*, 51 U. Conn. L. Rev. 1, 14-19 (2019) (forthcoming), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3360500.
12. *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, 138 S. Ct. 1719 (2018).
13. *Local Non-Discrimination Ordinances*, Movement Advancement Project (Mar. 28, 2019), http://www.lgbtmap.org/equality-maps/non_discrimination_or



Summit attendees applaud panelists.

dinances.

14. Maria L. La Ganga, *Meridian bans LGBTQ Discrimination, Sending What Backer Calls 'Message of Inclusivity'*, Idaho Press, Sept. 26, 2018; Meridian, Idaho, Code § 1-15-1.

15. Religious Freedom, LGBT Rights, and the Prospects for Common Ground (William N. Eskridge, Jr. & Robin Fretwell Wilson eds., 2018). See the full-length version of this article online at the *Advocate Extra!* for more about the panelists' discussion of this volume.

Kylie Abreu is a second-year student at Concordia University School of Law and co-chaired the Organizing Committee for the Interfaith & LGBT Summit as Vice President of the Concordia Student Chapter of the J. Reuben Clark Law Society.



Tanner J. Bean is an associate attorney at Fabian VanCott in Salt Lake City, Utah, and was, at the time of writing this article, a Staff Attorney to the Honorable Judge Molly Huskey of the Idaho Court of Appeals and a Law Fellow with the Fairness for All Initiative. He co-chaired the Organizing Committee for the Interfaith & LGBT Summit as a Board Member of the Boise, Idaho Chapter of the J. Reuben Clark Law Society. Views expressed here are in his personal capacity.



Supporting Diversity: From Pre-Law to the Legal Profession

Jeffrey A. Dodge

On my first day of law school, I walked into an imposing auditorium filled with dozens of professionally dressed students and faculty I would soon address as “colleagues.” To get there, I spent nearly every dollar I had on the LSAT, application process, and relocation. As a first-generation student and a gay man, I felt out of place. Though my family beamed with pride as they saw one of their own go to college, and then law school, for the first time, I felt insecure and anxious at the “what ifs” ahead. As I listened to the dean speak at orientation, I suddenly felt paralyzed by the thought of difficult classes, three years of hard work, over \$100,000 in debt, the Bar exam, and the elusive character and fitness process. I kept thinking: Do I belong here? Are there others in my class who are gay? Can I do this? I don’t know any attorneys; how will I get a job?

Somehow, I wrested my limbs from paralysis and moved cautiously toward my future. It was not an easy decision to complete orientation and show up for the first day of classes. Many others from diverse backgrounds have the same sense of unease, often referred to as “imposter syndrome.” Sadly it does not go away over time: some 16 years later, I often still feel like I don’t belong or that I somehow got to where I am by pure luck.

For those whose difference is seen before spoken, these feelings can be even worse. I can’t imagine the daily worries around having physical limitations, presenting as a gender different than assigned at birth, or fearing someone will assume my immigration status based on the color of my skin. To carry those worries into law school and then manage the same

Meet Nicole Robles



“As I end my first year in law school, I am filled with both anxiety, as there is still much to be done, and relief, as I look at how far I’ve come. From navigating the admissions process to finding balance and a routine, to juggle school, work, being a single mom, and other daily tasks. As a first generation law student I have encountered and overcome many challenges, learned a lot about myself, and am excited to continue my journey through law school and see what the future holds.”

– Nicole Robles,
Class of 2021

work load as everyone else is a heavy burden to bear.

The experiences of our diverse students can be obstacles to their success in our profession. But it’s those very experiences that make their engagement so important. Our diverse colleagues enrich and inform the legal profession’s evolution, and how the profession supports and embraces them is critical to developing a more just society.

A look at diversity data

Fortunately, Idaho’s law schools are blazing trails in a state that does not naturally offer much quantifiable diversity. Current projections say that Idaho’s population is hovering at just shy of 1.8 million people. Of that group, less than 9% self-identify as ethnically diverse.¹ Neighboring state populations, from which Idaho’s law schools may more easily recruit students, don’t offer much more in the way of diversity. Utah, Oregon, Montana, and Wyoming have, at most, a population that is

15% multicultural. Nationally, the demographics of attorneys aren’t that much better with only 15% of lawyers identifying as multicultural and 36% being women.² Both Idaho law schools should be commended not only for their commitment to enrolling diverse students but also for doing so given these challenges.

In Fall 2018, Concordia University School of Law enrolled a class with 17% self-identifying as ethnically diverse and 30.5% women.³ Of the entire student body, 21% are multicultural and 34% are women. The multicultural diversity at the University of Idaho (U of I) College of Law is even higher with an entering class comprised of 26.5% self-identified ethnically diverse students and an entire student body that is 22% multicultural.⁴ Women made up 49% of the Fall 2018 entering class and are 44% of the entire student body.

All of this raises the question: How are Idaho’s law schools transcending their population base and enrolling such diverse student bodies?

Programs that embrace diversity

National, statewide, and institutional efforts are at play in order to enroll incoming classes that are more diverse than the state population. The Council on Legal Education Opportunity, Inc. (CLEO), is a 50 year-old national organization committed to diversifying the legal profession through the Pre-Law Summer Institute, workshops, and resources. This program exists to help minority, low-income and disadvantaged groups access legal education. More than 300 students apply each year for 40 spots in the summer institute. The institute teaches students how to read and brief court opinions, prepare for law school exams, conquer the workload and stress in law school, establish productive study groups, and more.

In Fall 2015, four law schools, including U of I, signed on to an experimental program that aimed to further increase access to law school for minority students. This program, the CLEO Legally Inspired Cohort (CLIC), enrolled five students at U of I who successfully completed the CLEO Pre-Law Summer Institute and CLIC four-day seminar. The CLIC Scholars had worked together with the intention of enrolling somewhere as a group. Once they began law school in Fall 2016, the students received continuous academic, financial, and other support services during their first year of study. The first five CLIC Scholars, all previously non-residents of Idaho, graduate from U of I in 2019 and more are in the pipeline to graduate soon.

Concordia and U of I are also equally committed to the Idaho State Bar's Love the Law! program. An initiative by the Diversity Section, Love the Law! promotes diversity, equality, and cultural understanding to better serve the State's diverse citizenry. In particular, the Jennifer King Memorial Scholarship program has provid-

Meet Betsaida Chavez Garcia



"My experience as a first generation law student has been challenging because I, like many first generation students, did not have the benefit of a family knowledge about how to navigate and evaluate the school application process. Being in law school is an achievement I share with my parents who, as immigrants without understanding of English or the U.S. culture, had to navigate obstacles in addition to raising two kids. I am grateful for the opportunities that have come with higher education, such as being awarded the Michael Maggio Immigrants' Rights Summer Fellowship along with Immigrant Justice Idaho, where I will spend my summer of 2019."

– Betsaida Chavez Garcia,
Class of 2020

ed financial assistance for applicants' LSAT study courses, test fees, and Idaho law school application fees. This support eliminated the financial barrier to a legal education in Idaho for diverse applicants, many of whom have gone on to pursue their Juris Doctor degrees.

Both Idaho law schools have made great efforts to attract and support diverse students through institutionally-developed initiatives. Concordia hosts a Women Leading Women breakfast series to connect female students with professional women in the Boise area for employment and leadership opportunities. It also signaled its openness to lesbian, gay, bisexual, transgender, and queer students by hosting the Interfaith & LGBT Summit in February 2019. The summit, part of Diversity Week, engaged attendees in the perceived tension between religious liberties and nondiscrimination solutions.

In May 2016, the Admission by Performance program launched to acknowledge that standardized tests do not always predict law school

success, particularly for underrepresented populations. The program resulted in increased enrollment and diversity in Concordia's incoming classes the past three years. Lastly, Concordia has made efforts to be as accessible and supportive to veterans as possible. It works with veterans closely to utilize their benefits and supports them throughout their legal education.

At U of I, the College of Law's student diversity has resulted in inclusion on the U.S. News & World Report Top Law Schools for Diversity list. The richness of the student body ensures active diversity-related student organization efforts, like the Latino/a Law Caucus' pro bono and humanitarian trip to Othello, Washington, and the Women's Law Caucus' speaker series. The College maintains a Professionalism Education Program graduation requirement that includes programs on cultural competency and bias in the profession. Diverse students are also attracted to the Native American Law emphasis and Immigration Litigation and Appellate Clinic

programs, amongst others. U of I also visits diverse middle and high schools to introduce law as a potential career path.

These programs, and many others, are just some of the reasons Idaho's law schools are successful at enrolling a more diverse student body than the population of the state. Through these efforts and the bridges they build with the bench and bar, the hope is that when students graduate they will be met with a profession equally supportive of their unique contributions. The transition can be intimidating, though, and the success of that relies heavily on the attorneys who welcome them.

Supporting the transition to practice

The role of law schools is to recruit, retain, and graduate diverse law students. But how employers evaluate and support these students as they become attorneys is something for members of the bench and bar to consider. Diverse attorneys have different and varied needs as they navigate a profession that does not look, sound, or relate to them in the same ways as other professions might. Much has been written about the connection between well-being and inclusion. That connection, or lack thereof, impacts attorney retention, business development, and morale.

Consider the following suggestions as ways to better support diverse colleagues:

Be an Active Mentor. Many studies have shown that diverse law students, and then attorneys, benefit greatly from having a mentor to help them navigate challenges and opportunities. Be conscientious and intentional about mentorship by having dedicated times to check in; introducing new clients, contacts, and organizations; supporting each other personally and professionally; and showing up for important moments.

Encourage Professional Association Involvement. Organizations like the Idaho Women Lawyers, the National Association of Attorneys with Disabilities, the National LGBT Bar Association, and more are opportunities for diverse attorneys to connect with others and find professional and personal support. Colleagues who actively encourage diverse attorneys to engage with these associations will be seen as allies.

Make Room for Differing Views. A true benefit of diversity in the profession is that new ideas and beliefs are brought to the table. Though diverse perspectives may at times require a reexamination of commonly held beliefs, make room for these views in the least defensive way possible as forced cultural norms lead to exclusion. Ways of doing things, strategies on a case, operational processes, and many other "status quo" approaches may need to be questioned in the name of inclusivity.

Avoid Tokenizing. Few things are more off-putting than feeling tokenized or having one's difference on display and used for the benefit of others. As diverse attorneys enter new spheres of our profession, avoid over-relying on their identity as a basis for placing them on hiring or climate committees, assigning them a certain type of client, or limiting them to matters before certain courts. These attorneys deserve the

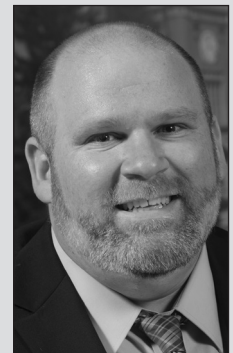
richness of experiences provided by their employer and shouldn't carry the burden of the sole representative of diversity through service or unseen and unbillable work.

Diverse law students and colleagues bring their background, skills, and life experiences to the classroom, the workplace, and the people they ultimately serve. Their contributions are both immeasurable and sometimes not fully realized until offered the support and environment they need to shine. Supporting a diverse and inclusive bench and bar requires intentionality and hard work. I encourage us all to be self-reflective about ways we can contribute to these efforts.

Endnotes

1. Idaho Population, <http://worldpopulationreview.com/states/idaho/> (last visited May 2, 2019).
2. American Bar Association, National Lawyer Population Survey, https://www.americanbar.org/content/dam/aba/administrative/market_research/National_Lawyer_Population_Demographics_2008-2018.pdf (last visited May 2, 2019).
3. Concordia University School of Law, <https://law.cu-portland.edu/admission-financial-aid/aba-required-disclosures> (last visited May 2, 2019).
4. University of Idaho College of Law, <https://www.uidaho.edu/law/admissions/aba-requirements> (last visited May 2, 2019).

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Understanding and Compromise Can Bring Solutions

Will Ranstrom

Life, liberty, and the pursuit of happiness' is perhaps the most well-known and often quoted phrases of the Declaration of Independence, yet one of the most enigmatic phrases enshrined in the annals of American history. If you were to ask 100 random folks on the streets of any town in Idaho what that phrase means, you may receive 100 different responses, though the overall gist would likely remain the same. Most responders would include the rights to be free, to love and be loved, and to be able to care and provide for their loved ones.

I have my own articulation of the phrase: life, liberty, and the pursuit of happiness is the promise that the government will not unnecessarily restrict my path to creating my own version of a loving and supportive family and community. Within that family and community, I should be able to obtain housing, be gainfully employed, associate with whomever I choose, and create a family as I see fit for me. In short, I should be able to live my life as I deem appropriate to my core values, provided that in such pursuit my actions do not interfere with the lives of others who are pursuing their own versions of life, liberty, and happiness.

Where one person's rights end and another's begin may seem like a juxtaposition, especially when those rights appear diametrically opposed. However, it becomes easier to see that apparently opposing rights can and should harmoniously exist when you step back and empathetically view the similarities between apparently opposing communities. Through my experiences I have recognized the similarities between a misunderstood religious commu-

Where one person's rights end and another's begin may seem like a juxtaposition, especially when those rights appear diametrically opposed. However, it becomes easier to see that apparently opposing rights can and should harmoniously exist when you step back and empathetically view the similarities between apparently opposing communities.

nity and the LGBTQ (Lesbian, Gay, Bisexual, Transgender, Queer) community. These experiences, in turn, have given me an understanding that could help the religious and LGBTQ communities to resolve their legal tension.

