



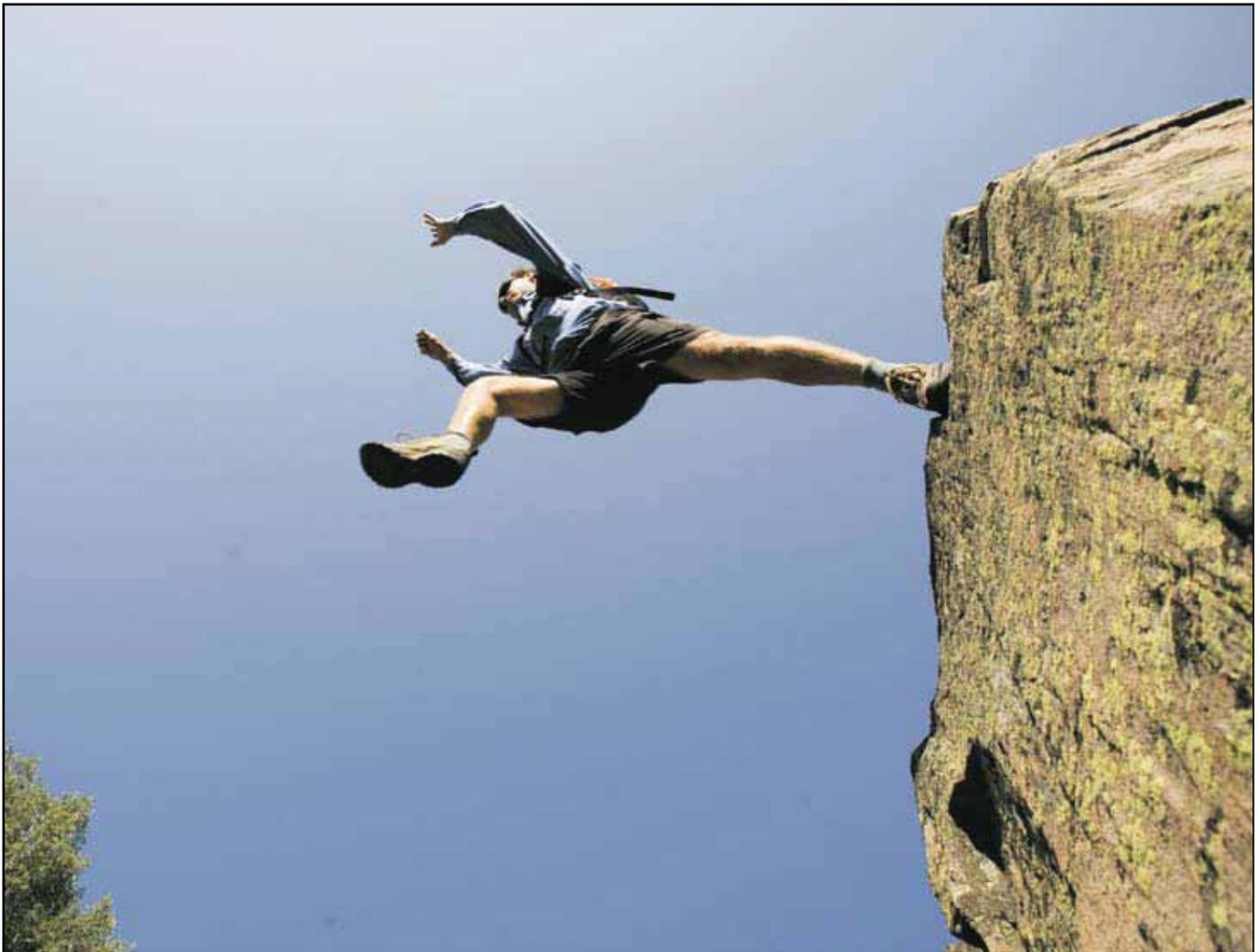
# The Advocate

Official Publication  
of the Idaho State Bar  
Volume 52, No. 11/12  
November/December 2009



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Theron J. De Smet  
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Charissa Ann Eichman  
Jana Beth Gomez  
Kevin Alan Griffiths  
Dinko Hadzic  
Bruce A. Hinchey  
Ryan Lynn Holdaway  
Susie D. Jensen  
Justin Rand Jolley  
Brett Best Judd

Chelsea Elaine Kidney  
Kirk Lee Kimber  
Jennifer Lynn Klocke  
Theodore R. Larsen  
Adam Boone Little  
Stacey Lee Lucich  
Mellisa D. Maxwell  
Jake D. McGrady  
Alicia Michelle Moore  
Jessica Francis Moser  
Marcia Jean Murdoch  
Erika L. Parsons  
Jennifer Lee Perevodchikov  
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Sanja Prutina

Joanna Totorica Rebich  
Maren Redd  
Amanda Joline Rekow  
Morgen Elizabeth Reynolds  
Danielle Melody Rowand  
Nicholas Davis Sackman  
Matthew Brendan Schelstrate  
Christopher Arthur Clinton Smith  
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Jordan Eriksen Taylor  
Mayli A. Walsh  
Shawn F. Wilkerson  
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The Official Publication of the Idaho State Bar  
52 (11/12), November/December 2009

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## On the Cover

Arguments are made in this 1928 moot court practice at the University of Idaho College of Law. This photo, along with several other historic photos inside, were provided by the University of Idaho.

## Section Sponsor

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Special thanks to the November/December *The Advocate* editorial team: Karin Jones, Sam Laugheed, and Brent Wilson.

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### Idaho Law Foundation Fall 2009 CLE Schedule

#### November 20

*Headline News—Year in Review*  
8:30 a.m. - 3:00 p.m.  
University Inn, Moscow  
5.0 CLE credits of which 1.0 is  
Ethics Credit RAC\*

#### December 4

*Headline News—Year in Review*  
8:30 a.m. - 4:00 p.m.  
Red Lion Hotel, Pocatello  
6.0 CLE credits of which 1.0 is  
Ethics Credit RAC\*

#### December 11

*Headline News—Year in Review*  
8:30 a.m. - 4:00 p.m.  
Oxford Suites, Boise  
6.0 CLE credits of which 1.0 is  
Ethics Credit RAC\*

#### December 18

*Ethical Trial Advocacy —  
An Interactive CLE*  
8:30 - 10:30 a.m.  
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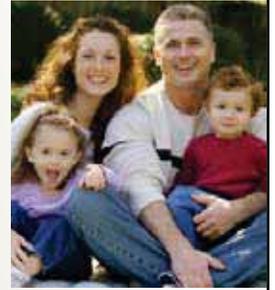
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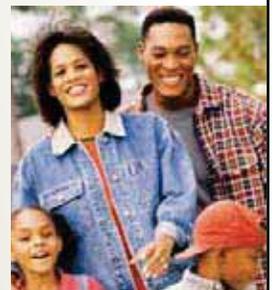
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**Advocate**

*We are family...*

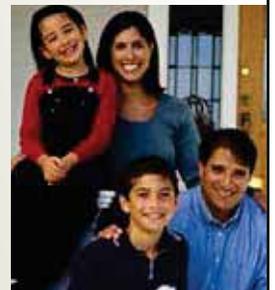
**W**e are a group of more than 200 Idaho attorneys whose practice interests include family law in its broadest definition! We include adoption, divorce, child custody, modification actions, mediation, wills and estates as they touch the family, family economic issues, child protective issues, juvenile justice, family welfare in all its forms, elder law, and any other area that affects the Idaho family!



Our purpose is to improve the practice of family law in the state and to provide resources for our section members to accomplish this goal.



The entire Section welcomes you and invites you to step forward and become part of one of the original sections started in the Idaho State Bar back in the 1980s. Make it YOUR family law section! We pride ourselves in being collegial and open, giving real value for your membership dues. We look forward to your participation and hope that you will find, as one of our survey respondents said in this year's Family Law Section Survey, "it's a pretty good deal as is!"



The Family Law Section provides an avenue to participate in meaningful and worthwhile projects, educational opportunities, a members-only listserv, deep discounts on training and CLEs, and affords an opportunity to get to know other bar members who practice in similar areas of the law. Please contact Dayna Ferrero at (208) 334-4500 or [dferrero@isb.idaho.gov](mailto:dferrero@isb.idaho.gov) if you have questions about joining the Family Law Section. Join today and get the remainder of 2009 for free. Cost to join is \$30 annually (\$10 annually for law students and those admitted to the ISB less than 5 years). Join now or check the Family Law Section on your Bar dues renewal form!



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The Family  
Law Section



The number of lawyers admitted to practice before the bar of Idaho's courts, including the United States District and Bankruptcy Courts, continued to grow this fall when 106 lawyers (seven reciprocal admittees) took the oath of both courts. The Fall Admission Ceremony was held on October 1 at the Boise Centre, and as has been done in recent years, it was a joint ceremony of the Idaho Supreme Court, the United States District and Bankruptcy Courts for the District of Idaho, and the Idaho State Bar. Of the 99 new lawyers, less than half attended law school in Idaho. A total of 38 law schools from all over the United States were represented by this group.

The room was filled, literally, with the candidates for admission, their friends and family, representatives from the State Bar and the Idaho Law Foundation, the Law School, as well as elected officials, including Secretary of State Ben Yursa and Lt. Gov. Brad Little, whose son was being admitted to practice.

Picture this: the Clerk of the Supreme Court calls the session to order. All rise and justices and judges from the Idaho Supreme Court and Court of Appeals, the Ninth Circuit Court of Appeals, and the United States District and Bankruptcy Courts enter and take their places at the top level of the dais. It is an impressive and inspiring scene. And it sends a message, not only of support and congratulations to the newest members of the Idaho Bar, but also of the collegiality, camaraderie and solidarity of the courts before whom we practice. Chief Judge Winmill has said this relationship is another unique thing about Idaho. Unless you've argued before an en banc panel of a U.S. Court of Appeals or the United States Supreme Court, most of us have never been before so many judges at one time.

One of the traditions of the ceremony is that the attorneys in the audience are

given an opportunity to reaffirm our oath with the candidates for admission, which we do. For those of you, like me, who have not read, or reaffirmed, the oath since you were admitted, take a minute and do so:

I DO SOLEMNLY SWEAR THAT;

I will support the Constitution of the United States and the Constitution of the State of Idaho.

I will abide by the rules of professional conduct adopted by the Idaho Supreme Court.

I will respect courts and judicial officers in keeping with my role as an officer of the court.

I will represent my clients with vigor and zeal, and will preserve inviolate their confidences and secrets.

I will never seek to mislead a court or opposing party by false statement of fact or law, and will scrupulously honor promises and commitments made.

I will attempt to resolve matters expeditiously and without unnecessary expense.

I will contribute time and resources to public service, and will never reject, for any consideration personal to myself, the cause of the defenseless or oppressed.

I will conduct myself personally and professionally in conformity with the high standards of my profession.

SO HELP ME GOD.

Our oath is more than a mere statement of lofty ideals or aspirations, it is an ongoing promise and commitment we made as a condition to practice law. (As a footnote, if you were to look, you will find the oath buried in Rule 214 of Bar Commission Rules and will see that it was "rescinded and replaced" in late 1990. So, those of us admitted before 1991 took a slightly different version, which I read and there is nothing new here.)

The gavel then passed to Judge Trott, who granted the motion of United States Attorney Tom Moss to admit the applicants to the federal courts, and the federal court oath was administered: "I do solemnly swear or affirm, that I will support the Constitution of the United States, that I will bear true faith and allegiance to the government of the United States, that I will maintain the

respect due to the courts of justice and judicial officers, and that I will conduct myself uprightly as an attorney of this court." The simple word "uprightly" captures it all.

The oaths provide the backdrop for the remarks made at the ceremony by the President of the Idaho Law Foundation, the President of the Bar and the two keynote speeches by a judge from the federal courts and a justice of the Idaho Supreme Court. Let me briefly summarize what was said.

Chief Magistrate Judge Candy Dale represented the federal courts. She began by noting that the two oaths would serve as guideposts and, along with the ceremony, provided a rite of passage to the legal profession. These new lawyers now had a "ticket to a ride," but it was up to them, and no one could be sure, how far, how long, how bumpy or how smooth that ride would be. It was a time not only for retrospection, but also a period for introspection, with this basic question they should ask and answer:

Will your work define who you are, or will who you are inform and define your work? The practice of law is demanding. It will take all of you if you let it. You must be proactive rather than reactive when it comes to deciding how you will live your life. On this question if you have a blank chalkboard, everyone else will write on it.

By honoring their oaths, and grounding their careers in a reputation for integrity, a contribution to the legal community (and the other communities of which they would be a part), and a commitment to the cause of justice for all, they could chart their own path to success.

Chief Justice Eismann spoke on behalf of the Supreme Court and observed that an attorney fills three different roles. As a member of the legal profession, being an attorney is part of one's identity, and we have an opportunity and an obligation to work to improve the profession. As a representative of their clients, the new lawyers were reminded that the matters they handle are not theirs but the clients'. And, consistent with the oath, representing a client is not simply about winning at any cost—we must act within



B. Newal Squyres



Photo by Kyme Graziano, Idaho State Bar

Distinguished members of the judiciary and Bar preside during the formal admissions ceremony. It was an opportunity to reflect on the principles of the profession.

our ethical and legal obligations and, when appropriate, consider the interests of third parties. Third, an attorney has a special role as a public citizen. With that, we each become a representative for the rest of us and should work to advance the rule of law and help overcome the public's misconceptions about lawyers and the legal system.

Chuck Homer, President of the ILF, came over from Idaho Falls to acquaint the new lawyers with the mission of the Foundation. In addition, Chuck spoke to the necessity for civility and integrity in all our dealings with each other, the courts and our clients. He also emphasized a lawyer's commitment to give back to the community, particularly in the form of pro bono work, and the personal satisfaction gained from fulfilling this part of our oath. And the need is paramount. Interest rates have dropped to the lowest level in half a century, causing a significant decrease in IOLTA funds available to support critical Idaho law-related services, such as legal services to low-income families and individuals. In 2008, the Idaho Law Foundation was able to grant \$450,000 to law-related services, of which about 77% went to organizations that provide legal services to the disadvantaged. In 2009, the total grant amount decreased to \$360,000. For the 2010 grant cycle, the designated amount for grants is approximately \$190,000, which includes allocating some funds from the IOLTA reserve account. The amount of interest generated from IOLTA accounts in 2009 is about 40% of the amount generated in 2008.

On behalf of the Bar, I welcomed Idaho's newest attorneys and expressed that to be a lawyer—to be called to the bar, as it is often put—is a high and noble calling, and quoted John W. Davis, a New York lawyer, who described our profession this way over 60 years ago:

True, we build no bridges. We raise no towers. We construct no engines. We paint no pictures—unless as amateurs for our own principal amusement. There is little of all that we do which the eye of man can see. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men's burdens and by our efforts we make possible the peaceful life of men in a peaceful state.

This is not some high-minded, pie-in-the-sky view of what lawyers do, although it does set a very high standard, consistent with our oath.

I suggested three things for the new admittees to keep in mind as they moved forward with their careers: A good lawyer is first and foremost a problem solver—this being what I was taught by a great judge, trial lawyer and former Attorney General of the United States, Griffin B. Bell, and by my first mentor in the practice, R.B. Kading, Jr.—one of the best trial lawyers in Idaho. In my opinion, I said they would be happier and more successful, day in and day out, and over the long run if they viewed their job and first priority as a problem solver. I also suggested they needed to be a good listener, which is not always easy because, as a general rule, most lawyers like to talk. But you don't learn much by talking. You don't learn what a

court is thinking. You don't learn about your client's problem. And you cannot learn the facts underlying whatever kind of issue you are dealing with unless you listen. This includes listening to one's friends and family, whether talking to them about a legal issue or just life in general. Finally, in the midst of these tough times, it is important that they be patient with themselves and with their career because the hard work and sacrifice of becoming a lawyer—and the hard work and sacrifice of their friends and family—would be worth it.

This was my fifth swearing-in ceremony (including the ones in the spring), none of which I would have attended if I had not been a Bar Commissioner. It is one of the "perks" of the job that does not take much time and provides a nice reward for being an Idaho lawyer.

#### About the Author

**B. Newal Squyres** is a senior litigation partner of Holland & Hart LLP. He is serving a sixth-month term as President of the Idaho State Bar Board of Commissioners. He represents the Fourth District. Newal received his undergraduate and law degrees from Texas Tech University.

#### Endnotes

<sup>1</sup>Justice Donald W. Lemons, "Personal Observations for New Lawyers," *The Bench* (March/April 2009).

<sup>2</sup>Fred R. Shapiro, *The Oxford Dictionary of American Legal Quotations* (1993) (quoting John W. Davis, Address, New York, Mar. 16, 1946).

## 2009 PRO BONO AWARD RECIPIENTS

### Diane K. Minnich

At the November resolution meetings we will honor those attorneys receiving 2009 pro bono awards. The pro bono awards are named for the late Idaho Volunteer Lawyers Program (IVLP) Director Denise O' Donnell Day, who dedicated her career to providing legal services to the poor and disadvantaged. Pro bono award recipients follow her example of freely providing their professional abilities, time and service to those with limited resources in need of legal services.



Diane K. Minnich

### First District

**Peter Smith**, Lukins & Annis, Coeur d'Alene, represented a single mother in obtaining custody of her two pre-teen children. Peter donated 60 hours in the case. The father had been in prison for five years for felony assault (molestation) of a minor. On his release from prison, the father stole the children and hid them from their mother. Although not the easiest of clients, the mother was extremely concerned for the safety of her children. Peter was able to negotiate a custody arrangement to her satisfaction.



Peter Smith

**Amy Bistline**, Amy Bistline Law donated 50 hours in the case, serving as Guardian ad Litem for the children and **Mark Jackson**, Mark Jackson P.A. donated his services mediating the custody arrangements.

### Second District

**Anne Dwelle**, Wakefield & Dwelle, Moscow, was nominated by the University of Idaho College of Law Legal Aid Clinic

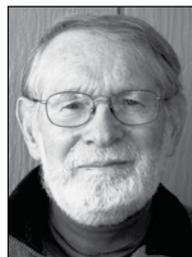
staff for providing outstanding pro bono service and leadership in a special joint program of the Idaho Volunteer Lawyers Program, the UI College of Law Legal Aid Clinic, and the College of Law's Student Sexual Orientation Diversity Alliance group. Anne helped create this special project but also was the primary presenter in the program's educational workshop for same sex couples on topics such as wills and powers of attorney. Anne then partnered with law students to help prepare documents free of charge for same-sex couples over the course of an intense day of client interviews, drafting, review, and signing. Anne frequently volunteers at the UI College of Law where she teaches and mentors students.



Anne Dwelle

### Third District

**Hon. Wayne Fuller** is an Emeritus Attorney from Weiser who has generously volunteered to assist those in his community in need of legal services. For example, he donated over 100 hours representing a divorced mother in a contested Protection Order hearing, and then in an action to modify the divorce decree. The woman needed to obtain custody of her 15 year - old daughter and appropriate child support. The case was bitterly contested and involved difficult facts including allegations of sexual abuse by the father of the daughter. Despite the difficulties in this representation, Wayne said he was glad to do it and was glad that IVLP does these cases.



Honorable Wayne Fuller

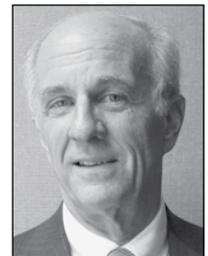
### Fourth District

**Vaughn Fisher**, a sole practitioner in Boise, had just moved to Idaho from another state where he primarily did work as a civil litigator when he agreed to represent a victim of domestic violence. The woman had fled the state with her child to escape her abuser. Competing divorce actions were filed and later consolidated in Idaho. The father also moved for an order requiring Vaughn's client to return to Idaho. Vaughn filed an emergency appeal to the Idaho Supreme Court and prevailed for his client establishing an important precedent for preserving the safety of domestic violence victims in domestic cases. Vaughn said that working on this case was "one of the most rewarding things I've ever done."



Vaughn Fisher

**Mark Geston**, Stoel Rives, LLP, Boise, is a civil litigation attorney who volunteered to assist immigrant women and children in Idaho who are victims of domestic violence committed by a United States citizen spouse or parent. These cases are presented using the federal "Violence Against Women Act" (VAWA). VAWA allows immigrant victims to obtain immigration relief without their abuser's cooperation or knowledge and thereby eliminates the ability of abusers, traffickers, and perpetrators of sexual assault to control their victims with threats of deportation. Since receiving training to provide this kind of work Mark has spent 60 hours preparing immigration filings for two victims of domestic violence whose



Mark Geston

safety and legal status are being protected through his efforts.

**Terri Pickens**, Pickens Law, PA Boise, was nominated by the Fourth District's Court Appointed Special Advocates (CASA) program for her work representing Guardians Ad Litem in child protection cases. The program staff said that Terri "has shown a passionate commitment to children in our community through her representation of CASA/GAL volunteers over the years." The staff called Terri a "fierce advocate" and that attorneys such as Terri make these services to abused children possible. One particular case Terri handled ended up with the termination of the parents' rights. Terri committed well over one hundred hours (100) to the case and according to the CASA staff she "did a phenomenal job representing her client and the children's best interests." Terri says of volunteering with CASA that "it is more than worth your time, its rewarding."



Terri Pickens

#### Fifth District

**Kent D. Jensen**, a sole practitioner in Burley, represented a father who was embroiled in a custody battle over his eight year old son. The boy had been living with Kent's client after he had been repeatedly taken from the mother by Child Protective Services. The case was highly contested and included numerous accusations against the father that were ultimately proved unfounded. Kent spent more than 50 volunteer hours in the case but ultimately achieved a successful resolution for his client. Kent did a great job in this highly contentious case.

**Clayne Zollinger Jr.**, an attorney in Rupert, represented a domestic violence victim and mother of two children in a divorce. The husband had been arrested and jailed for domestic violence. After his release, he took the children for a visit, took them out of state and then refused to return them. The mother was afraid even to attempt to go pick up the children because of the possibility of violence. Clayne said "this was an interesting case. It required an ex parte order, a temporary custody hearing and a final trial on the merits. I did not keep track of hours on this case, but it took well over 40 hours." Clayne feels volunteering is a way to give back to the community

and is an important responsibility of the profession.

#### Sixth District

**Monte Gray**, Service, Spinner & Gray, Pocatello, was nominated by the Sixth District CASA program for his dedication to the program over the past 19 years. The CASA staff said that Monte always goes beyond the call of duty. "He is always willing to help and educate the guardian ad litem on legal issues and provide the necessary legal support." They went on to say that he does not give up just because the case takes several years, or is time consuming. In fact, Monte is still involved in a case that began in 2002. Two children in the case have been located in a permanent home and the fate of the third child still undecided. Monte is willing to spend extra hours with the guardians ad litem in his cases. Monte encourages other attorneys to get involved, "it's great for everybody to give back to the community. If you give more than you take out of society, it makes your existence worthwhile."



Monte Gray

#### Seventh District

**Steve Hall**, Petersen, Moss & Hall, Idaho Falls, spent 115 hours on a very contentious custody modification. Steve's client was a victim of severe domestic violence and sexual assault (her ex-husband raped her shortly after they were divorced). The parents originally were given joint custody of the children. However, even after the divorce, the pattern of violence and abuse continued. Steve assisted the mother in seeking sole custody of her four children. The Judge ordered a custody evaluation which imposed a terrific financial burden on Steve's client. Steve's firm initially fronted the cost of the evaluation until the Idaho Volunteer Lawyers Program (IVLP), the Coalition Against Sexual and Domestic Violence and Family Court Services could gather funds to help reimburse the cost of the custody evaluation. Steve stated, "The custody evaluation was expensive, but it pretty much validated [the mother's]



Steve Hall

concerns about her husband's anger and manipulative behavior, and allowed her to successfully retain custody of the children and to force him into a full domestic violence /anger management program." Steve also said: "This is one of those cases where IVLP certainly made a difference. She could not have done what needed to happen without an attorney, and there are four children who are better off for it."

**Chad Campos**, Campos Law Idaho Falls, was nominated by Seventh Juris Doctorate CASA program. The CASA staff said that Chad "has been an enthusiastic supporter of the CASA Program by taking pro bono cases for over 8 years." Chad rarely says "no" and has been willing to travel to the outlying counties to serve the children through the program. Chad's dedication and motivation to volunteer come from his concern for the unprotected children in his community. He calls volunteering for CASA to be "extremely fulfilling and very much worth the time." The Seventh District CASA program is very appreciative of his service.



Chad Campos

### It's Good to Be Seen

Do you know of an attorney or judge that has received special recognition for their hard work, or who has been honored for their professional achievements. If so, *The Advocate* wants to hear from you. We would like to share the news of their accomplishments. Send detailed information along with a photo of the recipient to *The Advocate* Managing Editor Dan Black at [dblack@isb.idaho.gov](mailto:dblack@isb.idaho.gov).



## IDAHO STATE BAR 2009 RESOLUTION SCHEDULE

### District Bar Association Resolution Meetings (Meeting dates and times)

**Nov. 12:** 2nd District in Lewiston at the Red Lion Hotel beginning at 6:00 p.m.

**Nov. 13:** 1st District in Coeur d'Alene at the Hampton Inn beginning at Noon.

**Nov. 17:** 3rd District in Caldwell at the Elks Lodge beginning at 6:00 p.m.

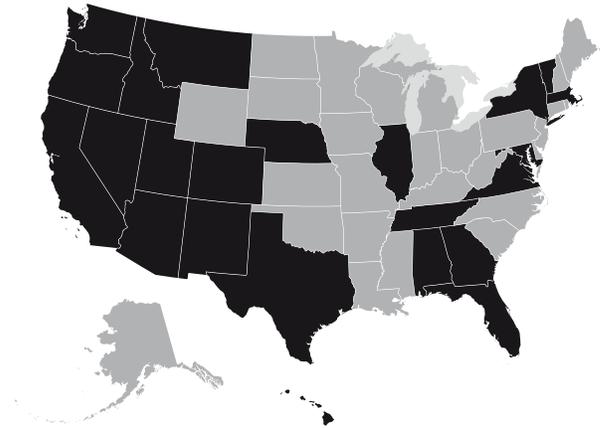
**Nov. 18:** 4th District in Boise at the Grove Hotel beginning at Noon.

