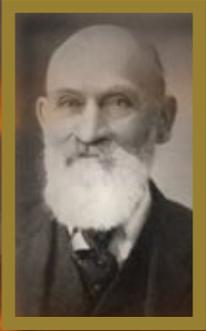


The Advocate

Official Publication
of the Idaho State Bar
Volume 54, No. 11/12
November/December 2011



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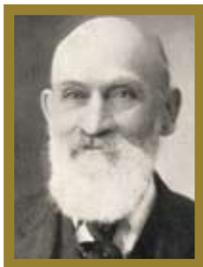
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On the Cover

Lance Foster took this photo while on a hike along Redfish Lake in Stanley, Idaho. Foster is a freelance photographer in Boise who has documented his visits around the world. Discovering his passion for photography in 1996 while on tour in Sarajevo, Bosnia, he has come to seek photo opportunities possessing a rich color dynamic.

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This issue of *The Advocate* is sponsored by the Idaho Legal History Society.

Editors

Special thanks to the November/December editorial team: Judge Kathryn A. Sticklen, Scott E. Randolph, Brian P. Kane and Brent T. Wilson.

Letters to the Editor

The Advocate welcomes letters to the editor or article submissions on topics important to the Bar. Send your ideas to Managing Editor Dan Black at dblack@isb.idaho.gov.



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Upcoming CLEs

November

November 16

Drafting SaaS Licensing Agreements (Software at a Service)

Sponsored by the Intellectual Property Section

Idaho Law Center / Statewide Webcast

8:30 a.m. (MST)

1.0 CLE credits

November 18

Headline News

Sponsored by the Idaho Law Foundation

Ameritel Inn – Pocatello, ID

8:30 am (MST)

6.0 CLE credits of which 1.0 is Ethics ~ RAC

November 21

Electronic Discovery

Sponsored by the Idaho Law Foundation

Telephonic Conferencing

12:30 p.m. (MST)

.75 CLE credits

December

December 2

Headline News

Sponsored by the Idaho Law Foundation

Red Lion Hotel – Lewiston, ID

8:30 a.m. (PST)

6.0 CLE credits of which 1.0 is Ethics ~ RAC

December 2

Afternoon of Diversity and Ethics

Sponsored by the Diversity Section

Idaho Law Center – Boise, ID

1:30 p.m. (MST)

2.5 CLE credits of which 1.0 is Ethics

December (Continued)

December 5

2012 Idaho Legislative Preview

Sponsored by the Idaho Law Foundation

Telephonic Conferencing

12:30 p.m. (MST)

.75 CLE credits ~ RAC

December 9

Headline News

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Courtyard by Marriott – Meridian, ID

8:30 a.m. (MST)

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December 14

Current Issues in Business Immigration

Sponsored by the International Law Section

The Law Center – Boise, ID / Statewide Webcast

8:30 a.m. (MST)

2.0 CLE credits of which .5 is Ethics

December 15

CLE Blizzard: Video Replay

Sponsored by the Idaho Law Foundation

The Flicks Theatre – Boise, ID

8:15 a.m. (MST)

5.5 CLE credits of which 2.5 is ethics

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WHAT DO THE HOLIDAYS HAVE TO DO WITH MENTORING?

Reed W. Larsen
*President, Idaho State Bar
Board of Commissioners*

As I write this, I am on the edge of saying; you have got to be kidding me. It is October 6 and I have snow at my house and not just a little, a lot. I was so ready to have a nice long fall, a mild winter and then spring. No such luck. I am more than a little depressed over this turn of events. That being said, I hope each and every one you have a happy holiday season. Really, Happy Holidays.

I must confess that Thanksgiving is my favorite holiday. It is perfect. No real big pressure. Lots of food! Families gather around just to be together, to eat and to watch football. How does it get any better than that? I really don't think it can. Plus it is on a Thursday. It makes it so you only work part of the day Wednesday, Friday is optional. (I usually choose to skip work on Friday unless I have a trial, which I have this year), then you have the weekend. It truly was the perfect planning by our pilgrim forefathers. Perhaps they had some insight into the future where we chase work, billable hours, dollars, clients, causes and many other "things." In that chase we forget about what is really important.

So my mentoring question is: "In your life, what is important and why?" This is truly a value question. It surprises me that as lawyers we sometimes seem to be embarrassed to talk about our values. We are happy to defend others' values, but reluctant to discuss our own. So I am going to discuss a little of the source of my values and what I am thankful for at this holiday season. Specifically, I am thankful for my parents and grandparents. Grandpa Wixom's influence on my life makes a good story.

Franklin D. Wixom was a small man in stature, but a giant in wisdom and un-

derstanding. He was always happy. I spent so much time with him growing up that I actually was successful in talking my mother into allowing me to drop out of kindergarten so I could stay with grandpa Wixom. No matter what happened in my life, or the life of my sisters or brother or cousins, the one thing grandpa Wixom would say is "I am so happy for you." It didn't matter what happened: "I am so happy for you."

One spring day when I was still in high school I went to pick up grandpa Wixom for Sunday dinner. My brother and I were farming together. We had planted our beets. The beets had just emerged from the ground and were in that critical two-leaf stage when it froze very hard. Our fledgling beet crop was wiped out. I picked up grandpa Wixom for Sunday dinner. He promptly asked how the crops looked. I told him our beets were frozen and it was a complete disaster. Grandpa Wixom's reply still rings in my ears; "I am so happy for you." I thought he was nuts. He then told me that his best sugar beet crop was raised one year after his beets froze and he had to replant. He was so happy that his grandsons could have a similar experience. Our beets weren't our best crop, but the lesson was the best lesson.

Grandpa Wixom said, "I am so happy for you" on so many occasions. When granddaughters didn't get a date to prom; "I am so happy for you." When a grandson lost his job; "I am so happy for you." When I didn't get to play in a basketball game, I remember Grandpa Wixom saying; "I am so happy for you," and at least you are on the team. At the time it was almost comical. No matter what the event in life, good and especially bad, he was so happy for us. And it turns out, he was right. He was happy for us, not because something bad had happened, but because he always saw the opportunity for growth from adversity.

Too often we think that everything is going to go our way; there won't or shouldn't be problems instead of seeing the opportunity for growth and experience. We need mentors, trail guides, to tell us it will be OK. We need someone to say

I have been through what you are going through. You will be alright.¹

So as a holiday challenge, can you think of a lawyer who may need to be cheered up? Can you think of a lawyer who may need some help or advice on how to argue a motion, write a brief, take a deposition or do a trial? Our time and advice is our stock and trade. Give some of it away. Give it freely. See if you can brighten someone's day and make their burden lighter. Then, just for fun, and if it is a positive experience, share the experience with us at the Bar. Who knows, we may even be able to find a place to publish the stories.

In our current economy, lawyers and clients need to know that it will be alright. We need to be that messenger. It may not be fun or enjoyable or even pleasant, but it will be alright. So, as I now look out my window and see more than eight inches of snow on the ground my frown is turned upside down and I hear grandpa Wixom say "I am so happy for you." Happy Holidays.

About the Author

Reed W. Larsen is a founding partner at Cooper & Larsen in Pocatello. His practice includes auto accident cases, repetitive trauma injuries in the workplace, Federal Employer Liability Act (FELA) litigation, railroad crossing cases, personal injury insurance defense, agricultural litigation and Indian law.

He is a 1985 graduate from the University of Idaho College of Law. He has served as a Commissioner for the Sixth and Seventh Judicial Districts since 2009 and is currently serving a year term as President of the Idaho State Bar Board of Commissioners. Reed is married to Linda M. Larsen and together they have three children.

Endnotes

¹ Franklin D. Wixom has two grandsons who are attorneys, Raymond Wixom of Salt Lake City, and Reed W. Larsen. He has one grandson-in-law that is an attorney, Steven McCardell of Salt Lake City. He has one great grandson who is an attorney, McCord Larsen of Burley, Idaho. Pretty good that a rancher and sheep herder could mentor directly and indirectly four lawyers without ever going to law school.



Reed W. Larsen

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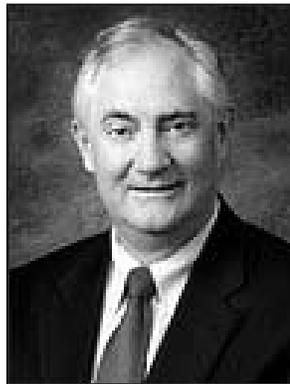
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PROFESSIONALISM AWARD RECIPIENTS

Diane K. Minnich
Executive Director, Idaho State Bar

During ISB President Reed Larsen's year as president he is focusing on the importance of mentoring, not a formal mentoring program but informal mentoring, lawyers helping other lawyers to learn and develop their skills and practices. New lawyers having access to lawyers that can help them succeed as lawyers. Regardless of your area of practice, lawyers new to the practice have questions. Experienced Idaho lawyers can provide assistance and answers.



Diane K. Minnich

The lawyers selected each year for the professionalism award, and this year is no exception, are lawyers for which mentoring was important to them as new lawyers and it continues to be a part of their professional lives.

First Judicial District

Marc A. Lyons

Ramsden & Lyons, LLP, Coeur d'Alene

Coeur d'Alene attorney Marc Lyons sees the professionals in the practice of law as problem-solvers: "Nearly every situation that we encounter as lawyers involves a problem to be solved. Resolving those problems is effective when the basic principles of honesty, courtesy, and respect for others, (whether we agree with them or not), are adhered to."



Marc A. Lyons

With more than 25 years experience in practice, Marc is licensed to practice in state, appellate and federal courts in Idaho and Washington, as well as before the Ninth Circuit Court of Appeals and the United States Supreme Court. He is the founder and managing partner of Ramsden & Lyons, LLP.

Born and raised in North Idaho, he obtained both his undergraduate degree and his J.D. from University of Idaho College of Law. Marc is a member of the Defense Research Institute, the National Association of College and University Attorneys, and is a licensed CPA. He is past president of the First District Bar Association and earned the American Jurisprudence Award.