My background

I was born in Pocatello, Idaho, in 1976 to a mixed family: my father's side was a mix of members of the Church of Jesus Christ of Latter-Day Saints (LDS) and "Jack Mormons" (colloquial slang for non-practicing LDS members); and my mother's side was a mix of LDS, "Jack Mormons," and Mennonites. Neither of my parents strictly subscribed to any religion, and my sister and I were given wide latitude to attend any services that we cared to attend with our friends or family while my parents attended their own Sunday services that were usually officiated by the National Football League.

By the time I was a teenager, I had attended services with the Mormons, the Mennonites, the Catholics, the Baptists, and the Protestants. Admittedly, I did not attend so many services because I was seeking to find a deeper connection to religion. Rath-

er, I attended to seek a deeper connection with my friends and family who had invited me to join them.

As an astute student, I was fascinated by the rituals in each service and always paid close attention to the message that was being taught. The rituals were always different. Sometimes the congregation sat, but sometimes they stood or kneeled. Sometimes the congregation was completely silent, yet sometimes they interacted with the minister or sang hymns.

The story told to convey the message also varied greatly, but the overall theme of the individual messages remained constant. Sometimes the story was funny and entertaining, but sometimes it was grim and sobering. Sometimes the story was plain and the message was clear, yet sometimes the story was abstract and the message was discovered only through reflection and contemplation. Whatever the differences in ritual or theme, however, the overarching message was nearly always the same: love, understanding, and compassion for your fellow human beings, while allowing the Creator to be the judge of virtuosity.

When I decided to live my life openly and honestly as a gay man,

it was 1998. Coming out was beginning to become more mainstream in American society by then. Several celebrities had come out, “Will & Grace” was a popular prime-time sitcom on network television, and nationwide companies such as Budweiser and Wells Fargo had begun to openly court the LGBTQ community. My friends and family were mostly accepting, and those who struggled with my open identity soon realized that I was essentially the same person they always knew and loved and that by living my life openly I had blossomed into a happier and more joyous person who no longer carried the burdens of secrecy.

The legal tension

As society in general has become more accepting of the LGBTQ community since the late 1990’s, the laws of the United States have slowly followed suit. Some states extended civil union and equal protection rights to their LGBTQ citizens and eventually other states extended marriage rights to their LGBTQ citizens. The United States Supreme Court eventually decriminalized same-sex sexual conduct,¹ declared the Defense of Marriage Act unconstitutional,² and eventually legalized same-sex marriage throughout the United States.³

Yet as LGBTQ rights have expanded, the tension between the religious and the LGBTQ communities has increased. The crux of the tension was exemplified in *Masterpiece Cakeshop*.⁴ In *Masterpiece*, a Christian baker in Colorado refused to bake a wedding cake for a same-sex marriage ceremony, citing First Amendment religious freedom protections.⁵ The same-sex couple filed a complaint with the Colorado Civil Rights Commission for discrimination under the Colorado Anti-Discrimination Act which forbade discrimination based on sexual

orientation.⁶ The baker was found in violation of the Act and appealed the ruling.⁷ The U.S. Supreme Court held that, though Colorado had the right to protect its LGBTQ citizens, it must do so without animus towards the religious person or their sincerely held religious beliefs.⁸

To say that the *Masterpiece* decision did little to resolve the tension between the religious and LGBTQ communities is a vast understatement. In states such as Idaho, that

Many Idahoans are likely most familiar with the history of the LDS church and know that LDS members faced discrimination and misunderstanding from the inception of the Church.



have yet to include LGBTQ protections in their Human Rights Acts, the tension has increased. So, the question becomes, how can the two communities co-exist with maximum legal protections for each without stifling the legal protections of the other?

Understanding our similarities

Though the religious and LGBTQ communities may seem strikingly different, they share similarities

in past discrimination and misunderstanding. They also share a commonality in their seeking life, liberty, and the pursuit of happiness.

Human history is filled with examples of religious discrimination from the beginnings of Christianity, Islam, and Judaism to our present day. Many Idahoans are likely most familiar with the history of the LDS church and know that LDS members faced discrimination and misunderstanding from the inception of the Church. My grandmother would tell stories of the faithful followers being ostracized and expelled from their communities because their religion and its practices were new and unfamiliar to the non-believers. The followers were forced to relocate from New York, Ohio, Illinois, and Nebraska until finally finding refuge in what would become Utah in order to find a safe place to freely practice their religion.

Within the Utah Territory and its surrounding areas, the Mormons flourished and were able to establish loving, safe, and compassionate communities where they could live their lives openly, freely, and without interference from those who may not have understood the core values that the LDS church embraced.

Similarly, the LGBTQ community has faced discrimination and misunderstanding throughout human history. Members of the LGBTQ community continue to be ostracized, expelled, jailed, beaten, stoned, and even killed because of their sexual identity. In some predominately Muslim countries such as Kuwait, Lebanon, and Bahrain, conviction of homosexual conduct was and remains today punishable by up to 10 years in prison.⁹ Prior to *Lawrence*, conviction of sodomy in Idaho was punishable by five years to life in prison.¹⁰

Many LGBTQ individuals were

forced from their homes and communities because of their sexuality and sought refuge in larger cities where others had established LGBTQ communities and neighborhoods, like San Francisco's Castro district or New York City's Greenwich Village. Within these neighborhoods, LGBTQ citizens also flourished and were able to establish loving, safe, and compassionate communities where they could live their lives openly, freely, and without interference from those who may not have understood the core values that the LGBTQ community embraced.

For both the Mormon and LGBTQ communities, isolation was not the desired end, but instead the means necessary to create a home where they could feel protected and safe. Both communities sought an environment where they could create a family, obtain housing, and earn a living to support their families. Both communities sought a home where they could be free of hate and animosity, and where both could pursue their own versions of happiness.

The solution

The similarities between the communities and their abilities to thrive when isolated may lead you to think that separation is the solution for the two communities to live how they see fit. However, life in the Information Age makes that solution untenable. Technology has connected nearly every corner of the planet, and total isolation now requires a level of retreat that most people would eschew because human nature demands a greater sense of community and connection. Additionally, I doubt that most of us would want to live in a completely homogenous society, free from fresh, new ideas and perspectives.

So, what is the solution to a har-

Both communities sought an environment where they could create a family, obtain housing, and earn a living to support their families. Both communities sought a home where they could be free of hate and animosity, and where both could pursue their own versions of happiness.

monious, legally viable coexistence? I do not know the answer.

What I do know is that some truths are self-evident: all humans seek to create a safe, loving, compassionate community and family life in which they can thrive, love, and be loved. We all want to go about our daily lives without being hassled about our core beliefs and without compromising our core values. We all want to celebrate the joys and accomplishments of life, and we all want to find comfort and solace in our friends and family during life's inevitable tragedies. We are all human and we all have similar basic human needs.

If we can try to understand each other's perspectives, realize that we all have the same basic human needs, that our own core values may not strictly mirror that of our neighbors,

and realize that our differences enrich us instead of devalue us, we can find the solution that works best for us all to live openly, freely, and harmoniously.

Endnotes

1. *Lawrence v. Texas*, 539 U.S. 558 (2003)
2. *United States v. Windsor*, 570 U.S. 744 (2013)
3. *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)
4. *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Com'n.*, 138 S. Ct. 1719 (2018)
5. *Id.* at 1723
6. *Id.*
7. *Id.*
8. *Id.* at 1732
9. <https://www.theguardian.com/world/2016/jun/21/gay-lgbt-muslim-countries-middle-east>
10. <http://www.glapn.org/sodomylaws/usa/idaho/idaho.htm>

Will Ranstrom, 42, is originally from Pocatello, Idaho. He is currently fulfilling a long-held dream of obtaining his J.D. from Concordia University School of Law. He married his husband, Ryan, in 2017 and they reside with their two dogs, Gilly and Betty, in Boise.



The Mansfield Rule and the Idaho State Bar: Let's Do This!

Anna E. Eberlin

What does diversity look like here? It depends how you define “here” – is it a particular firm or partnership? Is it our local legal market? All attorneys in the state of Idaho? Attorneys in the West? Or even on a national level? For me, a female real estate, construction, and finance transactional attorney in Boise, Idaho, diversity is viewed through each of those lenses. I have personally witnessed the progress we have made over the past 13 years, since starting out as a junior associate with no context for diversity except growing up in Eastern Idaho – which is not exactly a place teeming with diversity – to today, where the conversation about diversity is front and center, as it should be.

In my experience, the membership of the Idaho State Bar (ISB) is (slowly) becoming more diverse. And the numbers seem to support this, at least as far as gender: in 2009, 75% of the members of the ISB were men, with 25% women, and in 2018, the numbers had changed to 72% and 28%, respectively.¹ Still, we clearly have a long way to go. This article will present an emerging approach to increasing diversity within law offices, share the results of early efforts, and provide an outlook for future efforts to improve diversity across the spectrum of the legal profession.

Enter the Mansfield Rule

Diversity, in theory, has much support across many platforms. But diversity in practice? That's the problem. The Diversity Lab, an incubator for innovative ideas and solutions that increase diversity and inclusion in the legal industry, has set out to change this.² The “Mansfield Rule” was one of the winning



Photo courtesy of the National Football League.

Mike Tomlin, Head Coach of the Pittsburgh Steelers answers questions from the media.

ideas from the 2016 Women in Law Hackathon, which is an annual event created by the Diversity Lab in conjunction with Bloomberg Law and Stanford Law School. The genesis of the Mansfield Rule is the National Football League's (NFL) Rooney Rule.



Dan Rooney

The Rooney Rule, named after Dan Rooney, who was once head of the NFL's diversity committee and owner of the Pittsburgh Steelers, requires NFL franchises to interview at least one racially diverse candidate for all top-level positions in the NFL, including head coaching jobs, general manager jobs, and other equivalent positions. In the years following the implementation of the Rooney Rule, the number of minorities hired to fill head-coach positions doubled.³

The Mansfield Rule is named after the first woman to be admitted to practice law in the United States, Arabella Mansfield, who took the

One of the Rooney Rule Success Stories

Mike Tomlin, an African American championed by Dan Rooney under the Rooney Rule, became the Head Coach of the Pittsburgh Steelers, leading the team to a Super Bowl Championship, and multiple division and conference championships.

Iowa bar exam in 1869. Ms. Mansfield impressed the bar examiners so much that they stated that her brilliant performance defied the idea that ladies cannot practice law.⁴

Now, 150 years later, diversity in the lawyer ranks is still woefully inadequate. Thus, the Diversity Lab developed this idea to increase diversity in the law profession by designating tangible thresholds and goals, namely, to promote more women and minorities into leadership roles within their firms or companies.

Early adopters, early results!

In 2017, a total of 44 law firms across the United States first adopt-

ed the Mansfield Rule as part of a pilot program under the Diversity Lab's supervision. The Mansfield Rule requires participating firms to consider 30% of women and racially diverse attorneys for 70% or more of the firms' openings in leadership positions – including firm-wide leadership positions, various committees, practice group leaders, or office leaders – during a yearlong review period. If the firm met the threshold, then it is qualified as "Mansfield Certified." After the first year in the pilot program, 41 firms have been Mansfield Certified.⁵

My firm, Holland & Hart LLP, is one of them. As one of the smallest firms to participate, Holland & Hart enthusiastically took on the implementation of the Mansfield Rule. As a result, it became "Mansfield Certified Plus." The "Plus" status indicates that, in addition to meeting the pipeline requirements during the process of filling leadership positions, it also successfully reached at least 30% women and minority lawyer representation in a notable number of current leadership roles and committees.

The Diversity Forum found measurable results across the 41 firms that achieved Mansfield Certification. Before adopting the Mansfield Rule, only 20% of the participating firms tracked diversity of candidates considered for partnership, for lateral senior positions, and for leadership and governance roles; as Mansfield Certified firms, all 41 of the firms now track this. After adoption of the Mansfield Rule, 95% of firms have increased formal discussions among firm leaders regarding diversity in candidate pools for leadership positions and lateral hiring. In addition, many firms have added reporting requirements internally regarding Mansfield Rule statistics.⁶

These results are supported by research that finds that law firms with

women in leadership roles have more women lawyers overall and 5% more women equity partners on average.⁷

Expansion of the Rule

Running from July 2018 to July 2019, Mansfield 2.0 was implemented last year, which expanded the rule to include LGBTQ+ attorneys as well as women and minorities.⁸

For example, if firm management has identified a short list of five candidates for an opening on the executive committee, the Mansfield Rule requires that two of the candidates

The Mansfield Rule requires participating firms to consider 30% of women and racially diverse attorneys for 70% or more of the firms' openings in leadership positions – including firm-wide leadership positions, various committees, practice group leaders, or office leaders – during a yearlong review period.

would need to be women, minorities, or LGBTQ+. In addition, Mansfield 2.0 will measure consideration for roles in client pitch meetings and measure transparency in appointment and election processes to all lawyers in their firms. The Diversity Lab will continue to measure and report data on the progress of participating firms.

My experience with the Mansfield Rule has been both eye-opening and incredible. As a "reward" for achieving Mansfield Certification and Certification Plus, firms were in-

The legal industry is the last to the party:

- Facebook implemented its own version of the Rooney Rule to increase diversity in tech.
- House Democrats have adopted the Rooney Rule to push diversity in staff.
- Amazon adopted the Rooney Rule to increase board diversity.
- The NCAA adopted the College Rooney Rule.

vited to send their newly promoted diverse and women partners to Client Forums held around the country last year. As a newly promoted partner in 2018, I was invited to go to the San Francisco forum to learn from, connect with, and pitch to in-house legal teams from national and international companies across multiple industries and practice areas.