**Nov. 18:** 5th District in Twin Falls at the Canyon Crest Event Center beginning at 6:00 p.m.

**Nov. 19:** 6th District in Pocatello at the Juniper Hills Country Club beginning at Noon.

**Nov. 20:** 7th District in Idaho Falls at the Sandpiper Restaurant beginning at Noon.

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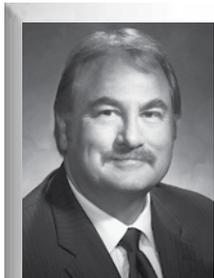
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## LOOKING BACK AT THE LEGAL EDUCATION IN IDAHO

Honorable Ronald E. Bush  
*U.S. Courts, District of Idaho*

This month's issue of *The Advocate* marks the fourth year in which the Idaho Legal History Society has brought attention to the history of lawyers, judges and courts in Idaho. Past issues sponsored by the ILHS have featured the riveting murder trial arising out of the assassination of former Governor Frank Steunenberg and the labor and class struggles that marked that era; the interesting and sometimes less than proud history of the use of test oaths in Idaho; the remarkable and compelling stories of our most experienced and distinguished lawyers and judges that have been, and continue to be, gathered in the work of the ILHS's Oral History Committee; and now, in this issue, the history of legal education in Idaho.



Honorable  
 Ronald E. Bush

The choice of legal education for the theme of this year's issue was a natural because scholarly training in the law began in Idaho 100 years ago. In the fall of 1909, 18 students gathered for classes at the University of Idaho. The first dean and sole instructor in the law was Professor John F. MacLane. (Before that time, there were a goodly number of the still small community of lawyers in Idaho who had attained their profession through the common practice of an informal apprenticeship in the law, usually referred to as "reading for the Bar.") The law school grew steadily, gained accreditation from the American Bar Association early on, and has been the single most important

center of legal learning for Idaho since its founding, not only because it serves as the only law school in the state, but because of the quality of its graduates (more than 4,500 in all). Consider the prominent roles that such graduates have had in the courts, businesses and halls of government in Idaho and other areas of the country. These graduates and faculty have had a profound influence on policy and law in Idaho. Although I am not a graduate of the College, I have many close friends who are. In my own family, my father, Gene, was a stellar example of the extraordinary lawyers produced at Idaho, and my brother, John, fills that family role today. It can be safely said that everyone who works in the practice of law in Idaho, or in the judicial system, has either a personal connection to the College of Law, or a direct relationship with someone who has that personal connection.

This issue contains articles about the beginnings and the progress of the law school, its sometimes scrambling efforts to keep up with the needs for adequate physical space and a well-trained faculty, and about some of the most noteworthy persons and personalities who helped shape the first 100 years of the college. The focus of the articles is appropriately upon the important scholarship and training of new lawyers that is the mission of the College of Law. That is not to say, however, that the study of law at the University of Idaho was ever a completely ascetic exercise. For many, local Moscow eating and drinking establishments such as the "Spruce" and the "Garden" became *de facto* study halls, where law students would go to shake off the mental cobwebs of long days of Socratic dialogue and case reviews. The portrait galleries of each year's graduating class and the idiosyncratically adorned study



carrels contain ample evidence of the sometimes offbeat and often irreverent students who peopled the classrooms. In recent decades, as students with families became more common, informal supportive gatherings of such extended law school families often took place as each family understood that the study of law was a strenuous undertaking for not just the mom or dad who went to classes in the morning, but for everyone in the household. Indeed, the College has come a long way from the days when reportedly there was only one common restroom for the law students and someone had to

### IDAHO LEGAL HISTORY SOCIETY

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stand guard outside the door while one of the few women who attended classes in those days was inside.

There is not much mention in these articles of the place of the College of Law in the larger whole of the University. Nonetheless, the College has always held a proud and admired place at the University of Idaho. The remarkable mix of intelligence, talent and diverse backgrounds that makes up a law school class has always been a valued part of the campus life at the University and no doubt always will be, regardless of the inexorable changes that geography, population and politics may bring to the future of the College.

Our issue also brings you a light-hearted look by Tom High at the Idaho history of everyone's favorite subject – continuing legal education - and Mary Hobson writes about the history of the *pro bono* responsibilities that rest upon every lawyer. Thanks to both of them, and a resounding note of appreciation to Dean Don Burnett and Associate Professor Michael Greenlee of the College of Law, who carried the laboring oars of the considerable work that went into this issue. Kudos as well to Dan Black, the new Managing Editor of *The Advocate*, and to the very capable Editorial Advisory Board headed by John Zarian, for their good editorial review.

Though this issue primarily contains the story of Idaho's only law school, from its beginning to its present and its future, the subject is of both contemporary and historical interest, even for those Idaho lawyers who did not attend the College of Law at the University of Idaho. In many ways, the study of law is a shared experience regardless of the locale and the evolution of the Bar and of the courts. All have ties to the state's only institution for the study of law. Hence, this focus upon Idaho's only law school is a fitting subject for this year's ILHS' edition of the *Advocate*. However, the history of legal education in future decades will be a different history. The widely discussed plans of the College of Law at Idaho to expand its existing presence in

*In many ways, the study of law is a shared experience regardless of the locale and the evolution of the Bar and of the courts. All have ties to the state's only institution for the study of law.*

the Treasure Valley are already drawing great interest. Progress is taking place under plans first announced in 2008 by Concordia University to open a private law school in Boise, under the direction of its noteworthy first dean, former Idaho Supreme Court Justice Cathy R. Silak.

The ILHS is proud to bring this issue of *The Advocate* to you each year. Please consider joining our efforts at the Idaho Legal History Society, headed this year by our capable President and noted law historian in her own right, Deb Kristensen. Information can be obtained from any of our members, and from our website at [www.id.uscourts.gov/ilhs/](http://www.id.uscourts.gov/ilhs/). We depend entirely upon the volunteer efforts of people like you, who share an interest in the many stories of remarkable achievement and resolve that mark the history of the law in Idaho.

Law school was for many of us, as Charles Dickens penned in a different setting, the best of times and the worst of times. We at the ILHS hope that these stories about the history of legal education in our great state will bring back memories of your experiences. Now, if I could only shake that nightmare about having rarely gone to class in Secured Transactions and realizing that the final exam is the next morning. That isn't my favorite memory of law school, but it does remind me that rigorous class attendance was never a problem for my old friend and law school classmate Kevin Beaton, who spent a number of weeks during our third year of law school visiting his Irish kinfolk in the old country. He still aced all of his exams and graduated with high honors and I'm still shaking my head in amazement.

Now, who will volunteer to discuss the holding in *Hadley v. Baxendale*...?

#### **About the Author**

**Judge Ronald E. Bush** was appointed a United States Magistrate Judge for the District of Idaho on October 1, 2008. Previously, he served as a state trial judge for five years and prior to that he practiced law for 20 years in both the Pocatello and Boise offices of the law firm of Hawley Troxell Ennis & Hawley, LLP. Judge Bush received his B.A. degree in 1979 from the University of Idaho and his J.D. in 1983 from The George Washington University College of Law. Judge Bush is a fifth-generation redheaded, fly-fishing, baritone Idahoan who is a former chairman of the board of trustees for the Idaho State Historical Society, co-founder and former president of the Idaho Legal History Society and a former Ninth Circuit Lawyer Representative. At his investiture, his siblings presented him with a trophy recognizing him as the Best Hockey Player from Idaho Falls Ever to Become a Federal Judge.

## **2010 Licensing Packets**

The 2010 licensing packets will be mailed in mid-November. If you have not received your packet by December 11, please contact the Membership Department at (208) 334-4500 or [astrouser@isb.idaho.gov](mailto:astrouser@isb.idaho.gov). The licensing deadline is February 1, 2010.

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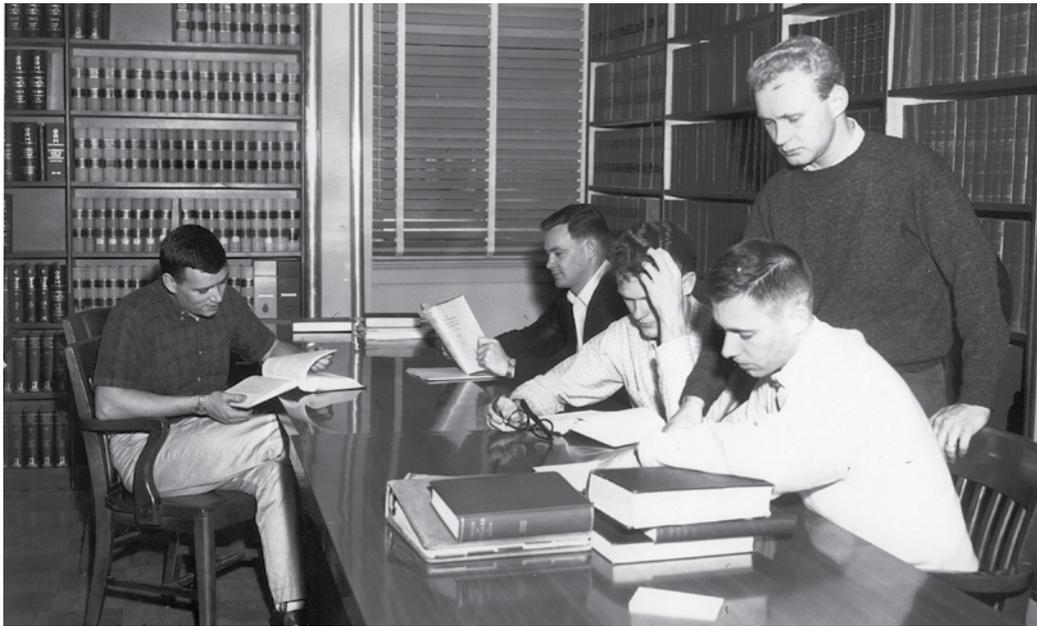


Photo courtesy of University of Idaho

Students prepare for exams at the University of Idaho College of Law in 1961.

# FROM A SAGEBRUSH ERA TO A STATEWIDE MISSION: IDAHO'S LAW SCHOOL SPANS 100 YEARS

Robert McCoy  
*Washington State University*

**F**or a century, the saga of legal education in Idaho has been the story of the University of Idaho College of Law.

The story begins, as it were, with an ending – the end, that is, of what John Fisher MacLane, Idaho's first law dean, called the "Sagebrush era."<sup>1</sup> According to MacLane, at the beginning of the 20<sup>th</sup> century Idaho remained "distinctly in its pioneer stages of development." Even Boise, the largest city in the state, had a "typically western pioneer town atmosphere."<sup>2</sup>

The same could be said for Moscow, located far north of Boise and home to the University of Idaho. Although the University had been created on paper by the Territorial Legislature in 1889, and had opened its doors in 1892, Moscow at the turn of the century still had no paved

streets. While there were "no six-gun packing cowboys in sight," a visitor in Moscow definitely knew he was "way out west."<sup>3</sup> Idaho was moving away from its pioneer roots, however, and was developing modern industries and infrastructures. Between 1906 and 1912, a radical change was occurring in the industrial, social, and political atmosphere of Idaho. The legal profession followed this same trend in modernization, as exemplified by the founding of a public law school in 1909.

Among the first key figures at U of I was James H. Forney, who served first as a territorial prosecuting attorney in Mount Idaho (now Grangeville). He went on to be elected as district attorney for the Second Judicial District when Idaho became a state and was later appointed to the position of U.S. District Attorney for Idaho by President Grover Cleveland from 1893-1897. With the erection of the first building on the University of Idaho

campus, Forney was named "provisional" president of the university to "formulate a curriculum and to secure professors for the chairs of learning."

At the request of UI President James MacLean in 1908, Forney prepared a statement to be sent to the Board of

Regents entitled *The First Steps Toward Establishing a Law School at the University of Idaho*. The following year, the Law department was established.

Forney served as one of the first faculty members at the newly founded College of Law, where he helped to supervise the Practice Court. A well-respected attorney, Forney was known throughout

Idaho and the Inland Empire as "Judge" Forney, though he never served as one.

The fledgling school – first known as a "department" which would soon become the College of Law – opened its doors on September 20, 1909, with 18 full-time first-year students and four part-time students.<sup>4</sup> Housed in the newly



Robert McCoy



A float pulled by College of Law faculty shows Lady Liberty at the Campus Day parade in 1914 at the University of Idaho.

Photo courtesy of University of Idaho

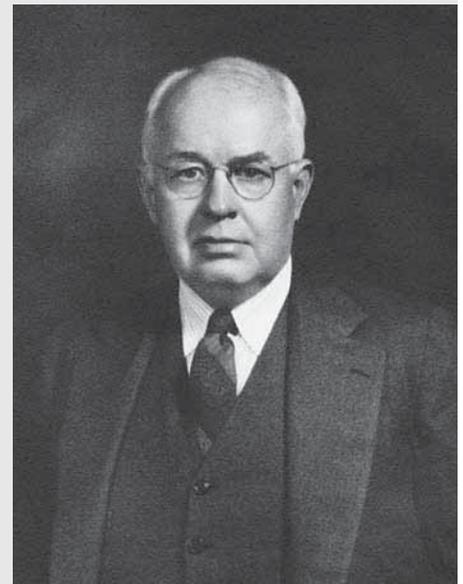
completed Administration Building, the law school initially employed only one full-time faculty member, John MacLane. Dean MacLane proved instrumental in establishing the law school, and was at times, it seemed, entirely responsible for its existence. He “demonstrated both ingenuity and compassion,” even digging “into his own pocket to augment the University salary fund.”<sup>5</sup> By the time MacLane resigned to accept a state judicial post in 1911, the student body consisted of 18 first-year and 18 second-year students.

Legal education in much of nineteenth century America had been undergraduate education. Thus, from its founding in 1909, the College of Law limited applicants to those with high school diplomas or an equivalent degree. Even this requirement – modest by today’s standards – may have seemed outlandish to the first generations of Idaho’s “sagebrush lawyers,” who had entered into apprenticeships with no requirements whatsoever. Indeed, the standard was relaxed in comparison with the admissions threshold at Harvard, which by 1900 “admitted only students with a complete college education.”<sup>6</sup> Nonetheless, the University of Idaho, by imposing some prerequisite for legal education and by offering a modern course of legal instruction, gained early recognition from two accrediting organizations essential to legal education

## Pioneer lawyer made his mark in Idaho

John MacLane was born in Ohio and raised and educated in New England. Soon after graduating with advanced standing from Yale in 1900, MacLane left New Haven to attend the University of Minnesota Law School. In March 1906, MacLane burned his bridges with the East and Midwest and, following the advice of Horace Greeley, “lit out for the West” to Boise, Idaho, to “start out on a real adventure.”

Within a year of his arrival in Idaho, MacLane was well acquainted with the Idaho legal profession and was appointed by the Idaho Supreme Court to act as Code Commissioner, overseeing the task of re-codifying the laws of Idaho. In 1909, two new opportunities were presented to John MacLane. The first was joining the legal staff at the Idaho Attorney General’s office and the second was accepting appointment as the first full-



John MacLane

time faculty member at a newly created department of law at the University of Idaho. He chose the latter.

and the practice of law. The College of Law became the 46<sup>th</sup> member of the American Association of Law Schools when it qualified for admission in 1914.<sup>7</sup> Likewise, the College distinguished itself by receiving early accreditation from the American Bar Association. The ABA

“officially began its efforts to regulate access to the legal profession” at its annual meeting in 1921, when it “set minimum standards for law school admissions... and declared that only lawyers who were graduates of accredited schools should be allowed to practice law.”<sup>8</sup> The College



Photo courtesy of University of Idaho

Dean Albert Menard, Jr. holds a book with Carolyn Folz, the law librarian from 1945 to 1972.

of Law satisfied all such requirements and received ABA accreditation in 1925, making it the 45<sup>th</sup> law school (out of approximately 200 today) to gain such distinction.<sup>9</sup>

### War, Recovery, Depression, and War Again

Despite these early successes, the years between 1914 and 1925 were turbulent for the College of Law. Like the rest of the campus, the law school was significantly affected by World War I. During the academic year 1914-15, all first-year law students were required to take a course in Military Science & Tactics, in addition to their regular first-year coursework. The College of Law also added a new requirement, in 1915, that prospective law students successfully complete one full year of college work for admission. The increase in admission requirements and the high rate of military service among students led to a drastic drop in enrollment during the war years. Ten graduates received law degrees in 1917 despite the war, but there were no graduates in 1918, since most “would-be graduates and entrants were in uniform, not in class.”<sup>10</sup>

The quality of the program in these early years was evidenced by the career of one remarkable graduate: A. J. G. Priest, Class of '21. Priest's law school

## Iconic women blazed the trail for others

Although the College of Law graduated its first woman, Mary Shelton, in 1923, she did not practice law in Idaho and little is known of her subsequent career. A decade-and-a-half elapsed before the next female student enrolled. Mary Schmitt enrolled at the College of Law in 1937 and was the first female graduate admitted to the Idaho State Bar in 1940. Schmitt soon set another “first” in Idaho law when she became the first female law clerk for the Idaho Supreme Court, clerking for Justice Raymond Givens. The following year, Alberta Morton Phillips, a native of Moscow, entered the College of Law in 1938



Alberta Morton Phillips

and, like Schmitt, was the only woman in her class. Despite the teasing of her classmates for being a woman in a “man's” profession, she finished every semester at the top of her class and received the prestigious William E. Borah Award from the Phi Alpha Delta legal fraternity. At the time she received the award, however, she was “ineligible for membership because she was a woman.” Overcoming these challenges, she graduated in

1941. She moved to Pocatello; but, at the request of Dean Brockelbank, she returned to the College of Law in 1945 to become its first female law professor. The only stipulation to her contract, imposed by University President Harrison Dale, was that she not be allowed to teach criminal law – it was considered improper for a woman to address male students about the subject of rape. Despite Dean Brockelbank's request that she stay on the faculty, Phillips resigned when her husband (also a lawyer and future magistrate judge) returned to Pocatello from the war. She made a career in private practice while raising a family of six children.

Following Alberta Phillips, Bernice Bacharach graduated from the College of Law in 1942 and would go on to be recognized as one of the most prominent attorneys in Washington. Remarkably, while the United States and Japan engaged in bitter conflict, the College's first Japanese-American student, Rei Kihara Osaki, enrolled and studied law even as her family was interned at the Heart Mountain Relocation Center in Wyoming. She graduated in 1943. The class of 1945 had the unique distinction of being one of the College of Law's smallest graduating classes – composed entirely of two women students, Kathryn Claire Justus Drong and Catherine Dochios.

career was interrupted by his service in World War I, but he returned to school following the war and successfully completed his studies. He went on to a notable career, becoming a senior partner of Reid & Priest, a prominent New York City law firm; author of leading legal treatises on corporate reorganizations, mergers, and liquidations; and, after retirement from practice, an outstanding member of the University of Virginia law faculty. Priest was later recognized as “one of the nation's most distinguished lawyers....”<sup>11</sup>

During the 1920s, while the rest of the nation recovered from World War I, the law school eased into the process of rebuilding. There were 12 graduates in 1921, in addition to increased enrollment from the previous years. By the end of

the 1920s, the College of Law had found a stability in its faculty and student body that would continue into the next decade, despite the devastating effects of the Great Depression, under the deanship of William E. Masterson. Indeed, during 1932, as the Depression deepened, the College of Law enjoyed an increase in enrollment to 40 students. By 1934, enrollment had increased again, to 53 students.

Although the increase in enrollment was welcome, it also brought to light a serious issue that would increasingly plague the College of Law for the next four decades. Since its earliest days, the College was housed in a corner of the Administration Building. The increase in enrollment during the early 1930s, a limited faculty, and a growing



Photo courtesy of University of Idaho

Golden Age faculty honored Dean Stimson during his retirement dinner in 1962. Back row - Thomas Walenta, W.J. Brockelbank, Herbert Berman; Front row – Philip Peterson, Dean Edward Stimson, George Bell.

library collection created an “urgent” need to obtain larger, more suitable facilities. Dean Masterson petitioned the administration for a new and separate law building and an additional faculty member, but there was little relief to be found and the problem persisted for the next 43 years.<sup>12</sup> With no additional faculty and no new building in view, Masterson resigned in 1934 to accept a deanship at the University of Missouri. Another casualty of the Depression was the newly begun *Idaho Law Journal*. First published by the College of Law in 1931, the *Law Journal* issued only three volumes before it was discontinued in 1933.

Masterson was replaced by Pendleton Howard, who served for the remainder of the Depression and saw the College of Law through the tumultuous years of World War II. The University of Idaho, with its long history as a military training institution, was well aware of the ramifications when President Franklin D. Roosevelt asked Congress for a declaration of war on December 8, 1941. In a letter to the student body, the President of the University, Harrison

Dale, encouraged students to do their “daily tasks plus 10 per cent. That is, we can do all that is expected of us and a little more.”<sup>13</sup>

The war years impacted the College of Law harshly. Once again, many students were in uniform rather than in class and enrollment dropped from 56 students in 1939 to just half that number in 1942. It was no surprise that the College of Law, representing a profession traditionally dominated by men, saw such a drastic decrease in students. However, the decrease in the number of male students led to a record increase in the enrollment of female students.<sup>14</sup> This increase was apparent campus wide, with the ratio of women to men at three to one.<sup>15</sup> During the war years, old obstacles to legal education for women began to yield; indeed, the College of Law depended on women to maintain its modest enrollment during that period.

The task of rebuilding the faculty after World War II fell initially to Dean William J. Brockelbank. A complete turnover of faculty had occurred and when he wrote his biennium report, Brockelbank reported that of the six people serving

the school as “professors, librarians and secretary, only two of us had ever seen each other before.”<sup>16</sup> Relying on the already established system of calling on local attorneys to fill the gaps in faculty, Brockelbank kept the school open, while at the same time pressing the University for more classroom and library space.

### A Golden Age and a Time of Struggle

Brockelbank’s tenure as Dean ended in 1947, but he remained on the faculty. Edward S. Stimson became the new Dean of the College of Law. Distinguished in many ways, Stimson had served as an assistant to the Attorney General during World War II, and had “gained wide recognition as an authority on the conflict of laws.”<sup>17</sup> Stimson faced the challenge of seeing the school through a period of peak enrollment, beginning in the fall of 1948 when 128 students attended the law school. Under Stimson, several professors were added to the teaching faculty who would greatly influence the future course of the law school and establish a core group that would see the College through its next 16 years, later to be called the “golden age” of



Photo courtesy of University of Idaho

In 1914, the new University of Idaho Administration Building gets some touch-ups as evidenced by scaffolding on the right.

the College of Law. In addition to Dean Stimson and Professor Brockelbank, this group consisted of George Bell, Herbert Berman, Philip Peterson, Thomas Walenta, and Carolyn Folz. Although not a member of the teaching faculty, Folz served as law librarian for 27 years and was solely responsible for building the law library collection as its only full-time professional staff member.

A wave of veterans returned to the University of Idaho beginning in 1946. Among these returning veterans were two young men who would go on to much prominence in Idaho politics after completing their degrees at the College of Law in 1950: U.S. Senator James McClure and Idaho state senator and attorney Ray Rigby. Notable among McClure's and Rigby's classmates was law student Reginald Reeves, the first African-American student to graduate from the College of Law in 1952. Decades later all of them would be recognized in the University of Idaho Alumni Hall of Fame. Another veteran of World War II and a College of Law graduate was Burton F. Ellis, or "Hump" (an affectionate reference to his childhood hometown of Humphrey, Idaho). As a member of the U.S. Army Judge Advocate General's Corps, Lt. Colonel Ellis played a prominent role in the prosecution of over 1,600 accused war criminals, most notably those involved in the Malmedy Massacre. He later established an endowment for the University of Idaho, part of which was allocated to the College of Law and has been instrumental in funding faculty research projects.

## Weldon Schimke played role well beyond WWII

During World War II, the College of Law drew heavily upon its graduates to provide adjunct instruction and keep the program running. One alumnus who stepped forward was L. Weldon Schimke. After graduating from the College in 1931, he immediately set up practice in Moscow. Between 1945 and 1947, he taught five semesters at the College on a variety of topics, including criminal law, constitutional law, real property, and conveyances. In 1948, Schimke became counsel for the University of Idaho, a position he held for the next 22 years. He later created a series of endowed professorships at the College of Law, each bearing the Schimke name.



L. Weldon Schimke

The sudden influx of so many returning veterans brought to light a serious problem:

The facilities available to the College of Law had been questionable for years. With war and economic hardships threatening the campus, there was little room for improvement until

1958, when the school was moved from the third floor to portions of the first floor and basement in the south wing of the Administration Building. The move was an undeniable improvement, with more space, an office for each faculty member, a courtroom, and two classrooms. Optimists thought this space might last the College for another 25 to 30 years, but they missed the mark substantially.<sup>18</sup>

The 1960s were a tumultuous time for the nation, marked by anti-war protests, anti-establishment sentiments, and the rise of the counterculture. However, the decade is often considered the turning point of the modern era and it was certainly so for the College of Law. The first years of the 1960s appeared to be a continuation of the 1950s "golden age" owing to the stability and growth of the program. Retaining many faculty members who served the College for well over a decade, the school flourished, despite the decline of enrollment that accompanied entry into the Korean War and increased admission requirements.

The faculty took advantage of this period of stability to turn to tasks other than teaching such as research, publication and public service. Dean Stimson authored a treatise on the conflict of laws in 1963 following his casebook, which was published in 1954; Professor Bell completed work on the *Handbook of Evidence for the Idaho Lawyer* in 1957; Professor Peterson wrote widely and participated in the drafting of tax legislation for the Idaho legislature; Professor Brockelbank earned particular distinction from the French government and was named an "Officer in the Order of the Academic Palms." Brockelbank also published a treatise, *The Community Property Law of Idaho*, in 1962. Professor Walenta published several articles and treatises, establishing himself as an authority on water and mineral resources law. Another indication of better days was the return of a student edited journal, the *Idaho Law Review*, in August 1964.