His practice includes education law, employment law, insurance law, personal injury, trucking liability litigation, commercial litigation, defense of governmental entities, civil rights claims, products liability, professional liability, construction law and real estate litigation.

He added, "Activities I enjoy include snow skiing, playing golf, road biking, and spending time with my family and friends. I enjoy my career as a lawyer and hope to continue to practice law effectively into the foreseeable future."

Second Judicial District

Douglas L. Mushlitz

Clark & Feeney, LLP, Lewiston

A partner at Clark & Feeney, LLP, in Lewiston, Doug Mushlitz is the past president of the Idaho State Bar and past president of the Second District Bar Association.

He served as a Commissioner of the Idaho State Bar from 2007 to 2010, representing the First and Second Judicial Districts. Newal Squyres, who served on the board of commissioners with Doug, said, "Doug's insight, common sense, and steady hand, not to mention his dry sense of humor, made him an invaluable member of the BOC."



Doug L. Mushlitz

Doug is a member of the Bankruptcy Section, and is a member of the Idaho Trial Lawyers Association.

Reflecting on the lawyers he most respects, Doug said, "Professionalism is an essential quality which every lawyer should strive to develop and possess."

He said his mentors have been his partners, Paul Thomas Clark & Ron T. Blewett.

Regularly involved in his community, Doug is a member of the Board of Directors of Potlatch No. 1 Federal Credit Union is a member of the Board of Directors for the Lewiston Roundup Association and is a founding member of the Board of Directors for the Gina Quesenberry Breast Cancer Foundation, Inc.

He received his undergraduate degree from Idaho State University and law degree from University of Idaho College of Law. He is admitted to practice in Idaho and admitted to practice before the U. S. Ninth Circuit Court of Appeals in 1990, and the U. S. Supreme Court in 1995. His practice includes litigation, personal injury, bankruptcy and family law.

Doug and his wife, Anne, live in Lewiston. He has two daughters, Morgan and Allison.

Third Judicial District

Philip A. Peterson

White, Peterson, Gigray, Rossman, Nye & Nichols, PA, Nampa

Phil Peterson, long involved in his community and profession, is a shareholder and director at White, Peterson, Gigray, Rossman, Nye & Nichols in Nampa. He was past president and is currently treasurer for the Southwest Idaho Estate Planning Council and is a regular speaker for the biennial Idaho Forest Taxation & Estate Planning Conference. A member of the Taxation, Probate and Trust Law Section, he also served for several years as an Idaho Bar exam grader.



Phil A. Peterson

"I view professionalism in the legal profession as a combination of technical competence, personal integrity, appropriate advocacy and concern for clients' best interests, 'bedside manner' with clients, and respectful courtesy towards other members of the bar. In my experience the late Allyn Dingel and Albert Menard, together with contemporaries Donald Burnett, Edward

Ahrens, Stephen Pruss, William Wellman, Carl Hamilton, and William Morrow, have particularly exemplified, in their various practices, these attributes.”

Born in Lewiston, Phil was raised in rural Nez Perce County. After graduating from the University of Idaho he was commissioned as an officer in the United States Navy. He was awarded the Navy Commendation Medal for service aboard USS VERNON COUNTY while operating in the rivers of Vietnam from 1969 to 1971.

Back home, he attained his J.D. from the University of Idaho College of Law. He practiced primarily in the areas of tax and estate planning, probate and trust law, business law, real estate and water law, with some specialized work in the areas of employee benefit plans and HIPAA matters.

In addition to his law firm practice, he has been active in voluntary community work for over 25 years. Among his community activities are: Nampa Kiwanis Club; Canyon Area United Way; Boise Philharmonic Association; University of Idaho Alumni Association; Parkview School Building Advisory Team.

Phil was recently presented the 2011 A+ Friend of Education Award by the Idaho Education Association for volunteer work with the Nampa School District Early Childhood Learning Center at Lakeridge School and currently serves on the Nampa Bicycle and Pedestrian Master Plan Steering Committee.

Phil resides with his wife, Pam, and has one adult daughter, Liesl. He enjoys gardening, sailing, nordic skiing, snowshoeing, hiking, running, bicycling, bird watching, cooking, drawing, writing, music, reading, good food and good wine.

Fourth Judicial District

Wendy J. Olson

U.S. Attorney's Office, Boise

Wendy J. Olson, is the United States Attorney for the District of Idaho. She has been engaged in professional and community service that has included past president of the Idaho Chapter of the Federal Bar Association; past board member of Idaho Women Lawyers, Inc.; and class correspondent for the *Stanford Lawyer* magazine.

Wendy was born and raised in Pocatello and graduated from Drake University in Des Moines, Iowa, and from Stanford Law School.



Wendy J. Olson

Wendy has been a member of American Inn of Court No. 130, and a member of the Diversity, Government and Public Lawyers and Litigation Sections. She has served as an instructor at the University of Idaho, College of Law trial advocacy seminar and has been a volunteer coach or umpire for youth baseball, soccer and basketball programs.

She joined the U.S. Attorney's Office in March of 1997, and was serving as its Senior Litigation Counsel at the time of her appointment as U.S. Attorney. Prior to joining the United States Attorney's Office, she was a trial attorney in the Criminal Section, Civil Rights Division, U.S. Department of Justice in Washington, D.C.

On the topic of professionalism, she said, "The reputation of any lawyer, indeed the reputation of the entire profession and the legitimacy of our criminal justice system, is dependent upon each lawyer acting professionally, following the rules of ethics and holding his or her colleagues to the same standards. Perhaps just as importantly, a lawyer's work is much more enjoyable when professional conduct is a shared norm. We who practice in Idaho are fortunate to work where there is a high level of professionalism."

She also spoke of her influences: "Mentors who have influenced my views on professionalism include my father, Bill Olson; Stanford Law Professor Deborah Rhode, who taught my legal ethics and professional responsibility course in law school; United States District Court Judge Barbara Rothstein, for whom I worked as a law clerk from 1990-92 and from whom I learned much about professionalism in the courtroom and in legal decision-making; and former U. S. Attorney Betty Richardson, who brought me back to Idaho."

She is married to Craig Kreiser; they have two daughters, Abby, 11, and Olivia, 9, and two black labs, Gus and Lola. She added, "I used to be a pretty good tennis player, but now I spend all of my spare time driving Abby and Olivia to soccer games and basketball games. I am a life-long Dallas Cowboys fan."

Judge D. Duff McKee

Boise

A retired state district court judge on senior status, Judge Duff McKee continues to make significant contributions to the legal profession. Since 2000, Judge McKee has been self-employed in private law practice limited to alternative dispute resolution services.

Currently, Judge McKee handles more than 100 ADR assignments per year. From 1985 to 2009, he has conducted settlement conferences or mediated more than 1,500

civil cases. He is an American Arbitration Association panel member on commercial, construction and employment panels and he is listed on rosters of Idaho Supreme Court and Idaho Federal District Court mediators for civil case mediation. Other ADR work includes assignments as SLRA evaluator, special discovery master and administrative hearing officer. Before retiring, Judge D. Duff McKee served 15 years as Fourth District Judge in Boise.

A fifth-generation native of Idaho, he was born in Kellogg. His undergraduate included studies at Rutgers University and the University of Idaho. He graduated from the UI College of Law in 1964. Before his selection to the bench, Judge McKee worked in private practice focused on business and business litigation.

Judge McKee said he was greatly influenced by Ephraim Tutt, "the crafty lawyer from upstate New York of *Saturday Evening Post* fame and featured in a whole shelf full of books that I collected, read and reread in my youth."

Over the years, Judge McKee has created a body of writing about law and Idaho history. More than 20 of his articles have been published in various publications including *The Advocate*, *WestGroup Publishing*, *Lawyers Cooperative Publishing*, *Bibliography of Published Works*, *Journal of Western Hospital Management*, *Idaho Law Review*, and in various CLE publications.

He served two terms on the Supreme Court's standing committee on civil rules, the ad hoc committee on alternative dispute resolution procedures, and was chairman on the select committee on revision of the pattern civil jury instructions.

Judge McKee was one of the five founding members of the Boise chapter, Inns of Court, the first Inn in Idaho, and served as its Counselor of the Inn for 10 years. He continues as a Bencher Emeritus. He was a member of the adjunct faculty for the University of Idaho's summer trial advocacy seminar and has presented many CLE programs.

He reflected on changes in the legal profession during his tenure: "It has been very discouraging to watch our profession descend into commercialism. The practice of law was a lot more fun when I started, and everyone knew everyone else."

He has been involved in many professional associations, including the Idaho District Judges Association; ISB Sections



Judge D. Duff McKee

on Alternative Dispute Resolution and Litigation; ABA Sections on Dispute Resolution, Judiciary and Litigation; and the Association for Conflict Resolution.

Fifth Judicial District

Robert E. Williams

Williams, Meservy & Lothspeich, LLP, Jerome

A partner at Williams, Meservy & Lothspeich, LLP, in Jerome, Robert Williams works in the same community where he grew up. He stresses respect and civility to his clients, colleagues and the bench, an attitude he has used in his 36 years as an attorney.

Inspired by other attorneys, Robert said he tries to emulate their commitment to the scholarly traditions of the law, takes pride in his work product and offers service to the community. In all, he said, he strives for a personal life of integrity that brings credit to the profession. "I have tried very hard to implement these qualities, with varying degrees of success in my own life."

He earned his J.D. from Northwestern University in Chicago in 1974, and returned to East Idaho to join Rettig & Fredericksen in 1974 as an Associate. He became a partner in 1977. He married Susan Thompson in 1971 and the couple will celebrate their 40th anniversary in August. They have seven children, five of whom are married; and eight grandchildren.

Robert is Administrator of the Theron Ward Inns of Court, a Trustee at the Jerome School District Foundation, a Director of College of Southern Idaho Foundation and Past President of the Jerome Rotary Club.