At the Client Forum in San Francisco, it was clear that in-house legal teams are committed to diversity just as much as law firms are and are 100% committed to moving the needle on diversity throughout the entire legal industry. Some in-house counsel went so far as to say that if the outside legal teams performing the company's work did not include at least one diverse team member, then the firm would no longer be doing the work for that company. Companies wanted to see diverse pitch teams – and not just for face-time during the pitch, but for performing the work as well.

Diversity is an ongoing commitment

I have strived to bring back to my office and my overall firm the teamwork, camaraderie, and excitement that I experienced at the Client Forum. Increasing diversity is not lip service at Holland & Hart – especially in my real estate world but notably, the firm as a whole. Holland

& Hart's management committee recently approved an updated Diversity and Inclusion Plan that includes diversity goals modeled on the Mansfield Rule, such as:

- Consideration of diverse attorneys for at least 30% of the candidate pool for recruitment for open attorney positions, including partner and non-partner lateral, entry level, and summer clerk positions.
- Consideration of diverse attorneys for at least 30% of the candidates for partnership promotion, which requires certification by the Practice Group Leader to the partnership committee whether she or he met the requirement.
- Consideration of diverse attorneys for at least 30% of the candidates for composition of teams making pitches to existing or potential clients.
- Consideration of diverse attorneys for at least 30% of the candidates for open positions on firm committees.
- Consideration of diverse attorneys for at least 30 percent of the candidates for succession planning to ensure diverse lawyers are being offered meaningful opportunities.⁹

In addition to the updated Diversity and Inclusion Plan, I have seen a marked difference in Holland & Hart's increased diversity efforts and have pushed these with my own pitch teams and client service teams. The breadth and depth of experience, culture, and background that diverse attorneys bring to a team shows in the new and creative solutions, insights, and knowledge that have helped clients achieve their own goals.

Idaho, with its measurable growth in corporate presence both from home-grown companies and those that are moving in from out of the region, should take notice. Diversity is not just for the bigger firms or bigger companies; we should all be taking action to increase diver-

Diversity is not just for the bigger firms or bigger companies; we should all be taking action to increase diversity and inclusion in our own firms and in-house legal teams.

sity and inclusion in our own firms and in-house legal teams. I challenge Idaho firms and in-house legal groups alike to create diversity and inclusion goals that align with the Mansfield Rule and Mansfield Rule 2.0.

Endnotes

1. See <https://isb.idaho.gov/wp-content/uploads/Road-Show-PowerPoint-General.pdf>.
2. See <https://www.diversitylab.com/> for a full description of the Diversity Lab and its initiatives.
3. See <https://www.diversitylab.com/pilot-projects/mansfield-rule/>; see also *The Impact of "Soft" Affirmative Action Policies on Minority Hiring in Executive Leadership: The Case of the NFL's Rooney Rule*. *American Law and Economics Review*, Volume 18, Issue 1, Spring 2016, Pages 208–233.
4. Arabella Mansfield brought suit to al-

low women to become members of the bar after she successfully passed the bar exam, resulting in Iowa amending its licensing statute and becoming the first state to accept women and minorities into its bar. Interestingly, she never actually practiced law and instead worked as an educator and activist. See <https://law.jrank.org/pages/12257/Mansfield-Arabella.html>.

5. See <https://www.diversitylab.com/pilot-projects/mansfield-rule-certified-firms-2018/>.
6. See <https://www.diversitylab.com/wp-content/uploads/2018/06/Mansfield-Rule-Pilot-Mid-Point-Progress-Report-2017-2018.pdf>.
7. See <https://www.law360.com/corporate/articles/1047285>.
8. See <https://www.diversitylab.com/pilot-projects/mansfield-rule/>.
9. See <https://www.hollandhart.com/holland-hart-among-41-trailblazing-firms-to-achieve-mansfield-rule-certification>.

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A Modern Civil Rights Movement: What Lawyers Need to Know About LGBTQ Families

Mary E. Shea

In the summer of 2015, we watched celebrations nationwide when the United States Supreme Court fundamentally changed the American legal landscape by holding that the Fourteenth Amendment mandates equal legal marriage rights for same-sex couples.¹ This watershed ruling means that all 50 states must allow legal marriage for same-sex couples and all 50 states must recognize legal same-sex marriages that have been solemnized elsewhere.

Although this decision was celebrated widely as settling the question once and for all, by the time this opinion was issued on June 30, 2015, most states, including Idaho, had already reached the same conclusion legislatively, or by binding federal court decision.² What we have learned in the last few years is that granting same-sex couples the legal right to marry did not really create much controversy in applying marriage and divorce laws state by state. This article will provide a brief overview of the family law issues the legal system is grappling with in the wake of *Obergefell*.

Constitutional protections for alternative families

Courts throughout the country are still sorting out whether to treat same-sex or transgendered persons as part of a quasi-suspect class so that discriminatory laws should be subject to heightened scrutiny, similar to gender.³ To survive, laws that discriminate against a quasi-suspect class must be substantially related to an important government interest. Discriminatory laws can survive intermediate scrutiny if they have a very good reason to exist.⁴

Courts throughout the country are still sorting out whether to treat same-sex or transgendered persons as part of a quasi-suspect class so that discriminatory laws should be subject to heightened scrutiny, similar to gender.³ To survive, laws that discriminate against a quasi-suspect class must be substantially related to an important government interest.

One federal court has held recently that sexual identity should be considered a true suspect class similar to race.⁵ This means laws based on sexual identity would have to survive strict scrutiny. Applying strict scrutiny to these laws would likely be fatal because such laws rarely survive strict scrutiny.

In *Obergefell* and the related family law cases, the Court so far has focused on the important and fundamental nature of the rights denied, rather than on the legal status of the people who have been denied the rights. That analysis, in the marriage context, has been enough.⁶ State laws restricting the right have been struck down consistently, such that even felons facing life time imprisonment must be given the right to marry.⁷

Parenting rights have become more complex

However settled marital rights are, parenting rights are a different story. Same-sex couples, today, cannot have what the law has indelicately but traditionally referred to as “natural” children except through

the use of Assisted Reproductive Technology (“ART”). They can adopt children in all 50 states if they are married, and in most states even if they are not married, although that has only been true in very recent history.⁸

Idaho adoption laws have never prevented adoption based on sexual preference or marriage and Idaho statutes have never required termination of a natural or legal parent’s rights in order to complete an adoption. Although never prevented, there was no Idaho case holding such until 2014.⁹ If a same-sex couple wishes to have children, only one of the spouses will be biologically related to the child, or neither of the partners will be biologically related to the child.¹⁰ Courts and legislatures throughout the country, including here in Idaho, in light of the obligation to recognize same-sex marriage on the same legal terms as heterosexual marriage, are still working through how to redefine legal parenthood as a result of that biological reality.

The United States Supreme Court has clarified same-sex parenting rights in two important cases

post-*Obergerfell*, both decided *per curiam* without oral argument. In the first case, a lesbian couple together for 16 years conceived three children through ART, with one of the partners serving as the biological mother. With the full knowledge and consent of the biological mother, the same-sex partner adopted all three children and they were raised together as a family. The family moved to Alabama and subsequently the partners split up. The Supreme Court unanimously reversed Alabama's attempt to relitigate the legitimacy of the Georgia adoption.¹¹

In *Pavan v. Smith*, two same-sex married couples who conceived using artificial insemination sued Arkansas, because Arkansas would permit only the birth mother to place her name on the birth certificate. The Arkansas statutes, applying the marriage presumption, permitted husbands of birth mothers to be placed on birth certificates for children conceived the same way. The United States Supreme Court held that this constituted unlawful discrimination against same-sex couples, stating that "the Constitution entitles same-sex couples to civil marriage on the same terms and conditions as opposite sex couples."¹²

Post-*Obergerfell*, state courts deciding this issue have all agreed that the gendered marital presumption has to be applied in a non-gendered way, and they have so far given legal parenting rights and responsibilities to non-biological married same-sex parents. In a recent Hawaii case, the non-biological parent was not permitted to rebut the legal parenting presumption in order to avoid paying child support. The Hawaii court reasoned that if the Uniform Parenting Act is applied in a gender-neutral way, a legally presumed heterosexual parent who is later determined not to be the biological parent could still be made to pay child support, which

applies equally to a same-sex partner as the intended parent of the child.¹³ The Idaho case on this issue is also interesting, because in that case the lesbian couple never married. The evidence was uncontroverted, however, that they would have been married when their child was born in 2012 if legal marriage had been available to them in Idaho at that time.¹⁴

Post-*Obergerfell*, state courts deciding this issue have all agreed that the gendered marital presumption has to be applied in a non-gendered way, and they have so far given legal parenting rights and responsibilities to non-biological married same-sex parents.

Married same-sex couples who divorce may not opt out of parental obligations

Two of these cases, the Mississippi and the Arizona cases, also raise an interesting estoppel argument to prevent a biological mother from "revoking" her consent to consider her partner the legal parent of the child they conceived and raised together. Equitable estoppel is a legal principle known well to the family law courts; it has been applied successfully in Idaho on several occasions

to prevent parents from "changing their minds" about who the legal parent should be.¹⁵ It has a logical place in this context. A parenting relationship should not be severed simply because a biologically related parent no longer wants the company of their ex-partner. If parents have allowed the parental bond with a child to form in a legal way, they should not be able to retract that relationship simply and only because they have the genetic advantage.

There is a case on appeal in Idaho, where a Magistrate Court denied legal parenting rights to a married same-sex parent for a child conceived and born during the marriage. The trial court held that the marital presumption was rebutted by the non-biological relationship. This will be an important case for Idaho practitioners to watch.

Unmarried families should perfect their parenting rights

The LBGQT families in the most peril concerning parental rights are the co-parents who never marry and never adopt. In 2016, the Idaho Supreme Court refused to allow an unmarried, same-sex co-parent to assert any legal parenting rights because there is no procedural vehicle for her to assert them in Idaho. The biological mother did not sign a Voluntary Acknowledgment of Paternity at birth, which could have created a legal parenting presumption even without marriage.¹⁶ The parents were advised incorrectly (based on pre-2014 assumptions) that as a same-sex couple, the non-biologically related mother could not adopt.

Idaho recognizes an "equitable parenting" rule, whereby a person who has had a "parent like" relationship with a child can gain legal parent-like rights, such as custody or visitation.¹⁷ In this same-sex parenting case, the Idaho Supreme Court

clarified the equitable parent rule to be a substantive rule, not a procedural rule: it does not give a parent a vehicle into court. Unless a putative parent has standing to get into court through a legal process involving child custody rights such as divorce, or guardianship, they cannot assert *Stockwell* equitable parenting rights.¹⁸

Unmarried co-parents in Idaho who are not biologically related to the child they are parenting should be advised to seek adoption, because Idaho does not give them any path currently to legal parenthood in the event the co-parents split up and the “natural” parent no longer wishes to have them around.

Alternative reproductive technologies raise additional legal issues

Currently, Idaho regulates only Artificial Insemination (“AI”). There are no statutes concerning surrogacy agreements, although there is a Supreme Court Administrative Order that assigns all such cases to one Judge, ostensibly to assure consistent application of the law to facts. The Uniform Law Commission has updated their Uniform Parentage Act to consider recent developments in the law.¹⁹ But, Idaho’s AI statute is based on a 1982 version of the Uniform Parentage Act and has not been updated.²⁰ The purpose seems to be to help determine legal parentage despite the biology concerns.

On its face, it discriminates between married and non-married parents, and it requires a physician’s assistance for a procedure that does not require medical intervention. Most problematically, Idaho law does not account for the many other, more modern ways ART can now be used to create life for partners outside of true genetic relationships, such as egg and embryo donation, whereby a birth mother may not even be genetically related to the infant she de-

Unmarried co-parents in Idaho who are not biologically related to the child they are parenting should be advised to seek adoption, because Idaho does not give them any path currently to legal parenthood in the event the co-parents split up and the “natural” parent no longer wishes to have them around.

livers. The AI statute was at issue in the 2016 same-sex equitable parenting case previously discussed, *Doe v. Doe*, but the legal challenge was not addressed when the Idaho Supreme Court held the plaintiff lacked standing to assert any rights.

Conclusion

Although it took several decades to accomplish, once same-sex marriage equality reached the tipping point, change came very rapidly. Parenting was a very important part of the same-sex marriage decisions and debate. Ultimately, the courts concluded that same-sex parents are no more or less able to raise children well than traditional heterosexual partnerships. As the Sixth Circuit held, “Gay couples, no less than straight couples, are capable of raising children and providing stable families for them. The quality of such relationships, and the capacity to raise children within them, turns not on sexual orientation, but on individual choices and individual commitment.”²¹ Parenting rights for the LBGQT community is the next family law frontier. Practitioners would be well served to keep up with this rapidly evolving area of the law.

