



## BOISE IDAHO CONFERENCE AGENDA

Date: 23 October, 2020  
Virtual

3.75 CLE credits (including .5 ethics credit)

### 8:30 a.m. The State of the Federal Judiciary

*Welcome to the conference, from the Honorable Ronald E. Bush*, Chief U.S. Magistrate Judge  
*Honorable David C. Nye*, Chief U.S. District Judge  
*Honorable Joseph M. Meier*, Chief U.S. Bankruptcy Judge  
*Honorable Stephen S. Trott*, Senior Circuit Judge, Ninth Circuit Court of Appeals

### 9:00 a.m. *A Brave New World: The Work of the Courts and the Practice of Law in a Pandemic – Finding Ways to Make Things Work and Adopting Changes that Will Continue into the Future.*

2020 is the year that unforeseen change came to the courts and to the practice of law in the form of the COVID-19 pandemic. Concern for safety and health has drawn upon the tools of modern technology to do our work, most often in a virtual format. Necessity is the mother of innovation in our courthouses and our law firms in almost everything we do – hearings, trials, depositions, client meetings, mediations, law firm management and more. Hear from judges, lawyers, and law firm managers on how things are different, what “changes” are working well or not so well, what technology and software is most useful, how to protect the physical and mental health of our colleagues and law firm staff, and what will likely stay changed about the way we work even after the pandemic has passed. This is your view through the window into our brave new world.

**Faculty:** Tara Malek, Owner of Smith & Malek, Boise and Coeur d’Alene; Brook Bond, Managing Shareholder at Parsons Behle, Boise; Susan Olson, Chief Operating and Chief Financial Officer of Hawley Troxell, Boise; Jeff Severson, Chief Deputy Clerk, U.S. District and Bankruptcy Court, District of Idaho.

### 9:50 a.m. Break

Video tribute to the Honorable Terry L. Myers, judge of the United States Bankruptcy Court for the District of Idaho (retired).

### 10:10 a.m. *“How to be More Self-Aware: Understanding How and Why You Make Critical Decisions in Practicing Law.” The Psychology of Legal Negotiations and of Legal Ethics.*

An expert in the psychology in the practice of law will describe compelling insights into how lawyers negotiate in resolving disputes and into how lawyers make decisions in the face of ethical conundrums. This program will describe the psychological nuances of legal negotiation (you may be surprised) and the blind alleys that can lead us into ethical missteps (you may rethink). You will be a better negotiator through a better understanding of psychology in legal negotiation and you may decide more wisely, with a

greater knowledge of the psychology of decision making about the ethical choices and pitfalls that every lawyer will encounter in their career.

**Faculty:** Professor Jennifer K. Robbennolt, University of Illinois College of Law. Associate Dean for Research, Professor of Law and Professor of Psychology, Co-Director, Illinois Program on Law, Behavior and Social Science.

**11:50 a.m. Break**

**12:10 p.m. *Shake, Rattle and Roll* – The New Look of the United States Bankruptcy Court and this Year’s Edition of “More Things Every Lawyer Needs to Know About Bankruptcy Court.”**

Chief Bankruptcy Judge Joseph M. Meier and Lawyer-Representative Alex Caval introduce our new U.S. Bankruptcy Judge Noah Hillen and the new bankruptcy trustees. Then you learn how things get complicated when the plaintiff in a pending personal injury case files a Chapter 7 bankruptcy petition or forgets to mention the claim in the petition. How does the case proceed, who is the client, how does a plaintiff’s lawyer get paid, who is entitled to receive any settlement proceeds? No one likes surprises dropping out of the sky in the middle of a lawsuit. This program will help you be less surprised and more aware about what to do.