His personal life revolves around family and community: "Our children have been heavily involved in a myriad of activities, particularly team sports. We've been in most of the high school gymnasiums and football stadiums of Southern Idaho following our kids. Soon we will be following grandchildren who appear to like doing the same things. Our local public schools are important to us, as is church service. I have had, and currently have, great partners and employees. One of my sons recently joined our firm as an associate. That has been a highlight. I have a wonderful array of loyal clients that I hope to continue to serve for years to come, although Susan and I hope they won't mind too much if we travel a little more."



Robert E. Williams

Sixth Judicial District

David H. Maguire

Maguire & Penrod, PC, Pocatello

David H. Maguire, is a senior partner at Maguire & Penrod, a firm founded by his father, Hugh. David has 30 years of experience in personal injury claims, commercial claims and business litigation. He also advises clients on other business and corporate matters, including partner relations and stockholder and partner disputes.

David has long served in civic and educational groups and organizations. Among his civic functions, David sat on the Pocatello Public Library Board, has been a member of the Southeast Idaho Community Action Agency Board of Directors, has been President of the Friends of the Museum of Idaho State University, is a past President of the Centennial Rotary Club of Pocatello, and currently sits on the Board of Bannock Development Corporation, a regional nonprofit organization comprised of business leaders committed to economic development in Southeast Idaho.

In 2007, David was inducted as a Charter Member of the Litigation Counsel of America, a trial lawyers' honorary society representing less than 1% of the trial lawyers in the United States. He is a member of the International Association of Defense Counsel.

David explained his approach to professionalism: "By working closely with people throughout the legal process, I am able to help my clients through difficult times, often when the stakes are at their highest. I leave no stone unturned when representing vital interests. I always believed in negotiating from a position of strength."

He is a graduate of the University of Idaho College of Law and has practiced law entirely in Pocatello.

Seventh Judicial District

Katherine S. Moriarty

Battelle Energy Alliance, LLC, Idaho Falls

Currently the President of the Idaho Law Foundation, Katherine Moriarty is senior counsel for Battelle Energy Alliance, LLC, in Idaho Falls, handling all its employment and labor law matters. From 1991 to 2005, she was with Hopkins, Roden, Crockett, Hansen & Hoopes, PLLC. She earned her J.D. from the UI College of Law.

Katherine has served on the Idaho Law Foundation board since 2004 and



David H. Maguire

served as president of the Seventh District Bar Association. She earned both a Service Award from the Idaho State Bar the Denise O'Donnell-Day Pro Bono Award for exceptional pro bono service.

Following her mother's footsteps into the legal profession, Katherine's daughter, Kristine, wrote about her mother's influence and inspiration in an article in the March 2005 issue of *The Advocate*: "I began to find out exactly how hard my mom had worked, and continues to work; and as a result, what an incredibly well-respected and well-liked lawyer/woman/person she is."

Kristine also wrote about gender barriers, "that it is hard for a woman to be polite, assertive, and respected as an attorney all at the same time. It appears to me that my mom has achieved this seemingly paradoxical status without consciously setting out to do so, but rather simply by being herself: intelligent, generous with her time, treating others as she would like to be treated, and, most importantly, always working as hard as she can."

Katherine served as a member of the Idaho Supreme Court Civil Rules Advisory Committee, the Federal Civil Rules Committee, Seventh Judicial District Magistrate Commission, Idaho Supreme Court's Task Force on Idaho's Court of Appeals, and the Idaho Legislative Compensation Committee.

She is an Emerita Member, University of Idaho, College of Law Advisory Council, a member of the Idaho State Bar Employment and Labor Law Section, and she served on the Governing Council of the Alternative Dispute Resolution Section. She is a member of the Idaho Legal History Society, and has served as president of the Idaho Falls YMCA and board member for the Idaho Falls Symphony.

"My husband, Tom, and I have two daughters, Kristine and Kara," she said. "Any success I achieved during law school was largely due to the love and support I received from my family."

She said about professionalism, "[It] is essentially one's commitment to represent her clients to the best of her ability, to treat others with kindness, dignity and respect, and to abide by our honored profession's strict code of moral and legal ethics." And in her spare time? "Of course, Tom and I love to travel to see our daughters, and we enjoy spending time at Henry's Lake, Big Sky and Yellowstone National Park."



Katherine S. Moriarty

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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.

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COURTHOUSE HISTORIES REFLECT IDAHOANS' STRUGGLES

Idaho's courthouses tell a story. Their domes, tiles and jail cells reflect residents' wish to subdue conflict and establish order. After construction, the buildings provided a stage for difficult arguments and notable achievements. The buildings' character could be said to mimic their people, ideals and flaws. It is for this reason the Idaho Legal History Society chose to solicit these articles. Four courthouses are profiled, along with their back stories. Together they show adolescent communities struggling to reach adulthood.

Perhaps it is no understatement that all mankind's great structures, such as churches, universities, and libraries look as though they had always been there. Transcending time, these structures suggest we are somehow more than individuals, that there is order in the universe and that we can access our collective wisdom by entering therein. Courthouses, too, take a venerable place among the family of great buildings. They symbolize safety and protection, but carry a responsibility; that one's own interests must sometimes cede to a higher order – the law. The cost for a maturing town was responsibility, and Idaho's counties paid their dues in unique ways.

It could be said that the original Pierce Courthouse, located near present-day Orofino, was built from bloody necessity. As Judge John Bradbury writes on page 17, it is difficult to imagine the level of brutality accompanying Idaho's gold rush. Fellow miners, Chinese immigrants and of course, Native Americans were all prey in those lawless times. A courthouse, with a sworn sheriff and sitting judge helped decrease thievery and vigilantism. With the law present, disputes were no longer settled with a six-shooter, or if they were, the survivor could face his maker at the end of a rope. It would take time for legal institutions to take root. Even today, those institutions require careful nourishment. Looking back affords us that perspective.

Bonneville County's Courthouse in Idaho Falls exemplifies the community's aspirations to build a wholesome, prosperous community. Its neo-classical design mirrors idealism, conformity and pride of homesteading families. A stained glass dome, marble pillars and mosaic floors stands in contrast to the dusty Snake River plain outside its doors. As Gregory L. Crockett writes on page 20, the community heartily welcomed its opening in the spring of 1921 with its very first Spring Festival. Too bad the county reneged on the balance owed for its construction. That story, as well, is told.



Photo courtesy of the Idaho State Historical Society

Attempts at law and order were important to Idaho's pioneer towns. This photo from the Idaho Legal History Society does not identify the men or the place, but clearly shows a prominent office during the early days of the territory, including a coyote pelt, spittoon and swivelling barrister's chair. The man at right also holds a cigar and might have a typewriter in front of him. Clues such as these help us imagine what life was like for those who built civic institutions we take for granted today.

Gem County's Art Deco structure was built during the Great Depression and reflects efforts by the federal government's Works Progress Administration, (WPA) to employ Americans in public works projects. Inside, Emmett residents could look forward to skilled advocates protecting their interests. One such advocate was the legendary Louie Gorrano, who earns mention in Jake Sweeten's article on page 22.

Author Shauna Robinson delivers an intimate profile of Twin Falls County courthouse, where homesteaders enthusiastically voted for construction, but howled at the chosen stone and brick design. A generous budget allowed for rich and dignified interiors that still provide residents a shared sense of dignity and opulence.

Of course there are notable courthouses excluded. Regrettably we have nothing about Boise County's Courthouse, a simple brick structure that looks little changed since the boomtown days of yore. Nor do we present the Art Deco colossus which was Ada County's Courthouse. Another time, perhaps. We take pride in presenting these four as a sampling of Idaho's rich heritage of maturing communities. Like our adolescent children, we love them, quirks and all, because they are ours.

— Dan Black

ILHS welcomes your enthusiasm!

On behalf of the Oral History Subcommittee of the Idaho Legal History Society, I invite you to join our group of volunteers to capture as many oral histories as possible over the next year. The process of taking an oral history is not only interesting, it is educational. This worthwhile project offers an opportunity for lawyers to learn from lawyers, judges, clerks and other individuals associated with important Idaho legal history. We hope you enjoy *The Advocate* issue documenting courthouses and you consider preserving our important legal history.

— Ernest A. Hoidal

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Photo courtesy of the Idaho State Historical Society

The original courthouse at Pierce City in 1862 was built with timber hewn with broad axes. The ground floor was used for two jail cells and the sheriff's office. The second floor was for the court and commission meetings. The structure served as Shoshone County Courthouse for the district court of the First Judicial District of Idaho Territory.

PIERCE CITY JUSTICE IN THE BOOM TIMES

Judge John H. Bradbury

The beginning

Canal Gulch! That's where it all started, at Oro Fino Creek in the Clearwater drainage of Nez Perce country. There, in September 1860, Wilbur Bassett, a member of Elias D. Pierce's twelve-man prospecting party, discovered gold. In a later account, Pierce said they "[f]ound gold in every place in the stream, in the flats and banks and gold generally diffused from the surface to the



Judge John H. Bradbury

bed rock. I never saw a party of men so much excited."¹

The prospecting party returned to Walla Walla to publicize the find and recruit men to commercially exploit it. Few took Pierce's story seriously, but he did succeed "in enlisting the interests of thirty-three stout-hearted men."² Colonel George Wright, in charge of Fort Walla Walla, however, opposed the party's plans because he feared troubles with the Nez Perce if the integrity of their 1855 treaty were breached by a stampede.³ But the lure of gold was not to be denied.

The party left Walla Walla for Oro Fino Creek in November. "[A] detachment of dragoons was sent after the men, and pursued them as far as the Snake River, but failed to overtake them."⁴ When the men arrived back at Oro Fino Creek

they "wrought diligently building cabins, whipsawing lumber for sluice boxes, prospecting and the like."⁵ They also laid out a plan for the town which they named Pierce City.