Endnotes

1. *Obergefell v. Hodges*, 576 U.S. , 135 S.Ct. 2584 (2015).
2. *Latta v. Otter*, 19 F. Supp. 3d 1054, 1086-1087 (D. Idaho 2014), *aff’d*, 771 F.3d 456 (9th Cir. 2014), *cert. denied*, 135 S.Ct. 293 (2015) (permitting same sex marriage in Idaho since October 10, 2014).
3. In *F.V. v. Baron*, 286 F. Supp.3d 1131 (D. Idaho 2018), Idaho was required to permit gender changes for adults on birth certificates without showing such birth certificates as “amended.” Idaho did not appeal, and Idaho has been permitting these changes on birth certificates since April 2018. Following 9th Circuit case law, transgender status was treated as a “quasi suspect” class. This quasi suspect class analysis was also applied in the Idaho same sex marriage case, *Latta v. Otter*, footnote 2 *supra*. The Supreme Court has recently granted certiorari in an employment law case that may settle the question of whether LBGQT belong to a protected class. <https://www.npr.org/2019/04/22/716010002/supreme-court-will-hear-cases-on-lgbtq-discrimination-protections-for-employees>
4. E.g., *Rostker v. Goldberg*, 453 U.S. 57 (1981), which upheld the male-only draft rules. The “legitimate reason” for discrimination was that women were not eligible for combat duty in the military. Times have changed significantly, such that a federal judge recently has found the male only draft rules are discriminatory, because women are now eligible for combat positions. *National*

Coalition for Men, et al. v. Selective Service System, et al., Case No. 4:16-cv-03362, Doc. 87, USDC SD Tex, Houston Div., Filed February 22, 2019.

5. *Karnoski v. Trump*, Case No. 2:17-cv-01297-MJP, Doc. 233, USDC WD Wash, Seattle, Filed April 13, 2018 (granting summary judgment against administration's policies towards transgendered military).

6. Justice Roberts' dissent in the watershed decision striking down Section 3 of the Defense of Marriage Act ("DOMA") specifically criticized the vagueness of the majority opinion's analysis, authored by Justice Kennedy. The Second Circuit had applied intermediate scrutiny to the federal law which on its face discriminated against even legally married same sex partners. The Supreme Court did no more than mention the Second Circuit's treatment of the issue, without offering any opinion at all as to whether it was correct or incorrect. *United States v. Windsor*, 570 U.S. 744 (2013). Justice Kennedy also wrote the *Obergefell* decision two years later, and he again offered no clarification of whether sexual orientation should be treated as a quasi-suspect or suspect class.

7. *Turner v. Safley*, 482 U.S. 78, 95 (1987).

8. On March 31, 2016, a federal court struck down Mississippi's ban on same sex adoption – the very last state to hold out. <https://southernequality.org/wp-content/uploads/2016/03/Judge-Jordan-III-opinion-in-Campaign-for-Southern-Equality-v.-Mississippi-Department-of-Human-Services-et-al.pdf>. In *VL v. EL*, 136 S.Ct. 1017, 194 L.Ed.2d 29 (2016) (per curium), without hearing oral argument, SCOTUS unanimously overturned the Alabama Supreme Court's decision which had refused to recognize a same sex adoption issued out of the Georgia courts. The Court held that the Full Faith and Credit Clause demands that all states recognize adoptions from other states, and that lack of jurisdiction is the only basis for rejecting an out of state adoption.

9. Idaho Code § 16-1501 *et. seq.*; *In Re: Adoption of Doe*, 156 Idaho 345, 326 P.3d 347 (2014).

10. There are some cutting edge ART technologies that may one day permit same sex couples to have genetically related children, but these are still very experimental, and there a lot of bio ethics questions to address. See, e.g.: <https://jme.bmj.com/content/44/12/835>;

<https://www.independent.co.uk/news/science/same-sex-couples-could-both-be-biological-parents-to-their-babies-with-new-genetic-technique-a6781401.html>

11. *V.L. v. E.L.*, 136 S.Ct. 1017, 194 L.Ed.2d 29 (2016) (per curium)

12. *Pavan v. Smith*, 137 S.Ct. 2075 (2017).

Although it took several decades to accomplish, once same sex marriage equality reached the tipping point, change came very rapidly.

13. *LC v. MG and Child Support Enforcement*, WL 4804417, Hawaii Supreme Court October 4, 2018; *Strickland v. Day*, 239 S.3d 486 (Miss. 2018); *McGlaughlin v. Jones*, 401 P.3d 492 (Ariz. 2017); *Ayala v. Armstrong*, 2018 WL 3636524,

Case 1:16-cv-00501-BLW Document 59 Filed 07/30/2018 (D. Idaho). *Roe v. Patton*, 2:15-cv-00253-DB, Doc. 15, USDC D. Utah, Central Div., Filed July 22, 2015.

14. *Ayala v. Armstrong*, 2018 WL 3636524, Case 1:16-cv-00501-BLW Document 59 Filed 07/30/2018 (D. Idaho).

15. *Gordon v. Hedrick*, 159 Idaho 605, 364 P.3d 951 (2015)(mother not permitted to withdraw her signature on a VAP absent clear and convincing evidence of fraud, duress, or material mistake of fact); *Doe v. Roe*, 142 Idaho 202, 127 P.3d 105 (2005) (Father learned during divorce he was not the natural father of the child; biological dad was not permitted to rebut the legal marital presumption because he asserted his rights too late); *Miller v. Miller*, 96 Idaho 10, 523 P.2d 321 (1974) (Mother could not revisit divorce action to rebut husband's legal paternity).

16. Idaho Code § 7-1119 *et seq.* It should be noted that there has not yet been a case in Idaho holding that unmarried same sex partners may use a VAP to establish presumptive legal parenting rights.

17. *Stockwell v. Stockwell*, 116 Idaho 297, 775 P.2d 611 (1989).

18. *Doe v. Doe*, 162 Idaho 254, 395 P.3d 1287 (2017)

19. <https://www.uniformlaws.org/committees/community-home?CommunityKey=c4f37d2d-4d20-4be0-8256-22dd73af068f>

20. I.C. § 39-5401 *et. seq.*

21. *DeBoer v. Snyder*, 772 F.3d 388 (6th Cir. 2014), *rev'd*, *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015).

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Avoiding Gatekeeper Bias in Hiring Decisions

Brenda M. Bauges
Tenielle Fordyce-Ruff

Bias in hiring used to be overt. For instance, during her keynote address at the Idaho Women Lawyers 2019 Gala, the Honorable Mary M. Schroeder, Senior Judge of the United States Court of Appeals for the Ninth Circuit, shared her experiences trying to find a job after moving to Phoenix, Arizona, in the 1960's. She suffered through several meetings where she was told that the firm wouldn't hire a female attorney. Then, after a meeting with a male partner who was willing to hire her, she was once again told that she didn't have a job because another partner refused to work with a woman attorney.

While these types of incidents hopefully don't happen today, diverse candidates can still face implicit bias in the hiring process. To help you avoid this type of bias, we will first explain why a lack of diversity hurts workplaces, what gatekeeper bias in the hiring process is, and the law governing employment in Idaho. We then offer some suggested ways to help any employer avoid gatekeeper bias.

The benefits of diversity in the workplace

Increasing diversity is a smart business decision.¹ Having employees with different personalities, at various stages of their careers, as well as the more common markers of diversity like gender, race, ethnicity, cultural background, and sexual orientation, improves workplace performance.² Studies as far back as 2006 have heralded the benefits of diversity in the workplace.³ In the specific context of gender diversity, noted benefits include more collab-

In the context of employment decisions, gatekeeper bias happens when an employment decision is based on the decision maker's perceived preferences of the existing employers or co-workers with whom the new employee would be working.¹¹

orative leadership styles that benefit boardroom dynamics, increasing mentorship and coaching of employees, and economic outperformance of competitors. More recent articles continue to tout the benefits of diversity of all types.

For instance, working with diverse people makes everyone smarter because it challenges the brain to overcome stale thinking by focusing more on facts and processing facts more carefully; this in turn leads to more innovation.⁴ In addition to driving innovation, diversity at a workplace makes recruiting easier, avoids high turnover among employees, and increases employee productivity.⁵ Finally, diversity in the workplace can open the employer to a deeper talent pool and to a wider market.⁶

What is gatekeeper bias?

When we think of bias, we often think of discrimination. This bias or prejudice involves "dislike, hostility, or unjust behavior deriving from preconceived and unfounded opinions."⁷ We also tend to link bias with negative emotions.⁸ Some forms of bias, however, come from positive feelings, such as in-group favoritism.⁹ In other words, some forms of bias come from positive feelings

toward an individual that result in "significant discriminatory results from differential helping or favoring."¹⁰ Additionally, while some bias is overt and conscious, oftentimes bias is the result of implicitly held beliefs of which a person is completely unaware.

In the context of employment decisions, gatekeeper bias happens when an employment decision is based on the decision maker's perceived preferences of the existing employers or co-workers with whom the new employee would be working.¹¹ Gatekeeper bias—allowing the perceived bias of co-workers to influence employment decisions—happens even when the gatekeeper herself believes in the importance of diversity.¹² In fact, gatekeepers may not even be aware that these considerations are factoring into the hiring, or other employment, decision. It is not uncommon for such decisions to be considered simply a commentary on who best "fits" the company culture or mission. In other words, even a commitment to diversity doesn't necessarily prevent employers from accommodating biases in hiring decisions.

This gatekeeping bias happens because employers face a challenge with each hire: they must match unknown applicants to well-known, ex-

perience-based requirements.¹³ Thus, each new hire represents a risk to the employer, and the persons charged with hiring decisions often allow emotions, including the desire to avoid risk and reproduce the current situation with a new employee, to creep in.¹⁴ This isn't always bad, but these emotions can mean certain candidates are excluded from consideration based on a gatekeeper's perception that existing employees have a bias, though that might not be the word used, against the candidate's social characteristics, which could include race, gender, or ethnicity.¹⁵

Idaho and federal employment law

Gatekeeper bias is especially concerning not only because diversity in the workplace makes good business sense, but also because it could open up employers to legal liability.

The Idaho Human Rights Act prohibits discrimination in employment based on race, color, religion, sex, national origin, disability, and age.¹⁶ Employment decisions that cannot be based on these protected classes include hiring, termination, compensation, promotions and discipline, and other conditions or privileges of employment.¹⁷

The Idaho Human Rights Act applies to employers with five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, a person who as a contractor or subcontractor is furnishing material or performing work for the state, any agency of or any governmental entity within the state, and any agent of such employer.¹⁸ In addition to the Idaho Human Rights Act, some local governments have enacted legislation seeking to extend employment anti-discrimination protections explicitly on the basis of sexual orientation and gender identity/expression.¹⁹

Like the Idaho Human Rights Act, Title VII of the Civil Rights

Act of 1964 prohibits discrimination in employment based on race, color, religion, sex, and national origin.²⁰ Title VII similarly covers decisions regarding hiring, termination, compensation, promotions and discipline, and other terms and conditions of employment.²¹ Covered employers include those "affecting commerce" with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, any agent of such employer, and various federal governmental entities.²² In addition to the Civil Rights Act, a patchwork of other federal laws prohibit discrimination based on various characteristics in the employment context including on the basis of a disability, age, genetic information, and others.²³

Tips to avoid gatekeeper bias

We have extolled the virtues of diversity in the workplace; uncovered for you the sometimes subconscious and unintentional role of gatekeeper bias as an obstacle to achieving such diversity; and illustrated how this phenomenon can open up employers to legal issues in light of prevailing anti-discrimination laws. The question remains, especially if gatekeeper bias is sometimes subconscious and unintentional, how does your or your client's organization prevent gatekeeper bias from happening? Here is some guidance and some suggestions on how to prevent gatekeeper bias.

First, be aware of your implicit biases.²⁴ We all have them. Unfortunately, too often we do not want to admit, to ourselves or others, that we categorize people based on their appearances, history, or yes, specific culture-conforming attributes. We do not want to admit that we feel more comfortable with people who act, look, and think like us. It is time to get over that. Until we do, we will

never win the battle against implicit bias. Have your hiring managers take implicit bias tests or training.²⁵

Second, create definable rubrics for your hiring process.²⁶ Systemizing your hiring process will go a long way towards ensuring your hiring process results in the most qualified, successful candidate. For example, keep your job description handy and only ask questions related to job-related duties. Consider asking the same questions to all candidates. Assign numbers for candidate answers with "1" being unable/incompetent to complete the required task and "10" being perfectly able/competent to complete the required task.

Third, be very careful of assigning too much weight to "likability," "fit," or "gut-feeling." These feelings could just be implicit biases in disguise. Consider, instead, including another element to your hiring rubric for personal interaction or ability to work well in a team setting, if those are truly important components of the job at issue. Then make sure you rate the candidates based on the definite qualities in the rubric.

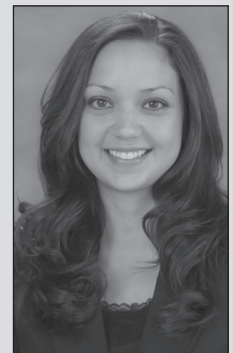
Finally, diversify your hiring panel. Have multiple employees in your office responsible for giving input on job candidates. You can have the candidates meet one-on-one with multiple employees, or in a group setting. Regardless of the format, ensure that the hiring panel includes different genders, cultures, and ages.

Diversifying your panel does not mean that every member will have an equal say in who gets hired, but it does ensure that the feedback that goes into the decision is varied and more likely to be free from individual bias. This diversifying can also go a long way toward ensuring that a single person's feelings about how a candidate's co-workers would feel about him are based on explicit ratings or reactions, not biased assumptions.