The College also enjoyed a sudden increase in enrollment as the "post World War II baby boom came of age to study law."<sup>19</sup> Through the mid-1960s, enrollment steadily increased reaching 135 by 1967. As a result, the College was forced, for the first time, to deny admission to fully qualified applicants. However, with growth came renewed struggle with the recurrent issue of facilities. As more students enrolled in

the College, the extreme lack of space was apparent everywhere. Even the library ran out of room for law books and had to put one volume in storage each time a new volume was added.<sup>20</sup> Acting Dean George Bell found himself “fighting a desperate battle against disaster pressing from all sides,” as he wrestled with space and funding constraints that had plagued the school since its inception.<sup>21</sup>

In the midst of this “desperate battle,” the College of Law experienced a succession of retirements and resignations that severely weakened the law school faculty. Between 1965 and 1967, Professors Brockelbank, Stimson, Berman, and Walenta all either resigned or retired from the College of Law. Owing to the University’s critically deficient salary scale, replacing faculty members was nearly impossible. The College got through the 1967-68 academic year by again employing a number of practicing attorneys on a part-time basis, but it was clear that the faculty situation was “totally unsatisfactory.”<sup>22</sup> Perhaps the only saving grace the law school had during this time period was the wholehearted support of University president Ernest L. Hartung. If not for President Hartung’s promise “that the College of Law would be the university’s top priority,” followed by the hiring of a new dean in 1967, the College might not have survived the struggle of the 1960s.

### A Home of Its Own

At this critical juncture, a new leader emerged to see the College through its most difficult period of transition: Albert R. Menard, Jr. During his earlier career as a faculty member and acting law dean at the University of Colorado, Menard had gained valuable experience that would prepare him well for his role at the University of Idaho. While at Colorado, Menard chaired a committee to design a new law building. This responsibility provided him the opportunity to inspect and study numerous law facilities across the country.<sup>23</sup> When he assumed the deanship at Idaho, Menard found the law school crowded into the south wing of the Administration Building, with a library filled to capacity, materials spilling down the hallway, and classroom space that was far from adequate. From this troubled beginning, Dean Menard set out to secure a modern law school facility.<sup>24</sup>

In 1969, while the College of Law celebrated its sixtieth anniversary, it also received official notice that its location in the Administration Building was no longer acceptable. In October

## Longtime Dean Albert Menard helped shape school

Dean Albert R. Menard, Jr., was born in Macon, Georgia, in 1918, and received his law degree from Columbia University in 1941. After serving in World War II, he joined the University of Colorado College of Law faculty in 1948. He served as Dean of the University of Idaho College of Law from 1967 to 1978, shepherding the design and construction of the first building devoted to the College’s exclusive use. In 1984,

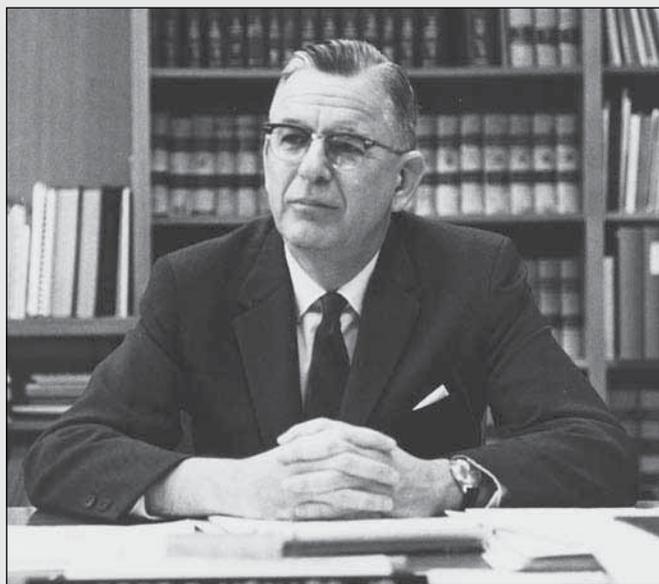
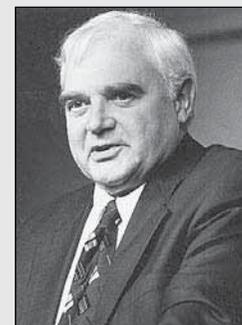


Photo courtesy of University of Idaho

the law building was named for Dean Menard. Although he was retired from teaching, he was present for the dedicatory occasion and he acknowledged the honor with gratitude. Professor Dennis Colson perhaps best described Dean Menard’s unique service: “With Georgia charm, dogged persistence, and a prophetic vision of legal education he secured a home for the College.”

## Vincenti set contemporary direction

A native of Ogden, Utah, Sheldon Vincenti graduated from Harvard Law School and joined the University of Idaho law faculty in 1973. He became the first associate dean of the College of Law in 1974, working closely with Dean Menard. It would fall to Dean Vincenti to complete construction of the law building. He went on to serve as dean from 1984 to 1995. During that time, the College increased in reputation, diversity, and faculty strength; encouraged innovative teaching and new course offerings; introduced modern technology in the law library; and expanded the clinical program. He retired from the faculty in 2001 but has continued to teach and to render institutional service as an emeritus professor.



Sheldon Vincenti

1969, an ABA accreditation committee described the College of Law facilities as “intolerable” and “shockingly” and “deplorably inadequate.”<sup>25</sup> Following significant delays in construction due to lack of funds, Dean Menard was warned by the ABA that unless tangible construction occurred by 1972, it would take action to suspend or terminate the College of Law’s accreditation.

Fortunately, such action was never required. Although debate arose as to whether a new law school building should be constructed in Boise or in Moscow, the University decided that the College should retain its presence on the Moscow

campus. In 1972 the cornerstone of a new building was laid at the west end of the campus. In November of 1973 the College of Law left the Administration Building, where it had been housed since its founding 64 years earlier, and moved to its new home over the Thanksgiving holiday. The completed building included a courtroom, classrooms, faculty offices, a law library, study areas, and a student lounge. Dean Menard himself pitched in by helping to move and shelve some of the many boxes of law books that came from the old law library in the Administration Building.

With the construction of a new law

building, many of the problems which had plagued the College of Law since its inception were finally put to rest. The new facilities provided ample room for development in all areas of educational and professional opportunities. From here on, stability and growth would be the key words to describe the College of Law, continuing into the 21<sup>st</sup> century.

### A Second Golden Age

The completion of the new law building in 1973 was marked by the concurrent arrival of two new faculty members, Sheldon Vincenti and Arthur Smith. Over the next two years, Dean Menard also recruited four more faculty members to the College of Law: Dennis Colson, Joann Henderson, D. Craig Lewis, and James Macdonald. These six professors would continue as faculty at the College of Law for the next three decades, creating an impressive and distinguished legacy of scholarship and outreach. The size of the faculty continued to grow in the 1980s and many of the College of Law's current senior faculty members came to the university during this period: Mark Anderson and Dale Goble (1982); D. Benjamin Beard and Monique Lillard (1987); and Elizabeth Brandt and John (Jack) Miller (1988). These new faculty joined their older colleagues in establishing a second golden age of teaching and scholarship.

Most of the faculty hired during the 1980s and early 90s gained their appointments under Dean Sheldon Vincenti. Vincenti was named dean in 1984, following the resignation of Clifford Thompson, who left to become the law dean at the University of Wisconsin. It was also in 1984 that the College of Law celebrated its 75<sup>th</sup> anniversary and the facility was appropriately named the "Albert R. Menard Law Building" in recognition of Dean Menard's many services.

Secure in its new home, the College of Law experienced a "coming of age" during the 1990s and into the new millennium. Dean Vincenti developed the framework of a law student professional fee dedicated exclusively to legal education. In 1996, a generous endowment from the estate of the Hon. Sherman Bellwood enabled the College of Law to establish the Bellwood Lecture series. Judge Bellwood, who practiced law and served as a district court judge in Rupert, Idaho, made the gift to the College of Law to enable it to "invite and present persons learned in the law to lecture on legal subjects from time to

## U of I faculty have made significant impacts

Through scholarship and outreach, Idaho law faculty members have made important contributions to law and legal institutions. For example:



George Bell

- The time-worn treatises by the late Professor George Bell (evidence) and the late Dean Brockelbank (community property) continue to influence Idaho law and practice.
- The late Professor Phil Peterson (who also served as a dean of the College) was widely recognized as the Idaho Legislature's go-to resource on issues of taxation, and his impact is still felt today. He also played a significant role in securing enactment of the Uniform Probate Code.
- Arthur Smith specialized in natural resources policy and helped to create two university programs: the Environmental Science program at the University of Idaho and the Institute for Resource Management at Washington State University. Both have influenced perspectives on environmental policy in the Northwest. Smith also served as associate dean of the College of Law from 1981-1994, and acting dean from 1992-1993.
- Dennis Colson became a recognized authority on Indian law, especially issues relating to the Nez Perce treaties. He often consulted with the Idaho Legislature and Governor's Office on those topics. He also wrote the seminal work on the history of the Idaho Constitution, *Idaho's Constitution: The Tie That Binds*.
- Craig Lewis earned the reputation of being a "lawyer's lawyer." With both a practitioner's and scholar's understanding of the rules of evidence and procedure, Lewis published treatises on Idaho Pre-trial Civil Procedure in 1982 and the Idaho Trial Handbook in 1995.
- James Macdonald has served as co-chair of the Idaho State Bar committee responsible for the corporate code. In 1990, Macdonald co-authored the Handbook for Idaho Nonprofit Corporations, and was also responsible for drafting statutory amendments to the 1979, 1997, and 2004 corporate code.
- Dale Goble is a nationally recognized authority on wildlife law, endangered species, and public lands. He frequently is called to testify before Congressional committees and to brief the staffs of federal and state administrative agencies.
- Mark Anderson has consulted on the interface of state statutes with federal antitrust laws.
- Elizabeth Brandt is nationally known for her expertise on matters relating to families, women, and children, as well as an authority on civil liberties. She has been a frequent consultant to state legislative committees and individual legislators on those topics.
- D. Benjamin Beard has served as an Idaho Member of the Commission on Uniform State Laws, as a reporter for the committee that developed the Uniform Electronic Transactions Act; and as an American Bar Association delegate to a United Nations entity establishing international protocols on electronic transactions.
- Maureen Laflin has shaped Idaho law and practice relating to mediation, especially mediation ethics, through her active work on Supreme Court and Idaho State Bar committees.
- Barbara Cosens, a co-founder of the University of Idaho's "Waters of the West" program, has served as a mediator of complex water disputes and provided consultation to the Idaho Legislature.
- Dean Donald Burnett has helped shape appellate justice in Idaho, initially by serving on the state Court of Appeals and subsequently by chairing a Supreme Court committee on the state's appellate caseload and the future structure and resources of the Court of Appeals.

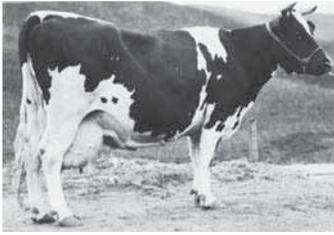


Photo courtesy of University of Idaho

Violet, a regular fixture on the University of Idaho campus in the early part of the last century, was a real celebrity. At right, the University of Idaho holds a dinner in honor of the College of Agriculture's purebred Jersey. She sits at the head of the table. Apparently, she would occasionally get loose and chase students across the campus. The dinner was apparently held in the milking parlor and Violet has a heaping plate of hay.



Photo courtesy of University of Idaho

time.”<sup>26</sup> Bellwood Lecturers have been prominent leaders including Supreme Court Justices Sandra Day O'Connor, Antonin Scalia, Ruth Bader Ginsburg, and, in 2009, Chief Justice John G. Roberts, Jr.; journalist David Halberstam; former U.S. Attorney General Janet Reno; and U.S. Senators Gary Hart and Alan Simpson.

Also in 1996 the College honored the memory of former Idaho Chief Justice Allan G. Shepard by establishing, with the help of his surviving spouse Donna, a distinguished professorship – the College's first such faculty position. Ties to the state judiciary were further strengthened by the creation in 2003 of the Justice Alfred Budge Visiting Jurist Program. This program enables Supreme Court justices or other state judges to spend time in residence at the College of Law for scholarly, collaborative, and teaching activities. In 1997, through the efforts of Professor Maureen Laffin, the College became a leader in teaching and outreach related to mediation through the establishment of the Northwest Institute for Dispute Resolution.

### Fulfilling a Statewide Mission

In 1999, recognizing that the University of Idaho Board of Regents/

State Board of Education had assigned a statewide mission in legal education to the University of Idaho, and that Idaho was changing rapidly, President Robert Hoover – acting upon the suggestion of Jack Miller, who had become dean of the College – appointed a “Blue Ribbon Panel” to undertake a study to determine how the College of Law could best meet the legal education needs of Idaho. The panel consisted of three current or past law deans around the country, including former Idaho Court of Appeals Judge and Idaho State Bar president Don Burnett, then the dean of the Louis D. Brandeis School of Law, University of Louisville, who would later become the University of Idaho's dean in 2002.

In 2000, after gathering data and conducting meetings in Moscow, Boise, and other locations in Idaho, the panel offered several analyses of how the College of Law could better serve the Bar and the public, most notably by creating a presence in the Treasure Valley area. The panel explored the possibility of continuing to offer legal education only in Moscow, the possibility of relocating the College to Boise, and the possibility of establishing an “Idaho model” of legal education in which a third year of law school would be offered in both Moscow

and Boise. The law faculty determined that the College should indeed establish a presence in Boise; however, the faculty resolved to start a semester-in-practice program, instead of a full third-year, that would focus on providing students the opportunity to gain “real life” legal experience working in supervised work settings. Lee B. Dillion, a long-time Boise attorney, was chosen to direct the program in 2001, and he continues to do so today.

Meanwhile, in Moscow, the College developed teaching and research emphases in natural resources and environmental law, including an interdisciplinary law-and-science joint degree program in water resources (“Waters of the West”); an emphasis in Native American law, developed by Professor Angelique EagleWoman; and a pro bono service program for students in which every individual would perform a substantial work of law-related public service under professional supervision. The College also invested more than \$2 million in facility and technological upgrades to the courtroom, classrooms, student carrels, and other portions of the Menard Building.

In 2007, faced with accelerating change in Idaho's population distribution,

commercial development, demographics, and legal needs, the College renewed its strategic planning process. In collaboration with the Idaho State Bar, the College convened a three-day Conclave on Legal Education.

The full planning process included the faculty, staff, students, leaders of the state bar, leaders in the state and federal judiciaries, the College of Law Advisory Council, senior University leadership, and consultants. The process ultimately yielded a decision to seek authorization for gradually implementing a branch J.D. program in the state capital while retaining and strengthening the program in Moscow. In 2008, the College of Law submitted such a proposal to the State Board. The Board authorized the University of Idaho to expand its offerings in Boise to a full third-year curriculum, with additional instructions to revisit the issue of funding and support for a full three year branch curriculum in Boise. The State Board also authorized the College and University to collaborate with the Idaho Supreme Court in developing a proposed "Idaho Law Learning Center" in Boise, which would house the law program, a relocated State Law Library, and facilities for judicial education and public law-related educational outreach.

### Next: A Second Century

The trail leading from the sagebrush era to the modern statewide law school has traversed many challenges and struggles. From a small four-person faculty who could teach upper-level coursework only in alternate years, the College of Law has grown to include more than 25 full-time faculty members whose diverse backgrounds and academic excellence prepare today's law students to meet both the global challenges of the 21<sup>st</sup> century and the regional practicalities of the Idaho lawyer. The hard work and creativity demonstrated by the past and present faculty and administrators, augmented by the support of more than 4,500 graduates (including approximately 3,500 living alumni), have enabled Idaho's law school to be innovative, to outperform its resources, and to surmount the worst of times. The College will need to draw upon those same wellsprings of strength as it now embarks upon the challenges that await in Idaho's next century of legal education.

### About the Author

**Robert McCoy** is an Assistant Professor of History at Washington



Photo courtesy of University of Idaho

Student housing after World War II included these trailers, which were still in use for many years after the veterans came home, attended the university and moved on.



Photo courtesy of University of Idaho

Law students in 1972 when the College of Law was still in the Administration Building show changing styles of dress and formality.

*State University. He received his Ph.D. degree from the University of California, Riverside. University of Idaho law library faculty member Michael J. Greenlee collaborated on parts of this article, and law Dean Don Burnett participated in editing.*

### Endnotes

- <sup>1</sup> John F. MacLane, *A Sagebrush Lawyer*, (New York: Pandick Press, 1953) p. 2.
- <sup>2</sup> MacLane, *A Sagebrush Lawyer*, p. 3.
- <sup>3</sup> Rafe Gibbs, *Beacon for Mountain and Plain: The story of the University of Idaho* (Caldwell: Caxton Printers, 1962) p. 56.
- <sup>4</sup> Carl F. Bianchi, ed., *Justice for the Times: a Centennial History of the Idaho State Courts*, (Boise: Idaho Law Foundation, 1990), p. 272.
- <sup>5</sup> Gibbs, *Beacon for Mountain and Plain*, p. 88.
- <sup>6</sup> Alfred Z. Reed, *Present-Day Law Schools in the United States and Canada*, (New York: The Merrymount Press, 1928), p. 132.
- <sup>7</sup> Bianchi, *Justice for the Times*, p. 273.
- <sup>8</sup> Fossum, "Law School Accreditation Standards," p. 517.
- <sup>9</sup> Bianchi, *Justice for the Times*, p. 274.

- <sup>10</sup> Bianchi, *Justice for the Times*, p. 273 – 274.
- <sup>11</sup> Bianchi, *Justice for the Times*, p. 274; Petersen, *This Crested Hill*, p. 160.
- <sup>12</sup> Bianchi, *Justice for the Times*, p. 274 – 275.
- <sup>13</sup> Gibbs, *Beacon for Mountain and Plain*, p. 270.
- <sup>14</sup> Petersen, *This Crested Hill*, p. 170.
- <sup>15</sup> Gibbs, *Beacon for Mountain and Plain*, p. 278.
- <sup>16</sup> W. J. Brockelbank, *Biennium Report-University of Idaho College of Law* (1945).
- <sup>17</sup> Gibbs, *Beacon for Mountain and Plain*, p. 312.
- <sup>18</sup> Bianchi, *Justice for the Times*, p. 277.
- <sup>19</sup> Bianchi, *Justice for the Times*, p. 278.
- <sup>20</sup> Bianchi, *Justice for the Times*, p. 278.
- <sup>21</sup> Bianchi, *Justice for the Times*, p. 278.
- <sup>22</sup> Bianchi, *Justice for the Times*, p. 278.
- <sup>23</sup> Arthur Smith, "Dean's Corner", *The Advocate*, Vol. 36, No. 6 (June 1993), p. 5.
- <sup>24</sup> *Obiter Dictum*, Vol. 2 No. 2, April 1993, p. 1.
- <sup>25</sup> Albert R. Menard, Jr., "The Crisis in Legal Education in Idaho." *The Advocate*, Vol. 14, No. 1 (Jan. 1971), p. 3.
- <sup>26</sup> *Obiter Dictum*, Vol. 4 No. 1, p. 4.

# THEORY, PRACTICE, SPECIALIZATION, AND INTERDISCIPLINARY PERSPECTIVES: PULLING IT ALL TOGETHER AT THE COLLEGE OF LAW

Michael J. Greenlee  
*University of Idaho,  
College of Law*

The creation of the “law department” – later to be named the College of Law – at the University of Idaho was largely the work of three men: Idaho legislator and lawyer Otis E. McCutcheon, University president James A. MacLean, and future professor of law John F. MacLane. McCutcheon, MacLean, and MacLane were charged with preparing a course of study, selecting books for the law library, and perfecting the details of organization. As a fledgling department at a small university in a relatively isolated western state, the institution that emerged from the work of these men was an innovative union of modern legal education and the practical limitations of location. This was readily apparent in the adoption of the Langdell case method of teaching law as an empirical science, though in a somewhat revised fashion that resulted in “a fusion of the Harvard style with the western experience.”<sup>1</sup> Perhaps part of the explanation for this fusion of styles is due to the character of the College of Law’s first dean, John MacLane, who was himself a combination of eastern schooling and western practicalities.

The Langdell method, named after Harvard Law School dean Christopher Columbus Langdell, was based in the late nineteenth century “conflict between academic pretensions and the reality of the marketplace.”<sup>2</sup> Langdell believed that American law should be defined as a unitary system—one taught with a national curriculum, the general principles of which “cut across state lines and perhaps across national boundaries...a denial of those differences in local law that had been evident... since the colonial period.”<sup>3</sup>

The case method approach was based on the theory that law, as a science, consisted of a few general principles or doctrines that were best discovered through the study and analysis of appellate court decisions. Case study was combined with the classroom technique of question-and-answer which became known as the Socratic method. Law professors guided class discussions using the Socratic

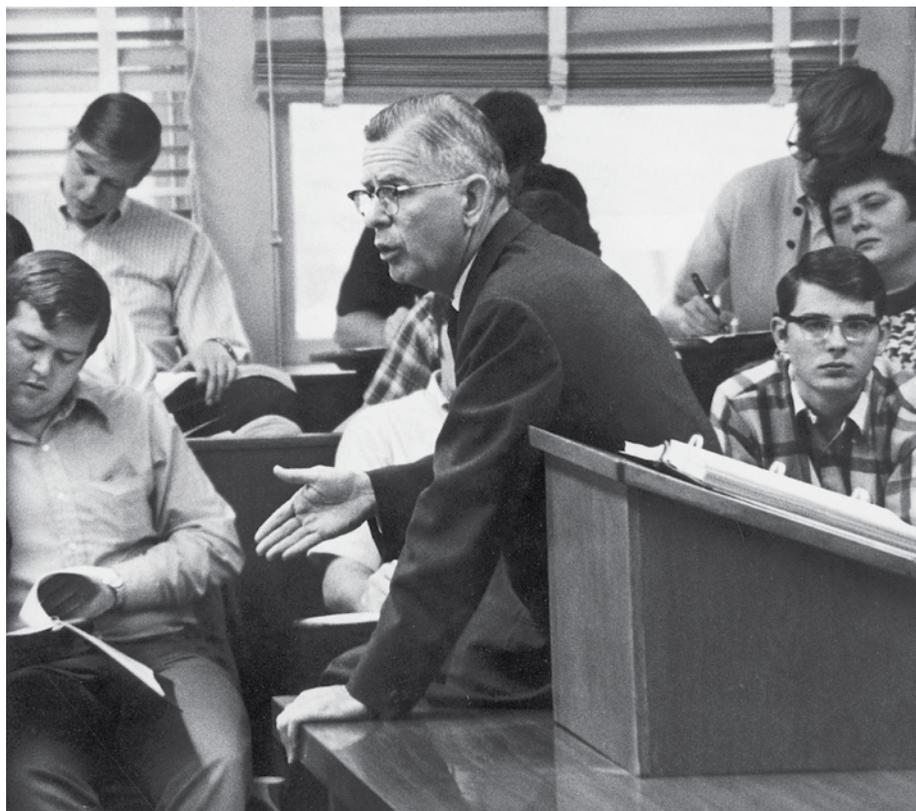


Photo courtesy of University of Idaho

Using the Socratic method, University of Idaho College of Law Dean Albert Menard guides a class discussion about the practical applications of legal principals.

method to elicit student participation in uncovering the rules or principles from case law, evaluating those principles, and applying them to similar, but slightly different, cases. Such a method was in contrast to the more traditional method of lecture and memorization. Langdell believed that his method of teaching resulted in a better understanding of the Law. Justice Oliver Wendell Holmes expressed a similar belief in 1886, asking, “[I]s not a principle more exactly and intimately grasped... when you have studied its

embryology and the lines of its growth than when you merely see it lying dead before you on the printed page?”<sup>4</sup>

Langdell’s method principally was propagated by his students who were often hired by new law schools as professors and deans. These men received their legal education through the Langdell method and influenced the development of law school curriculum throughout the

country.<sup>5</sup> But even as Langdell proposed these ideas and implemented them into Harvard’s curriculum, it was becoming apparent that “the homogenized and stylized Harvard curriculum” did not make sense for every law school—especially those “less prestigious local law schools” that turned out students who intended to practice locally after graduating.<sup>6</sup> Langdell also changed legal education in very practical ways as well. He instituted the three-year course of study, as opposed to the more traditional two years, and started final exams after each year of coursework to assess progress and determine whether students could proceed to the next year of study.<sup>7</sup>

The College of Law was one of the “less prestigious local law schools” where the “homogenized” Harvard curriculum would not make sense. Although John MacLane was not one of Langdell’s students, his legal education provided him with first-hand experience of the benefits of a Harvard-style curriculum. A graduate of the University of Minnesota School of Law, MacLane was a student of Dean



Michael J. Greenlee

William S. Pattee. A self-taught lawyer himself, Pattee was an early innovator and promoter of the case method of instruction, going so far as to write and edit a large number of casebooks under the title, *Pattee's Series of Illustrative Cases*.<sup>8</sup> Other aspects of Minnesota's law program that influenced MacLane's legal training included completing a three-year program of study and the requirement that all students brief their cases.<sup>9</sup>

The influence of MacLane's legal training is clearly evident in the creation of the law program at the University of Idaho. The first biennial report issued by the College of Law in 1909-10 states that, "the course of study, *in accordance with the requirements of the better law schools in the country*, covers three academic years...[italics added]" This course of study was designed to present a "logical and historical development" of the subject matter, while at the same time developing the "application of the course to the ...local law of Idaho in particular..." The College Announcement for 1910-11 notes that "the method of instruction is eclectic, embracing text, case, and lecture, with frequent tests and recitations." The faculty stressed that the "basis of class room instruction is the case; the text is assigned for collateral reading..." In addition to the case method, the College sought to provide students with practical experience in the law. The College of Law bulletin notes that, "it is our effort to supply educated lawyers, having sufficient practical knowledge to apply their education in the advice and assistance of such clients as young men may expect to receive in the opening years of their practice."<sup>10</sup>

Although the College of Law modeled its method of legal instruction on the Langdell method, the small size of its faculty limited its ability to offer a broad curriculum. Between 1910 and 1914, "a pattern lasting a number of years" was firmly established in the College of Law.<sup>11</sup> To make course loads manageable for the limited faculty, first-year curricula were offered every year, but second- and third-year studies were offered in alternate years.<sup>12</sup> The first-year coursework was comparable to that offered at other law schools and, once again, reflected the Langdell method: Contracts, Torts, Property, Criminal Law, the Constitutional History of England, Personal Relations, Elementary Law, and Theories of Government. Second and third-year courses were also standard offerings, but with specialized courses in Mining Law and Irrigation

Law, reflecting the local needs of Idaho attorneys. However, the lack of a sizable faculty meant the College of Law relied upon the assistance of attorneys and judges, many of whom were prominent and well-respected lawyers in Idaho, to provide instruction. Included among these early instructors were Idaho Supreme Court Justice James F. Ailshie, U.S. District Court Judge Frank S. Dietrich, and local Moscow attorneys Burton L. French and Frank Moore. The use of local attorneys and judges as adjunct faculty members would be a recurring and long-lasting practice, significantly shaping the development of the College of Law.