At a January general meeting of the miners, known as Miners' Meetings, the men established and named the Oro Fino Mining District of the Washington Territory.⁶ The men also voted to apply the same mining laws that had applied to the California mining camps to the district.⁷ The laws provided that "[a]ny person or persons who may have grievances to settle – in case they cannot agree – a Miners' Meeting shall be called at which the matter shall be decided finally."⁸

The men at the meeting had also elected four men to return to Walla Walla to deliver mail, replenish supplies and

to try again to publicize the find. They left Pierce City on snowshoes and arrived half-starved at a Nez Perce camp at the mouth of Oro Fino Creek (where the current town of Orofino is).⁹ They then trudged on to Walla Walla where they arrived “with a considerable sum of money in gold dust.”¹⁰ The gold made believers of the doubters. It was no longer just talk. Alonzo Leland, the publisher of the Portland Weekly Times, gave wide publicity to the find, which was quickly picked up by other newspapers.¹¹ Idaho’s first gold rush was underway.

Gold rush

The hardy sojourners encountered many physical and human perils on their way to Pierce City. Steep ridges, forbidding ravines, narrow trails and deep snow were common. Horse thieves plied their trade on the Camas Prairie. Packers were murdered. Pack trains and their freight were hijacked. And in one case, a miner on his way to Pierce City was parted from his one hundred pounds (yes, pounds, not ounces) of gold.¹² We do not know what happened to the miner who lost 100 pounds of gold except that, while poorer, he had less work to do once he was relieved of his gold.

Despite all these challenges, by April of 1861 there were three hundred people in the district, by May there were nine hundred, and by July “the creeks were swarming with people.”¹³ Eventually that year, the population may have reached as many as seven thousand people, of whom perhaps “only two thousand were real miners...”¹⁴ The population grew so large that Shoshone County cast the most votes in the Washington Territory congressional election that year.¹⁵

The miners converging on the district prospected for gold with iron gold pans. The value of a claim was gauged by the worth of the gold that a pan yielded, which went for fifteen dollars an ounce. If the claim was worth the cost and labor, most miners mined the gold with sluice boxes, which were long, narrow wooden chutes with transverse wooden slats or ribs attached to the bottom, called riffles.¹⁶

Gold was usually found in quiet portions of a stream where the current could not carry it any further. The miners dug away the sod in these areas down to bedrock and installed the sluice boxes. They then built dams above the boxes to collect water and attached water wheels to divert the water to the boxes. Once everything was in place, the men shoveled the paydirt into the boxes where the water would wash away the sand and gravel, leaving the heavier gold lodged up against the riffles. It was grueling work.¹⁷

They had long since shaken off the shackles of an effete civilization, and had been living for many years free from the trammels and restraints of Sunday-school influences.

Life in a boom town

The five thousand inhabitants who were not “real miners” were “cutting trees, sawing boards for buildings and [sluice] boxes, running stores, playing cards, selling and drinking whiskey, driving teams, digging ditches, [and] sometimes digging graves.”¹⁸ There were three general stores, several boarding houses and three hotels. Also gracing the town were four saloons and there were even more hotels and saloons at the short-lived town of Oro Fino, a short distance away at Rhodes Creek.

But it was not all hard work. The old California miners brought a liberating perspective to the district. They had “long since shaken off the shackles of an effete civilization, and had been living for many years free from the trammels and restraints of Sunday-school influences. The greenhorns and tenderfeet were not slow in learning how to follow in the footsteps of those who had so long enjoyed that larger liberty that comes from a wild, free life lived so far away in the remote mountain regions.”¹⁹ And almost overnight Pierce City became a town where miners could have fun.

All of the saloons and most of the hotels and boarding houses had liquor licenses that permitted them to sell whiskey by the “gulp, quart, gallon or any other quantity.”²⁰ There were also ladies whose affections were negotiable. William Ford’s saloon at Oro Fino was one of the most popular in the district because “he employed Spanish dancing girls to entertain the miners.”²¹ And during the winter, poker games would go round the clock. When a player went broke, someone would stake him so he could stay in the game.²²

Although the mining district was located in Shoshone County, “there were no county organizations; no local officers of the law; no courts. In fact the county was a veritable haven for escaped convicts, desperadoes, thugs and thieves and abandoned characters of every variety.”²³ And those who had come from the east often

“brought with them all the bitterness and prejudice engendered by that [Civil War] strife and the violent expression of this prejudice was the occasion of many a personal encounter.”²⁴

A consensus was quickly reached that the region “was very badly in need of courts, if the peace and dignity of the territory was to be maintained there at all.”²⁵ To that end, on July 8, 1861, the voters elected three commissioners, a sheriff, a probate judge, an assessor, a treasurer, a coroner and a constable. Shoshone County was now in business and Pierce City was its county seat.

At the May 1862 court term, the county commissioners appointed a committee to select a site for a “permanent courthouse, a building of great need, as heretofore the county had been paying out considerable money in rent.”²⁶ On June 7, 1862, they accepted a bid to “build a courthouse and jail at Pierce City for \$3, 700 in county script.”²⁷

Men used broadaxes to hew the logs to “square timbers,” which were joined by half-dove-tailed notches. The first floor housed two jail cells and the sheriff’s office. The carpenters put iron bars in the cell windows and drove kegs of nails into the cell walls so the prisoners could not cut their way out. The second floor was for the court and the commission proceedings and records. It was completed in August. When Congress created the Idaho Terri-



Photo courtesy of the Idaho State Historical Society

tory the next year, on March 3, 1863, it became the Shoshone County courthouse for the district court of the First Judicial District of Idaho Territory and Pierce City continued as the county seat.²⁸

Early court filings

W. C. Greaves filed the first legal document on September 1, 1861. It was a \$299 mechanics lien for work done on the Lusk & Co. claim. He sought \$100 for making and putting in an over shot [water] wheel, \$14 for making and putting up water wheel boxes, \$160 for furnishing 32 sluice boxes at \$5 a box, and \$25 for an indecipherable item.²⁹

In May 1863, R.S. Green alleged in his complaint against a fellow named Frank Surprise that “he [Green] is the lawful owner of a certain white mare, now in possession of Def’t who wrongfully detains the same from Pl’ff.” The judge noted that the mare was surrendered of the day of trial. Another dispute that was settled on the day of trial was a \$42.50 bar bill that saloon owner A. G. Corbett claimed Hiram Millikin owed him. Not to be outdone, Mary Ann McIntire, who had bought Hiram Millikin’s saloon, charged that Corbett “did receive at his own instance and request liquors at Hiram Millikin’s Saloon in Pierce City at divers times ... amounting to thirty eight and 50/100 dollars.”³⁰ The outcome of that dispute was not recorded. One suspects they may have settled it over a drink.

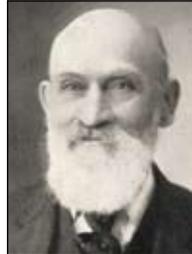
Horses and whiskey were not the only fodder for the court system. Gerolemo Geovante and two partners alleged the defendants “did unlawfully and without our consent commence to construct a dam to our damage on our claim on Barclay Gulch....” The Territory charged that O.I. Edmonds “did steal and feloniously take from the house of J.G. Dodge ... gold dust (in a malyum) belonging to the said J.G. Dodge ... to the amount of one hundred dollars.” Edmonds apparently did not tarry to spend his purloined booty at Millikin’s Saloon because the sheriff’s return on the warrant reported that he “could not be found in Shoshone County.”³¹

The sheriff did not have much better luck with Fredrick Baker, who had been arrested for stealing a pair of boots. The sheriff noted on the file, “Prisoner Broke Custody and cannot be found in said County.” But if the sheriff found persons who had a money judgment against them, the proceedings were brief. Pierce City merchant Christian Swendsen got a \$40.75 judgment against James Riley for board, merchandise, and sundries. Sheriff Elijah K. Davidson found Riley and executed on

the judgment. “The said James Riley was found by me in Nez Perce County on Lapwai Creek. I made a search of his person and found \$23.75 on his person – it being all the money I could find on him. He paid me \$20.00 in gold coin.”³²

Judge Israel Burr Cowen

Israel Burr Cowen was one of the several early judges who presided over these and other disputes at Pierce City. His character and personality also defined the early judiciary in Shoshone County. In April 1849, the twenty-year-old Cowen left Galena, Illinois, with a wagon train on its way west through Council Bluffs and Salt Lake City on to Eldorado, California. He mined there for thirteen years until he heard about the discovery of gold in the Clearwater country.³³



Judge Israel B. Cowen

Cowen took a steamboat to Lewiston, where he arrived in May 1862. Having lived in rowdy mining camps, he was probably prepared for the town that greeted him when he stepped off the stern-wheeler at Lewiston. It was “an infant ... town of canvas walls and rude primitive structures, of dens of unbridled vice and iniquity, a town which just before had to resort to a vigilance committee in order to cow the rough element[.]”³⁴ It is not known if the thirty-three-year-old Cowen dallied or soon departed, but when he did leave for Pierce City, he trod the eighty-some mile trail on foot.

Cowen served as the probate judge and justice of the peace for many of the twenty-two years that Pierce City was the county seat. He also served four years as a county commissioner, four years as the sheriff, and four years in the territorial legislature. When the post office replaced the pony express, he also served as the post master of Pierce City for six years. In that job, he routinely walked to Lewiston and back with the mail, much of which he covered on snow shoes during the winter. But for all of that, of course, he was still a miner at heart. And mine he did. His claim included a twelve-mile-long water ditch he had dug by hand.³⁵

Lest you think the Honorable Israel Burr Cowen was not deserving of the honors his peers bestowed on him, you should know that in addition to all the challenges he faced, he conquered them all with a deformed hand and a club foot.

And so it was in the early days of Idaho’s first courthouse, when a claim was valued by the gold in a pan and whiskey was sold by the gulp.

About the Author

Judge John H. Bradbury is a retired judge for the Second Judicial District, where he served from 2002 to 2011. His great grandparents arrived at Pierce in 1868 to search for gold. His grandfather was a six-week old infant at the time. Judge Bradbury received his undergraduate degree from the University of Idaho and his law degree from the University of Michigan. After law school, he served with the Eighth Army in Korea in military intelligence. He spent 44 years as an attorney, including co-founding a 35-lawyer firm in Anchorage and Seattle and serving as a partner in a Seattle maritime law firm. In addition, he has served as a Special Assistant Attorney General for the state of Washington.