Endnotes

1. David Rock & Heidi Grant, *Why Diverse Teams are Smarter*, Harvard Business Review, available at <https://hbr.org/2016/11/why-diverse-teams-are-smarter> (last visited April 9, 2019).
2. Rose Johnson, *What Are the Advantages of a Diverse Workforce?* Houston Chronical (Jan. 28, 2019), available at <https://smallbusiness.chron.com/advantages-diverse-workforce-18780.html> (last visited April 9, 2019); see also *What Are the Benefits of Diversity in the Workplace?* available at <https://theundercoverrecruiter.com/benefits-diversity-workplace/> (last visited April 9, 2019).
3. Alexandra S. Grande, Caitlin Kling, & Brenda M. Bauges, *Women on State Boards and Commissions: Is Idaho Where it Wants to Be?*, *The Advocate*, Volume 59, No. 3/4, p. 30 (March/April 2016).
4. David Rock & Heidi Grant, *Why Diverse Teams are Smarter*, Harvard Business Review, available at <https://hbr.org/2016/11/why-diverse-teams-are-smarter> (last visited April 9, 2019).
5. Sylvia Ann Hewlett, Melinda Marshall & Laura Sherbin, *How Diversity Can Drive Innovation*, Harvard Business Review (Dec. 2013) available at <https://hbr.org/2013/12/how-diversity-can-drive-innovation> (last visited April 9, 2019); Kim Abreu, *The Myriad Benefits of Diversity in the Workforce*, available at <https://www.entrepreneur.com/article/240550> (last visited April 9, 2019); Rose Johnson, *What Are the Advantages of a Diverse Workforce?* Houston Chronical (Jan. 28, 2019), available at <https://smallbusiness.chron.com/advantages-diverse-workforce-18780.html> (last visited April 9, 2019).
6. Kim Abreu, *The Myriad Benefits of Diversity in the Workforce*, available at <https://www.entrepreneur.com/article/240550> (last visited April 9, 2019).
7. Anthony G. Greenwalk & Thomas F. Pettigrew, *With Malice Toward None and Charity for Some: Ingroup Favoritism Enables Discrimination*, *American Psychologist* 669 (October 2014).
8. *Id.* at 670.
9. *Id.*
10. *Id.* at 672.
11. Bill Hathaway, *Three Is Not Good Company for Women Job Seekers*, Yale News (October 19, 2018), available at https://news.yale.edu/2018/10/19/three-not-good-company-women-job-seekers?utm_source=YNemail&utm_medium=email&utm_campaign=yn-10-22-18 (last visited March 22, 2019).
12. See *id.* (noting that the gender biases of potential co-workers can influence hiring decisions even when the gatekeeper is committed to gender diversity).
13. *Emotionalizing Organizations and Organizing Emotions*, 86 (Barbara Sieben ed., 2010).
14. *Id.* at 87, 100.
15. *Id.* at 100.
16. Idaho Code §§ 67-5909.
17. *Id.*
18. Idaho Code § 67-5902(6).
19. See e.g. Boise City Ordinance Title 5, Chapter 15, available at https://www.sterlingcodifiers.com/codebook/index.php?book_id=1079 (last visited April 9, 2019).
20. 42 U.S.C. § 2000e-2.
21. *Id.*
22. 42 U.S.C. § 2000e(b); 42 U.S.C. § 2000e-16.
23. See e.g. Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; Americans with Disabilities Act Amendments Act; Rehabilitation Act, 29 U.S.C. § 791 et seq.; Age Discrimination in Employment Act, 29 U.S.C. §§ 621 et seq.; Genetic Information Nondiscrimination Act, 42 U.S.C. § 2000ff et seq.; Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4311.
24. See Rebecca Knight, *7 Practical Ways to Reduce Bias in Your Hiring Process*, Society for Human Resource Management (April 19, 2018), available at <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/7-practical-ways-to-reduce-bias-in-your-hiring-process.aspx> (last visited March 29, 2019).
25. Project Implicit, <https://implicit.harvard.edu/implicit/takeatest.html> (last visited March 29, 2019).
26. See Rebecca Knight, *7 Practical Ways to Reduce Bias in Your Hiring Process*, Society for Human Resource Management (April 19, 2018), available at <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/7-practical-ways-to-reduce-bias-in-your-hiring-process.aspx> (last visited March 29, 2019).

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COURT INFORMATION

OFFICIAL NOTICE SUPREME COURT OF IDAHO

*Chief Justice
Roger S. Burdick*

Justices
Robyn M. Brody
G. Richard Bevan
John R. Stegner
Gregory W. Moeller

Regular Spring Term for 2019 3rd Amended 2/8/19

Boise January 7, 9, 11, 14, 16 and 29
Boise February 15, 20, 22, 25 and 27
Moscow (U of I Law School) April 4
Lewiston April 5
Boise April 8, 10 and 12
Boise May 6, 8, 10, 15 and 17
Boise June 3, 5, 7, 12 and 13

By Order of the Court
Karel A. Lehrman, Clerk

NOTE: The above is the official notice of the 2019 Spring Term for the Supreme Court of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

OFFICIAL NOTICE COURT OF APPEALS OF IDAHO

*Chief Judge
David W. Gratton*

Judges
Molly J. Huskey
Jessica M. Lorello
Amanda K. Brailsford

Regular Spring Term for 2019 1st Amended 12/3/18

Boise January 8, 10, 15 and 17
Boise February 5, 7, 12
Boise March 5, 7, 12 and 14
Boise April 9, 11, 16 and 18
Boise May 7, 9, 14 and 16
Boise June 18, 20, 25 and 27

By Order of the Court
Karel A. Lehrman, Clerk

NOTE: The above is the official notice of the 2019 Spring Term for the Court of Appeals of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

Idaho Supreme Court Oral Arguments for June 2019

5/20/19

Monday, June 3, 2019 – BOISE

8:50 a.m. *State v. Partee* #45635
10:00 a.m. *State v. Schiermeier* #45642
11:10 a.m. *Kelly v. Kelly* #46748

Wednesday, June 5, 2019 – BOISE

8:50 a.m. *Aspen Park v. Bonneville County* #45679
10:00 a.m. *Parkinson v. Bevis* #46269
11:10 a.m. *State v. Osborn* #46389

Friday, June 7, 2019 – BOISE

8:50 a.m. *Gomez v. Crookham Company* #45542
10:00 a.m. *Yu v. ID State University* #46364
11:10 a.m. OPEN

Wednesday, June 12, 2019 – BOISE

8:50 a.m. *State v. Phipps* #46145
10:00 a.m. *Ciccarello v. Davies* #46340
11:10 a.m. *D.A.F., et al. v. Lieteau et al.* #46026

Friday, June 13, 2019 – BOISE

8:50 a.m. *Stanfield v. State* #46252
10:00 a.m. *Zeyen v. Pocatello/Chubbuck School Dist. #25* #46193
11:10 a.m. *State v. Samuel III* #44182

Idaho Court of Appeals Oral Arguments for June 2019

5/20/19

Tuesday, June 25, 2019 – BOISE

9:00 a.m. *State v. Shaver* #45867
10:30 a.m. *State v. Still* #45792

Idaho Supreme Court Calendar

Oral arguments held in Boise are now available to watch live streaming via Idaho Public Television's Idaho Live at:

<http://idahoptv.org/in-session/courts.cfm>

Please note, playback quality will depend on your Internet connection speed.

Press releases and schedules are posted as they are made available at <https://isc.idaho.gov/>.

**Idaho Supreme Court and Court of Appeals
NEW CASES ON APPEAL PENDING DECISION
(4/1/19)**

CIVIL APPEALS

LICENSE SUSPENSION

1. Did the ITD err in finding that Edwards held a Class "A" commercial driver's license when he committed other offenses, which allegedly triggered a lifetime CDL disqualification?

Edwards v. Idaho Transportation Dept.
Docket No. 45896
Supreme Court

POST-CONVICTION RELIEF

1. Did the district court err by denying Allen's post-conviction claim that his trial counsel was ineffective for failing to file a suppression motion?

Allen v. State
Docket No. 45910
Court of Appeals

2. Did the district court err in granting summary dismissal of Ball's claims of ineffective assistance of counsel?

Ball v. State
Docket No. 45525
Court of Appeals

3. Did the district court err when it summarily dismissed McNeil's second amended petition for post-conviction relief?

McNeil v. State
Docket No. 45766
Court of Appeals

4. Did the district court err in summarily dismissing Stanfield's amended post-conviction petition without an evidentiary hearing?

Stanfield v. State
Docket No. 46252
Supreme Court

5. Did the district court err in denying O'Neal's motion for appointment of post-conviction counsel?

O'Neal v. State
Docket No. 46239
Court of Appeals

6. Whether the district court erred when it summarily dismissed Ward's successive petition for post-conviction relief and his claims for a new trial based on new evidence.

Ward v. State
Docket No. 45897
Court of Appeals

SUMMARY JUDGMENT

1. Whether the district court improperly determined that there were no disputed facts regarding the cause of the loss and thus erred by entering summary judgment in favor of the defendant.

ABK, LLC v. Mid-Century Ins. CO.
Docket No. 46430
Supreme Court

CRIMINAL APPEALS

EVIDENCE

1. Was there sufficient evidence to support Flowers' conviction for felony malicious injury to property and to support a finding that the value of the damage caused by Flowers exceeded \$1,000?

State v. Flowers
Docket No. 45597
Court of Appeals

INSTRUCTIONS

1. Did the district court's instruction to the jury that it could find McCoy guilty of grand theft if the State proved he either wrongfully took property or knowingly possessed stolen property create a fatal variance with the charging document, which specifically charged only the latter?

State v. McCoy
Docket No. 45968
Court of Appeals

NO CONTACT ORDERS

1. Did the district court abuse its discretion when it denied Boggs' motion to modify the NCO?

State v. Boggs
Docket No. 45824
Court of Appeals

PLEAS

1. Did the district court abuse its discretion in denying Salinas' motion to withdraw his guilty plea?

State v. Salinas
Docket No. 46183
Court of Appeals

**SEARCH AND SEIZURE –
SUPPRESSION OF EVIDENCE**

1. Did the district court err in finding the initial encounter by the officer with Herrera was consensual and in denying her motion to suppress?

State v. Herrera
Docket No. 45838
Court of Appeals

2. Did the district court err in granting Sessions' motion to suppress evidence by applying an incorrect legal standard to the question of whether the warrant exception for exigent circumstances applied?

State v. Sessions
Docket No. 46229
Supreme Court

3. Did the district court err by denying Southworth's motion to suppress and by finding the stop was supported by reasonable suspicion to believe that her lane change and muffler noise violated Idaho Code?

State v. Southworth
Docket No. 45820
Court of Appeals

**Summarized by:
Cathy Derden
Supreme Court Staff Attorney
(208) 334-2246**

Idaho Supreme Court and Court of Appeals Opinions

The Idaho Supreme Court and Idaho Court of Appeals cited opinions are made available online as a public service at <https://isc.idaho.gov/appeals-court/opinions>. All cited opinions are posted the day of their release. West Publishing Company publishes all cited opinions in the Pacific Reporter and Idaho Reports volumes.



Idaho Courts

Highlights of Rule Amendments for 2019

Catherine O. Derden

The following is a list of rule amendments for 2019. The orders amending these rules can be found on the Idaho Supreme Court website at <http://www.isc.idaho.gov/recent-amendments>. Be sure to check the Idaho State Bar E-Bulletin for your chance to comment on proposed amendments before adoption. All amendments and new rules are effective July 1, 2019, unless otherwise indicated.

Idaho Appellate Rules

The Idaho Appellate Rules Advisory Committee is chaired by Chief Justice Roger Burdick.

Effective January 24, 2019, a number of appellate rules were updated to delete requirements for more than one copy of motions, briefs, and original petitions, as well as binding of briefs, when these are submitted in paper format by filers who are not required to file electronically. The paper copy is scanned into the Odyssey system.

Rules 24 and 27 were also amended to reflect that, even when the appellant is paper filing the appeal, the transcript and record will be in electronic format for the Supreme Court. The parties may still request a hard copy, electronic copy or both.

Idaho Criminal Rules

The Idaho Criminal Rules Advisory Committee is chaired by Justice Richard Bevan.



Rule 32: Presentence Investigations and Reports. The rule currently provides that the PSI is available to the Idaho Department of Corrections so long as the defendant is committed to or supervised by the Department, and may be retained by the Department for three years after the defendant is discharged. A few years ago the IDOC and the Idaho Commission of Pardons and Parole separated, which has resulted in limited access by the Commission to the PSI when considering persons eligible for parole. The rule was amended to make the PSI available to the Commission.

Rule 33: Sentence and Judgment. The rule has been amended to clarify that, when giving credit for time served, any portion of a calendar day spent in custody must be credited as a day served.

Rule 35: Correcting or Reducing a Sentence. The reference to “a sentence imposed in an illegal manner,” which was inadvertently omitted when the rules were updated in 2017, was added back to the rule.

Rule 37: Reimbursement pursuant to I.C. § 37-2732(k); prosecuting attorney fees. This is a new rule that addresses what information must be submitted by the prosecutor in support of the request for fees

as cost incurred that are reimbursable pursuant to the statute.

Rule 48: Dismissal by the Court. Generally an order for dismissal is a bar to any other prosecution for the same offense if it is a misdemeanor. In accord with recent legislation, the rule has been amended to provide an exception when the dismissal is due to the defendant's agreement to participate in a diversion program pursuant to I.C. § 19-3509, in which case the action may be refiled for failure to complete the diversion program.

In addition, the Supreme Court has adopted several mandatory forms that are now referenced in the court rules and found in Appendix A to the rules. These are the arrest warrant (both felony and misdemeanor), summons (both felony and misdemeanor), notification of rights (felony), waiver of preliminary hearing, and notification of rights (probation violation). A guilty plea advisory form is already in the appendix to the criminal rules but the form has been updated. While the use of a plea advisory form is not mandated, if a form is used by the court, the rule now states that it must be the Supreme Court plea advisory form found in the appendix.