Langdell's influence as dean of Harvard Law School also set the stage for the standardization of training members of the legal profession. The American Bar Association followed this practice and began accrediting law schools in 1921 by setting minimum standards for law school admissions, courses of study, faculties, and libraries. After World War I, the curriculum at the College of Law underwent significant revisions and by increasing its admissions standards to require two years of pre-legal college study, the College obtained early accreditation from the ABA in 1925. In 1935, the curriculum was once again revised and new courses were added to the first-year curriculum covering the functioning of the state and federal judiciary and the use of legal research materials. Second and third-year courses were expanded to cover business associations, security, and creditors' rights. Likewise, courses in trial and appellate practice, administrative law, and municipal corporations were added. The College also increased the number of credits required for graduation.<sup>13</sup>

Across the country, legal education was grappling with the question of how to train future lawyers in the representation of clients and the practical application of law in addition to the theoretical constructs of the law. As early as 1893, classroom education at the University of Pennsylvania law school had been augmented by professional components when a law club created a legal aid "dispensary." In 1904, another "dispensary" arose at the University of

Denver; in 1913, Harvard established its Legal Aid Bureau; in 1923, the University of Southern California began granting academic credit for student work at the Los Angeles Legal Aid Foundation, which USC helped to create; and in 1931, Duke University established an in-house legal aid clinic.<sup>14</sup> But these pioneering efforts on the professional side of legal education did not reach into the core of the curriculum. In a study supported by the Carnegie Foundation for the Advancement of Teaching, A.Z. Reed called in 1921 for more professionally relevant training in law schools,<sup>15</sup> and

in 1933, Judge Jerome Frank asked, "Why Not a Clinical Lawyer School?"<sup>16</sup>

Producing a "clinical lawyer school" was likely not part of Langdell's original vision of legal education. Langdell believed that what qualified a person to teach law "was not experience in...trial or argument of cases [or] in using law, but experience in learning law."<sup>17</sup> On this point, the College of Law departed significantly from Langdell's method of instruction. Although clinical education was

*Langdell believed that what qualified a person to teach law "was not experience in... trial or argument of cases [or] in using law, but experience in learning law."*

not offered as part of its early curriculum, producing graduates who were well prepared to step into a courtroom was an early emphasis at the College of Law. Beginning in 1911, third-year students were required to take a year of Practice for 4 ½ credits, during which time they learned pre-trial, trial, and appellate aspects of legal practice, including legal drafting, by prosecuting or defending one mock case each term. In 1916, participation in the Practice Court was modified to require first- and second-year students to act as jurors, witnesses, and other trial participants. As a result, all graduates from the College of Law gained the experience of acting as a trial participant and as an attorney, working under the supervision of a faculty member and with the assistance of local attorneys and judges.

Beginning in 1932, a course in Office Practice was added to the curriculum. Taught by local Moscow prosecuting attorney Abe McGregor Goff (class of 1924), this course offered practical instruction in the operation of a law office and the drafting of legal documents. A

three-credit course in Trial and Appellate Practice was also added to the curriculum in 1935 to supplement the Practice Court. Dean William Masterson hoped that these lectures in practice could be supplemented by “something of a legal clinic,”<sup>18</sup> but such an endeavor was still several decades away from fruition. Due to a loss of faculty, the Practice Court eventually fell under the supervision of the law student Bench and Bar club and was no longer offered as a course for credit. Although the Bench and Bar club had helped to organize student participation in the Practice Court since 1915, assuming full responsibility for the Court limited its offering to one semester instead of the full third year. Such was the situation until 1948, when a one credit course in Practice Court was reintroduced to the curriculum, once again under the control of the faculty. By 1955, Practice Court was offered as a two credit course under the supervision of Professor Phil Peterson. According to Dean Stimson, Professor Peterson brought the conduct of the Practice Court “to a high state of perfection.”<sup>19</sup>

In the latter half of the twentieth century, concerns grew within the academy and the profession regarding the perceived dominance of the graduate school identity and correlative neglect of the professional role of law schools. From 1959 to 1965, the Ford Foundation established the National Council on Legal Clinics and funded 19 law school clinical programs. This initiative led in 1968 to creation of the Clinical Legal Education for Professional Responsibility project, dedicated to promoting and helping to fund a major expansion of clinical programs.<sup>20</sup>

In Idaho, the awakening to such opportunities coincided with recognition that the face of law practice was changing. The 1960s saw an explosion of legal reform concerning issues such as administrative law, environmental issues, civil rights, welfare, privacy, the rights of criminal defendants, and tort law. New areas of legal study were rapidly emerging, while none of the older, traditional ones seemed to disappear.<sup>21</sup> The “bare bones” curriculum offered by the College of Law, which had served well in the past, could no longer prepare students for the new demands of the legal profession.

Dean Masterson’s hope of establishing a legal aid clinic finally came to pass in 1969, under Dean Albert Menard and the guidance of Professor Robert Jones. Because of the lack of



Photo courtesy of University of Idaho

Dean William Masterson, circa 1935

space in the Administration building then occupied by the College, the clinic originally operated outside the campus, as third-year students worked with practicing attorneys in the offices of the Clearwater Legal Services Program, serving indigent clients in civil matters and assisting court appointed attorneys in felony cases. This program developed rapidly, so that by 1972 the clinical program was working in cooperation with the Whitman County Bar Association with an office in Pullman, Washington, and in a Moscow sub-office. With funding from the Law Enforcement Assistance Administration (LEAA) and under the supervision of part-time lecturer Theodore Hall, the College of Law initiated a criminal counseling program with the Idaho State Prison in Boise, the State Youth Training Center in St. Anthony, and with female prisoners from Idaho who were held at the Oregon State Prison in Salem. Bob Jones, and later Craig Lewis, acted as faculty supervisors for the early clinic program, but in addition to their regular teaching load.

When new facilities were built for the College of Law in 1972-73, Dean Menard found a home for the legal aid clinic by providing it with several offices on the ground floor. The clinic received a boost in 1978, when Neil Franklin was hired as the first full-time Director of Clinical Programs. By 1981, the clinic had expanded beyond the general clinic program and included opportunities for law students to gain experience in tribal law and environmental law. In addition to his work with the clinic, Professor Franklin also introduced professional

skills courses to the law school curriculum and developed a specialized litigation law program.

The expansion of clinical opportunities continued into the 1990s and beyond, allowing today’s law students to develop practice skills in several areas, including domestic violence/sexual assault, victims’ rights, mediation, immigration, small business transactions, federal tax law, tribal law, and federal appellate practice before the Ninth Circuit Court of Appeals. The Clinic also provides students the opportunity to work with *pro se* clients, act as *guardian ad litem* volunteers, and study bankruptcy practice. As the clinical programs have grown, so has the number of full-time faculty and clinical instructors, which today include: Maureen Laffin (director), Monica Schurtman, Patrick Costello, Carole Wells, and Frances Thompson.

In 2008, the College of Law clinical programs earned recognition by two national legal publications, *National Jurist* and *preLaw* magazine, as one of the top 50 law schools providing clinical education (#38) and public interest law (#31) opportunities, out of approximately 200 law schools accredited in the United States.

Another significant change in the law school curriculum involved the creation of the Trial Advocacy program. With the legal aid clinic providing students the opportunity to gain real-world experience in legal practice, the need for the Practice Court was becoming unnecessary. Trial Advocacy was established in 1979 as a replacement for the Practice Court, providing trial experience for clinic students as part of a week-long program held prior to the beginning of the fall semester. Neil Franklin, Noel Larrivee, and Alan Kirtley organized the first Trial Advocacy program. Thirty years later, Trial Advocacy continues to be one of the most successful programs administered at the College of Law.

Meanwhile, new programs have emerged to address the increasingly specialized content of the law, as well as to project the professional values Idaho law students are expected to take into their careers. For example:

### **Northwest Institute for Dispute Resolution**

Begun in 1997 by Professor Maureen Laffin, the Institute seeks to meet the growing demand for high quality dispute resolution training for law students and practicing attorneys. Each year the Institute offers courses in both civil

*With the opportunity to engage in specialization and interdisciplinary study, today's students emerge from law school more "practice ready" than their predecessors.*

and family mediation that meet the requirements for basic mediation training set by the Idaho Supreme Court and the Idaho Mediation Association. The Institute has become one of the College's most valuable and well-attended events.

### International Law Symposium

First offered in 2003, the goal of the annual symposium is to emphasize the relevance of International Law to the Idaho community and to the careers of University of Idaho law students by highlighting Idaho-related issues impacted by International Law. Past topics have included transboundary harms, post-conflict justice, progress in international organization, and the rights of indigenous peoples.

### Native American Indian Law Conference

This event has become a key ingredient of the College's outreach program, serving as a forum for the examination and discussion of legal issues within Indian Country. The conference was founded by Professor Douglas Nash, who in 2003 became the College's first Native American professor and first minority faculty member in a regular teaching, tenure-track position. When Professor Nash departed the College in order to pursue the Indian Estate Planning Project underwritten by the Indian Land Tenure Foundation, he was succeeded by Angelique EagleWoman, who has continued the conference while also establishing a Native American law emphasis in the College of Law curriculum.

### Waters of the West Initiative

Under the guidance of Law Professor Barbara Cosens and Agricultural Engineering Professor Jan Boll, the University of Idaho has become home to an innovative, multidisciplinary initiative addressing the need to develop sustainable uses of water. Law students can combine their degrees with an M.S. or Ph.D. degree in water resources law, management, and policy. The WoW initiative is a keystone in the development of a Natural Resources and Environmental Law emphasis in the College of Law curriculum.

### Professionalism and Pro Bono Service

The College of Law has joined a vanguard of American law schools in making professionalism a central part of each student's education, beginning on the first day of 1L orientation, when students meet in small groups with distinguished lawyers and judges to discuss scenarios illustrating issues in ethics and civility. Later, all students engage in a universal, professionally-supervised, law-related pro bono public service program. Dean Don Burnett was one of the early advocates for the program, which was adopted by the faculty in 2006. The program, now directed by Boise lawyer John "Jack" McMahon, is explained more fully in another companion article in this edition of *The Advocate*.

The College of Law has emphasized the fusion between theory and practice since its earliest days. Although legal education in Idaho has moved beyond the Langdellian model of Socratic dialogue in the classroom, this model still holds value for legal education, especially in the first year. Even in the first year, however, and particularly as students move into their second and third years, they will find the curriculum enriched by problem-solving, collaborative exercises, simulations, and hands-on clinical experiences. With the opportunity to engage in specialization and interdisciplinary study, today's students emerge from law school more "practice ready" than their predecessors in previous generations, although the legal profession still must provide the mentoring and context-specific skills training necessary to make them into effective practitioners.

### About the Author

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### Endnotes

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- <sup>2</sup> Robert Stevens, *Law School: legal education in America from the 1850s to the 1980s*, (University of North Carolina Press, 1983), 40.
- <sup>3</sup> Stevens, *Law School*, 36, 52.
- <sup>4</sup> Oliver Wendell Holmes, *Speeches*, (Little, Brown, and Co., 1896), 36.
- <sup>5</sup> Steven Sheppard, ed., *The History of Legal Education in the United States: Commentaries and Primary Sources*, (The Lawbook Exchange, Ltd., 2007), 32.
- <sup>6</sup> Stevens, *Law School*, 41.
- <sup>7</sup> <http://law.jrank.org/pages/8072/Langdell-Christopher-Columbus.html>
- <sup>8</sup> Robert A. Stein, *In Pursuit of Excellence: A History of the University of Minnesota Law School*, (Mason Publishing Co., 1980), 27. The *Pattee* casebooks were the first "outside" casebooks to be used at the Harvard Law School.
- <sup>9</sup> Stein, *In Pursuit of Excellence*, 28.
- <sup>10</sup> University of Idaho, *The University of Idaho Bulletin: Announcement of College of Law, 1911-12*, vol. 6, no. 2, at 11.
- <sup>11</sup> Carl F. Bianchi, Justice for the Times: A Centennial History of the Idaho State Courts 273 (Idaho Law Foundation 1990).
- <sup>12</sup> *Id.* at 272. The practice of offering second and third year classes in alternate years did not fully cease at the College of Law until 1955.
- <sup>13</sup> Rafe Gibbs, *Beacon for Mountain and Plain: Story of the University of Idaho 241-42* (Univ. of Idaho Press 1962).
- <sup>14</sup> J.P. "Sandy" Ogilvy, Address at Columbus School of Law, the Catholic University of America (2004), *History of Clinical Legal Education*, available at <http://www.aals.org/nlt2004/ogilvy.pdf>.
- <sup>15</sup> Alfred Zantlinger Reed, *Training for the Public Profession of the Law: Historical Development and Principal Contemporary Problems of Legal Education in the United States* (1921).
- <sup>16</sup> Jerome Frank, *Why Not a Clinical Lawyer School?*, U. PA. L. REV. 907 (1933).
- <sup>17</sup> Stevens, *supra* note 2, at 38.
- <sup>18</sup> State Board of Education, Tenth Biennial Report of the State Board of Education 1931-1932, 130.
- <sup>19</sup> University of Idaho College of Law, *News Letter*, Vol. XI, No. 1, July 1956.
- <sup>20</sup> Ogilvy, *supra* note 5.
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Photo courtesy of University of Idaho

Law studies have taken their toll on this student.

# TIMELINE SHOWS EVOLUTION OF THE COLLEGE OVER THE CENTURY

Compiled by University of Idaho Staff



**Sept. 20, 1909:** The University of Idaho law school opens its doors for the fall semester. The school initially is formed as a “department” of the university; in 1910, it is designated as the College of Law. There are 18 full-time, first-year law students, with four additional students from the university taking one or two courses on an elective basis. Tuition and fees amount to \$25 per year. Completion of four years of high school with the proper units is enough for admission.

**1910:** Impressed by the progress made during the first few months of the law program “department” under Professor John F. MacLane, the Board of Regents appoints MacLane to be the dean of the newly-designated “college.”

**1914:** The college qualifies for, and is admitted to, the Association of American Law Schools and has held its membership continuously since.

**1915:** The college adopts a requirement that incoming law students must have completed at least one full year of undergraduate study.

**1925:** The college increases its admission requirement to two years of undergraduate study and is approved as an accredited law school by the American Bar Association – the 46th such law school in the United States.

**1932:** As the “Great Depression” deepens, full-time enrollment reaches forty students, with eighteen additional students from other colleges on campus receiving instruction in one or more courses.

**1944:** The effect of World War II has become apparent; only eight students are enrolled and only one student graduates.

**1945:** Two students graduate, both female. The lack of discrimination on admission for reasons of sex, creed or race – a policy which the College of Law has followed since its establishment – proves the factor that keeps the college open in 1944-45. It is also during this time that the first female law professor, Alberta M. Phillips, a graduate of the college, is appointed.

**1952:** The college increases its admission requirement to three full years of undergraduate study.

**1958:** The college moves from the third floor to the first floor and basement of the south wing of the Administration Building. The new quarters provide an office for each faculty member, a courtroom (also used as a classroom), and two classrooms.

**1964:** The Idaho Law Review is established and has operated continuously to the present. It now publishes three editions per year, including a symposium edition correlated with a live symposium in which selected authors present their papers. In recent years, the symposium has been held in Boise.

**1966:** With a student body surging to 132 students as the post-World War II baby boom comes of age to study law, the college is forced for the first time to deny admission to a few fully qualified students. The library also runs out of space for law books, forcing it to put one volume in storage each time a new volume is added. Accreditation-related pressures for a new physical facility increase.

**1967:** A committee of the Boise Chamber of Commerce, formed to consider the future of higher education in the Boise area, files a report recommending, among other items, that the College of Law be moved to Boise. A storm of controversy immediately arises and does not abate until ground is broken in 1972 for a new law building on the campus in Moscow.

**1969:** The Legal Aid Clinic, in which third-year law students, under guidance of faculty, represent actual clients from the surrounding community, is established.

**1970:** Having increased the general admissions requirement to completion of a four-year course of undergraduate study, the college discontinues granting the LL.B. degree and converts to the J.D. degrees, consistent with a national trend. The change signifies the transition in legal education to a fully graduate-level program of professional study.

A student moot court team wins the northwestern regional round of the National Moot Court Competition. They travel to New York City for the national finals, where they earn “best brief” honors.

**1971:** Pressures for admission in the post-Vietnam war era reach a peak, with substantially fewer than half of the applicants being admitted.

**1972:** The Idaho Legislature appropriates funds for \$1.85 million in construction costs for a new law building, falling \$250,000 short of the amount needed. Students vote on their own motion to add a construction fee to other fees, in order to finance the new law building. Contracts are signed and construction begins.

**1973:** The Legislature appropriates \$300,000 for furnishings, library stacks and other equipment for the new law building. The furniture is installed during the fall, and the move into the new quarters is accomplished over the Thanksgiving break. (The basement of the law library, however, is not completely finished until private donations and student fees make it possible more than three decades later, in 2006.)

**1980:** The Board of Commissioners of the Idaho State Bar and the President of the Idaho Law Foundation begin an annual tradition of composing a visiting committee and making a formal visit to the College of Law to observe the program of education and make recommendations.

**1982:** Justice Harry A. Blackmun of the U.S. Supreme Court is the featured speaker at the college’s graduation ceremonies.

**1984:** An ambitious project is implemented to provide a computer for each faculty member and to enhance substantially the technology available to secretarial and library personnel. Within four years, most faculty members become increasingly sophisticated in the use of new technology for legal research and writing.

**1989:** The annual McNichols Moot Court Competition is established. The in-house competition, primarily for second-year law students, is named after a legendary Idaho federal district judge, the late Raymond C. McNichols, and is underwritten by his son, Lewiston attorney Michael E. McNichols.



Bench and Bar Club poses for a shot in 1940. The three female students Alberta Phillips (seated on table), Mary Schmitt (next to Phillips), and Bernice Bacharach (seated). Schmitt, Phillips, and Bacharach were the 2nd, 3rd, and 4th women to graduate from the law school.

Photo courtesy of University of Idaho

**1997:** The first Sherman J. Bellwood Memorial Lecture is held, featuring Professor Charles Wilkinson. The lecture series quickly becomes a university signature event and presents distinguished speakers, including the Hon. John G. Roberts, Jr., Chief Justice of the United States; U.S. Supreme Court Justices Sandra Day O'Connor, Antonin Scalia, and Ruth Bader Ginsburg; former U.S. Attorney General Janet Reno; Senators Gary Hart and Alan Simpson; and Minnesota Supreme Court Justice Alan Page, among others.

The College of Law establishes the Northwest Institute for Dispute Resolution, creating an annual series of week-long training programs in mediation and other dispute resolution processes.

**1998:** The College of Law Advisory Council, a group of distinguished alumni and friends, is established to provide advice on the educational program, advocacy for college initiatives, and assistance in identifying and acquiring additional resources for the college.

**1999:** A special panel of consultants is engaged to study the strategic future of the College of Law in relation to growing demand for legal education in Boise. In 2000, following the panel's report, the law faculty votes to establish an outreach office in Boise, where externships and a new "semester in practice" program are administered.

**2000:** A College of Law moot court team wins the national championship in the Duberstein Bankruptcy Moot Court Competition in New York City.

**2002:** The annual Rosholt Roundtable for Visiting Professionals is established by John and Karen Rosholt in order to bring distinguished speakers to the College of Law, with emphasis on those who have used their law degrees in careers other than traditional practice.

**2003:** The college inaugurates an annual International Law Symposium, bringing scholars and policy makers from around the world to a three-day event in Coeur d'Alene, emphasizing a connection between international law and Idaho issues.

The college establishes an Indian law conference, serving as a forum for the examination and discussion of legal issues within Indian Country.

The college inaugurates an annual "day one" program on professionalism for entering students..

**2004:** Admission to the College of Law grows increasingly competitive. Whereas in the 1999 admission cycle, the college received 479 applications, in 2004 (only five years later) it receives 948 applications from which to select an entering class of 114 students.

The College of Law continues to expand and strengthen its offerings in business and entrepreneurship law by creating the Small Business Legal Clinic at the outreach office in Boise

**2005:** With the establishment of the Victims' Rights Clinic and the Domestic Violence Clinic, the college's Legal Aid Clinic now offers students hands-on experience in seven in-house clinics, two mini-clinics and numerous externship opportunities.

The College of Law co-sponsors with the Idaho State Bar a banquet in Boise celebrating Idaho's "first 50" women admitted to practice in Idaho. The event reportedly is the largest gathering in State Bar history.

**2006:** In cooperation with six other colleges and 13 departments at the university, the College of Law creates a "Waters of the West" program that combines science and law in examination of water resource issues.

The College of Law establishes a pro bono public service requirement for graduation.

**2008:** Following a "second century" strategic planning effort including a three-day "Conclave on Idaho Legal Education" co-sponsored by the College of Law and the Idaho State Bar, the University of Idaho proposes the establishment of a branch extension of the College of Law in Boise.

The college's courtroom and its largest classroom (Room 104) are completely remodeled and equipped with digital presentation and instructional technology. The "state of the art" courtroom is the equivalent of the most advanced academic and federal courtrooms in the U.S.

**2009 (to date):** The College of Law celebrates its centennial with a series of statewide events, including the Bellwood Lecture featuring the Hon. John G. Roberts, Jr., Chief Justice of the United States.

The college inaugurates a new annual symposium focusing on natural resources and environmental law. The inaugural event examines water issues in the Columbia River Basin.

## LET OUR MINDS BE BOLD — STEPPING INTO U OF I'S SECOND CENTURY

Dean Donald L. Burnett, Jr.  
*University of Idaho,  
College of Law*

One of my illustrious predecessors, Idaho law dean Cliff Thompson, was fond of quoting the late J. Blaine Anderson, Judge of the U.S. Court of Appeals for the Ninth Circuit, who once told a circuit conference that “[i]n Idaho, the air, water, and justice are all equally pure.”<sup>1</sup> Judge Anderson’s tongue-in-cheek observation made no claim of perfection for his beloved Idaho, but he gently implied that we should be proud of our state – a place not yet spoiled, a place where we can still get things right, a place that can be a model for the rest of the country.

I was reminded of Judge Anderson’s words when several Idaho faculty colleagues and I attended an international conference on the future of legal education last year. Through the efforts of our own Associate Dean Richard Seamon, we had secured an invitation to present a vision of how a public law school



Dean Donald L.  
Burnett, Jr.

could reach out to the entire state with a curriculum that features interdisciplinary teaching and scholarship relating to the state’s needs; by developing professional skills that assure effective, affordable access to justice and legal services; and by inculcating in each student a strong sense of professional values, identity and purpose. Drawing upon strategic planning underway in Idaho since 2007, Dean Seamon made a splendid presentation. Later, the organizer of the conference — who earlier had made his own presentation on how Johns Hopkins University had achieved pre-eminence in medical education through relevant teaching and scholarship, and through service to surrounding communities — came to me, took me by the elbow, and exclaimed enthusiastically, “Idaho can be the next Johns Hopkins of legal education!”

### Foundations of Excellence

Idaho is the right place for bold thinking, because a culture of achievement already exists. Idaho law faculty for decades have been making important

contributions to the development of law and legal institutions in Idaho. Examples of those contributions are noted in the “impact scholarship and outreach” feature in this issue of “The Advocate.”

Moreover, Idaho law alumni can be found in the United States Senate (Jim Risch ’68), where the service of Jim McClure ’50 is still remembered with admiration; in the Idaho Supreme Court (Chief Justice Daniel Eismann ’76, Justice Roger Burdick ’74, and Justice Joel Horton ’85); in the Idaho Court of Appeals (Judge Darrel Perry ’79, soon to be succeeded by Judge John Melansen ’81, and Judge David Gratton ’85); and in the Office of the Idaho Attorney General (Lawrence Wasden ’85). Another Idaho leader, former Chief Justice Linda Cople Trout ’77, occupies a special place in the state’s history as the first woman to sit on the Idaho Supreme Court and to serve as the Chief Justice. In Idaho’s federal judiciary, Magistrate Judge Candy Dale ’82 is a similar “first” distinction in her position. Her federal colleagues from the College of Law include Senior Ninth Circuit Judge Tom Nelson ’62, District Judge Edward Lodge ’61, Magistrate Judge Mikel Williams ’69, and Magistrate Judge Larry Boyle ’72.

Idaho alumni too numerous to list here have distinguished themselves in law practice and professional leadership. Perhaps less well known is the degree to which Idaho law alumni have become leading business executives. Examples include Frank Shrontz ’54, former CEO of The Boeing Company; Dennis Wheeler ’67, CEO of Coeur: The Precious Metals Company; Steve Hanks ’78, former CEO of Washington Group International (now URS/Washington Division); and Dennis Johnson ’79, CEO of United Heritage Financial Group. Other alumni have had distinguished careers in more than one field — e.g., former Idaho Chief Justice Charles McDevitt ’56, whose notable achievements have encompassed the judiciary, private practice, corporate business administration, and entrepreneurship.