Endnotes

- ¹ Gary J. Williams, Ronald W. Stark, E.D. Pierce, *The Pierce Chronicle*, (Idaho Research Foundation, Inc. 1975).
- ² *History of North Idaho* 19-20 (Western Historical Publishing Company 1903)..
- ³ *History of North Idaho* at 20.
- ⁴ *History of North Idaho* at 20.
- ⁵ *History of North Idaho* at 20.
- ⁶ Layne Gellner Spencer, *And Five Were Hanged*, 31 (Ramax Printing and Awards 1968).
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- ¹⁰ *History of North Idaho* at 20.
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- ¹⁴ Byron Defenbach, *The State We Live In 173-174* (Caxton Printers, Ltd. 1933).
- ¹⁵ Pierce Courthouse at Pierce, Idaho (Idaho State Historical Society (undated)).
- ¹⁶ Defenbach at 169-171.
- ¹⁷ W.A. Goulder, *Reminiscences: Incidents in the Life of a Pioneer in Oregon and Idaho* 211-215 (Timothy Regan 1909).
- ¹⁸ Defenbach at 173-174.
- ¹⁹ Goulder at 206-207.
- ²⁰ Spencer at 41.
- ²¹ Spencer at 39.
- ²² Goulder at 235-236.
- ²³ *History of North Idaho* at 29.
- ²⁴ *History of North Idaho* at 29.
- ²⁵ *History of North Idaho* at 34-35.
- ²⁶ *History of North Idaho* at 1017.
- ²⁷ *History of North Idaho* at 1017.
- ²⁸ *Idaho’s Oldest Public Building – The Pierce Courthouse* (Idaho State Historical Society (undated)).
- ²⁹ Shoshone County court records, Clearwater County Historical Museum.
- ³⁰ *Id.*
- ³¹ *Id.*
- ³² *Id.*
- ³³ *History of North Idaho* at 1065.
- ³⁴ *History of North Idaho* at 34-35.
- ³⁵ *History of North Idaho* at 1065; Spencer at 38.



Photo by Gregory L. Crockett

The Bonneville County Courthouse creates a noble landmark for the community, a building residents easily take pride in.

100 YEARS AGO, A GROWING COMMUNITY BECAME A COUNTY

Gregory L. Crockett
*Hopkins Roden Crockett Hansen
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Bonneville County is created

After bickering for years over the boundary line, officials divided Bingham County creating the current Bonneville County in 1911. Idaho Falls was then a growing, vibrant community of 8,000 and was logically chosen as the county seat. This year Bonneville County is celebrating its Centennial in a year-long celebration including exhibitions, presentations, commemorations and entertainments of all kinds. In recognition of the Centennial, the Bonneville County Courthouse was chosen as the subject matter of this article.



Gregory L. Crockett

The original structure

The building is sited on the east bank

of the Snake River in Historic Downtown Idaho Falls. When constructed, the building looked straight down the four block expanse of C Street (now Constitution) at the railroad depot facing west. While the courthouse was built in the country, city planners envisioned a wide, tree-lined boulevard with the courthouse on one end and the railroad station on the other. Their vision was soon realized. Six to eight passenger trains arrived and departed daily and the area was soon a hub of economic vitality. When formally dedicated March 16, 1921, the Commissioners declared "This building should be good for 50 years," (which was quite prophetic since the building was substantially expanded in the 1970s.) The railroad station didn't last that long.

The building opened to great fanfare with an orchestra playing throughout the day in the basement level and Idaho Falls observing its first annual Spring Festival. Crowds toured the building and applauded the rotunda with its stained glass dome, the lofty ceilings and marble pillars, polished doors, mosaic floors and artistic detail. It was a building the public could be proud of and stood as a prominent landmark to

the expanding civilization on the banks of the Snake River at Eagle Rock. The Bonneville County Courthouse is now listed on the National Register of Historic Places.

The 1978 courthouse annex

The original building housed both the county jail and the Sheriff's Department and by the earlier 1970s was inadequate for the needs of the court system. Federal grant money became available for law enforcement facilities and the county took the opportunity to upgrade, expand and modernize the courthouse facility. As a result the law enforcement annex was appended to the south end of the original structure. While the annex more than doubled the usable space, regrettably no attempt was made to harmonize the architectural styles of old and new. The first level and basement of the annex now house both the Sheriff's Department and the Idaho Falls City Police. The second floor includes six courtrooms (of inadequate size), judges' chambers and offices for clerks, reporters, bailiffs and court personnel. While the annex is connected by a passage way to the original courthouse, it is best to con-

sider them two separate buildings, lest the original architecture be compromised. Soon thereafter, the county built a new jail facility at an offsite location.

Chief Magistrate William Black was primarily involved in pursuing federal grand funds and was hands-on in the layout and design of the court system's new space. He was dogged in his efforts to expand and enhance court facilities and it is truly unfortunate that his considerable efforts went mostly unappreciated with the luke warm reception of the final product. In the 1970s, public officials were less interested in public architecture and more interested in saving money than the visionaries of the 1920s.

The future

Like every courthouse in every county, Bonneville County continues to struggle to keep up with parking demands. The Sheriff's Department and City Police continue to share facilities but they have long since outgrown their space. The recession has delayed efforts to build a separate city police headquarters and the crowded conditions continue.

Starting spring 2012, the City of Idaho Falls and the Idaho Falls Redevelopment Agency will undertake a total reconstruction of Memorial Drive which runs behind the courthouse and separates it from the Snake River. Substantial county parking will be displaced and relocated to other nearby parking areas now under construction. Bonneville County will provide additional onsite parking with the vacation of a city street (Legion Drive) and the demolition of the Stucki Building; both located within the courthouse campus. These improvements will reconnect the courthouse to its historical river frontage on the Snake and substantially beautify the entire neighborhood. The project is a product of good planning and inter-governmental cooperation.

About the Author

Gregory L. Crockett is senior partner at Hopkins Roden in Idaho Falls. His practice includes civil and commercial litigation, insurance defense, negligence, real estate contracts, business associations and banking.

Mr. Crockett earned his Juris Doctorate from the University of Idaho in 1974. He currently serves as president of the Idaho Falls Historic Downtown Foundation, Inc. Greg and his wife, Tricia, are the parents of one son and enjoy golf, cross-country and downhill skiing, white water rafting and Idaho's great outdoors.

Bonneville County Courthouse

Construction Start: December 1, 1919

Construction Finish: March 16, 1921

Building Cost: \$268,880

Architect: Fisher & Aitkins

Architectural Style: Neo-classical

Key People:

Captain B.L.E. Bonneville (April 14, 1796 – June 12, 1878) A French-born officer in the United States Army, fur trapper, and explorer in the American West. The expedition that would be known as the most notable accomplishment of his life began in May 1832, when Bonneville left Missouri with 110 men. In the spring of 1833 Bonneville explored along the Snake River in present-day Idaho, drifting into the head of the Salmon River and eventually into Fort Nez Perce. Bonneville County is included among many of his namesake places.

S.K. and George Mittry (owners of North Pacific Construction Co.). The construction contractor went broke after Bonneville County declined to pay over \$18,000.00 of construction costs.

Justice McCarthy of the Idaho Supreme Court who authored the unanimous opinion of the court upholding Bonneville County's refusal to pay the Mittry brothers on constitutional grounds.

Commissioner Wylie Snarr (1977 – 1991). Self appointed caretaker of the courthouse and its grounds throughout his tenure in office. Most responsible for the centennial revitalization and upgrade of the courtroom facilities. Commissioner Snarr was often observed hand-weeding the flower beds.

The Lawsuit: A Balance Due

In 1919, Bonneville County and Idaho Falls were bustling. Business was good and officials were brimming with optimism. The \$250,000 bond to build the courthouse with a basement jail passed easily. Unfortunately, the bond proceeds fell \$18,880 short of paying the Mittry brothers (North Pacific Construction Co.) for the construction and they sued. The District Court awarded the balance due and the county appealed. In a unanimous decision, the Supreme Court reversed.

In a holding that is certainly a precursor to *City of Boise vs. Frazier*, the Supreme Court held "When an indebtedness is forbidden by the Constitution and statutes of this state without the authority of a bond election and the people at such election authorize the commissioners to incur indebtedness in a certain amount, the Commissioners cannot incur a valid indebtedness above such amount." *Mittry vs. Bonneville County*, 38 Idaho 306, 312, 222 P. 292 (1923). Word has it that the Mittry Brothers were soon out of the construction business.

The Swastika

In conformity with its neo-classical design, the flooring is three-color mosaic tile in a Romanesque pattern. The flooring pattern

incorporates a swastika. Of course in 1920 the swastika was just an ancient religious symbol (common to Native Americans, Hinduism, Buddhism and Jainism) representing good luck or good fortune.

In the 1990s some community members asked "Why was the symbol of Nazism, fascism, and white supremacism so prominently displayed in the halls of justice?" Not to worry. A simple version of "white out" rendered the sign of evil a crossroads intersection. Tacky but effective.

The Centennial Facelift

In conjunction with the State Centennial in 1990, the county undertook the rehabilitation of the original courthouse rotunda and what is now referred to as the Centennial Courtroom. The original stained glass dome was weatherproofed and restored after being covered up for decades due to water damage. The original courtroom was remodeled and will now accommodate sessions with all five Justices of the Idaho Supreme Court. The rotunda itself serves as a museum of Bonneville County history with photographs of past judges, commissioners, sheriffs, prosecutors, clerk-recorders and other dignitaries.



Photo by Jacob A. Sweeten

The original wooden Gem County Courthouse (located at Third and Commercial Streets in Emmett) burned down in 1920. Because of the county finances and later in part to the depression, the county offices, including court proceedings, were housed in various locations around town until the new courthouse was finished in 1939. During that time, the county depended on residents to donate chairs, desks, and cabinets to furnish the offices.