**12:40 p.m. Breakout Substantive Law Programs - Choose Your Favorite**

#### **Environmental Law**

- In the alphabet soup world of federal environmental statutes, the Clean Water Act is a source of ongoing consternation and differing viewpoints for regulators, those being regulated, environmentalists, and the courts. Among other controversies, the NPDES (National Pollution Discharge Elimination System) permit required to discharge pollutants from a point source into the waters of the United States has left a braided channel in regulatory actions and case law. Earlier this year the U.S. Supreme Court issued a decision which, although originating in Hawaii, has significant implications for Idaho. Learn about the literal “who, what, when, why and how” factors that the Supreme Court emphasizes in this latest iteration of whether your client needs a permit to discharge a pollutant, *including if that pollutant might end up in groundwater that later emerges* into the waters of the United States. Receive the latest updates on the transition of enforcement of the Clean Water Act in Idaho from the EPA to the State of Idaho.

**Faculty:** Kevin J. Beaton, partner at Stoel Rives, Boise.

#### **Employment Law**

- What a year of employment-related decisions from the U.S. Supreme Court! A trio of cases consolidated in *Bostock v. Clayton County, Georgia* recognized a Title VII claim for sex discrimination based on sexual orientation and gender identity. Two other cases consolidated in *Our Lady of Guadalupe School & St. James School* applied the ministerial exception under the First Amendment to grade school teachers performing religious duties, thus excluding their employment-related claims. Hear more about these recent decisions and their impact upon policies and procedures for employers, the potential expansion of employee claims, and the continuing legal battleground between employment rights and religious protections.

**Faculty:** Amanda Ulrich, partner at Casperson, Ulrich & Dustin, Idaho

Falls, and Dean Bennett, partner at Holland & Hart, Boise.

### **Criminal Law**

- Perhaps no area in the practice of law has been affected so dramatically by the pandemic as the criminal justice system. Courtrooms are empty, speedy trials have taken on different meanings, grand juries have gone on and off hiatus, hearings have become connect-the-dot virtual video conferences and previously commonplace face-to-face meetings between defense counsel and their clients and between prosecutors and law enforcement agents have become anything but commonplace. This panel will discuss how things have changed, what works well and not so well, and what may be still to come and what may be here to stay.

**Faculty:** Miles Pope, trial attorney, Federal Defender Services of Idaho, Boise, and Elisa G. Massoth, Payette, private bar representative to the District of Idaho Criminal Justice Panel and former president of the Idaho Association of Criminal Defense Lawyers. Assistant United States Attorney Justin Whatcott, Criminal Chief, District of Idaho, Supervisory Probation Officer John Godwin, and Assistant United States Attorney Cassandra McGrady, District of Idaho.

### **Bankruptcy Law**

- 2020 is like no year before it, and that is true in the bankruptcy world as well. Commencing on February 19, 2020, small businesses became eligible to reorganize under the new subchapter V of chapter 11. In March, enactment of the CARES Act temporarily expanded the scope of businesses eligible for subchapter V by tripling the amount of debt that a small business could owe and file a subchapter V case. An experienced panel of speakers consisting of two trustees, a debtor's attorney and a creditor's attorney share with you what they have learned about subchapter V practice from Idaho's earliest subchapter V cases.

**Faculty:** Gary Rainsdon and Matt Grimshaw, subchapter V trustees. Matthew T. Christensen, Managing Member, Angstman, Johnson, Christensen & May, PLLC, Boise. Sheila Schwager, Hawley Troxell Ennis & Hawley LLP, Boise.

### **1:20 p.m. Judges' Panel – Why not virtual courtrooms for everything we do? Does a pandemic impair the administration of justice, or only change the look and feel of justice?**

Are we creatures of habit, or are we creatures of purpose? Having been forced to remodel our daily routines, Idaho's federal judges reflect upon the impacts of the pandemic on the procedures and substance of the work of the judiciary. The judges will share their viewpoints about whether such impacts have positive, negative or mixed changes upon the administration of justice and justice itself. You will stream your own observations and questions as we talk about this important subject.

**Faculty:** Members of the Idaho federal judiciary

### **2:00 p.m. Closing Remarks**

**The Honorable Ronald E. Bush**, Chief U.S. Magistrate Judge