Faculty and alumni records of achievement are salient indicators of quality. Another badge of quality, however, is the diversity of backgrounds and perspectives in the student body, because students learn from each other as well as from the faculty and from their individual studies. Ten years ago, when a special panel of consultants was engaged

to study the strategic future of the College of Law, the panel found one of the lowest percentages of women students among all law schools in the United States at 26.4%; and for racial and ethnic student minorities, a mere 4.1%.<sup>2</sup> Since then, the representation of women in the whole student body has risen to approximately 40% and the representation of minorities to approximately 15%. Diversity among the faculty and staff also has shown significant improvement, with eight women now holding faculty tenure track positions and three members of racial and ethnic minorities among the teaching and law library faculty. The professional staff includes four women and two minority members, all of whom hold J.D. degrees and full-time positions. In further advancement of diversity, the College of Law has collaborated with the Idaho State Bar to establish a Diversity Section, which promotes opportunities in legal education and the practice of law in Idaho.

Excellence, of course, requires resources; indeed, it is axiomatic in public higher education that taxpayer and student resources buy competence, while private support furnishes the additional margin of excellence. The College of Law receives generous gifts from its alumni, who have provided more than 40 endowments and more than 30 scholarships, and who have underwritten the creation of signature events. Included among these gifts are the William and Carolyn Folz Scholarship Endowment; the Burton and Dee Ellis Academic Excellence Endowment; and the James E. Wilson Memorial Endowment, from the estate of L. Weldon Schimke. Each of these donors has provided a cumulative gift to the Law School in excess of \$1 million.

In 2003, the College of Law received a significant gift from a non-alumnus, the philanthropist James E. Rogers. Rogers announced he would help the College of Law to become America’s best small state law school, and created the Roger’s Scholarship Challenge and the Roger’s Fellowship in American Indian Law. This was followed in 2004 by the establishment of the James E. Rogers Distinguished Professorship in Law. The Scholarship Challenge has aided as many as eight students each year, with continuing aid in subsequent years, at levels nearly equal to fees charged to Idaho residents. In addition, Rogers has underwritten a

faculty fellowship in American Indian Law and a distinguished professorship in law. All told, Rogers' contributions and commitments have risen to nearly \$1million to date.

Many initiatives, of course, are not supported by large individual donations, but rather by the cumulative gifts made by many donors whose generosity has created a "Dean's Fund for Excellence" that has made possible a number of programs gaining distinction in the law school community.

### Building on the Foundation

These achievements and program advances reflect the ideas and energy that have fueled the College of Law to date. The long-term viability of the College, however, also depends upon an understanding of the future relationship between the College and the state it serves. The University of Idaho is charged with a statewide mission in legal education. Since the Menard Law Building was constructed in 1972-73, Idaho's population has doubled, and the state's economy and government have more than doubled. Yet the law program has changed little. Meanwhile, the Treasure Valley has become America's largest metropolitan center that comprises a state capital but lacks a legal education program within its borders or nearby. Rising demand for legal education in Boise, and growing law-related career opportunities across southern Idaho, now make a law degree program in Boise inevitable – and perhaps imminent. To secure the future of the program in Moscow, and to fulfill its assigned mission, the University of Idaho must provide legal education statewide.

Idaho needs legal expertise to support economic development, administration of criminal and civil justice, and services needed by Idaho families. Legal education also is responding to globalization, specialization, demand for practice-ready graduates, and increased use of law degrees in business and a wide variety of other occupations. These needs must be addressed by *public* legal education. Affordable public legal education enables graduates to take jobs in Idaho communities or in the public and nonprofit sectors. It also keeps legal services and justice accessible for people of ordinary means.

The College of Law has conducted an open and thorough strategic planning process, engaging the law school community (faculty, staff, students), expert consultants, University leaders,



Photo courtesy of University of Idaho

Attending the College of Law has been a family endeavor for many. This photo shows Professor Thomas Walenta with a student and family.

distinguished alumni on the Law Advisory Council, the Idaho State Bar (co-sponsor of a conclave on Idaho legal education), district bar associations, and Idaho's judiciary. The process has revealed that maintaining the status quo is not an option for the future; it would inadequately serve the state's needs and the University's mission. Surveys show that the College of Law would be more attractive to students if it were located in Boise as well as Moscow. Faculty scholarship, service to the state (including state government), and community outreach also would be enhanced.

The College's planning consultant, a former three-time law dean and chair of the American Bar Association committee on accreditation standards, has strongly recommended a single statewide law school with efficient, unified administration and curricular design, providing two places of opportunity: Moscow and Boise. The Law Advisory Council unanimously has made the same recommendation. The concept of a branch extension has been adopted by the law faculty and endorsed by the University leadership as well as by the University of Idaho Foundation. The branch extension

concept strengthens legal education in Idaho by maintaining the connection with land-grant research and teaching at Moscow while also connecting more fully to the state capital – a center of law, commerce and population. The Idaho Supreme Court has embraced the concept and is collaborating with the College of Law in planning an Idaho Law Learning Center in Boise.

On April 17, 2008, the State Board voted "to approve the request by the University of Idaho for authority to proceed with implementation planning for the two-location concept, including operating budget, capital budget, facility needs analysis, curriculum and an implementation timeline." The College of Law prepared an implementation plan providing for enhancement of the Moscow program and development of a Boise branch program. The plan contained an eight-year timeline reflecting a law faculty commitment to academic quality, the depth of the qualified student applicant pool, accreditation standards (to be met and exceeded), the costs of each step, and the resources available from the Legislature and Governor, student fees, private support, grants and contracts.

The State Board reviewed the plan during its meeting on August 21, 2008. The State Board: (i) authorized the University of Idaho to go forward with a full third-year law program in Boise and to seek a legislative appropriation for that purpose; (ii) instructed the University to re-visit funding and support for the full three-year branch curriculum and to return to the Board for further discussion; (iii) re-affirmed the University's statewide mission in legal education; and (iv) directed the University to continue collaborating with the Idaho Supreme Court on the Idaho Law Learning Center.

Enhancement of the Moscow program and ultimate development of a full branch extension program at Boise, as shown in the summary below, would enable the University of Idaho to deliver an integrated program with basic J.D. instruction at both locations plus distinctive, complementary specialties at each location. The College of Law would be stronger in two locations than it could be at either location alone. Moreover, collaboration with the Idaho Supreme Court on the Idaho Law Learning Center – a multi-purpose facility -- offers a once-in-a-generation opportunity for synergy and efficiency. This will be the Supreme Court's first major capital request in approximately 40 years. Renovation and expansion of the "Capitol Annex" building (the old Ada County Courthouse) is one of the Law Learning Center possibilities. The College of Law also will continue upgrading the Menard Law Building in Moscow, in order to meet the challenges of modern legal education.

The Idaho State Board of Education approved and submitted to the Governor a funding request for support of the third-year law program in Boise, starting in Fiscal Year 2010. In January, 2009, the Governor, citing the economy and diminished tax revenues, declined to ask the Legislature for new higher education funding initiatives. (The Legislature did not fund any such new initiatives, although it did continue funding for a previously approved dairy/environmental center and for a center for advanced energy studies).

The President of the University of Idaho (Dr. Duane Nellis) and the Chief Justice of Idaho (Hon. Daniel Eismann) have submitted letters to the Idaho Department of Administration, declaring their commitments to the "Idaho Law Learning Center" and supporting long-term use of the "Capitol Annex" building

in Boise for this purpose. The building, which has been temporarily utilized by the Legislature while the main capitol building is remodeled, is expected to be vacated by the end of 2009. Estimates are now being prepared of the cost for infrastructure improvements before the building can be used for the College of Law third-year program, for the Idaho State Law Library (to be operated by the College of Law under an agreement with the Supreme Court), and for judicial education and public education components of the "Law Learning Center" concept. The building subsequently would be expanded to accommodate the College's full three-year branch location, the correlative expansion of the library, judicial education and outreach, and other public functions.

In the fall of 2009, the Department of Administration, in collaboration with the Idaho Supreme Court and with support from the University of Idaho, is expected to submit to the Idaho Permanent Building Fund, an entity supported by a public endowment and annual legislative appropriations, a request for funding the currently needed infrastructure improvements to the Capitol Annex.

The College of Law faculty has begun to shape the academic plan for maintaining the quality of the Moscow program while implementing the third-year program with step-by-step additions of faculty in Boise. The State Board-approved program in the state capital will focus largely on business and commercial law and will complement the Moscow program. It may begin as early as the fall of 2010 with approximately 25-30 third-year students, if at least two faculty positions, a staff support position, and library needs can be provided initially with student fees and private support.

**Proposed Full Branch Concept:  
Second Century of Legal  
Education in Idaho  
"One Statewide Law School, Two  
Places of Opportunity"**

**Moscow**

Small ("quality over quantity")

- Residential law program; intimate teaching/learning environment
- Interdisciplinary connections with University of Idaho land grant research and teaching at the intersections of law, public policy, business (e.g., Juris Doctor and Master of Accountancy), and science (e.g., combining Juris Doctor with "Waters of the West" doctoral and masters joint degrees, or masters of environmental science degree)

- Emphases in natural resources and environmental law, American Indian law, and public lands
- Cooperation with Washington State University, including concurrent degree programs (e.g., Juris Doctor and Master of Business Administration)
- College of Law principal administrative offices to remain located on main University campus in Moscow, providing connections and service to the academic community

**Boise**

- Small (reinforcing "quality over quantity") metropolitan program with variable-time curriculum
- Emphases in intellectual property, technology transfer, entrepreneurship, business and commercial law, regulatory law, and international business transactions and trade
- State law-related research and service to judiciary, legislature, and city/state/federal agencies
- Enhanced access to readily available, high-quality affiliate faculty
- Cooperation with Boise State University, including concurrent degree programs (e.g., Juris Doctor and Master of Accountancy with emphasis in Taxation) and potentially with Idaho State University

**Dynamic Connections at Both Locations**

- Delivery of core Juris Doctor degree education, including clinical programs, advocacy, and dispute resolution, with curricular progressions and capstone experiences
- Emphasis on development of professional identity, skills, values, and a sense of public calling, concurrent with generating intellectual growth and a fund of knowledge, as recommended by the 2007 Carnegie Report on Legal Education and the "Best Practices" Report of the Clinical Legal Education Association
- Differentiated and complementary upper-division offerings under integrated curricular plan
- Linkages of people and places through distance education and related technologies
- Outreach to the legal profession and judiciary and to communities in Idaho and beyond
- Unique and innovative approach to legal education – transcending distance

The overriding imperative is to sustain the College's commitment to

excellence by establishing a structure of public legal education that serves Idaho fully while protecting the state's 100-year investment in the program's historic anchor in Moscow. The proposal can be achieved in a series of steps, beginning with elements of the State Board-approved third-year program, as private and public resources are marshaled to the task. Progress can, and should be, scaled to the demand for legal education, as revealed by the quality and depth of the applicant pool. Ultimately, the proposal will establish about the same relationship between Idaho's public investment in legal education and the size of the state as the relationship that existed when the Menard Building was completed in 1973.

In short, the plan is both ambitious and practical – worthy of a Johns Hopkins analogy, yet not beyond Idaho's reach. It secures the University of Idaho's leadership in legal education as the College of Law steps into the second century. In the words of U.S. Supreme Court Justice Louis D. Brandeis, a proponent of innovation at the state level, "[i]f we would guide by the light of reason, we must let our minds be bold."<sup>3</sup>



Photo courtesy of University of Idaho

Dean Albert Menard looks over the construction site of the new law school in 1972.

**About the Author**

**Dean Donald L. Burnett, Jr.**, a native of Pocatello, has served as the University of Idaho's law dean and as Foundation Professor of Law since 2002. He is a former President of the Idaho State Bar, Judge of the Idaho Court of Appeals, and Dean of the Louis D. Brandeis School of Law at the University of Louisville. He received his legal education at the University of Chicago (J.D.) and University of Virginia (LL.M.)

**Endnotes**

- <sup>1</sup> Cliff F. Thompson, *Legal Education in Idaho: 1978-79*, THE ADVOCATE, 1980, vol. 23, no. 1.
- <sup>2</sup> Frank T. Read, et al., *Strategic Directions in Legal Education for Idaho: The Report of a Special Panel Appointed by the President of the University of Idaho (January 8, 2000)*, THE ADVOCATE, June 2000, at 21.
- <sup>3</sup> *New State Ice Co. v. Liebman*, 285 U.S. 262, 310-11 (1932) (Brandeis, J., dissenting).

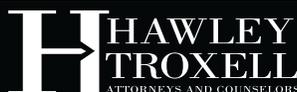
## ALTERNATIVE DISPUTE RESOLUTION

Merlyn W. Clark

Mr. Clark serves as a private hearing officer, federal court discovery master, neutral arbitrator and mediator. He has successfully conducted more than 500 mediations. He received the designation of Certified Professional Mediator from the Idaho Mediation Association in 1995. Mr. Clark is a fellow of the American College of Civil Trial Mediators. He is a member of the National Rosters of Commercial Arbitrators and Mediators and the Employment Arbitrators and Mediators of the American Arbitration Association and the National Panel of Arbitrators and Mediators for the National Arbitration Forum. Mr. Clark is also on the roster of mediators for the United States District Court of Idaho and all the Idaho State Courts.

Mr. Clark served as an Adjunct Instructor of Negotiation and Settlement Advocacy at The Straus Institute For Dispute Resolution, Pepperdine University School of Law in 2000. He has served as an Adjunct Instructor at the University of Idaho College of Law on Trial Advocacy Skills, Negotiation Skills, and Mediation Advocacy Skills. He has lectured on evidence law at the Magistrate Judges Institute, and the District Judges Institute annually since 1992.

- Arbitration
- Mediation
- Discovery Master
- Hearing Officer
- Facilitation
- Education Seminars
- Small Lawsuit Resolution Act



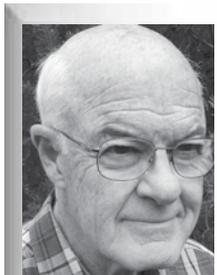
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## THE PRO BONO PROGRAM EVOLVES AT THE UNIVERSITY OF IDAHO

John J. "Jack" McMahon  
*University of Idaho*

On March 1, 2006, the College of Law took an important step in making professional values an essential element of an Idaho legal education. On that day the faculty approved a proposal to establish a pro bono publico service program embracing all law students. The program, which has applied to students entering in 2006 and thereafter, requires each student to perform at least 40 hours of pro bono service before graduation.

The goal of the program is to provide every student at least once during his or her law school career the opportunity to engage in a well-supervised, law-related pro bono activity. The



John J. "Jack"  
McMahon

program rests on the premise that a law school has an obligation to inspire and enable its students to live up to the legal profession's highest ideal of public service. The program complies with, and goes beyond, American Bar Association accreditation standard 302(b)(2), which states that a law school "shall offer substantial opportunities for student participation in pro bono activities."

"Pro bono" work in the Idaho program consists of the services outlined in Rule 6.1 of the Model Rules of Professional Responsibility ("Pro Bono Publico Service"), including poverty law, civil rights law, public rights law, charitable organization representation, and activities for improving the law, the legal system, or the legal profession. Such work must be done without compensation and without academic credit.

The program "counts" as pro bono work such activities as:

- Law school clinical program work in excess of that required for academic credit,

- Externship work performed over and above that required for academic credit,
- Pre-approved placements list in a Placement Book,
- Student-initiated projects conforming to program guidelines.

The program has been a top priority for Dean Don Burnett, who created a similar pro bono program at Brandeis School of Law at the University of Louisville in 1990. At the time, it was one of only five such programs in the United States. Today, approximately 30 (out of 200) ABA-accredited law schools require participation in law-related pro bono programs as a condition of graduation. Of these, approximately 15 are in the "pure" pro bono category of work without pay or credit. The College of Law has joined that group (and is the first law school in the Northwest to do so).

The program will be headed by the author on a part-time basis, under general guidance of a faculty-based Pro Bono

Continued on page 36

## TERRITORIAL LEGISLATURE SET THE TONE FOR PRO BONO WORK IN IDAHO

Mary S. Hobson  
*Legal Director, Idaho Volunteer Lawyers Program*

Lawyers have been rendering legal services to those in need who are unable to pay as long as there have been lawyers. In the Code of Civil Procedure passed in the Eleventh Session of the Idaho Territorial legislature in 1881, among the enumerated duties of attorneys was "never to reject, for any consideration, personal to himself, the cause of the defenseless or the oppressed." C.C. P. 1881 §120. That provision survives today in f.c. §3-201.

For decades following the adoption of the Territorial Legislature's language, the basic responsibility for providing legal services to the poor was borne by individual attorneys. A century later, however, the profession gradually began to recognize that the goal of



Mary S. Hobson

providing legal service to the poor could be advanced by instituting a more systematic approach to pro bono while preserving each lawyer's right to meet the professional responsibility as he, or she, saw fit.

The Idaho Volunteer Lawyers Program, (formerly known as the Idaho State Bar Pro Bono Program), was organized by the Bar in 1982, and concentrated its services in Ada and Canyon counties. The primary objective of the Program then, and today, is to match volunteer attorneys with pro bono cases and projects. In late 1983, the Program expanded statewide to include each of Idaho's seven judicial districts. In 1988, the Program was transferred from the Idaho State Bar to the Idaho Law Foundation, thereby enabling it to obtain a non-profit organization status.

The Idaho Volunteer Lawyers Program (IVLP) built on and fostered the long-standing tradition in the legal profession of providing public service to the poor. Meanwhile that tradition has become an increasingly explicit ethical consideration for Idaho lawyers. Since November 1990, lawyers being admitted to the Idaho Bar must swear (or affirm), "I will contribute time and resources

to public service, and will never reject, for any consideration personal to myself, the cause of the defenseless or oppressed." Thus the eloquent language of the Territorial Legislature still defines the most basic responsibilities of Idaho's Lawyers.

In November 1991, members of the Idaho State Bar approved a resolution recognizing the overwhelming need for legal services among Idaho's poor, and called on each active member of the Bar to volunteer at least 25 hours of legal service each year to IVLP-referred clients. A little more than a decade later, Idaho Rule of Professional Conduct 6.1 was adopted by the Idaho State Bar and became effective July 1, 2004. That Rule begins with the statement, "every lawyer has a professional responsibility to provide legal service to those unable to pay," and suggests, "a lawyer should aspire to render at least 50 hours of public pro bono legal services per year."

Today pro bono services in Idaho are experiencing a renaissance as more and more Idaho attorneys from private, corporate and government practices participate in an ever-broadening array of projects geared to serving "the defenseless or oppressed."

Advisory Committee that addresses policy issues and adjusts the scope of the program as circumstances warrant. The author works under supervision by the associate dean for students and administration.

Notably, student leaders voiced strong support for a program throughout the proposal stage. The program was seen as a way to improve legal skills in a real-world setting while giving back to the profession. It also was viewed, correctly, as an outlet for networking and exploring alternative career paths. Experience is already showing that this program, like others elsewhere in the United States, can foster good will between the law school and its alumni, the bench and Bar, and the broader community.

The Class of 2009 was the first class subject to the mandatory Pro Bono Program requirement. All 3L's graduated in full compliance. One group of students has been especially active in fulfilling the purposes of the program. The Public Interest Law Group (PILG) has itself taken on the task of recruiting students, providing training, assigning officers and assuring continuity in programs such as: Court-Appointed Special Advocates (CASA); law-in-the-classroom presentations to students in public schools; and a landlord/tenant

advice program. Most notably, PILG organizes an "alternative spring break" program in which students travel to distressed areas where legal services are desperately needed and/or to public agencies dealing with important issues such as veterans' appeals of denials of medical benefits and naturalization of qualifying immigrants.

Other initiatives of the pro bono program include "Turning 18," a publication drafted in early 2007 by members of the J. Reuben Clark Law Society. A team of Idaho attorneys with expertise in the relevant areas of law reviewed the publication. It was then published in early 2008 with help donated by former Idaho Chief Justice Charles McDevitt. The initial run was 25,000 copies, all of which have been distributed by the Idaho State Bar to Idaho high schools, Idaho attorneys and other interested parties. A second edition is in the works. The success of this publication has led the Idaho State Bar's Law-Related Education Committee to request that the College of Law undertake publication of a similar document entitled "Kids and the Law." The J. Reuben Clark Law Society has again volunteered to do the first draft. The project will take much of the coming year.

Other examples of pro-bono work: several students are serving on

the local Youth Court in Moscow and helping staff a new program in Kendrick. In addition, students and faculty have assisted in creating the Idaho Immigration Law Pro Bono Network, a pro bono panel of attorneys who will assist in handling migrants' deportation cases – a legal need identified by the federal immigration law court itself.

Through the pro bono program, the College assures that every student understands the professional expectation expressed in Rule 6.1 and will discover the fulfillment of helping others in need. The program complements the College's clinical program, enhancing the students' skills and amplifying their knowledge of applied doctrine in legal subjects related to their service activities. The program also enriches the College's culture of professionalism, giving its students a shared sense of being part of something greater than themselves. Their values are Idaho's signature.

**About the Author**

**John J. ("Jack") McMahon** directs the College's pro bono program on a part-time service contract. A graduate of Harvard Law School, he is a past president of the Idaho State Bar and former Chief Deputy Attorney General of the State of Idaho.



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# EVERYTHING CHANGES AND EVERYTHING REMAINS THE SAME: A HISTORY OF CONTINUING LEGAL EDUCATION IN IDAHO

Thomas High  
*Benoit, Alexander, Harwood & High, LLP*

Judge Ron Bush caught me in the halls of the Federal Court several months ago and asked if I would be interested in writing about the history of Continuing Legal Education (“CLE”) in Idaho. In addition to serving as a Federal judge, Judge Bush happens to also be a former President of the Idaho Legal History Society.

“Of course,” I responded, which is my standard response to any request by a judge. Aside from the fact that the request came from a judge, I was motivated to write this article because I know that most lawyers, when they aren’t attending CLE’s, are actively looking for reading materials about CLE’s, and I could fulfill that need.

My research on this issue took me to the Idaho State Bar office, and the bound volumes of past annual meetings. In the early history of the Bar, the meetings were stenographically recorded and the entire meeting was transcribed and published. As an aside, these meeting minutes would make a fascinating master or doctoral thesis for an enterprising history major. The introductions of guest speakers alone make for fascinating reading. It was my belief that the CLE was a relatively new concept, something that arose while I was attending law school – though it dawned on me that I attended law school 33 years ago and that my definition of “new” has changed considerably. And though I really did believe that the CLE concept did not begin until the 1970’s, my research proved me wrong (first time!). In July 1955, the Bar formed its first official CLE Committee. Sydney Smith of Boise chaired the Committee. Its members were Kales Lowe of Burley, John Carver, Jr. of Boise and Thomas Walenta from the University of Idaho College of Law.

After the Committee’s formation, and at the same meeting, the Committee sought guidance from the Bar on a number of issues including: where to

hold CLE meetings (Pocatello, Boise, Lewiston); short or extended programs; one speaker who travels or several speakers across the state; and what did the Bar want in content? As a member of the CLE Committee for a number of years and its chair for several, I note that the same issues remain the primary topic of conversation at each meeting. The Committee did report to the Bar that continuing legal education’s success “is entirely with the cooperation of the Bar,” a fact that continues to be true today.

The Committee apparently received some guidance because the following year, at the July 1956 annual convention, a day-long program of continuing education was presented. The topic at the 1956 annual convention CLE was a familiar one: “The Evaluation of a Personal Injury Case and Settlement Negotiations.” Everything changes and everything stays the same. For those interested, the entire CLE presentation, with questions and answers from the floor at the convention, are in the minutes of the 1956 meeting kept at the Bar’s office.

Continuing Legal Education became mandatory in 1978 by a vote of the Bar. An ethics component was added for those whose reporting period commenced in 1993. As all Idaho attorneys know, the Bar requires that each attorney report 30 CLE credits every three years, two of which must be in ethics.

The CLE Committee shifted from under the auspices of the Bar and became a Committee and project of the Law Foundation shortly after the Foundation was formed in the 1970’s. The original Foundation Committee planned CLE’s for all practice areas. In 1996, with the increase in specific practice sections, responsibility for the content of CLE programs was transferred from the Foundation to the individual practice sections of the Bar. The Foundation continues, however, to plan general topics and those topics not covered by a specific section. In 2008, for example, the Foundation sponsored 24 courses and the sections offered 32. Total attendance for all CLE’s in 2008 was 2,199. Clearly, the diversity of available programs, including those offered by

Continued to page 38



Thomas High

## Technology influenced Continuing Legal Education

When the Idaho State Bar formed the first CLE committee in 1955, seminars were generally conducted in a traditional lecture format in a one-day or multi-day program. Over the years, the mode of viewing options, the number of programs, and the style of presentation has changed considerably.

In 1983, the CLE Committee began to record live programs in an effort to expand the number of attorneys who could benefit from the committee’s programming. These programs were then available for rent for lawyers to view in a group or individually.

In the mid-1980s, the CLE Committee saw the need to further expand the number of programs available and began to offer programs produced by national organizations such as the ABA. These programs were available via telecast at various viewing sites set up around the state.

The 1990s saw the introduction of a more interactive – style of CLE seminars. Interactive seminars use learning techniques such as discussion

of case scenarios and other hypothetical situations, role playing, and other trial practice skills training opportunities.

In 2001, the CLE Committee approved the first on-demand on-line CLE distribution. Programs were offered for viewing by attorneys state-wide on their computers.

In May 2007, the first live webcast of an Idaho CLE program was launched from the Law Center in Boise. The arrival of the live webcast viewing option greatly expanded the availability of live CLE programming options to Idaho attorneys on a state-wide basis.

Today Idaho attorneys have a variety of CLE options available to them. Programming is offered live and via live webcast. Attorney can choose to do up to one-half of their CLE requirement as self-study credit and programs are available on DVD, audio CD, and on-line for that purpose.

*-Terri Muse  
Deputy Executive Director  
Idaho State Bar*

private companies and other law-related organizations, allow Idaho attorneys to find adequate courses to complete the mandatory requirements of the Bar.