WPA PROJECT BUILT A HOME FOR JUSTICE IN GEM COUNTY

Jacob A. Sweeten
Capitol Law Group, PLLC

“With rooms and vaults built to order, modernistic furnishings and a beautiful building the [Gem] county officials will find themselves surrounded with a new dignity and a higher, more active prestige,” said the Emmett Messenger newspaper on July 27, 1939, just days before county officers made the move into the *almost* completed Gem County Courthouse.¹

Rent for the old county quarters would have been due August 1 and the county was interested in saving money, so the move would occur even if the building wasn’t



Jacob A. Sweeten

completely finished. The installation of landscaping and concrete walkways outside, and the placement of some furniture inside remained to complete the new courthouse and county offices building.

The county’s offices had existed as a vagabond, moving from one “make shift quarters” to another since the old courthouse burned down almost twenty years before. The new courthouse, though, had fresh walls that were “finished in beautiful shades of light brown and ivory and concrete steps . . . covered with hard composition board and trimmed with metal.” Plumbing, heating, and lighting were “of the most modern order.”² The outside was constructed in concrete, which was scored to resemble blocks, and then sandblasted to give it its appearance. It didn’t matter that this building was a smaller replica of the Weiser Courthouse in Washington County; Gem County now had a permanent place for its offices.

The basement contained the offices of the sheriff and probate judge, jail, kitchen

Gem County Courthouse

Construction start: Late summer 1938

Construction finish: July 29, 1939

Building cost: \$70,000

Architect: Frank Hummel;
 David Richardson (contractor)

Architectural style: Spare and
 Classicizing Art Deco, Modern Movement

Key people: County Commissioners
 George Davidson, Fred Baisch (also
 did most of the landscaping), and
 Lew Matthews

and heating plant. The top floor contained the court room, judge's chambers, jury room and the school superintendent's office. The main floor contained other offices including the county clerk, treasurer, assessor, commissioners, county attorney, and surveyor. The layout hasn't changed too much over the years. The sheriff is still in the basement, but the jail moved into a larger building behind the courthouse in 2001; the basement space is now used mostly as storage. Some of the county offices have outgrown the building with the department of motor vehicles and planning and zoning relocated to annex buildings across the street.

Gem County had tried unsuccessfully in 1924 to issue bonds and finance the building of a courthouse.³ However, there would be no new courthouse until the United States' Works Progress Administration (WPA) program. For those who don't know (including myself, who is old enough to remember disco, but not old enough to remember Kennedy), the WPA was the largest of Franklin Roosevelt's "New Deal," ambitious because it was intended to produce jobs for unskilled workers unemployed from the depression, including the construction of public buildings and roads. The WPA became unnecessary around 1943, in most part because of World War II - causing men going off to war or going into the factories (along with the women) to earn a living.

It was customary for WPA projects to be partially financed by the local county where the work would be performed. The total cost of the building project (designated project number 1089-F) was \$70,000 and Gem County financed a portion of the cost through a bond measure voted on by the citizens totaling \$37,500.⁴ In 1948, the principle and interest was paid back.

County Commissioners George Davidson, Fred Baisch, and Lew Matthews were the drivers behind the new courthouse and David Richardson from Caldwell was hired as contractor. Commissioner Fred Baisch was also responsible for the installation of most of the courthouse's simple and dignified landscaping, which was brought in from John Carnefix's nursery in Fruitland. The original site, purchased by the County years prior, although surrounded by maples and fruit orchards, had been nothing more than a rough lot full of weeds and crossed with footpaths. Various shrubs and trees were brought in including Colorado and Norway Spruce, junipers, European white birch, Japanese Cherries, flowering quinces, moss and red flowering locusts, and linden trees.⁵ As the story goes, Fred was so passion-



Photo by Jacob A. Sweeten

The 30-ton M4 Army tank that sits in front of the courthouse was placed there in 1958 by the Emmett Veterans of Foreign Wars as a memorial honoring veterans of World War II and later Vietnam. The veterans had their first application submitted to the Army for the tank rejected; it received approval on their second application. The tank was originally going to be placed on the fairgrounds near the armory, but it was then determined that the courthouse lawn would be the better location as a courtesy to the VFW.

ate about the landscaping that, even after he finished being a commissioner, he came before the county officers to request that he be allowed to continue to care for the shrubs and trees. "How much will it cost?" inquired the guardians of the public coffer. "I'm not asking for a job," Baisch responded. "I'm only asking for the privilege of helping take care of those plants. They mean a lot to me. It won't cost the taxpayers a cent. I feel that by pruning and shaping those trees and bushes, I can give something of myself to the people of Emmett and Gem County."⁶

The courthouse, "two floors on a high basement," was added to the National Register of Historic Places in 1982 because of its Architectural Significance of traditional single-entryway motif (Art Deco) like the Morris Hill Mausoleum and the John Regan American Legion Post.⁷

About the time the courthouse was added to the register, attorney Tom Arkooosh, came into the valley that had been labeled the "Gem of the Payette" and the "Gem of Plenty" because of its fertile soil. "Small courthouses create the legal culture people live in," Tom says.⁸ In this case, the culture mimicked the county and the valley's description of "Gem."

When Tom moved to Emmett, he said it was the people in the valley that made

"I feel that by pruning and shaping those trees and bushes, I can give something of myself to the people of Emmett and Gem County."

- Former Gem County Commissioner Fred Baisch

the difference to his new practice. Tom recounted the story of the time he was filing some records at the Magistrate Court when a gentleman seen outside the window of the courthouse slipped and was injured. The town doctor was in court that day with a trial going on, a trial that just stopped mid-argument so that the doctor could attend to the injured man. "That's how small towns work."

Tom also remembers Thelma Kolodziej who was the Clerk of the Court at the

time. "I introduced myself as having previously worked in the federal courts," Tom says. But Thelma responded that state courts were different. Tom says he learned more from her about how things worked in state courts than anything he learned in law school, lessons he still remembers and practices today.

Thelma served as Clerk and otherwise worked in the courthouse for more than 35 years. She made certain to remind me that it was a service for the people of the county and that it was the people who made her job special. Thelma's husband adds that when Thelma was elected, and reelected over the years, there was a lot of competition, but that the people kept electing her back into service. Thelma frequently offered entry level clerical jobs to young people, training staff on their way to other careers. "She never took vacations and often worked Saturdays and Sundays," Thelma's husband says.⁹ Thelma joked that she only retired from serving as Clerk because she was old enough and her husband wanted her to.

No article about the Gem County courthouse would be complete without including attorney Louie Gorrone, a fixture in this community. Tom recounts that when Louie found out that Tom was practicing in Emmett, Louie took Tom to lunch to welcome him to the valley and offered his friendship and support. Tom jokes that he can't remember who paid. "Louie was always very help-



Luis "Louie" Gorrone

ful and kind. Always had jokes and was fun to be around."

Tom recalls his first case in front of Magistrate Judge Perry, with Louie on the opposing side. Tom had prepared so much for the hearing and when it came his turn to argue, he gave it all he had. When Tom was finished, Judge Perry looked to Louie and said, "Louie, what's the law on this?"

Ron Bjorkman, an attorney in Emmett for over 30 years, remembers Louie that same way. Everyone in Emmett knew Louie, and Louie seemed to know everyone in Emmett. In a legal matter "people wanted Louie on their side."¹⁰

I never had the pleasure of meeting Mr. Gorrone (he passed away in 2010), but it quickly became apparent as I transitioned my practice to Emmett that Louie had a way and a sway in all legal matters. His time, along with those others who served in and out of the courthouse created the legal culture for the people of Gem County. As time moves on and as new attorneys, clerks, and judges take their place in the courthouse, the history of service should remain, a reflection of its people, the "Gem of the Payette."

Everyone in Emmett knew Louie, and Louie seemed to know everyone in Emmett. In a legal matter "people wanted Louie on their side."

- H. Ronald Bjorkman

About the Author

Jacob A. Sweeten is an attorney with Capitol Law Group, PLLC and practices in the areas of real estate, business, tax compliance, and estate planning. He recently transitioned his practice to serve the people of Emmett and Gem County after practicing in Boise for three years. Originally from Salt Lake City he graduated from the University of Dayton School of Law, but missed the mountains and moved back West. He is licensed in Idaho and Utah.

Endnotes

¹ *Emmett Messenger*, July 27, 1939.

² *Id.*

³ *The Emmett Index*, June 26, 1924.

⁴ Ruth B. Lyon, *THE VILLAGE THAT GREW* (Lithocraft 1979)(available at the Gem County Historical Society and Village Museum).

⁵ *The Emmett Index*, September 16, 1948.

⁶ *Id.*

⁷ See *Application for addition to Historic Register*.

⁸ Interview with Tom Arkoosh (September 14, 2010).

⁹ Interview with Thelma & Frank Kolodziej (September 14, 2010).

¹⁰ Interview with Ron Bjorkman (September 15, 2010).