Idaho Rules for Electronic Filing and Service

Now that all counties are on Odyssey the Rule on Electronic Filing and Service has become a more manageable set of rules, the "Idaho Rules for Electronic Filing and Service." There is some slight re-organization along with a few substantive additions and amendments, which are outlined in the following.

Rule 1: Applicability of These Rules. This new rule addresses the applicability of the rules and is similar to language that was contained in the order adopting the Electronic Filing and Service Rule.

Rule 3: Official Court Record. This new rule clarifies that the electronic record is the official court record, which includes documents that have been submitted in paper format and then scanned in by the court.

Rule 5: Exceptions to Electronic Filing of Documents. The rule allows for conventional filing of certain documents and has a new subsection on exceptions for filings by law enforcement.

Rule 8: Party Information. There is a new requirement that the filer must identify the filing party's attorney of record if represented by an attorney.

Rule 12: Time of Filing. The amendment clarifies that, for purposes of filing by electronic transmission, a "day" begins at 12:01 a.m. and ends at midnight in the time zone where the court is located on the day the document must be filed.

Rule 15: Privacy Protections for Filings Made with the Court. This rule on redaction of personal data identifiers has been revised. Previously the subsection on exceptions to the redaction requirement stated the redaction requirement did not apply to documents that are required by statute or rule to include personal data identifiers. That statement has been removed because it is exactly when these identifiers are needed that privacy protections and redaction come into play.

The rule now reads that personal data identifiers should not be included in any document filed with the court unless such inclusion is required by the court, by statute or court rule, or is material to the proceedings. If they are necessary they must be redacted and the filer must then comply with the subsection on options when personal identifiers are necessary. The options subsection still begins with the phrase: "A

party filing a redacted document need not also file an unredacted version of the document," and an example of this might be a document that references a minor by initials but no reference list or unredacted version is needed by the court. It then states that, where inclusion of the unredacted personal data identifiers is required by the court, by statute or court rule, or is material to the proceedings in a document that is open to the public, the party must choose the most appropriate of two options, which are the same options that currently appear in the I.R.C.P. 2.6 and I.R.F.L.P. 218 and were in the previous electronic filing rule. Option one is to file a reference list identifying the redacted information. The reference list is exempt from public disclosure. Option two is to file an unredacted copy with the redacted copy. The unredacted copy is exempt from public disclosure.

Thus, it is up to the filer to decide the best way to get the needed unredacted information to the court and the parties. This will likely depend upon the type of document filed. In most instances a reference list is the easiest and most appropriate. A minor's full name or a financial account number or a birth date can be redacted and a reference list filed with the court setting forth the minor's full name or the full account number or the full date of birth. However, in other circumstances, the appropriate option may be to file a redacted and an unredacted copy of the document. Regardless of which option is selected, the filer must file the exempt from public disclosure document as a separate PDF as required by what is now Rule 6. In addition, the section on sanctions for knowingly violating this rule on privacy protections has been expanded.

Rule 16: Privacy protection in Orders, Judgments, and Decrees. Like the parties, the court must refrain from including personal data

identifiers if possible. This does not apply to documents that are exempt from public disclosure under I.C.A.R. 32. However, there are times that unredacted personal identifiers are needed in a document that is public. The rule clarifies that when the unredacted personal data identifiers are required by statute or court rule, or are material to the proceedings and must be included in an order, judgment, or decree that is open to the public, then the unredacted document will be *protected* from public access. This is not the same as the document being exempt from public disclosure under I.C.A.R. 32, because Rule 16 also states that a redacted copy must be prepared and available to the public upon request.

Rule 20: Appeals to the Supreme Court. The references to sections of the appellate rules that do not apply when electronically filing in the Supreme Court were deleted based on the amendments to the Idaho Appellate Rules.

Idaho Rules of Civil Procedure

The Civil Rules Advisory Committee is chaired by Justice Robyn Brody.

Rule 4: Summons. Subsection 4(b)(2), time limit for service, governs the time in which a plaintiff must serve a summons after filing a complaint. The reference to six months has been replaced with 182 days so that the timing is more exact. It also follows the practice of using seven day increments to track time.

Rule 2.6: Privacy Protections for Filings Made with the Court. The current rule was repealed and a new rule adopted that reads the same as Idaho Rule of Electronic Filing and Service 15 so that those persons who are not required to electronically file documents have the same responsibility to redact the same identifiers.

Idaho Rules of Family Law Procedure

The Children and Families in the Courts Committee is chaired by Judge Diane Walker. The Child Support Guidelines Advisory Committee is chaired by Judge Todd Garbett.

Several rules were amended to conform dates to seven day increments in accord with the Idaho Civil Rules of Procedure. These include Rule 112, on appearance and withdrawal of counsel, Rule 211 on intervention, Rule 502 on Defenses and Objections, Rule 505 on summary judgments, and Rule 704 on final pre-trial procedure.

Rule 120: Dismissal of Inactive Cases. The amended rule is similar to I.R.C.P. 41(e) in that it reduces the time frame for dismissal of inactive cases to 90 days instead of six months and provides the case “may” be dismissed for inactivity instead of “shall” be dismissed. In addition, the amendment deletes the reference to the summons not being served so that it is clear that a Rule 120 dismissal is for no action in the case after service has taken place. Notice is always given before a dismissal pursuant to this rule and the parties have a chance to respond and let the court know the status of the case.

Rule 126: Child Support Guidelines. Several amendments were made to this rule. First the language in Section (J)(4) was amended from a maximum combined Guidelines income of \$300,000 to \$440,000. The language in Section (L) on “expression of child support” was also amended to change “Order” to “Judgment” and to require that the judgment state the due date for support. In addition, citations have been corrected in the form “Affidavit Verifying Income.”

Rule 201: Commencement of Action. Subsection D of the rule has been amended to include a petition for legal separation and to provide

provisions for seeking judgment on “unpaid child support or spousal maintenance or any other payments ordered,” as well as reimbursement of other expenses ordered to be paid by the parties. If the petition to obtain a money judgement is initiated in an action currently pending, the Petition for Money Judgment may now be served as provided in Rule 205.C., unless the court orders personal service. There is also a provision to allow for an expedited case as directed by the court.

Rule 204: Service on Opposing Party or Additional Parties of Initial Pleadings. Subsection B governs the time limit for service of the summons for initial pleadings. Like I.R.C.P. 4, the reference to six months has been replaced with 182 days so that the timing is more exact and so that it follows the practice of using seven day increments to track time.

Rule 212: Signing of Pleadings, Motions, and Other Papers. The amendment mandates that a written certification or declaration be submitted electronically.

Rule 218: Privacy Protection for Filings Made with the Court. The current rule was repealed and a new rule adopted that reads the same as Idaho Rule of Electronic Filing and Service 15 so that those persons who are not required to electronically file documents have the same responsibility to redact the same identifiers.

Rule 711: Subpoenas. The rule has been amended to conform to Idaho Rule of Civil Procedure 45 for interstate subpoenas, dispositions and discovery.

Rule 719: Parenting Time Evaluation. The section on Qualification of Evaluator has been amended to require a minimum of a master’s degree and the evaluator must possess the same or similar qualifications, expertise and trainings as outlined in the Association of Fam-

ily and Conciliation Courts Model Standards of Practice for Child Custody Evaluations.

Idaho Juvenile Rules

The Juvenile Justice Advisory Committee is chaired by Judge Mark Ingram.

Rule 10: Change of Venue. A new rule 10 has been adopted that will replace the former Rule 10, 10A and 10B to simplify the process for change of venue in juvenile cases.

Rule 17A: Correction or Modification of Juvenile Sentence (J.C.A.). This new rule extends jurisdiction for the court to correct an illegal sentence, to modify terms and conditions of probation or informal adjustment based on a change of circumstances, and to correct a court's computation of credit for time served.

Rule 19: Standards and Procedures for Commitment to the Department of Juvenile Corrections (J.C.A.) Rule 19 now requires that parents, custodians, or guardians be included in the screening team process.

Idaho Misdemeanor Criminal Rules

The Misdemeanor/Infraction Rules Advisory Committee is chaired by Judge Michael Oths.

Rule 5: Uniform citation. The language on the citation itself was updated to reflect 2018 legislation providing that a driver's license may not be suspended for failure to pay an infraction penalty. Other updates include language clarifying that when a person is found guilty of the infraction for failure to have insurance the Idaho Transportation Department will send the person a notice that the driver's license is suspended until proof of insurance is provided to the ITD and a reinstatement fee paid. Citations were to be

amended with the new language no later than March 1, 2019.

Rule 6: First Appearance of Defendant. The rule now requires that the defendant sign and submit a form entitled "Notification of Rights-Misdemeanor," which can be found in the rule.

Idaho Court Administrative Rules

Rule 32: Records of the Judicial Department. With electronic filing the goal is to one day have public documents available online. With this in mind, the pretrial risk assessment and the Uniform Citation have been added to the list of documents exempt from public disclosure due to the amount of personal identifying information. Please note that a member of the public who goes on the Portal will still be able to see that John Doe got a uniform citation, when it was issued, the offense cited and the disposition. Citation information is automatically sent to the Idaho Transportation Department so the ITD has a full record of a driving offense.

In addition, (g)(18), which provides that a reference list of personal data identifiers or an unredacted copy of a document filed pursuant to Idaho Rule of Electronic Filing and Service 15, Idaho Rule of Civil Procedure 2.6 or Idaho Rule of Family Law Procedure 218 is exempt from disclosure, now contains the

additional language found in each of those rules that courts will share the reference list or unredacted copy with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies. A definition of redaction was also added to the rule.

Rule 66: Reimbursement for Lengthy Trial Juror Compensation. This new rule provides that any county seeking to obtain reimbursement for lengthy trial juror compensation pursuant to I.C. § 2-222 must submit a written application to the Administrative Director of the Courts. Any application for reimbursement must be received on or between September 30 and November 30 and be in substantially the new form set out in Appendix A to the rules. The rule also sets out what information must be provided, and was effective on March 7, 2019.

Idaho Court Rules

To see the complete set of Idaho Court Rules visit the Idaho Supreme Court at <https://isc.idaho.gov/main/idaho-court-rules>.

Catherine O. Derden is a graduate of the University of Arkansas at Little Rock, where she received her Juris Doctorate Degree in 1979. In 1992, she became an Assistant Attorney General for the State of Arkansas. She moved from Arkansas to Idaho in 1994 and continued to handle criminal appeals as a Deputy Attorney General for Idaho. She has been the Staff Attorney for the Idaho Supreme Court since September 1998.



**July 2019 Idaho Bar Examination Applicants
(as of May 17, 2019)**

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Bar Exam

The Bar Exam is given twice a year, the last Tuesday and Wednesday of February and July. Deadlines for timely filing are October 1 for the February exam and March 1 for the July exam. Late deadlines are November 15 for the February exam and April 15 for the July exam.

To learn more visit our website at: <https://isb.idaho.gov/admissions/bar-exam>

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Hawley Troxell welcomes **Jamie Riley** to the firm's **Boise office**. Jamie is a litigation associate attorney. She graduated with a J.D. from the University of Idaho College of Law and a B.S. in Health Science Studies from Boise State University.




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Elam & Burke welcomes Joyce Hemmer

Joyce Hemmer has 13 years of litigation experience representing personal and business interests throughout Idaho. With a J.D. from William & Mary Law School and a B.A. in Journalism from UNC-Chapel Hill, Joyce excels in legal writing and enjoys putting her skills to work for her clients. Joyce maintains a broad range of practice areas, including professional liability, medical malpractice, commercial disputes, product liability, premises liability, insurance defense and contract actions.

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IN MEMORIAM

Jeanne T. Goodenough 1949 – 2019

BOISE – Jeanne Goodenough was born in New Orleans. She married her surviving husband, Chuck, in 1971. Jeanne attended the University of Idaho College of Law one year behind Chuck. She was on the Moot Court team in her second year and, as an Editor, wrote an article on “Legal Specialization in Idaho” for the Idaho Law Review. After graduation, Jeanne was admitted to the Idaho State Bar in 1978 and was a law clerk for Judge (later Justice) Gerald Schroeder in Boise. She then worked as a Deputy Attorney General and Appeals Bureau Chief at the Idaho Department of Employment. In 1979 she gave birth to a son, John Charles; in 1984, she had another son, William Taylor, who died in infancy. For a few years she was the Deputy Attorney for the Idaho Personnel Commission and then became the Deputy Attorney General and Division Chief at the Idaho Department of Health and Welfare for the Office of the Attorney General. Before retiring she was briefly the Deputy A.G. at the Human Rights Commission.

She is survived by her husband, Chuck; her son, John, his wife and daughter; her mother, Sylvia Taylor; sisters, Carolyn Taylor and Susan Cole; niece, Kristie Cole; and nephews, Jason and Josh Cole. She was predeceased by her father, Command Sergeant Major Hyrum Taylor and her son, William Taylor Goodenough.



Jeanne T.
Goodenough

Allen B. Ellis 1938 – 2019

BOISE – Allen B. Ellis, 80, of Boise, passed away on Sunday, May 12, 2019, at home of natural causes. Allen was born July 11, 1938, in Hailey, Idaho to Boyd Ellis and Alta Billingsly Ellis. After high school, Allen attended Stanford University, receiving his undergraduate degree in 1960. As an ROTC officer he then served as Lieutenant in the United States Navy for two years. After honorable discharge, Allen then went back to Stanford Law, graduating with his LLB in 1965. After marrying Tina Johnson in Murphys, California, they settled and made their home in Boise. Allen was admitted to the Idaho State Bar in 1974. As an attorney in Boise, Allen helped charter the Ellis-Brown & Sheils Law Firm in 1976. After retirement of partners in 2012, Allen opened Ellis Law PLLC.