A significant role in the success of CLE programs in Idaho is the cooperation of the members of the Bar, as noted by the 1956 committee. Only a small percentage of Idaho lawyers have significant problems in complying with the CLE requirement. Each year only about 10 percent of reporting attorneys request extensions. Of those attorneys requesting extensions, most satisfy their CLE reporting requirements within the extension period.

The biggest problems in meeting the CLE reporting requirements arise from either a lack of credits or attendance at non-approved courses. Twice in recent years, an attorney lost a license by failing to meet the mandatory CLE requirement of 30 CLE credits during the reporting period. The Bar is still working with several lawyers to satisfy their reporting obligations for the most recent reporting period. The Bar enforces the mandatory CLE requirements by reminding, cajoling, nagging, and then threatening loss of license. If those efforts fail, non-complying attorneys are subject to disciplinary measures, including loss of license. Frankly, the Bar does a terrific job in keeping almost all attorneys in compliance.

In reviewing the annual meeting minutes, I was struck at how so little has changed in the legal profession. One Bar president's address to the state Bar meeting entitled "Problems of the Hour and of the Association," epitomizes this:

There is, beyond doubt, a feeling throughout the country, which is quite widespread, that the bench and bar have not in the past in many ways met past conditions and are not now doing nearly all in their power to meet the demands of the present conditions, and thereby creating a distrust for our courts and the legal profession and disrespect for our lawyers.

In other words, I think we all realize that as a class we are looked upon as a necessary evil and in the private thoughts of many we are considered subject to watching and many would gladly grab us by the roots, toss us about roughly, and totally demonize and disorganize our Association.



Photo courtesy of University of Idaho

Practicing at moot court was captured in this 1954 photo.

*"I think we all realize that as a class we are looked upon as a necessary evil and in the private thoughts of many we are considered subject to watching and many would gladly grab us by the roots, toss us about roughly, and totally demonize and disorganize our Association."*

— ISB President President Willis E. Sullivan

This is all very evident though lamentable. In fact, the lawyers have been blamed and criticized for so long and so often they would feel neglected if the unkind remarks ceased.

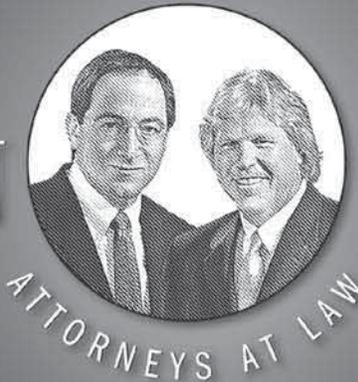
This quote was not from our current Bar president, nor of any president in the past 10 years. The quote is from president Willis E. Sullivan's address to the Annual State Bar Meeting on January 13, 1921. His statement applies today just as much as it did almost 90 years ago! The Bar, its CLE Committee, and the Bar sections strive each day to provide timely pertinent programs so that we in the profession can "meet the demands of the present conditions." Such was the goal of the Bar when the first official CLE Committee was

formed in 1955, and again when CLEs became mandatory in 1978. It remains the goal today. Everything changes and everything remains the same.

#### **About the Author**

**Tom High** has practiced in Twin Falls since 1979 and has been with the Benoit, Alexander, Harwood and High, LLC, since 1981. He is past president of the Idaho Association of Defense Counsel and is also a member of the International Association of Defense Counsel and a Fellow in the International Society of Barristers, currently serving his second, three-year term on its Board of Governors. He lectures extensively for the Idaho State Bar Association with particular emphasis in the areas of trial practice and professional ethics and civility.

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## COURT INFORMATION

### OFFICIAL NOTICE SUPREME COURT OF IDAHO

**Chief Justice**  
Daniel T. Eismann  
**Justices**  
Roger S. Burdick  
Jim Jones  
Warren E. Jones  
Joel D. Horton

#### 5th AMENDED - Regular Fall Terms for 2009

Boise ..... July 22 at 3:00 p.m.  
Boise ..... August 19, 21, 24, 26 and 28  
Boise ..... September 17 and 18  
Pocatello ..... September 24  
St. Anthony ..... September 25  
Twin Falls ..... November 4 and 5  
Boise ..... November 6  
Boise ..... November 9 and 12  
Boise ..... December 2, 4, 7, 9 and 11

By Order of the Court  
Stephen W. Kenyon, Clerk

**NOTE:** The above is the official notice of setting of the year 2009 Fall Terms of the Idaho Supreme Court, 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**  
Karen L. Lansing  
**Judges**  
Sergio A. Gutierrez  
David W. Gratton  
John M. Melanson

#### 4th AMENDED - Regular Fall Terms for 2009

Boise ..... August 20, 25 and 27  
Boise ..... September 10, and 15  
Boise ..... October 15, 20 and 22  
Boise ..... November 10, 13, 17 and 19  
Boise ..... December 8, 10 and 15

By Order of the Court  
Stephen W. Kenyon, Clerk

**NOTE:** The above is the official notice of setting of the year 2009 Fall Terms of the Court of Appeals, 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 Court of Appeals Oral Argument Dates

#### Friday, November 13, 2009 – BOISE

9:00 a.m. State v. Allen ..... #35557  
10:30 a.m. Antonicchio v. Kootenai County ..... #35862  
1:30 p.m. State v. Howard ..... #35705

#### Tuesday, November 17, 2009 – BOISE

9:00 a.m. State v. Reusser ..... #34908  
10:30 a.m. State v. Hawkins ..... #35281  
1:30 p.m. State v. Jackson (via telephone conference) ..... #35600

#### Thursday, November 19, 2009 – BOISE

9:00 a.m. State v. Erickson ..... #35436  
10:30 a.m. Newman v. State ..... #35568  
1:30 p.m. State v. Two Jinn, Inc ..... #35772

### Idaho Supreme Court Oral Argument Dates

#### Wednesday, November 4, 2009 – TWIN FALLS

8:50 a.m. Funes v. Aardema Dairy & State Insurance Fund ..... #35923  
10:00 a.m. Idaho Dairymen's Assoc. v. Gooding County ..... #35980

#### Thursday, November 5, 2009 – TWIN FALLS

8:50 a.m. Meyers v. Hansen ..... #35534  
10:00 a.m. State v. Wegner (Petition for Review) ..... #36238  
11:10 a.m. Urban Renewal Agency of the City of Rexburg v. Hart ..... #35435

#### Friday, November 6, 2009 – BOISE

8:50 a.m. State v. Maybee ..... #35200  
10:00 a.m. Carroll v. MBNA Bank ..... #34765  
11:10 a.m. Citibank v. Carroll ..... #35053

#### Monday, November 9, 2009 – BOISE

8:50 a.m. The Grease Spot Inc. v. Harnes ..... #35321  
10:00 a.m. Evco Sound & Electronics v. Seaboard Surety Co. .... #34898  
11:10 a.m. Melton v. State (Petition for Review) ..... #35855

#### Thursday, November 12, 2009 – BOISE

8:50 a.m. Stuart v. State ..... #34200  
10:00 a.m. BHC Intermountain Hospital v. Ada County ..... #35904  
11:10 a.m. Spokane Structures Inc. v. Equitable Investment ..... #35349

#### Wednesday, December 2, 2009 – BOISE

8:50 a.m. Lopez v. Farm Bureau Insurance ..... #35745  
10:00 a.m. Ridgley v. State (Petition for Review) ..... #35823  
11:10 a.m. Carpenter v. Turrell ..... #35576

#### Friday, December 4, 2009 – BOISE

8:50 a.m. State v. Cobler (Petition for Review) ..... #36139  
10:00 a.m. State v. Peterson (Petition for Review) ..... #35786  
11:10 a.m. Triad Leasing & Financial v. Rocky Mountain Rogues . . #35659

#### Monday, December 7, 2009 – BOISE

8:50 a.m. Weitz v. Green ..... #33696  
10:00 a.m. Parker v. State Tax Commission ..... #35848  
11:10 a.m. Boy Scouts of America v. John Doe I ..... #35639/35681

#### Wednesday, December 9, 2009 – BOISE

8:50 a.m. Heiss v. Conti ..... #36386  
10:00 a.m. McKay v. State (Petition for Review) ..... #35789  
11:10 a.m. State v. James (Petition for Review) ..... #35856

#### Friday, December 11, 2009 – BOISE

8:50 a.m. Schoger v. State (Petition for Review) ..... #35917  
10:00 a.m. Villa Highlands, LLC v. Western Community Insurance . #35472  
11:10 a.m. Goodman Oil Company v. Scotty's Duro-Bilt ..... #34797

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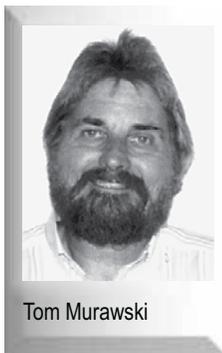


## FEDERAL COURT CORNER

Tom Murawski  
*United States District and Bankruptcy Courts*

### Annual District Conference / Federal Practice Program

If you were not able to attend the Annual District Conference/Federal Practice Program held in Moscow on Oct. 30, please make plans to attend the Program being held at the Boise Centre on Friday, Nov. 13. The theme of this year's Conference is "Nuts & Bolts." Presentation topics will include: Appellate Advocacy – Presenting your Story to the Higher Court; New Local and Federal Rules Overview; The Realities of Expert Witness Reports; Murder, Friendship and Justice – Idaho's First Legal Hangings; Constitution and Supreme Court Review; and the Judges' Perspectives. Registration fees are \$75 for attorneys, \$35 for law clerks and paralegals. Late registration is \$100 after Nov. 2. CLEs have been applied for and will be awarded. You may register online at: [http://www.id.uscourts.gov/DistConf09/reg\\_form09.pdf](http://www.id.uscourts.gov/DistConf09/reg_form09.pdf).



Tom Murawski

### Local Rule Revisions

The revisions to both the District and Bankruptcy Court Local Rules will become effective on Dec. 1, 2009 to

coincide with the effective date of the National Rules. The Bar is encouraged to read and comment on the proposed revisions during the month-long comment period beginning on or before Nov. 1. A redline/strikeout version of the proposed Local Rules will be available on our website at [www.is.uscourts.gov](http://www.is.uscourts.gov) under the New Announcements section. Communication of your comments to the respective Local Rules Committees can be easily accomplished through the e-mail hyperlink located on the front Announcement page of the Rules. Many of the revised local rules reflect new time computations in conformance with the new National Rule which attempts to standardize all time periods in multiples of seven-day increments. ECF will automatically calculate all new time computations. A new Patent Law section has also been created. This Section will now become Part III of the District Court Local Rules.

### New Acting Clerk of Court

After serving 18 years as Court Executive/Clerk of Court for the District and Bankruptcy Courts for the District of Idaho, Cameron Burke has accepted a position with the Administrative Office of the United States Courts. Chief Deputy Shannon Harris will serve as the acting Clerk of Court until a permanent replacement is selected.

### Redaction Reminder - New Login Screen for ECF

The ECF Procedures have made it the

responsibility of the attorney to redact all personal identifiers from documents filed through the Court's District and Bankruptcy ECF system, including attachments. Redaction applies to: social security and taxpayer identification numbers; dates of birth; names of minor children; financial account numbers and, in criminal cases, home addresses. A new login screen has been mandated by the Judicial Conference of the United States designed to remind e-filers of this responsibility. E-filers will be required to check the box that they understand the rules prior to logging into ECF. If the filer fails to check the box, an error message will appear and the login will fail. Thank you for your attention to this important update.

### About the Author

**Tom Murawski** is an Administrative Analyst with the United States District and Bankruptcy Courts. He has a J.D. and Master of Judicial Administration.

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**Idaho Supreme Court and Court of Appeals**  
**NEW CASES ON APPEAL PENDING DECISION**  
(Update 10/01/09)

**CIVIL APPEALS**

**ATTORNEY FEES AND COSTS**

1. Did the court err in failing to award attorney's fees pursuant to I.C. § 12-120 after finding Smith was the prevailing party,?

*Smith v. Washington County*  
S.Ct. No. 35851  
Supreme Court

**EVIDENCE**

1. Does substantial competent evidence exist to support the district court's decision denying Beck's motion for JNOV and upholding the jury's determination that Sargent can recover his contributions to High Valley from Beck?

*High Valley Concrete v. Sargent*  
S.Ct. No. 35313

**HABEAS CORPUS**

1. Did the district court abuse its discretion in dismissing Hedger's petition for writ of habeas corpus upon a finding that Hedger failed to state an equal protection claim?

*Hedger v. Craven*  
S.Ct. No. 36469  
Court of Appeals

**INSURANCE**

1. Whether the court erred by not granting defendant's motion for directed verdict, judgment notwithstanding the verdict, or new trial because there was no breach of contract.

*Weinstein v.*  
*Prudential Property and Casualty Insurance*  
S.Ct. No. 34970  
Supreme Court

2. Whether Hill reasonably or constructively exhausted the insurance policy of Farm Bureau Mutual Insurance as required by her policy with American Family Mutual Insurance Company

*Hill v.*  
*American Family Mutual Insurance Co.*  
S.Ct. No. 36311  
Supreme Court

**MEDICAL INDIGENCE CLAIMS**

1. Did the County Commissioners and the district court err in determining the claim for reimbursement was properly denied as untimely filed?

*Kootenai Hospital District v.*  
*Bonner County Board of Commissioners*  
S.Ct. No. 36217  
Supreme Court

**POST-CONVICTION RELIEF**

1. Whether the district court erred by summarily dismissing the petition for post-conviction relief and by dismissing it without appointing counsel.

*Sharifi v. State*  
S.Ct. No. 36065  
Court of Appeals

2. Did the district court err in denying Lint's petition for post-conviction relief in which he claimed ineffective assistance of counsel for failure to file a motion to suppress?

*Lint v. State*  
S.Ct. No. 35672  
Court of Appeals

3. Did the district court err when it denied Roger's petition for post-conviction relief, rejecting Roger's assertions he had received ineffective assistance of counsel?

*Rogers v. State*  
S.Ct. No. 35701  
Court of Appeals

4. Did the court err in summarily dismissing Acheson's petition for post-conviction relief?

*Acheson v. State*  
S.Ct. No. 35304  
Court of Appeals

**PROCEDURE**

1. Where Driggers failed to file his notice of tort claim within the required 180 days as provided in I.C. § 6-905, did the court correctly dismiss Driggers' complaint?

*Driggers v. Grafe*  
S.Ct. No. 35618  
Court of Appeals

2. Did the court err in dismissing with prejudice the suit against Smith?

*Michael v. Smith*  
S.Ct. No. 36234  
Court of Appeals

**QUIET TITLE**

1. Did the district court err by failing to provide a decision on Dawson's motion pursuant to I.R.C.P. 60(b)(6) to set aside the order and judgment quieting title?

*Dawson v. Chevovich Family Trust*  
S.Ct. Nos. 34712/35334  
Supreme Court

**STANDING**

1. Did the court err when it determined Taylor did not have standing to pursue direct and derivative causes of action against Hawley Troxell and Clements Brown?

*Taylor v. McNichols*  
S.Ct. Nos. 36130/36131  
Supreme Court

**SUMMARY JUDGMENT**

1. Was the district court's summary judgment based on a correct legal interpretation and application of Article IX, Section J and Article XI, Section 9 of the recorded Island Woods CC&Rs?

*Island Woods Homeowners Assn. v.*  
*McGimpsey*  
S.Ct. No. 35363  
Court of Appeals

2. Did the district court err in granting summary judgment to Leishman Electric, Inc., and in holding Taco Time's negligence claim is barred by the economic loss rule?

*Brian and Christie, Inc. v. Leishman Electric*  
S.Ct. No. 35929  
Supreme Court

3. Did the court err in treating the Ada County Defendant's motion to dismiss as a motion for summary judgment and dismissing the matter based on Lightner's failure to comply with the statute of limitations?

*Lightner v. Fourth Judicial District*  
S.Ct. No. 35267  
Court of Appeals

4. Whether there existed a genuine issue of material fact regarding whether Old Sawmill Road is a private road that cannot be used by the public.

*Lattin v. Adams County*  
S.Ct. No. 35768  
Supreme Court

5. Did the district court err in finding an orally modified agreement existed and was performed, and in granting summary judgment to Apple Mobile Catering, LLC?

*Apple's Mobile Catering v. O'Dell*  
S.Ct. No. 36128  
Supreme Court

6. Did the trial court err in granting summary judgment in favor of the Merrills?

*Gibson v. Merrill*  
S.Ct. No. 35629  
Court of Appeals

**TAX CASES**

1. Whether the tanning and spa equipment purchased by Planet Beach constitutes a sale subject to imposition of sales and use taxes pursuant to I.C. § 63-3601 et. seq. where the use of the equipment is being sold or rented by Planet Beach as defined in I.C. § 63-3612(2)(f) & (h).

*Gracie, LLC v. Idaho State Tax Commission*  
S.Ct. No. 36111  
Supreme Court

**Idaho Supreme Court and Court of Appeals**  
**NEW CASES ON APPEAL PENDING DECISION**  
(Update 10/01/09)

**TORT**

1. Did the respondents owe a tort duty to protect Stoddart from being murdered by two fellow students after school hours and off school grounds?

*Stoddart v. Pocatello School District*  
S.Ct. No. 36434  
Supreme Court

**WRIT OF MANDATE**

1. Whether the district court improperly applied the law when it denied the application for writ of mandamus filed by Total Success Investments, LLC.

*Total Success Investments, LLC v. Ada County Highway District*  
S.Ct. No. 36069  
Court of Appeals

**CRIMINAL APPEALS**

**BAIL BONDS**

1. Did the district court abuse its discretion by denying Two Jinn, Inc.'s motion to set aside forfeiture and exonerate the bond relating to Navaro's failure to appear for a sentencing hearing?

*State v. Two Jinn, Inc.*  
S.Ct. No. 36339  
Court of Appeals

2. Did the court err in concluding that I.C.R. 46(g) did not require exoneration of the bond?

*State v. Two Jinn, Inc.*  
S.Ct. No. 36176  
Court of Appeals

**DEATH PENALTY CASES**

1. Should *Ring v. Arizona* be applied retroactively to provide Fields a remedy for the denial of his constitutionally guaranteed right to a jury trial on whether there existed facts necessary to make him eligible for a death sentence?

*Fields v. State*  
S.Ct. Nos. 35679/36704  
Supreme Court

**DUE PROCESS**

1. Was Harman deprived of a fair trial when the court denied a motion for mistrial that was based on an answer given by a potential juror during voir dire questioning?

*State v. Harman*  
S.Ct. No. 35468  
Court of Appeals

2. Did the prosecutor's closing argument amount to prosecutorial misconduct that violated Hubbard's right to a fair trial?

*State v. Hubbard*  
S.Ct. No. 35174  
Court of Appeals

**EVIDENCE**

1. Did the court err in excluding evidence of the California judgment under I.C. § 9-312 or 28 U.S.C. § 1738, even though it was admissible under the Idaho Rules of Evidence?

*State v. Howard*  
S.Ct. No. 35705  
Court of Appeals

2. Did the court abuse its discretion by admitting evidence of McHale's admission to methamphetamine use pursuant to I.R.E. 404(b)?

*State v. McHale*  
S.Ct. No. 35527  
Court of Appeals

3. Did the court err when it allowed the officer to testify that, in his opinion, Shelley was under the influence of alcohol?

*State v. Shelley*  
S.Ct. No. 35299  
Court of Appeals

4. Was there sufficient evidence to support Cantu's conviction for resisting and obstructing an officer?

*State v. Cantu*  
S.Ct. No. 35762  
Court of Appeals

**INSTRUCTIONS**

1. Did the court err by instructing the jury that sexual abuse of a minor was a lesser included offense of lewd conduct?

*State v. Cochran*  
S.Ct. No. 35285  
Court of Appeals

**PLEAS**

1. Did the district court abuse its discretion when it denied Anderson's motion to withdraw his guilty plea?

*State v. Anderson*  
S.Ct. No. 35266  
Court of Appeals

**PROCEDURE**

1. Whether the district court correctly found it was without jurisdiction to consider Orr's untimely motion for new trial.

*State v. Orr*  
S.Ct. No. 36276  
Court of Appeals

**SEARCH AND SEIZURE –  
SUPPRESSION OF EVIDENCE**

1. Did the court err in denying Bennington's motion to suppress and in finding the stop of his car was supported by reasonable suspicion?

*State v. Bennington*  
S.Ct. No. 36202  
Court of Appeals

2. Did the district court err in denying Wheeler's motion to suppress the results of the forcible blood draw because it was unreasonable under the circumstances and because Wheeler revoked his implied consent?

*State v. Wheeler*  
S.Ct. No. 35194  
Court of Appeals

**SENTENCE REVIEW**

1. Did the court abuse its discretion when it relinquished jurisdiction based on information in the presentence investigation report?

*State v. Jackson*  
S.Ct. No. 35795  
Court of Appeals

**Summarized by:**  
**Cathy Derden**

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## IDAHO COURTS CORNER

Michael Henderson  
*Legal Counsel, Idaho Supreme Court*

### Recent Rule Changes – In Your Computer, But Not On Your Shelf

The printed volumes of the Idaho Code that arrive each summer include, of course, all of the legislation that has been passed that year. (Although it can be a tight squeeze to get it all in when the Legislature adjourns on, say, May 8, as it did this year.)

While the Supreme Court attempts to enact major rule changes in time to include them in print, this is not always possible. So here are some recent rule changes that you won't see in the current volumes

on your shelf. You can always find the up-to-date text of Supreme Court rules at [www.isc.idaho.gov/rulestxt.htm](http://www.isc.idaho.gov/rulestxt.htm), and all recent orders of the Court amending the rules at [www.isc.idaho.gov/rulesamd.htm](http://www.isc.idaho.gov/rulesamd.htm).

### Idaho Criminal Rules – Rule 46, Bail

This year, the Legislature enacted a complete revision of the bail statutes. Idaho Code § 19-2901 *et seq.* This legislation was recommended by the Supreme Court based on the work of the Court's Bail Bonds Guidelines Committee, which was chaired by District Judge Barry Wood and which brought together representatives of the judiciary, prosecutors, defense counsel, sheriffs, and the bail industry. The Committee also recommended revisions to ICR 46 that take into account the new statutory provisions. Some of the substantive provisions of the amendments include the following.

*Cash deposit* – Idaho Code § 19-2905(5) defines bail in the form of a cash deposit as including United States currency, money orders, certified checks, cashier's checks, "or such other form of payment as provided by the rules of the supreme court." Subsection (f)(1) of the

new rule provides that cash deposit may also be made by personal check where the acceptance of the check has been approved by a judge, or by credit card or debit card in those counties where procedures for accepting such payments have been approved by the administrative district judge.

*Property bonds* – Subsection (g) now sets forth procedures for the approval and acceptance of property bonds. The person posting the bond must provide the tax assessed value of the property and disclose under oath all liens and encumbrances; the court must determine whether the equity in the property is sufficient to cover the amount of bail and other costs that would be associated with liquidating the property; and the property bond must be recorded, at the expense of the person posting the bond, prior to the release of the defendant.

*Setting aside forfeitures* – Subsection (h) echoes the statutory provision that when bail has been forfeited, the person posting bail may file a motion within 180 days of the forfeiture seeking to set aside the forfeiture in whole or in part. This subsection goes on to provide a non-inclusive list of factors that may be considered by the court in ruling upon such a motion. These factors were taken from the cases of *State v. Quick Release Bail Bonds*, 144 Idaho 651, 167 P.3d 788 (Ct. App. 2007), and *State v. Fry*, 128 Idaho 50, 910 P.2d 164 (Ct. App. 1994).

*Costs of return of defendant* – Subsection (k), in accordance with Idaho Code § 19-2922(5), provides that a forfeiture will be set aside if the defendant appears before the court where the charges are pending within 180 days after the forfeiture, but that if the defendant was not returned to the sheriff of that county by the person posting bail, the setting aside of the forfeiture may be conditioned on the payment of the actual and reasonable costs of transporting the defendant. The rule provides that documentation of those costs must be filed with the court within 14 days of the defendant's return, and that the person

posting bail then has 14 days to object to the request for payment.

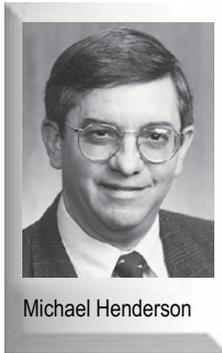
### Idaho Criminal Rules – Rule 5.3, Initial appearance on probation violations

ICR 5.3 went into effect on July 1 of this year and is included in the printed volumes. It requires that persons arrested on probation violation charges must have an initial appearance within 24 hours excluding Saturdays, Sundays and holidays. It requires a determination of probable cause by the court in order to continue to hold the probationer, and it addresses the setting of bail.

There has already been an amendment to this rule, effective Oct. 2, 2009. The wording of subsection (d) has been amended to clarify two provisions. First, the rule now states that if the sentencing court has issued a warrant for an arrest for a probation violation, and has either designated an amount of bail on the warrant or has stated that the probationer shall not be released on bail, that direction shall be followed by the court conducting the initial appearance. Second, the rule now makes clear that if the probationer has been arrested on an agent's warrant, or if the sentencing court has not included any direction as to bail on its warrant, the court conducting the initial appearance may set bail but is not required to do so. This is consistent with the provision of Idaho Code § 19-2903 that a person charged with a probation violation does not have a right to bail, and that bail in such cases is discretionary with the court.

### Idaho Misdemeanor Criminal Rules – Rules 13 and 14, bail amounts

Idaho Code § 72-1025 requires persons convicted of crimes to pay fines that go to the Crime Victims Compensation Account. This year, the Legislature increased the minimum amounts of these fines by about 50 percent. The minimum Crime Victims Compensation Account fine for a misdemeanor was increased by \$12, from \$25 to \$37. Therefore, several of the amounts in the misdemeanor bail schedule set forth in Rule 13 were



Michael Henderson

increased by \$12. Rule 14 provides that for certain types of misdemeanors for which the bail amount set forth in the schedule does not exceed a specified amount, the defendant may enter a written plea of guilty and pay a fine and court costs in the amount of the bail set in the schedule. The maximum amounts for which such a procedure is permitted were also increased by \$12.