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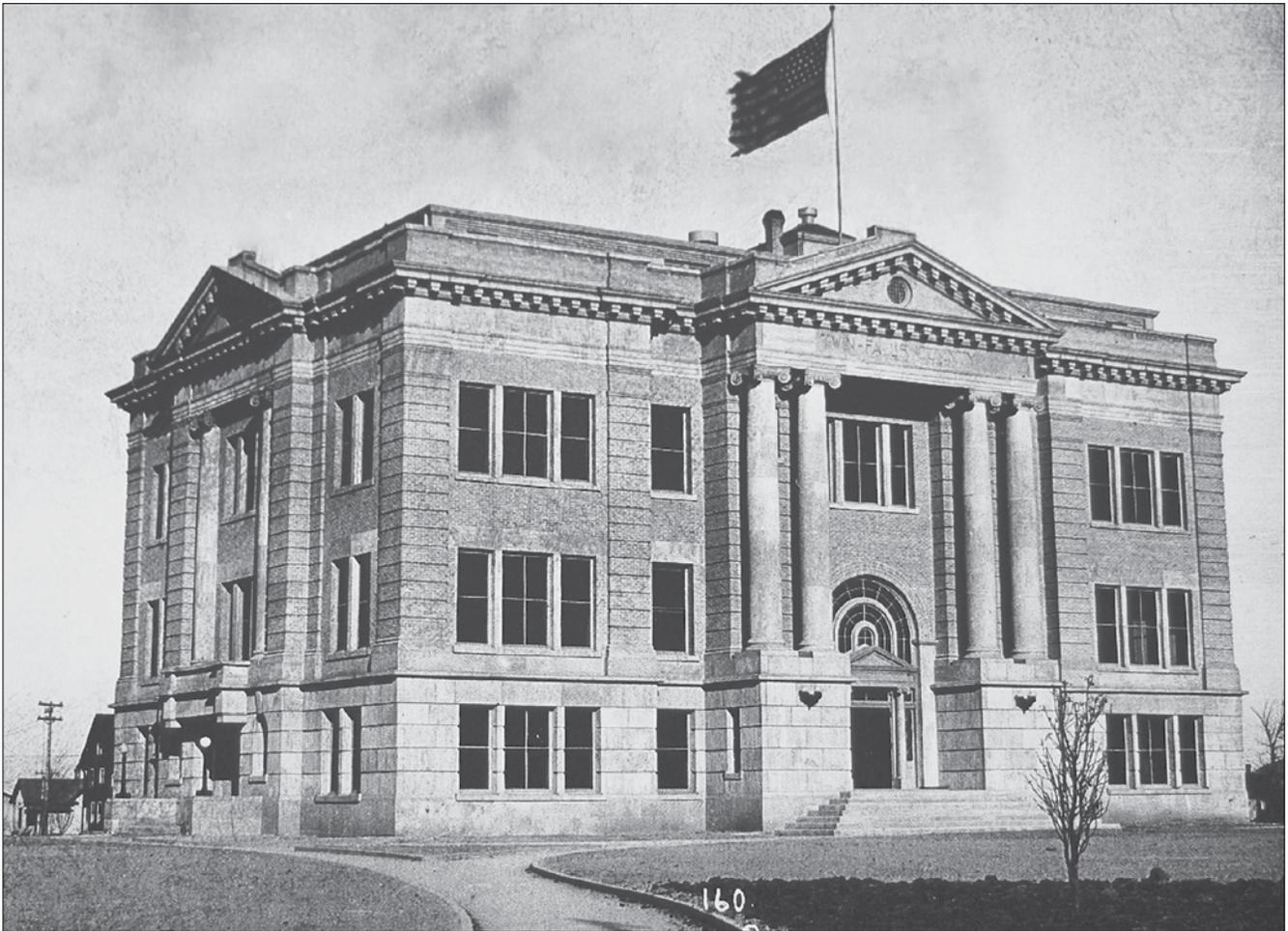


Photo courtesy of the Idaho State Historical Society

TWIN FALLS COUNTY COURTHOUSE: FROM DESERT SAGE TO SAGE SURROUNDINGS

Shauna Robinson

“No county seat in Idaho has such a structure as this one.” These were the words of Governor James Hawley at the dedication of the Twin Falls County Courthouse on October 18, 1911. As judges and other county officials in the new district courtroom on the third floor listened to his remarks (*Twin Falls News*, Oct. 19, 1911), they probably were overcome with a sense of pride at what the county had completed as a home for its official offices and duties. After all, its four stories of yellow-brick block, imposing stone columns, and ornamental gables and cornices formed the proud centerpiece of a young



Shauna Robinson

town, charged with carrying out the duties of government for a county that was still in its infancy. The finished product was not without controversy and conflict during its three years of construction, but, in the end, a landmark was born.

South central Idaho was in a whirlwind around the turn of the twentieth century. Just as the ubiquitous desert winds brought change to the sage-covered land, so did cultural winds in the form of political and entrepreneurial ventures. The canyon lands and high desert failed to capture the attention of the Oregon Trail travelers from the 1840s to late 1800s, because their view of the land was skewed by dusty, bumpy trails and the promise of greener pastures in Oregon. But Gold discoveries in the 1870s brought many hopeful Euro-Americans and Chinese to the canyons and banks of the Snake River, but the boom “busted” and the disgruntled miners moved on to more promising claims. Enough of these settlers remained in the Magic Valley region to warrant the

Twin Falls County Courthouse

County: Twin Falls

Construction Start: 1908

Construction Finish: June 1911

Building Cost: \$150,000

Architectural Style:
Classical variants

Key People:

C. Harvey Smith, Architect

George Curley, Contractor

attention of the Idaho territorial government.

As regional populations grew, the Idaho Territorial government recognized a need for law and order and created counties to administer these regional populations. For example, The Twin Falls region was once part of Boise County (1863), Owyhee County (1863) and Cassia County (1879).¹ Although a small number of ranches were established in the southern extremities of present-day Twin Falls County, widespread settlement within this area did not develop until Ira B. Perrine's vision to harness the waters of the Snake River for an irrigation system on the south side of the Snake became reality.

A vision of an agricultural county

Ira B. Perrine, an Indiana native, ventured to Idaho Territory in the fall of 1883 to work in the Mayflower Mine near Hailey. It did not take Ira long to discover that mining was not his forte, and that his energy would be better spent supplying the miners with basic goods like milk. After acquiring a small herd of milk cows in the spring of 1884, Perrine began delivering milk to the miners in Bullion and, in the fall of the same year, found a secure place to winter his cows in the Snake River Canyon sixty miles south of Hailey. His ambitions exceeded a simple miner's sundry, which resulted in additional business ventures such as a partnership in a livery stable in Shoshone, ownership of a stage line that took tourists from the Shoshone train depot to Shoshone Falls, and the creation and management of the Blue Lakes Fruit Farm. But his greatest ambition and eventual legacy to Idaho was his transformation of the magic valley desert into productive farmland, irrigated by water from the Snake River.

Through Perrine's persistence, financial support from eastern investors like Stanley Milner, Frank Buhl, and Peter Kimberly, and government encouragement through the Carey Act of 1894 the harsh desert bloomed anew with development. Upon completion of the Milner Dam in 1905, water was diverted from the Snake River through a system of canals and ditches irrigating over 60,000 acres of the south of the river.²

Settlers were offered up to 160 acres of land at a cost of 50 cents per acre for the land and \$25 per acre for the water right and the opportunity to receive title to the land if they developed twenty acres of the land in the first three years. Attractive prospectuses advertising the venture and farming "paradise" generated much interest in southern Idaho, and by February 1904, 12,000 acres of land had been filed

Love for 'Lady Bluebeard' proved fatal

When the new county courthouse was finished in 1911, the third floor housed the district courtroom, providing a more formal setting for legal proceedings and jurymen than the temporary courtroom on the second floor of the Idaho Department Store. May 24, 1907, marked the beginning of district court cases held in the newly-created Twin Falls County with a busy schedule of forty cases, including two murder cases, a forgery and business disputes (*Twin Falls News* 5/31/07). But, of all the trials conducted in Twin Falls County, it was the case of Lyda Trueblood Southard, "Lady Bluebeard" that first brought the nation to southern Idaho. This 28 year-old woman who had grown up in Twin Falls was arrested on May 12, 1921, in Honolulu, Hawaii, only two months following the death of her fourth husband in Twin Falls and just a short time after she had married her fifth husband, Petty Officer Paul Southard. She was charged with the murder of her fourth husband, Edward Meyer, who worked on the Blue Lakes Ranch in the Snake River Canyon. Preceding his death were the suspicious deaths of Lyda's three other husbands, a brother-in-law, and a small daughter. Supposedly, most of them succumbed to ptomaine poisoning, the flu or typhoid fever, but, what really raised the suspicions of the detectives was the pattern of short-term marriages and Lyda's designation as beneficiary in her husbands' life insurance policies. These suspicions prompted officials to further investigate the circumstances of the deaths and Lyda's role in them. When medical examiners discovered arsenic poison in the bodies of the decedents, a warrant for her arrest was issued by the Twin Falls County Prosecuting Attorney, Frank L. Stephan, with the charge of first degree murder in the death of Edward Meyer. (*Twin Falls Daily News*, May 12, 1921) Since the other deaths had occurred outside of Idaho, the prosecutor could try Southard only on the death of her Twin Falls husband. News of this case reached national levels with even the *New York Times* reporting on her arrest in the May 13, 1921 edition.

September 26, 1921 signaled the start of a trial that at the time would become the



Photo courtesy of the Idaho State Historical Society

longest trial in Twin Falls County history and the second longest in Idaho state history, lasting six weeks. (*Twin Falls Daily News*, November 5, 1921) It cost the county taxpayers between \$12,000 and \$14,000, attracted hundreds of local spectators daily, and required a team of prosecutors led by State Attorney General Roy G. Black and Twin Falls County Prosecuting Attorney Frank L. Stephan to prove Southard had willfully murdered her husband, Edward Meyer, by extracting arsenic poison from flypaper and putting it into his food. Although Southard was charged solely with the murder of her fourth husband, prosecutors used evidence in the deaths of her other husbands and brother-in-law and daughter as part of their strategy. The defense team of W.P. Guthrie, Homer C. Mills, and A.R. Hicks (*Twin Falls Daily News*, October 11, 1921) claimed all evidence was circumstantial, but this was not enough to convince the jury of twelve men who deliberated for twenty-three hours in determining Southard's guilt of second degree murder. On November 7, 1921, Judge W.A. Babcock sentenced her to ten years to life for her crime (*Twin Falls Daily News*, November 7, 1921) and the next day Sheriff E.R. Sherman took her by car to the Old State Penitentiary in Boise. Southard served twenty years at the State Penitentiary.

— Brian Kane

on by settlers.³ The Carey Act, coupled with the ambitions of Perrine, formed a promising foundation for building an agricultural empire in the high desert of southern Idaho.