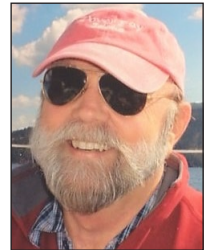
Allen was preceded in death by his parents, Boyd and Alta Ellis. He is survived by his wife of 26 years, Tina of Boise; sister, Barbara Ann Ellis of Boise; sister-in-law, Dona Vlahos; nephew, Nicholas Vlahos of Portland, OR; niece, Betsy Miller Hughes; great-niece, Ella Hughes of England; nephew, Rod Miller of Germany; and great-nephews, Charles and Sean Hughes.



Allen B. Ellis

fully March 22, 2019 in East Aurora, New York at the age of 74. From 1967 to 1969 Craig served in the United States Army, doing a tour of duty in Viet Nam as a 1st Lieutenant. Craig attended Gonzaga Law School, earning his law degree and was admitted to the Idaho State Bar in 1976. Craig began his legal career with Idaho Legal Aid Services, followed by an extended partnership in the Boise law firm of Skinner Fawcett and Mauk. In 1997, Craig resumed his legal practice with Mauk & Burgoyne. Craig reconnected with his high school sweetheart, Connie, in 1997 and they were married in January 2002. Following retirement in June 2009, they resettled in East Aurora, New York where Connie continued her work in hospice care and Craig handled an occasional case as a mediator.

Craig was predeceased by his parents, Dr. Melvin E. James and Constance James. He is survived by his beloved wife, Connie James; his siblings and their spouses, Elizabeth James, Scott (Jane) James and Brent (Pam) James; and seven grandchildren and two great-grandchildren, including two graduates of the University of Idaho College of Law, Louis Marshall, the Bonner County Prosecuting Attorney, and his wife, Angela, who practices in Sandpoint.



W. Craig James

W. Craig James 1944 – 2019

EAST AURORA, NY – William Craig James, born in Buffalo, New York on October 8, 1944, died peace-

Charles B. Lempesis 1951 – 2019

COEUR D'ALENE – Charles Lempesis received his own peace with his Heavenly Father after a long bat-

IN MEMORIAM

tle with cancer on May 10, 2019, at his home in Post Falls, Idaho. Chuck was born Nov. 7, 1951, in Phoenix, Ariz., to mother, Alma Boyd Brown and Charles Louis Lempesis. Chuck served his country in the Air Force as security police. Following that, he continued his military service in North Dakota, working as a narcotics agent. There he met and married Cassandra, the mother of his three children. After being honorably discharged from the Air Force, they moved west. He moved the family to Post Falls, Idaho in 1977



Charles B. Lempesis

to attend law school at Gonzaga University. Upon graduation, Chuck was admitted to the Idaho State Bar in 1980 and he embarked on his 40-year law career, which included the Kootenai County Public Defender's office, City Attorney and private practice. He had the honor of working in both the Reagan and Bush administrations. Following his time with the presidents, he went back into private practice and returned to North Idaho. He then found his calling as a peacemaker and desired to help others resolve their legal differences. This is when he found his "first mate" and last love, Cyndie.

Chuck is survived by his loving wife, Cyndie; his sister, Jenny Bugna; his cousin, Alice; his sons, Troy and

Chris; his daughter, Stephanie; his step-daughters, Desiree Barclift and Aubree Chesnut; 10 amazing grandchildren; and his dogs, Maggie and Walter. He was preceded in death by his parents, Alma and Charles; and his dogs, Bodo, Tucker and Lucy.

Keeping track

Despite our best efforts, there are times when a member's death remains undocumented. Upon learning of a fellow attorney's death, please feel free to contact Lindsey Welfley with the information at lwelfley@isb.idaho.gov. This will allow us to honor the individual with details "In Memoriam."

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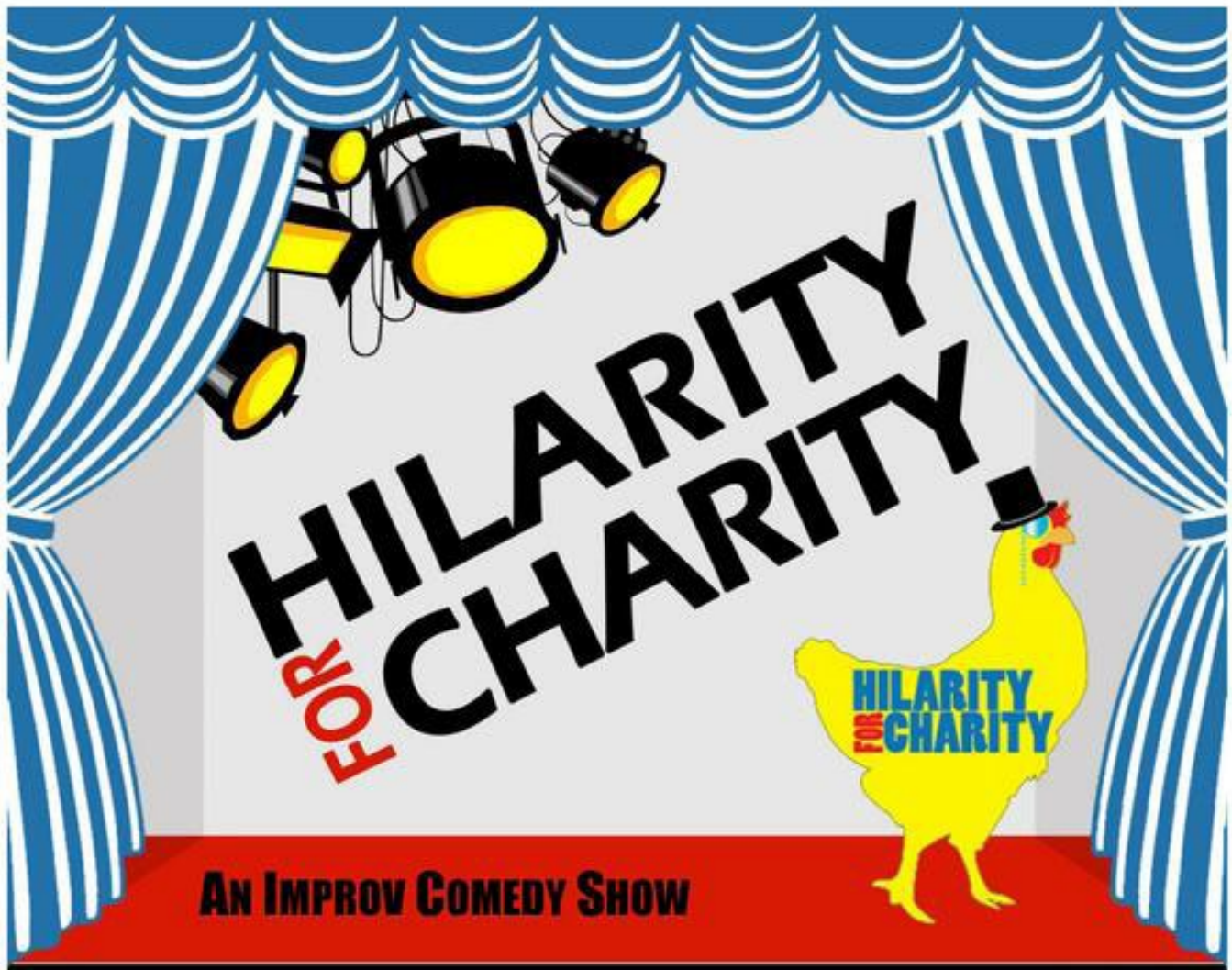


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New Idaho State Bar members admitted

BOISE – The Idaho State Bar, with family, friends and dignitaries in attendance, welcomed 36 new members at the Spring Admissions Ceremony on April 26th in Boise. As always, this was a memorable event to mark the beginning and continuation of the legal careers for these new Idaho members. To see the full list of new ISB admittees visit our website at: www.isb.idaho.gov/NewAdmittees.

Steven W. Boyce appointed as Seventh District Judge

IDAHO FALLS – Steven W. Boyce of Idaho Falls has been appointed as the newest Seventh District Court judge in southeastern Idaho. Judge Boyce graduated from the University of Idaho College of Law and has been practicing for over 20 years. Judge Boyce will replace the recently appointed Idaho Supreme Court Justice Gregory Moeller.



Hon. Steven W. Boyce

Attorney Jamie L. Riley joins Hawley Troxell

BOISE – Hawley Troxell is pleased to announce that attorney, Jamie L. Riley has joined Hawley Troxell. Ms. Riley is a member of the firm’s Litigation practice group. Ms. Riley attended the University of Idaho College of Law earning her J.D. While at the University of Idaho College of Law she was the Chief Managing Editor on the Idaho Law Review. Following graduation Ms. Riley served



Photo by Belinda Brown.

Roughly 36 new members of the Idaho State Bar were sworn in on April 26th at the Boise Centre.

as law clerk to the Honorable Roger S. Burdick, Chief Justice of the Idaho Supreme Court.



Jamie L. Riley

Ms. Riley is a member of the Idaho State Bar and American Inns of Court, and is active with the Idaho State Bar, Young Lawyers Section, and Health Law Section.

Attorney Rachelle Smith joins Arkoosh Law Office

BOISE – Partners Tom Arkoosh and Daniel Nevala welcome Rachelle “Racie” Smith as the newest attorney at Arkoosh Law Offices. Racie served as a paralegal in the Idaho National Guard and, in 2004, was deployed to Iraq. She continues to dedicate her time to serving veterans. Racie obtained her Juris Doctor-

ate from Concordia University School of Law. Racie has over 15 years’ experience in the legal industry and has experience in Workers’ Compensation, Family Law, Employment Law, Child Protection Act cases, Criminal Defense, Real Estate, Business Formation, and Estate Planning.



Rachelle Smith

Fourth District celebrates Law Day, 6.1 Challenge & Access to Justice

BOISE – The Fourth District left standing room only for this year’s Law Day event. Attorneys, judges, and members of the public joined to celebrate Law Day, the *Access to Justice Idaho* campaign kickoff, and the winners of this year’s 6.1 Challenge

at Beside Bardenay on May 1st. Attorney Deborah Kristensen Grasham and journalist Betsy Russell started the evening with a presentation on this year's Law Day theme, "Free Speech, Free Press, Free Society." It was a great reminder of the balancing act we're faced with in the interaction between the press and the public. Immediately thereafter, the Fourth District presented the 2019 Liberty Bell Award to Betsy Russell for her distinguished efforts in advancing public understanding of the legal system.

Bill Mauk introduced the *Access to Justice Idaho* campaign and emphasized the importance of access to our legal system for Idaho's citizenry. The campaign received a huge head start this year with a generous \$40,000 donation from the Fourth District Bar Association. We invite you to make a donation in any amount online at www.isb.idaho.gov/AccessToJustice. Your donation, big or small, is vital to maintaining free legal clinics around the state, providing free legal services for survivors of domestic violence, and so much more.

Keeping in line with the celebration of pro bono efforts in our community, Justice Robyn Brody presented the 6.1 Challenge Awards to deserving firms, offices, and individuals who made a difference by donating their time to those in need throughout the past year. This year's winners were Stoel Rives, Moore Elia Kraft & Hall, Michael Doolittle, and the Office of the State Appellate Public Defender. Thank you to everyone who helped us celebrate Law Day 2019! We look forward to celebrating your efforts in your communities throughout the coming year.



Photo by Lindsey Welfley.

Idaho Supreme Court Justice Robyn Brody (left) emceed the 2019 Law Day event, during which Fourth District attorneys celebrated pro bono service, the kickoff of this year's *Access to Justice Idaho* campaign, and more!

Zach Olson joins Yturri Rose

ONTARIO, OR – Yturri Rose, LLP in Ontario, Oregon is pleased to announce that Zach Olson has joined the firm. Zach obtained his Juris Doctorate at George Mason University and was a member of its prestigious Law Review Publication team. Prior to joining Yturri Rose, Zach practiced for an Alaska-based law firm serving clients in regulatory proceedings and related litigation. He most often represented regulated utilities and hunting-rights groups. His practice will focus on Personal Injury and other litigation.



Zach Olson

New ISB Commissioners

STATEWIDE – The voting members of the Idaho State Bar elected two new members of the Board of Commissioners. Boise attorney Kurt Holzer will represent the Fourth District, replacing current ISB President David Cooper. Moscow attorney Anne-Marie Fulfer will represent the First and Second Districts, replacing Commissioner Mike Howard of Coeur d'Alene. Both Commissioners will



Kurt Holzer



Anne-Marie Fulfer

serve three year terms, beginning in July 2019.

Kurt Holzer is a partner in the Boise law firm Hepworth Holzer. A 1992 graduate of the S.J. Quinney College of Law at the University of Utah, Kurt was a William H. Leary Scholar and served as Executive Editor of the Utah Law Review. Kurt is a former President of the Idaho Trial Lawyers Association. He continues to serve, as he has since 1999, as a member of the Professional Conduct Board of the Idaho State Bar.

Anne-Marie Fulfer is the Assistant Dean for Career Development at the University of Idaho College of Law and a 1999 graduate. Based in Moscow, Anne-Marie has overseen the Career Development Office for Moscow and Boise since 2003. Anne-Marie is a member of the Idaho Women Lawyers and the Raymond C. McNichols Inn of Court. Prior to attending law school, Anne-Marie worked in the California wine industry for nine years for a Catalan sparkling wine company, as an international freight forwarder specializing in wine shipments from the Sonoma Valley, and as an insurance agent in Moscow.