**About the Author**

**Michael Henderson** is Legal Counsel for the Idaho Supreme Court. He previously served as a Deputy Attorney General for 18 years (seven of those years as Chief of the Criminal Law Division), and before that was a Deputy Prosecuting Attorney in Ada, Blaine and Twin Falls Counties.

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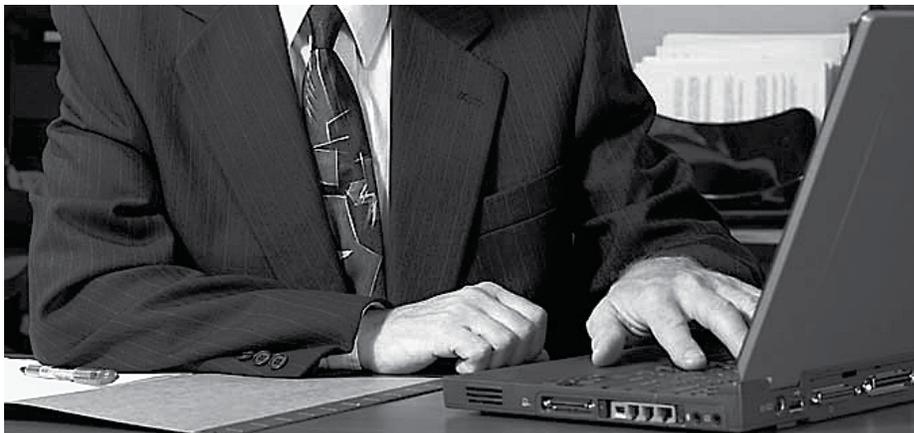
# Technology Tips from the Idaho Practical Skills Seminar

Stephen M. Nipper  
Dykas, Shaver & Nipper, LLP

A couple of weeks ago I sat on a panel at the Idaho Practical Skills Seminar, putting on a presentation for the new admittees on Sixty Law Practice Management Tips in Sixty Seconds. In this column I will share with you some of the tips I gave at the presentation.

One of the best tools I started using last year was the online note taking service called Evernote (<http://www.evernote.com>). I am a big believer in taking notes, both when working on a client file (research) and for creating topical summaries (reference materials) for use later. Evernote is mainly a web application that allows you to access, edit and revise your notes wherever you are (e.g., work, home, coffee shop). Evernote also includes a "Web Clipper" program that can be installed within Internet Explorer/Firefox/Safari enabling you to save a copy of web page (or a portion thereof) as a note. They even provide both local desktop (both Mac and PC software is available) clients as well as to your smart phone (iPhone/Blackberry/Palm Pre) applications that make it really easy to back up your notes locally, as well as access your notes offline. While they do have a free version, most attorneys will likely prefer the "Premium" version that includes enhanced security (\$5/month).

Do attorneys really need scanners on their desktops? In my opinion, yes. I can say that because I have fallen in love with a line of scanners produced by Fujitsu called the "ScanSnap" series. The ScanSnap scanners are literally "plug and play" and are specifically created for scanning documents to Adobe PDF format. You can even configure the ScanSnap to scan documents right into Evernote (mentioned above). The ScanSnap scanners retail for around \$470 and come bundled (free) with Adobe Acrobat 9 Standard (which itself retails for \$300). My office has bought six of the ScanSnap scanners in the last few years for attorney and staff desks, and I



have one in my home office as well. I use my ScanSnap scanner daily and couldn't imagine practicing law without one. One caution: some software has a built-in "scan" button (e.g., Time Matters®) that enables you to use a TWAIN-compatible scanner driver to directly scan documents into the software (without first scanning them to PDF). ScanSnap scanners are not TWAIN-compatible. More information on the ScanSnap series can be found at <http://www.ScanSnap.com>.

How many times has this happened to you: you want to print the first page of an email (or web page) to stick in a client's file and end up all of the pages of the document by mistake, creating a stack of paper you end up tossing in the recycle bin? Sadly, it happens way too often to all of us, adding to the number of trees law offices needlessly kill a year. The good news is that there is a solution, a little program (PC, Mac) called GreenPrint. GreenPrint gives you a pop-up window every time you print a document which allows you to easily select which pages you want to print (or not print), and allows you to even select any graphics on the pages which you do not wish to print. I'd estimate that using

GreenPrint saves me a few reams of paper (and toner cartridges) every year. GreenPrint can be found online at <http://www.PrintGreener.com>.

The program I started using a few months ago (I helped beta test it) that I think is perhaps the most useful Windows

*GreenPrint gives you a pop-up window every time you print a document which allows you to easily select which pages you want to print (or not print), and allows you to even select any graphics on the pages which you do not wish to print. I'd estimate that using GreenPrint saves me a few reams of paper (and toner cartridges) every year.*

add-on for attorneys ever is called QuickJump. QuickJump is made by TechHit, a software company with a number of Microsoft Outlook plug-ins I swear by (discussed below): SimplyFile and MessageSave. QuickJump scans all of the folder names on your computer (including your file server if you tell it to do so) and creates an index of them. Then, when you press a certain key combination on your computer (I use the default, CTR-SHIFT-J) QuickJump activates, giving

you a box into which you can type part or all of a folder name. QuickJump then automatically navigates to that folder, allowing you to save the file in the right folder without needing to click through dozens of folders and subfolders. For me it saves a tremendous amount of time every day. Quick Jump can be found online at <http://www.techhit.com/QuickJump/>.

SimplyFile (also made by TechHit) allows you to easily save emails in subfolders within Outlook. For example, if you have subfolders within Outlook for your clients and/or their matters, SimplyFile watches and analyzes what folders you save emails in. Then, the next time you go to save an email, SimplyFile suggests a location, giving you the ability to click a button and save the email to that folder. It greatly expedites the process of sorting and organizing your Outlook folders. SimplyFile can be found online at <http://www.techhit.com/SimplyFile/>.

MessageSave (also made by TechHit) allows you to easily save email messages to your file server (e.g., within the client's file), preserving the original date of the email file in the process. This plugin is important from the standpoint of getting all of a client's documents/files in a single place (your file server) rather than split between your file server and your Outlook PST file. MessageSave can be found online at <http://www.techhit.com/messagesave/>. Remember that the next time you wish that your hardware/software would perform in a certain way, you're probably not alone. Someone very well have come up with a solution to your issue.

**About the Author**

**Stephen M. Nipper** practices all aspects of patent and trademark work, including counseling clients on means of protection, preparation and filing of applications, prosecution, licensing and enforcement. His background includes the mechanical arts, agriculture and the biological and chemical sciences. He is also the author of *The Invent Blog*®, one of the oldest patent law blogs. *The Invent Blog* covers technology tips, intellectual property news, and information relevant to independent inventors, small businesses, and the attorneys that serve them.

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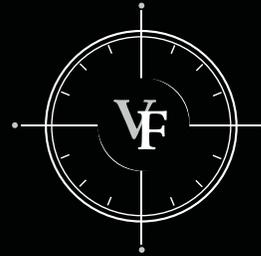
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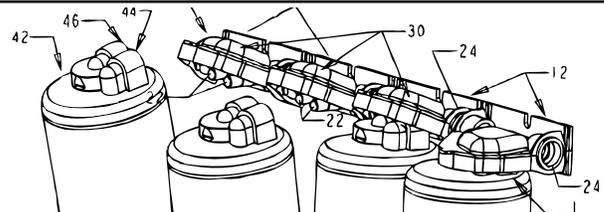
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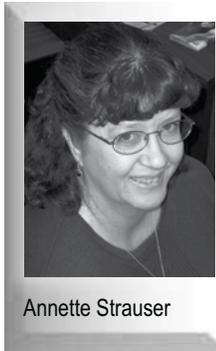
1410 N. 28th Street • Boise, Idaho 83703

# Licensing and MCLE Compliance

Annette Strauser  
*ISB Membership Administrator*

## Licensing

The 2010 licensing packets will be mailed in mid-November. The licensing deadline is Feb. 1, 2010. Your payment and paperwork must be received in our office by that date. Postmarked is not enough. If it is not received by Feb. 1, you must also pay the appropriate late fee - \$50 for active and house counsel members and \$25 for affiliate and emeritus members. The final licensing deadline is March 1, 2010. All licensing fees and paperwork must be received by that date. If your licensing is not complete by March 1, your name will be given to the Idaho Supreme Court for transfer to inactive status.



Annette Strauser

## Paying Online

We are pleased to offer online licensing renewal again this year. Attorneys will be able to complete their licensing paperwork and pay their fees online. Payments can be made by credit card or check. (There will be an additional, minimal fee for paying by credit card.) Information on how to access the portal will be included in the licensing packets and will be emailed to the membership. A link to the portal will also be on our website at [www.isb.idaho.gov](http://www.isb.idaho.gov).

This year, we have expanded the licensing portal to allow firms to collect their attorneys' information and make a single payment by credit card or check. The portal will provide a breakdown of the fees by attorney and payment category along with calculating the total payment amount. This option should allow firms to complete the licensing process with minimal paperwork and staff time.

## MCLE Compliance

If it is your year to report your mandatory continuing legal education (MCLE) credits, you received a reminder letter in May and you will receive a MCLE certificate of compliance in your licensing packet. The deadline for obtaining the required MCLE credits is

Dec. 31, 2009. However, the certificate of compliance does not have to be submitted until the Feb. 1 licensing deadline.

You need to have at least thirty Idaho approved MCLE credits (of which at least two must be approved ethics credits) by the end of your reporting period. Check your attendance records on our website at [www.isb.idaho.gov](http://www.isb.idaho.gov). If you attended courses that are not on your attendance records, contact the Membership Department to make sure they have been approved for Idaho MCLE credit. Only Idaho MCLE approved courses can be used to meet the MCLE requirements. Approved courses will appear in your attendance records if we received verification from the sponsor that you attended the course. It is not necessary for your name to be in our attendance records for you to count the course toward meeting your requirements. As long as the course has been approved for Idaho MCLE credit, simply add it to your certificate of compliance before signing it. Most certificates of compliance will have written additions and corrections.

There will be many courses offered in November and December. We post a list of upcoming approved courses on our website. We also have a library of DVDs, CDs and video/audio tapes available for rent and we have online courses available. Information about the rental programs and online courses is on our website.

Online courses are a great way to avoid the hassle of ordering and returning rented programs. They are video and audio streaming versions of our courses that are available at your convenience 24 hours a day. They are an easy way to get MCLE credits when you want them. Visit our website to see the available courses.

Remember, the limit for self-study credits is 15 per reporting period. If you take an online course, it will be considered self-study. Watching a DVD or videotape is self-study if you watch it on your own. If you can get at least one other Idaho attorney to watch a DVD or videotape with you, it is not considered self-study. Getting together with another member of the Bar is a good way to avoid self-study credit and, if you are lucky, split the rental cost.

If, despite your best efforts, you do not think you will be able to complete the MCLE requirements by the Dec. 31 deadline, you can request an extension until March 1, 2010. To get the extension, send a written request and pay \$50. Credits

earned during the extension period will be counted toward your reporting period that ended in 2009. Your certificate of compliance should not be submitted until the requirements have been met. However, the rest of your licensing must be submitted by the February 1 deadline to avoid the late fee. The final deadline for submitting your completed certificate of compliance is March 1, 2010. If you have not completed the MCLE requirements by March 1, your name will be given to the Idaho Supreme Court for transfer to inactive status.

## Questions

We want to make the licensing process as easy and trouble free as possible. If you have questions or need more information, please contact us at (208) 334-4500.

For licensing and MCLE information, contact Annette Strauser ([astrauser@isb.idaho.gov](mailto:astrauser@isb.idaho.gov)) or Jenay Hunt ([jhunt@isb.idaho.gov](mailto:jhunt@isb.idaho.gov)) in the Membership Department.

For an update on the status of the online licensing renewal portal, contact Annette Strauser at the phone number or email address above.

If you are interested in renting a DVD, CD or video/audio tape, contact Eric White ([ewhite@isb.idaho.gov](mailto:ewhite@isb.idaho.gov)) in the Legal Education Department.

## MCLE Extensions

If you are unable to complete your MCLE requirements before the end of the year, you can request an extension until March 1, 2010. To receive the extension, send a written request to the ISB Membership Department and pay the \$50 extension fee. All the credits from any courses attended to complete your MCLE requirements will be counted as part of your 2007-2009 report. They cannot be applied to your 2010-2012 report. All MCLE requirements must be completed by March 1, 2010 — no further extensions will be given. Remember, the rest of your licensing is still due by February 1, 2010. If you have any questions about MCLE compliance or licensing, please contact the Membership Department at (208) 334-4500 or [astrauser@isb.idaho.gov](mailto:astrauser@isb.idaho.gov).

## IN MEMORIAM

### Honorable Garth Sanford Pincock 1927 - 2009

Hon. Garth Sanford Pincock, 81, passed away Tuesday, September 15, 2009, after an extended battle with Leukemia.

Judge Pincock, son of George Sanford Pincock and Luamelia Dalling, was born September 16, 1927, in Rigby, Idaho. The family moved to Rexburg, Idaho where he attended public school and graduated from Madison High School. During World War II, he served in the United States Navy in the Pacific Theater.

He was called to serve a mission for the LDS Church to the New England states in 1948. While attending Ricks College, he met his Sweetheart, Ressa Campbell. They were married June 1, 1951, in the Idaho Falls Temple.

Judge Pincock graduated from Ricks College in 1955 (the first four-year graduating class) with a Bachelor of Science degree in Education. Later he moved his family to Washington D. C. where he attended the American University Washington College of Law. He graduated in the top third of his class in August 1966. He moved his family to Pocatello Idaho shortly thereafter to practice.

Judge Pincock served 10 years as prosecuting attorney of Bannock County, and in January 1983 was appointed as a magistrate judge for Sixth Judicial District of the state of Idaho. He served in this position for 11 years.

During this time he served four years as acting trial court administrator of the Sixth Judicial District.

Judge Pincock has always been active in the LDS Church and has served as Scoutmaster, Young Men's president, advisor of numerous Aaronic Priesthood quorums, counselor to two bishops, high counselor, bishop, and stake patriarch. He and his wife Ressa have served three missions together, Singapore Mission (Pakistan), Public Affairs Mission to England, Family and Church History Department in Salt Lake City.



Hon. Garth Sanford  
Pincock

Judge Pincock enjoyed fishing and loved spending time with his family at their cabin in Island Park. He was a sports enthusiast and especially enjoyed supporting his many grandchildren in their sports endeavors.

Judge Pincock is survived by his wife Ressa, and seven children, Linda, (Scott) Owens of Boise ID, David (FaDene) Pincock of Omaha NE, Paula Demuzio, Pocatello, Diana, (John) Erramouspe, Pocatello, Phillip, (Tana) Pincock of Sandy UT, Jenae, (Steve) Allen, Pocatello, Amy, (Jason) Goodsell of Newton UT and his sister Phyllis Harward of Boise ID and brother Lowell Pincock of Simi Valley CA. He has 39 Grandchildren and 39 Great Grandchildren.

Judge Pincock was preceded in death by his parents George and Luamelia Pincock, an older brother Dee Pincock, and his son-in-law Blake Demuzio.

Funeral services were held Saturday, Sept. 19, at 11 a.m. in the Alameda LDS Stake Center, corner of Jefferson and Alameda, Pocatello, with Bishop Jerry Eddie of the Alameda 7th Ward officiating. The family received friends from 6-8 p.m. Friday evening in the Cornelison Funeral Home, 431 N. 15th Ave., Pocatello, and from 10:00-10:45 a.m. prior to services in the Church Saturday. Interment was in the Mountain View Cemetery, Pocatello, with military graveside rites by the Pocatello Veterans Honor Guard. Arrangements are under the direction of the Cornelison Funeral Home, 431 N. 15th Ave., Pocatello. Online guest book and condolences available at [www.cornelisonfh.com](http://www.cornelisonfh.com).

### Daniel James Brown 1950-2009

Daniel James Brown, known as Danny by his friends, passed over on August 22, 2009 in order to spend the rest of eternity with his Creator God, Brother Christ, and Beloved Mother Mary. He was born May 26, 1950 in Plattsburgh, New York to D. Joseph and Angeline Brown.

Danny moved to Jacksonville in 1959 and attended Assumption Catholic School and Bishop Kenny High School where he graduated in 1968. He attended the University of Notre Dame, where he walked on the Fighting Irish football team under Coach Ara Parseghian. He

graduated from ND in 1972 and returned to Jacksonville to begin his teaching and coaching career at Bishop Kenny.

An accomplished English teacher, football, track and cross country coach, Danny touched the lives of hundreds of athletes and students with his love for literature and his passion for sport. His love for God and desire to serve Him were the impetus for his dedication to his students and athletes. He was a founding member of the Jax Rugby Football Club and an active member of the Jacksonville Track Club. He served as race director for several runs, including the Gator Bowl Run and the Summer Beaches Run. In 1984 Danny left BK to begin law school at Gonzaga University in Spokane, Washington. He transferred to Florida State University School of Law where he graduated in 1987. His love for the Pacific Northwest inspired him to move back to Spokane where he both taught at Lewis and Clark High School and practiced law for several years. He returned to Jacksonville in 2004, continued his practice of law, and worked to further establish the Bishop John Snyder HS track and field program. He played an instrumental role in building the new track facility at BJS HS. He was active in the Catholic Lawyers Guild, the community of San Juan Del Rio Catholic Church, and numerous charitable organizations. He never lost his love for the Northwest, where he visited often and went camping, backpacking and hiking.

Danny is survived by Jeanne, his loving wife of 29 years, his sons Ian (Aubrey), Adam (Katy), Asa, Mark and his beloved granddaughter, Chloe, his father, Joseph, brothers Michael, Phillip (Mary Ann), parents-in-law Robert and Carmel Brodeur, brothers-in-law, Stephen Brodeur (Judie), Mark Brodeur, sisters-in-law Julie Brodeur Brookshire (George), Carmel Brodeur Lea (Ernest), and numerous nieces and nephews. He will be deeply missed by his students, athletes and colleagues.

A viewing was held Friday, August 28 at San Juan Del Rio Catholic Church. The Funeral Mass was celebrated at San Juan Del Rio Catholic Church on Saturday, August 29, at 11 a.m. Arrangements are under the care and trust of Hardage Giddens Mandarin Chapel, (904) 288-0025.

## Idaho Supreme Court receives national honor for service to rural areas

The Idaho Supreme Court has been selected by the Justice Management Institute (JMI) as the recipient of the 2009 award for justice system innovation and improvement.

The JMI award recognizes the Idaho Supreme Court for its implementation of several significant innovative programs that enhance access to courts and improve the delivery of court services as well as its leadership in improving justice in rural areas.

Justice Management Institute President Dr. Barry Mahoney noted that Idaho is a geographically large state, with few large population centers. "In this predominantly rural environment delivering high quality judicial services is inevitably challenging," he said. "The Idaho Supreme Court has led the way in meeting this challenge in Idaho, and in doing so has provided a model—or set of models—for state court systems throughout the nation."

Idaho Supreme Court Chief Justice Daniel Eismann accepted the award on behalf of the Court and expressed his gratitude to Mahoney for this recognition. "We have long been committed to expanding court service resources to the rural areas of the state. We recognize we have a large and diverse state with varying needs and concerns. 'One-size-fits-all' simply will not work in Idaho. We want all citizens of Idaho to have access to justice and court services, including innovative solutions to difficult societal problems."

Mahoney identified five key areas in which the Idaho Supreme Court has exercised leadership in introducing effective court programs that reach residents in rural areas of Idaho:

**Assistance for self-represented litigants:** Idaho pioneered the development of court assistance offices to provide direct assistance to Idahoans who need help in understanding how to seek resolution of their legal disputes. During 2008, over 38,000 persons obtained help directly from court assistance offices at county courthouses throughout Idaho.

**Technological innovation:** Idaho courts have undertaken a ground-breaking project to enhance access to the courts through effective use of technology by partnering with Idaho Legal Aid Services

to develop interactive on-line forms and instructions. The forms are available to citizens involved in litigation related to divorce, child custody, and child support issues—areas in which there is a high degree of self-representation. To date, more than 16,000 persons have used the on-line guided interviews and forms needed for court proceedings.

**Children and families:** The Idaho courts have initiated an array of innovative programs aimed at protecting children and families including domestic violence courts, parent education classes and mediation programs.

**Problem-solving courts:** Idaho has developed a number of problem-solving courts, with strikingly effective results. Idaho was one of the first states to make drug courts, DUI courts, and mental health courts function successfully in rural environments where it is difficult to access treatment services. Idaho has 54 drug and mental health courts that supervised nearly 2,000 offenders in 2008. Evaluations of 10 of these programs reveal that they have achieved significant reductions in recidivism. They are cost-effective and in many cases they enable individuals to become productive and responsible members of society.

**Overcoming language barriers:** As in many predominantly rural states, courts in Idaho often have litigants and witnesses before them who speak little or no English. The Idaho Supreme Court has established a training and certification program for persons who are interested in providing court interpreter services. The Administrative Office of the Courts also works with the National Consortium on Court Interpreter Services in developing effective ways of ensuring that language barriers do not become insuperable obstacles to providing high quality justice.

Mahoney singled out Idaho as being at the forefront of states that have recognized problems that affect the public in rural areas in each of these areas. "The innovations have broadened access to justice for citizens throughout the state," he said.

The Justice Management Institute is a non-profit organization, based in Denver, Colorado, that is dedicated to improving justice system operations in the U.S. and abroad. JMI's Board of Directors consists of individuals who have had extensive experience in justice

system operations and innovation as judges, court managers, and consultants.

## Judges Perry and Watson receive top judicial honors

An Idaho Court of Appeals Judge and a Kootenai County Magistrate have been selected to receive the Idaho Judiciary's most prestigious awards.

Idaho Court of Appeals Judge Darrel Perry was named the recipient of the 2009 Kramer Award and Kootenai County Magistrate Judge Barry Watson was selected as the 2009 Granata Award recipient. The recipients are chosen annually by virtue of their significant contributions to the Idaho judicial system.



Honorable Darrel Perry

Both awards were presented by Court of Appeals Judge David Gratton at a September 21 ceremony.

The Kramer Award, named in honor of the late District Judge Douglas C. Kramer, is awarded to the person who best exemplifies excellence in judicial administration, by character and action. The Granata Award, named in honor of the late District Judge George G. Granata, Jr., is awarded to the trial judge who best exemplifies the professionalism evidenced by Judge Granata during his more than twenty years of judicial service.



Honorable Barry Watson

Judge Perry, who announced his retirement earlier this year, currently serves on the Idaho Supreme Court's Judicial Education and Media and the Courts Committees. In a letter signed by Law Clerks Tyler Rands and Chris Christensen and Judicial Assistant Sue Stover, Judge Perry was nominated for his longstanding service as mentor to many law clerks and newly appointed judges and his considerable contributions to the improvement of the Court of Appeals. "Judge Perry has sought to instill within his staff a heightened sense of citizenship," stated the letter. "He maintains a philosophy that his work on

## OF INTEREST

the bench, and the work accomplished by those within his employ, is not just a job, but part of the legal process.”

After receiving his J.D. from the University of Idaho in 1979, Judge Perry began his legal career handling civil matters and serving as a public defender in Nez Perce County. At the age of 27, he was appointed by the Second Judicial District Magistrate Commission to serve as a Magistrate Judge. In 1993 he was appointed to the Court of Appeals and was elected for additional six-year terms in 1994, 2000, and 2006.

### Cox Law adds a new associate

Cox Law PLLC announced that Sean C. Beaver has joined the firm as an associate. A native of Boise, Sean graduated from Whitman College with a Bachelors Degree in 2005 and went on to receive his Juris Doctor from Drake University Law School in 2009. Sean will be focusing his practice in Criminal, Family and Civil trial matters.



Sean C. Beaver

Sean has already been very involved in the Firm’s criminal defense practice. He has already appeared in District Court Felony proceedings, represented Clients in Ada County’s Drug Court, and filed several motions created and composed by him. He has also been busy meeting with Clients for family law matters and dividing assets in divorce proceedings.

### Roark inducted into the American College of Trial Attorneys

The Roark Law Firm, Hailey and Twin Falls, is pleased to announce that its founding member, R. Keith Roark of Hailey, Idaho was inducted into the American College of Trial Lawyers at its annual convention in Boston Massachusetts on Saturday, Oct. 10, 2009.



R. Keith Roark

Founded in 1950, the College is composed of the best of the trial bar from the United States and Canada. Fellowship

in the College is extended by invitation only and only after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Membership in the College cannot exceed one percent of the total lawyer population of any state or province.

Mr. Roark has been practicing law in Idaho for more than 32 years and has served as Blaine County Prosecuting Attorney, Hailey City Mayor, President of the Idaho Prosecuting Attorneys Association (1982-83), President of the Idaho Association of Criminal Defense Lawyers (2007-08) and is currently the State Chair of the Idaho Democratic Party. He was also the recipient of the Idaho State Bar Association’s Professionalism Award in 2008.

### Worst, Fitzgerald & Stover hires Gleckler

The law firm of Worst, Fitzgerald & Stover, PLLC is pleased to welcome Kara M. Gleckler to the firm as an associate attorney. Kara received her bachelor’s degree from Brigham Young University where she obtained the distinction of valedictorian. She received her Juris Doctor, summa cum laude, from the University of Idaho College of Law in 2007, graduating first in her class. Before joining Worst, Fitzgerald & Stover, Kara served as a law clerk for the Honorable John Bradbury of the Second Judicial District Court.



Kara M. Gleckler

### Uranga named by Super Lawyers

Jean R. Uranga, a partner with Uranga & Uranga, has been named one of the Top 40 Women by Mountain States Super Lawyers. This honor is given to women lawyers who received the highest point totals in the 2009 Mountain



Jean R. Uranga

States Super Lawyers nomination, research and review process. Uranga was also named by her peers as a Super Lawyer in family law. She was also recognized by the Best Lawyers In America for 2009 and 2010 in family law and family law mediation. She is “AV rated” as determined by Martindale-Hubble’s peer review process. Uranga is a former Idaho State Bar commissioner and former president of the Idaho State Bar.