IALL Class of 2018-2019

BOISE – The Idaho Academy of Leadership for Lawyers (IALL) welcomed another class of graduates on May 3rd at Cottonwood Grille in Boise. IALL promotes diversity and inspires the development of leadership within the legal profession by bringing together lawyers from different practice areas with a variety of backgrounds from all across Idaho. Applications for the 2019-2020 class will be available on June 12th and will be due by August 2nd. To learn more please contact Program and Legal Education Director, Teresa Baker, at 208-334-4500.



Photo by Lindsey Welfley.

The IALL Class of 2018-2019 photographed in front of the Idaho Supreme Court building in Boise. Pictured from left to right: Steering Committee Member Stephen Robertson, Ph.D. (back left), Cassandra C. Wright (middle left), Christopher S. Atwood (front left), James E.M. Craig, Marie Callaway Kellner, Chelsea E. Kidney, Steering Committee Member Yecora Daniels, Kimberly E. Smith, Carole I. Wesenberg, Richard W. Roberts, Lisa M. Schoettger, Steering Committee Chair Andrea Courtney, Steering Committee Member Hon. Gregory M. Culet, Ruth A. Coose, Alycia T. Moss, Steering Committee Shadowing Member Mike Porter, Steering Committee Member Amanda Breen, Steering Committee Member Joe Pirtle, and Steering Committee Shadowing Member Julie Stomper. Not pictured: Natalie Greaves and Nicholas A. Warden.

District Bar Officers elected

STATEWIDE – Members of the Idaho State Bar elected officers to their local District Bar Associations this spring. The new officers are as follows:

First District: President, Jillian H. Caires; Vice President, Matthew A. Rakes; and Secretary/Treasurer, Rebecca R. Eyman.

Second District: President, Charles M. Stroschein; Vice President, Jacob E. Reisenauer; and Secretary/Treasurer, Nance Cecarelli.

Third District: President, Ingrid C. Batey; Vice President, Jennifer J. Winters; Secretary, Scott R. Rowley; and Treasurer, Jeffrey L. Phillips.

Fourth District: President, Stephen A. Stokes; Vice President, Nicholas A. Warden; Secretary, T. Matthew Wolfe II; and Treasurer, James A. Cook.

Fifth District: President, C. Ira Dillman; Vice President, Michelle L. Agee; and Secretary/Treasurer, Katie Franklin.

Sixth District: President, Jetta H. Mathews; Vice President, Rachel A. Miller; Secretary, Mary E. Shea; and Treasurer, Jared A. Steadman.

Seventh District: President, Alan F. Johnston; Vice President, Amanda E. Ulrich; Secretary, Tayler W. Tibbitts; and Treasurer, N. Paul Rogers.

Share your news Around the Bar

The Advocate is pleased to present your news briefs, announcements of honors, awards, career moves, etc. in the "Around the Bar" column. Please send submissions to Lindsey Welfley: lwelfley@isb.idaho.gov and include a digital photo. Thank you.

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resolved 1,214 housing issues including unlawful evictions, housing discrimination and foreclosure.

assisted 251 victims of consumer rip-offs, scams and illegal debt collection.

ensured that 1,430 people with disabilities, seniors, and other vulnerable Idahoans received benefits and entitlements.

served 464 people with other critical legal issues including farm and migrant worker rights, wage claims, individual rights and advanced directives.

helped 4,663 people understand their legal rights through free legal clinics and community presentations.



225,000

Idahoans live in poverty & are effectively shut out of the judicial system because they cannot afford legal representation



4 OUT OF 5

Idahoans struggle to make ends meet & do not receive civil legal help when their basic human rights are at stake

Donate online & learn more about the campaign at isb.idaho.gov/AccessToJustice

Checking in with IVLP

Jenni Jordan, IVLP Project and Information Services Coordinator

The Idaho Volunteer Lawyers Program has had a successful year thus far. We took a moment with Sue Pierson, Director of the Idaho Volunteer Lawyers Program, to check in on the program’s recent successes and plans for the rest of 2019.

Jordan: You’ve been with the Idaho Volunteer Lawyers Program (IVLP) for three years. What inspired you to join the organization?

Pierson: I was inspired to join IVLP for the same reason most attorneys engage in pro bono service, to help people. I wanted to make a difference in people’s lives and IVLP was the perfect way for me to use my law degree to increase access to justice.

Jordan: What accomplishments are you most proud of in the past year?

Pierson: IVLP weathered a few staff changes over the last year that were difficult but, as with most changes, presented some opportunities to make some needed enhancements to our processes. We implemented an online application, which has increased our ability to reach clients statewide, as well as allowed us a more efficient means of handling the applications. We have also added new case management software capabilities and processes that have increased efficiency and allowed us to serve more people more quickly.

Jordan: The Boise area is one of the fastest growing places in the country. How has that affected the pro bono need in our state?

Pierson: Family law needs continue to explode. It’s simply not possible to place each case, and therefore, we have to prioritize in whatever way we can. One of our goals for the up-



Photo by Kyme Graziano.

IVLP has had a great first half of the year thanks to our dedicated volunteers. Our staff says ‘thank you!’ Pictured from left to right: Sue Pierson, Jenni Jordan, Elena Becker, Kathy Johnston, Moriah Lenhart-Wees, and Gloria Munoz.

coming year is to expand our clinics throughout the state in an effort to provide some level of assistance to more people. Oftentimes what the client needs is help understanding the legal process and not necessarily an expert in family law—although, of course, we would like to have that as well.

In April, IVLP also hosted “An Insider’s Guide to Child Custody Cases” presented by Judge Kibodeaux, in order to recruit attorneys and particularly new attorneys to take custody cases. The CLE was recorded and will be available as a resource to our volunteers soon. Outside of family law, we saw an uptick in other issues that may be attributed to the population growth such as collections matters, public benefits denials and housing questions. The bottom line is that the justice gap keeps growing.

Jordan: How can attorneys learn more about pro bono opportunities in Idaho?

Pierson: Last year, in a project funded by the Legal Services Corporation, the Idaho Volunteer Lawyers Program and Idaho Legal Aid Services (ILAS), created the Idaho Pro Bono Opportunities Website (PBOW) at www.idahoprobono.org. Once we have screened applicants and determined they are eligible for placement with an attorney, we post the details of those cases on the website for attorneys to browse. Attorneys can view the facts of the case, obtain party information for conflicts, and notify IVLP that they will take the case.

When the case closes, the attorney can report the outcome and the hours spent on the site. We have been working hard to increase the number of attorneys using PBOW. Currently, 330 attorneys statewide have activated their accounts. Our hope is that more attorneys will activate their PBOW accounts and make the time to make a difference.



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DAY PASS REGISTRATION PARTICIPANT

Includes CLEs & Plenary Session ONLY

→ Meal Events & Guests Require Additional Payment →

Thursday Full Day <input type="checkbox"/> \$145	Thursday Morning Session <input type="checkbox"/> \$80	Thursday Afternoon Session <input type="checkbox"/> \$110
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Attendees will receive a thumb drive unless otherwise indicated below.

Hard Copy Thumb Drive

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MEAL EVENT RSVP

Please check if you plan to attend.

**Distinguished Lawyer & Jurist Awards Dinner -
Wednesday, July 24th**

Full Registrant (Included)
 Special Reg. / Day Pass / Guest (\$50 each)
 Dinner Total = \$_____

Service Award Luncheon - Thursday, July 25th

Full Registrant (Included)
 Special Reg. / Day Pass / Guest (\$35 each)
 Luncheon Total = \$_____

**Milestone Celebration Reception - Thursday,
July 25th**

Full Registrant (Included)
 Special Reg. / Day Pass / Guest (\$20 each)
 Reception Total = \$_____

Networking BBQ Luncheon - Friday, July 26th

Full Registrant (Included)
 Special Reg. / Day Pass / Guest (\$30 each)
 Luncheon Total = \$_____

Total Meal Event Fees = \$ _____

Guest Name(s):

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2019 Idaho State Bar Annual Meeting Schedule of Events

Boise, Idaho • Boise Centre • July 24-26, 2019

Wednesday, July 24

9:00 a.m. - 3:00 p.m. **Idaho State Bar Board of Commissioners Meeting**
 12:00 p.m. - 1:00 p.m. **Idaho State Bar Child Protection Section Meeting**
 4:00 p.m. - 5:45 p.m. **Registration / Exhibition Hall**
 6:00 p.m. - 7:00 p.m. **President's Reception**
 7:00 p.m. - 9:00 p.m. **Distinguished Lawyer & Jurist Awards Dinner**



Robert R. Chastain



William F. Gigray III



Jeffrey C. Fereday



Hon. Jesse R. Walters

Thursday, July 25

7:30 a.m. - 5:00 p.m. **Registration / Exhibition Hall**
 7:30 a.m. - 8:30 a.m. **Continental Breakfast**
 7:30 a.m. - 8:30 a.m. **Idaho State Bar Litigation Section Meeting**
 7:30 a.m. - 8:30 a.m. **Idaho State Bar Taxation, Probate & Trust Law Section Meeting**
 8:30 a.m. - 10:00 a.m. **Plenary Session**

- Idaho State Bar Update - Idaho State Bar President David C. Cooper
- State of the Courts - Idaho Supreme Court Justice Robyn M. Brody
- Keynote Speaker - Tim O'Brien, Journalist, Author & TV Commentator

9:30 a.m. - 3:30 p.m. **Community Service Project: Lawyers Give! American Red Cross Blood Drive** **American Red Cross**
 10:15 a.m. **Idaho Law Foundation, Inc. Board of Directors Meeting**
 10:15 a.m. - 11:45 a.m. **CLE Session #1**

- Cybersecurity Vulnerabilities: You and Your Client (1.5 CLE credits of which 0.75 is Ethics)
- Employee Non-Compete Agreements in Idaho (1.5 CLE credits - NAC Approved)
- Legal Research in the Digital Age (1.5 CLE credits)

12:00 p.m. - 1:15 p.m. **Idaho State Bar / Idaho Law Foundation Service Awards Luncheon & Idaho Law Foundation, Inc. Annual Meeting**
 1:30 p.m. - 3:00 p.m. **CLE Session #2**

- A Statewide Look at Domestic Violence and How We Can Help (1.5 CLE credits)
- Clearing Barriers to Military Legal Readiness (1.5 Ethics credits)
- Tackling Implicit Bias: Personally, Professionally and in the Courtroom (1.5 CLE credits of which 0.5 is Ethics)

3:00 p.m. - 3:30 p.m. **Ice Cream Sundae Break**
 3:30 p.m. - 5:00 p.m. **CLE Session #3**

- Lessons from the Masters (1.5 CLE credits of which 0.5 is Ethics - NAC Approved)

5:00 p.m. - 6:30 p.m. **Milestone Celebration Reception: Celebrating 25, 40, 50, 60, 65 & 70 Years of Admission**
 6:30 p.m. - 7:30 p.m. **Idaho State Bar Diversity Section and Health Law Section Award Reception**

Friday, July 26

7:30 a.m. - 11:30 a.m. **Registration / Exhibition Hall**
 7:30 a.m. - 8:30 a.m. **Continental Breakfast**
 7:45 a.m. - 8:45 a.m. **District Bar Association Officers and Bar Commissioners Breakfast**
 8:00 a.m. - 10:00 a.m. **CLE Session #4**

- Can I Get This Tweet Admitted? Evidentiary Issues in the Digital Age (2.0 CLE credits - NAC Approved)
- Emotional Intelligence and Lawyers: Opposites Really Do Attract! (2.0 CLE credits of which 1.0 is Ethics)
- Potpourri from the Faculty (2.0 CLE credits of which 1.0 is NAC Approved)

10:15 a.m. - 11:45 a.m. **CLE Session #5**

- An Overview of Criminal Defense Reform in Idaho (1.5 CLE credits - NAC Approved)
- A View from the Appellate Bench in Idaho (1.5 CLE credits - NAC Approved)
- Health Care Laws Every Transactional Attorney and Litigator Ought to Know (1.5 CLE credits)

12:00 p.m. - 1:00 p.m. **Social Networking BBQ**
 1:15 p.m. - 3:15 p.m. **CLE Session #6**

- Technology and a New Generation: How Progress Affects Professional Responsibility (2.0 Ethics credits - NAC Approved)

3:15 p.m. **Conclusion of the 2019 Idaho State Bar Annual Meeting**



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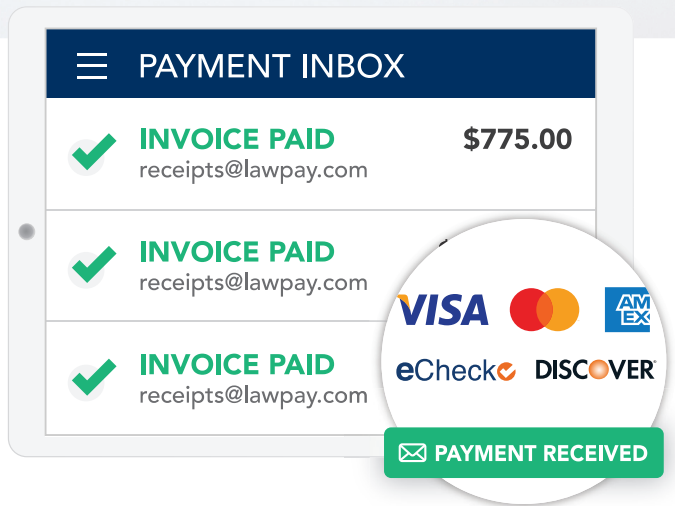
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