Richard Boardman



Robert Maynard

### ‘Best’ publication notes Perkins Coie lawyers

Perkins Coie announced that three of its Boise office attorneys were selected for inclusion in the 2010 edition of Best Lawyers in America. Richard Boardman was recognized for his work in commercial litigation and construction law; Robert Maynard was recognized for his energy, environmental and natural resources, and timber law practice; and Forrest Hunter was recognized for his work in labor and employment law.



Forrest Hunter

### Thomas new Clerk of the Court for Washington County

Sharon Widner, Clerk of the Court, Washington County, tenured her resignation effective September 30, 2009. Betty J. Thomas, who has been a Deputy Clerk since July 1993, was appointed as Clerk of the Court on Sept. 28, 2009 and sworn in on Sept. 30, 2009. Betty has served as Senior



Betty J. Thomas

## OF INTEREST

Deputy Clerk since Oct. 1, 2005. Betty has worked in all phases of the Clerk's Office and has served as Judge Stephen W. Drescher's Calendaring Clerk since his appointment as District Judge. Betty plans to run for the position of Washington County Clerk in the May 2010 primary election. She is married with three grown sons and five grandchildren.



Chris H. Hansen



Amy G. White

defense attorney. Ms. Fouser was also named in the 2009 Super Lawyers as one of the top 40 female attorneys in the Mountain States and Mr. Gjording was again named to the prestigious list of medical malpractice defense attorneys in the Mountain States.

### Reeves honored with the Humanitarian Award

The City of Sun Valley recognized longtime attorney Reginald Reeves with the Humanitarian Award on Sept. 17, only the third time the City has given the award. The City of Sun Valley had previously declared a Reginald Reeves Day in 2004, the same year he won a "Health Hero Award." The proclamation notes his longtime commitment to helping others in many countries and for "the fact that he has dedicated his life to public service."



Reginald Reeves

### Fifth District Bar Golf Outing

The Fifth District Bar Association held its Golf Outing at Jackpot on Sept. 11. The format of the golf tournament was a four-person best ball. First place went to the team of Paul Beeks, Mike McCarthy, Jon Jacobsen and Jeff Rolig. A tie for second and third place went to the team of Len Roy, Susan Roy, John Ritchie and Sherry Ritchie, and to Fifth District Bar President David Heida and his team of Isaac Keppler, Jacob Keppler and Vickie Pavkov. Golfers also vied for Longest Drive, Closest to the Pin and Longest Putt. Bragging rights go to Jeff Rolig for Longest Drive, and Laird Stone for both the Closest to the Pin and Longest Putt.



Robert A. Anderson



Brian K. Julian

been selected for his work in Worker's Compensation Law and Employee Benefits Law. All three individuals are the founding partners of Anderson, Julian & Hull.

Partner Chris H. Hansen has been selected for his work in Personal Injury Litigation and partner Amy G. White has been selected for her work in Education Law.

### 'Best' publication notes Anderson Julian & Hull lawyers

Anderson Julian & Hull has announced that Robert A. Anderson, Brian K. Julian, Alan K. Hull, Chris H. Hansen and Amy G. White, have been selected by their peers for inclusion in the 2010 edition of Best Lawyers in America.

Robert A. Anderson has been selected for his work in Construction Law, Insurance Law and Personal Injury Litigation. Brian K. Julian has been selected for his work in Labor and Employment Law, Personal Injury Litigation, Insurance Law and Commercial Litigation. Alan K. Hull has



Jack S. Gjording



Trudy Hanson Fouser

### Gjording and Hanson Fouser named in Super Lawyers

Jack S. Gjording and Trudy Hanson Fouser were both recently named in Super Lawyers, the Corporate Counsel Edition, as two of the top 26 attorneys in Idaho in civil and criminal litigation. Mr. Gjording was named as a top medical malpractice defense attorney and Ms. Fouser was named as a top civil litigation



Alan K. Hull



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### Native Law recruitment draws interested professionals

The University of Idaho College of Law's Native Law Recruitment Event on Friday, Oct. 16, was attended by 39 participants ranging from high school to college students and professionals considering a career change. The evening prior to the event the Native American Law Student Association (NALSA) provided a Dessert Reception for high school participants traveling nine hours from the Fort Hall Reservation to participate. Faculty in attendance for the

reception included: Dean Don Burnett, Assoc. Dean Liz Brandt, Mark Anderson, Barbara Cosens, Angelique EagleWoman, Anastasia Telesetsky, Mike Satz, Rich Seamon, and Carole Wells.

The Friday recruitment event was hosted by Associate Professor Angelique EagleWoman with lots of support from faculty, staff, and law students. Associate Dean and Professor Liz Brandt gave the welcome to the group. Angelique EagleWoman presented a mock law class with an overview of the field of Native American Law. Associate Professor Mike Satz presented on law school

admissions. The afternoon Native Law Attorney panel was composed of all U of I Law Alums: William Bacon (Shoshone-Bannock Tribal Attorney), Helaman Hancock (Coeur d'Alene Tribal Attorney/Legislative Director), and Julie Kane (Nez Perce Tribal Attorney). Organizational support was provided by Linda Kiss and Sande Schlueter. The NALSA officers and members conducted law school tours, handled the registration station, and assisted throughout the Event. It was a successful pipeline event that inspired many Native Americans in attendance to consider a legal career.

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### **ELAM & BURKE** **ATTORNEYS AT LAW**

is pleased to announce that

**JADE C. STACEY**

has joined the firm



Mr. Stacey joined the firm as an associate in August of 2009. Prior to joining Elam & Burke, Mr. Stacey served as a law clerk for the Honorable Deborah Bail, District Judge, Fourth Judicial District. He practices primarily in the area of civil litigation.

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## UPDATES TO IDAHO STATE BAR ATTORNEY DIRECTORY

9/2/09 – 10/1/09

The attorneys listed have had a change in their membership information (name, firm, address, phone, fax, email, website or status) during the time period indicated. For complete information, please visit our website at [www.isb.idaho.gov](http://www.isb.idaho.gov).

**Kenneth Paul Adler**  
Adler Law and  
Mediation Service  
Sandpoint

**Jonathan Bradley  
Ahten**  
Protex, LLC  
Boise

**James Blair Alderman**  
Batt Fisher Pusch &  
Alderman, LLP  
Boise

**Joseph John Alegria II**  
Law Office of John  
Alegria  
Boise

**Tyler Steven  
Andersen**  
Jackson Walker, LLP  
Austin

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Law Office of Denton P.  
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Lewiston

**Eric Frank Baldwin**  
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Meridian

**Jay Kevin Barnes**  
Law Office of Jay  
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Orem

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Payette County  
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Payette

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**Amy Catherine  
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Amy Bistline Law  
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**Matthew Rick  
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**Thomas Gary Crossan  
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Department of  
Homeland Security  
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Jones Day  
Dallas

**David Jensen Dance**  
Moffatt, Thomas,  
Barrett, Rock & Fields,  
Chtd.  
Pocatello

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**Jayne Tracy Davis**  
Boise

**Selina Astra Davis**  
Moscow

**Phil E. De Angeli**  
First American Title  
Insurance Company  
Boise

**Hon. William B. Dillon  
III**  
New Plymouth

**Hon. Stephen Wesley  
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There is only good rewriting.*  
Justice Brandeis

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Photo by Kyme Graziano, Idaho State Bar

Taking the oath to practice law are, from left, Stacey Lucich, Mellisa Maxwell, Annie McDevitt, John McDonald, and Bruce Hinchey. In the background is Maren Redd. They are a few of the 106 recent law school graduates and reciprocal attorneys who joined the Idaho Bar during the Oct. 1 ceremony.

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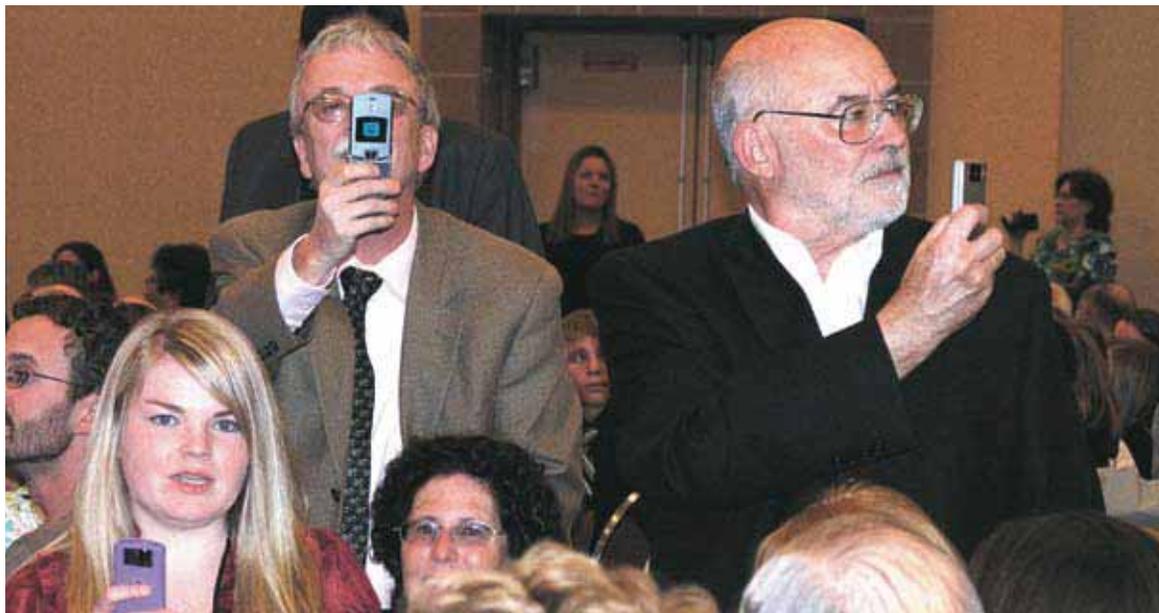


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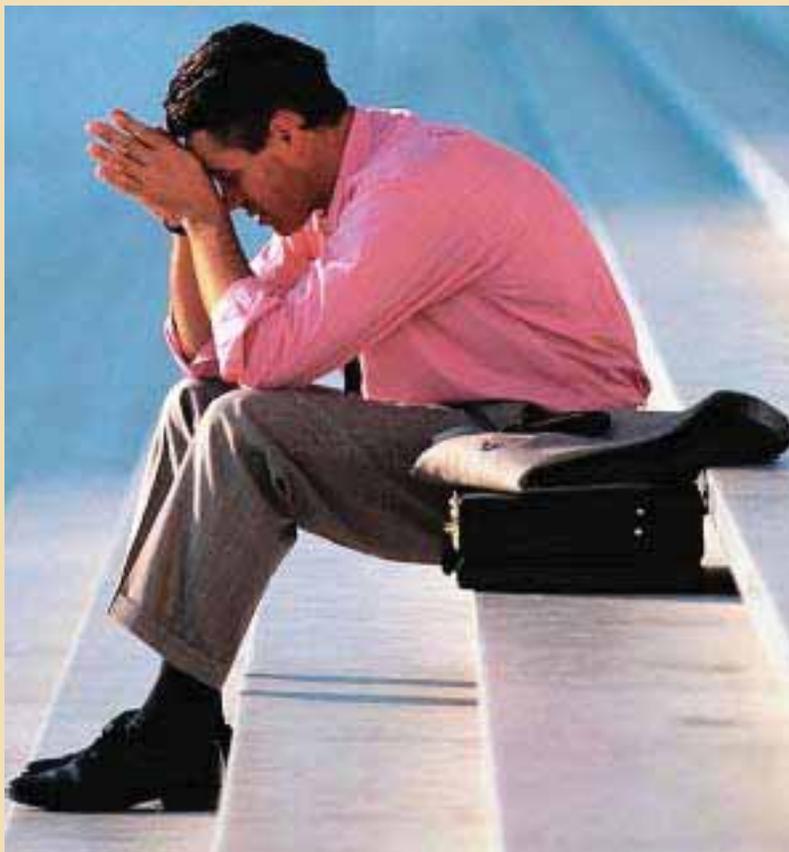
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# FEELING STRESSED OUT?

A lawyer's life involves deadlines, frustrations, and demands. For many, living under stress has become a way of life. Occasional stress can help you perform under pressure and motivate you to do your best. But when you're constantly operating in emergency mode, your mind and body pay the price.

At a certain point, stress stops being helpful and starts causing major damage to your health, your mood, your productivity, your relationships, and your quality of life. Living under constant pressure can lead to depression and alcohol or substance abuse.

The Idaho Lawyer Assistance Program offers confidential 24-hour help to lawyers who are experiencing problems associated with alcohol and/or substance abuse and other mental health issues related to stress.



Contact Southworth Associates at  
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or one of the Volunteers from the  
Idaho Lawyer Assistance Program  
for a confidential peer consultation:

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David Samuelson  
Boise, (208) 344-7676

Thomas Lopez  
Boise, (208) 342-4300

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Boise, (208) 869-0137

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Twin Falls, (208) 733-8310

Douglas Copsy  
Boise, (208) 841-5634

Thomas Vasseur  
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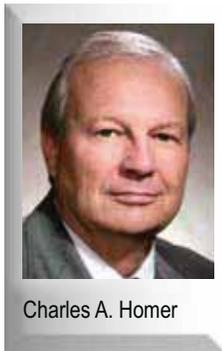
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# REMEMBER THE IDAHO LAW FOUNDATION DURING THIS TIME OF YEAR

Charles A. Homer  
*Idaho Law Foundation President*

The holiday season is upon us again. In these difficult economic times, it is easy to find excuses to reduce or eliminate charitable giving. Most of us “can” give, but the question is, will we? In making your decision, please consider all the benefits provided by the Idaho Law Foundation. With your support, the Idaho Law Foundation works to fulfill its mission to educate all people about the role of law in a democratic society, to provide opportunities for people to avoid and resolve conflicts, and to enhance the education and competence of attorneys. The following are some of the programs the Idaho Law Foundation uses to fulfill its mission:



Charles A. Homer

**The Idaho Volunteer Lawyers Program:** The Idaho Volunteer Lawyers Program (IVLP) organizes private attorneys across the state to provide legal services to Idaho’s low-income residents. IVLP works closely with many providers of legal services, such as Idaho Legal Aid Services, Inc., CASA, and the Pro Bono Commission, to increase the availability of legal services to Idahoans who do not have the resources to hire an attorney for their civil legal issues.

**The Law Related Education Program:** The Law-Related Education Program provides Idaho students at all grade levels the tools to reinforce learning while helping build positive relationships between students and members of Idaho’s legal community. The outreach programs of the Law-Related Education Program include high school mock trial competition, the lawyers in the classroom program, which pairs lawyers and teachers to teach students about important law-related topics, the “Turning 18” curriculum program, which helps young people understand their rights and responsibilities as they reach the age of majority, and the Citizens’ Law Academy, which is a free adult education program that offers a glimpse into the law, our legal system, and the work of lawyers and judges.

**The Continuing Legal Education Program:** The Continuing Legal Education program provides timely, substantive legal education programs for members of the Idaho legal community. This program continues to develop new approaches to continuing legal education, including the “Your First or Next...” series designed to cover legal topics in a more generalized manner for the new lawyer or to the lawyer who is interested in exploring a new practice area, the Idaho Practical Skills program, a semi-annual course designed for the newly admitted attorney, and Headline News, which covers trends and updates in the law from the past year.

The Idaho Law Foundation strives to expand its programs in order to meet the needs of those who rely upon its services. The Idaho Volunteer Lawyer’s Program’s 2009 goals include increasing the number of attorneys who volunteer in family law cases, increasing the numbers of low-income applicants who receive full representation for their civil legal cases, expanding the geographic scope of the *Soundstart* project which aids low-income parents, expanding the partnership between Catholic Charities and volunteer attorneys to represent victims of violence in immigration proceedings and assists those in deportation hearings, and engaging more attorneys to represent incarcerated persons in appeals-level individual rights cases.

The Law-Related Education Program has prepared for the high school mock trial program a case based on the Haywood trial. The Law Foundation staff will adapt the mock trial case for fourth grade Idaho history and develop supplementary lessons regarding the trial. We are also developing materials regarding Presidents Lincoln and Bush and the Suspension of Habeas Corpus, completing a “Turning 18” curriculum guide, working to garner state approval for teachers attending the Citizens’ Law Academy to receive professional development credit, and working with the Idaho Women Lawyers Committee to finalize a Women and the Law curriculum.

The Law Foundation continues to find new and innovative ways to create better access to justice and opportunities for members of the Bar. However, the Law Foundation cannot meet its goals and continue its important work without your help. The Law Foundation relies upon the

*...it is an investment in the people of Idaho and the future of the legal profession in Idaho.*

charitable contributions of attorneys like you. This holiday season please consider making a tax-deductible donation to the Idaho Law Foundation. You can donate through a designation on your 2010 Licensing Form or by filling out and returning the pledge card you will receive in the mail in early December. Also, as an alternative to typical holiday gift giving, I encourage you to promote the holiday spirit of giving by making a donation in the name of someone important to you or who has made a difference in your life. Simply fill out the “This Donation is a Gift” section of your donation card, and a gift acknowledgment will be sent to the individual indicated.

A gift to the Idaho Law Foundation is more than a simple donation – it is an investment in the people of Idaho and the future of the legal profession in Idaho. Your gift will have lasting effects by providing Idaho’s disadvantaged citizens with the legal assistance they need, and creating a positive image of Idaho’s legal profession. I invite you to continue to help the Idaho Law Foundation fulfill its important mission.

Thank you for all of your support. May this holiday season bring joy, happiness and goodwill to you and your loved ones.

## About the Author

*Charles A. Homer is the President of the Idaho Law Foundation. He received his J.D. from the University of Idaho and was admitted to the Idaho State Bar in 1974. Mr. Homer is a member of the Idaho State Bar, Real Property Section of the Idaho State Bar and American Bar Association. Mr. Homer previously has served as Chairman of the Real Property Section. Mr. Homer is a member of the Idaho Falls law firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C. where his practice areas include real estate and commercial transactions and business litigation.*

# IDAHO LAW FOUNDATION



*Helping the profession serve the public*

## STAFF CLINICS FOR IDAHO VOLUNTEER LAWYERS PROGRAM

Idaho's Court Assistance Offices and the Supreme Court's "Self Help Center" website provide excellent forms and instructions for basic family law pleadings for pro se filings in family law cases. Nevertheless, there are many low-income people who need assistance and legal guidance to file their cases. The Idaho Volunteer Lawyers Program's (IVLP) **Pro Se Family Law Clinics** help fill this need.

Roughly once each month in Ada County, and every other month in Canyon County, volunteer attorneys and paralegals come together with pre-screened low-income people who wish to file a family law case. The Clinics offer volunteers and participants a chance to work one-on-one to prepare pleadings and impart the information pro se litigants will need to file and serve their cases. Lawyers of all backgrounds, law students and paralegals are supported by a family law expert attorney and IVLP Staff who calculate child support, notarize documents and offer practical guidance. Meanwhile, other volunteers help interview and screen applicants for future IVLP clinics and other legal services.

IVLP wishes to offer **special thanks** to the following volunteers who have participated in the clinics since over the last year and a half:



Photo by Carol Craighill, Idaho Volunteer Lawyers Program

James Stoll, of Naylor & Hales, PC, is a family law specialist for IVLP Clinics and a regular volunteer. He assisted 10 times during the last year and half.

Jacqueline Bicandi Kite-Powell  
Megan E. Mooney  
Kira Dale Pfisterer \*  
Katherine Cecilia Ball \*  
Daniel J. Gordon\*  
Alison Elizabeth Brace\*  
Lisa Hoag\*  
Melisa Davis \*\*  
Pamela Jo Packard \*\*\*\*\*  
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Chad Edward Bernards  
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Kendra Raver  
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Tracy Crane  
Katelyn McKinney  
Ted Tollefson  
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Melisa Davis  
Lou Engelhardt\*  
Mary Grant \*\*  
Molly Garner \*\*

Janis Dotson  
Kira Pfisterer  
Scott Tweedle  
Mistie Bawcher  
Lance Fuisting  
Nancy Baskin  
Craig Durham  
Lou Engelhardt  
Lauren Paul  
Kendra Raver  
Greg Bradford

\*Denotes additional volunteer sessions

We need your help! IVLP needs Boise and Canyon County volunteers for clinics in 2010 and for clinics that will be starting in Payette early next year. If you are an attorney, paralegal or law student, and regardless of your

family law expertise or knowledge, you can donate 2 to 3 hours and provide an invaluable service to someone in need. Contact Mary S. Hobson, IVLP Legal Director (208) 334-4510; mhobson@isb.idaho.gov.

# Last Call to Nominate

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## UPCOMING CLEs

### November 6 -7

*Introductory Collaborative Law Training*

8:30 a.m. - 5:00 p.m.

Hotel 43, Boise

14 CLE Credits pending

### November 20

*Headline News—Year in Review*

8:30 a.m. - 3:00 p.m.

University Inn, Moscow

5.0 CLE credits of which 1.0 is

Ethics Credit **RAC\***

### December 4

*Headline News—Year in Review*

8:30 a.m. - 4:00 p.m.

Red Lion Hotel, Pocatello

6.0 CLE credits of which 1.0 is

Ethics Credit **RAC\***

### December 11

*Headline News—Year in Review*

8:30 a.m. - 4:00 p.m.

Oxford Suites, Boise

6.0 CLE credits of which 1.0 is

Ethics Credit **RAC\***

### December 15

*Rule 1.10 Revised—Screening for Conflicts*

8:30 - 9:30 a.m.

The Law Center, Boise

1.0 Ethics CLE credit

Available as a Live Webcast

### December 17

*Intellectual Property CLE*

*Topic TBA*

8:30 - 9:30 a.m.

The Law Center, Boise

1.0 CLE Credit

**RAC\***

Available as a Live Webcast

### December 18

*Ethical Advocacy Strategies—An*

*Interactive CLE*

8:30 - 10:30 a.m.

Oxford Suites, Boise

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**RAC\***

\*RAC—These programs are approved for Reciprocal Admission Credit pursuant to Idaho Bar Commissions Rule 204A(e).

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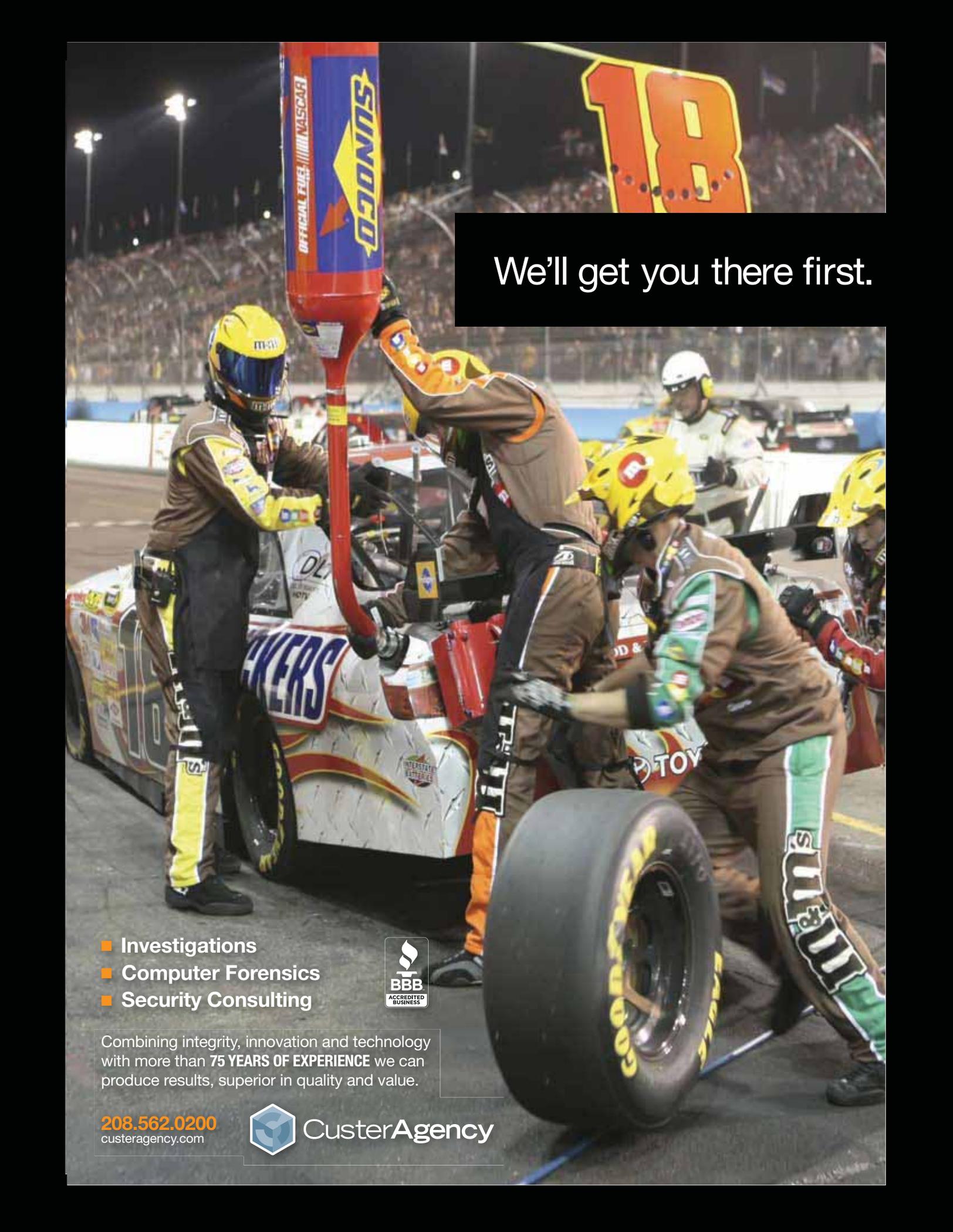
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