Building the city to supply the county

The influx of homesteaders to southern Idaho precipitated the need for a town with businesses and services to provision the new arrivals. The Twin Falls Townsite Company was incorporated and, along with the Twin Falls Investment Company, worked to create the new town. The first step was to survey the land for town site, which was accomplished by John Hayes and his crew. Hayes's crew surveyed four blocks at the intersection of Main Avenue and Shoshone Street in April 1904. Since Twin Falls was then a part of Cassia County, the formal survey was filed in Albion, the county seat (which was moved to Burley in 1918), and on May 5, 1905, Twin Falls became an official town, albeit a primitive one. The sage-enclosed site had main roads with dust one foot deep, unfiltered water from Rock Creek for the residents, and coyotes, rabbits and rattlesnakes on Main Avenue. Nonetheless, it was the start of a thriving community that had about 1500 residents by 1906, and was primed to become a leading center of civic and agricultural activity in its own county—dust and all.⁴

A county of our own

“Hail Twin Falls County” proclaimed the February 15, 1907 edition of the *Twin Falls News*, celebrating the division of Cassia County into two counties. The eastern section remained Cassia County, but the western portion became Twin Falls County by a unanimous vote of the state Senate. With the signature of Governor Gooding on February 18, 1907, the division became official, making Twin Falls a county. Completing the vision, the City of Twin Falls was designated the county seat. Within the next ten days, county officials from commissioners to the coroner had to be appointed. Lacking a courthouse in which to conduct their business, the first county commissioners, Dr. George Crocker, John F. Hansen, and L.E. Salladay, and other county officials set up offices in the Idaho Department Store Building on Main Avenue. As stated in the *Twin Falls News*, May 3, 1907, “The county office in the Idaho Department store building have been nicely furnished by the Adams-Pilgerrim Co. The tables, desks, and cabinets are splendidly finished and they cost the county less than similar furniture advertised elsewhere.”



Photo by Shauna Robinson

A county needs a courthouse!

Recognizing the inadequacy of conducting County business in a department store, no time was wasted in addressing the need for a courthouse. In the May 3 edition of the *Twin Falls News*, a front page article called for the construction of a Courthouse. Two offers had already been made to the commissioners regarding the donation of property for the courthouse.

R. W. Jones proposed donating three lots near Bickel School on the eastern side of town for the county offices. But intra-city regionalism vetoed this offer from the start, as western County residents objected to the eastern location. In response to these objections the Twin Falls Townsite Company proposed donating property across from the city park on Shoshone Street, which seemed to be a more favorable location. The courthouse would be built on the property across from the city park with the stipulation that it would “not be defaced by temporary buildings and that the courthouse will be built within five years.” However, much work remained for the county commissioners and officials before the first shovel of dirt was turned.

Once the site of the courthouse was identified, financing the construction of such a landmark building became the focus of the commissioners. A campaign began to promote a bond election to fund

The sage-enclosed site had main roads with dust one foot deep, unfiltered water from Rock Creek for the residents, and coyotes, rabbits and rattlesnakes on Main Avenue.

the building and furnishing of the courthouse and jail. In July 1908, a large crowd gathered at a special meeting promoting a bond election, which resulted in the terms of the bond for the voters to decide in an election to be held on October 5, 1908. Although a large crowd had gathered for discussion of the bond, the County was encouraged by the lack of any vocal opposition to the project.⁵ Strong promotion of the bond needed to follow to ensure a successful election for the \$150,000 courthouse that had to be built within five years.

That promotion came in part from the weekly newspaper, the *Twin Falls Times*,

which printed frequent updates and opinions on the bond election and prospective courthouse. The newspaper did not make its position of the bond issue secret for its readers found headlines such as “Vote For the Bonds” and “Court House Not a Luxury, But a Necessity,” in addition to promoting the need to protect county records in an adequate and secure building.⁶ Stacking files of important documents on the floors of cramped offices like those in the Idaho Department Building was not a proper way to manage the county’s important business.

The newspaper requested letters from local citizens to place on the editorial page. The September 24th issue of the *Twin Falls Times* printed three letters with expressions of strong support for the courthouse bond election. For example, the letters of George B. Banta, Manager of the Idaho Department Store, and C.E. Booth, owner of Booth Dry Goods, appealed to the need for protecting county documents and respect for the community. Booth wrote, “Then, back of it all is something I think springs fresh in the heart of every resident of county, and that is civic pride.... who is the man on the tract that don’t [sic] want to point with pride to an appropriate structure as ‘our court house.’”

From votes to construction

The campaign proved successful with a vote of 1847 in favor of the bond and 412 against. Of the 1473 votes cast in the four Twin Falls precincts, only seventeen were against the bond. Some of the discontent expressed early on in the courthouse siting issue by citizens in the west end of the county became evident with the courthouse opponents outnumbering the supporters in the Filer, Kimberly, and Buhl precincts. On the other hand, Hansen and Milner were complimented by the newspaper as being “progressive” through their strong support of the bond with one hundred percent of those voting in favor of the project. With the financing secured, the commissioners had little time for rejoicing as they began planning for the next step of acquiring bids from prospective architects and contractors with a deadline of March 1, 1909.

As the days passed and officials met for design and bid reviews, pressure mounted to award contracts and to begin actual construction. After all, the voters agreed in the bond election that five years should be adequate in completing the construction of the most important building in the county. Soon after the bond election C. Harvey Smith was awarded the contract as the architect and superintendent of building operations for which he

received a five percent commission based on the total cost of the building. Four bids were submitted by contractors and, after three days of consideration, the county commissioners voted two to one to award a contract to George Curley of Salt Lake City for his bid of \$123,000 to construct a building with a stone base and trim and brick face. However, many county residents expressed their dislike at the thought of having a stone courthouse, resulting in so many complaints (even shouts) that the commissioners stated “they wish they had never heard (of the stone courthouse idea), because it has been the source of so much annoyance and caused all three members of the board to think so much of swearing.” (Wright 1979)

The courthouse takes shape

In spite of conflicts, shouting matches, and weather delays, the stone and brick design prevailed for the multi-storied courthouse and jail. By mid-November 1910, the thirty-man construction crew had enough work completed that all four floors were taking shape and ready to be enclosed, allowing crews to concentrate on the interior features. Architect Smith’s plans called for the use of dark wood moldings, mahogany banisters, mosaic tiles, and classical touches such as Ionic, Doric, and Corinthian columns throughout the courthouse, providing a rich and dignified finish to the interior.

Yet, practicality also prevailed with the design scheme. For instance, the first floor housed the offices of the county attorney, the sheriff and the county commissioners providing easy access for the public from Shoshone Street and two side streets. The second floor was devoted to the county records with a two-story vault for the county clerk and treasurer and a storage room for records that was fire proofed with reinforced concrete floors and an iron ceiling. Judicial offices dominated the third floor including the district courtroom, (where the ceiling was suspended to enhance the acoustics), the judge’s chambers, an examination room, and the jury room. The fourth and highest floor was reserved for the jail with the men’s section in the northwest corner, the women’s and juveniles’ section in the southwest, and the living quarters for the jailer on the eastern half.

For added security in preventing escapes, the ceilings were suspended and the walls reinforced. The *Twin Falls Times* proudly proclaimed that any escapees would have to take “... the air route and a sixty foot drop safely negotiated” (*Twin Falls Times*, Nov. 15, 1911). Probably, the inmates did not appreciate the panoramic view from the top as much

Politics, murder, plunder and a pardon

Seventeen years after the Southard trial, the Twin Falls County Prosecutor’s Office was faced with another case that gained national attention because the defendant was a political figure. Duncan McDonald Johnston, jewelry store owner, two-time mayor of Twin Falls and president of the Young Democratic Club and his associate William LaVonde were arrested and charged with the murder of jewelry salesman George Leland Olson from Salt Lake City whose body was found outside the Park Hotel, stuffed in the back seat of his car, a bullet wound to his head. Although LaVonde was released due to the lack of evidence in the case, enough evidence had been recovered from Johnston’s jewelry store basement to support the murder charges. The discovery of keys to Olson’s car, a .25 caliber pistol, and some of Olson’s jewelry linked Johnston to the murder. Also, it was known that Olson was to have collected money from Johnston that fateful day in May 1938 or shut down his business. Johnston always maintained his innocence, but the jury saw the case differently and found him guilty of murder.

In December 1938, Johnston began serving his life sentence in the state penitentiary. An appeal was granted in 1940 with a second trial to follow, but the verdict remained the same: guilty. Johnston was determined to gain his freedom and persisted in his requests for a pardon for several years, and, finally, in 1944, Johnston was granted a pardon, an act that was not well-received by the public (Gentry, pp. 293-294, 308). Attorney General Bert Miller of the Idaho Pardon Board maintained that Johnston had been “...adjudged guilty by reason of an unjustifiable verdict...” and that the evidence used in his conviction was “entirely circumstantial.”

Upon Johnston’s release, he remained in Boise to work at a precision instrument plant as part of the war effort. He was eager to begin earning a salary so he could pay off his legal debts which totaled \$15,000 (*The Twin Falls Times-News*, p.1, January 5, 1944). Acquiring his freedom certainly had come at a cost of time, money and reputation.

— Brian Kane

as others did who had the opportunity to bypass the fourth floor and go onto the rooftop. Since the courthouse was the tallest building in town, the scenic view stretched from the mountains of northern Nevada to the North Side tract. Additionally, the courthouse also housed the first elevator in Twin Falls.⁷

Opened and beginning a second century of service

On October 18, 1911, a huge crowd of anxious city and county citizens gathered in front of the courthouse for their first opportunity to tour the floors and offices of the new courthouse. Governor Hawley captured the pride felt by many in his dedication speech that afternoon. As he recognized their spirit of patriotism and sense of citizenship, the crowd's applause echoed up and down Shoshone Street. The many months of planning, discussion, arguments, complaints and labor that commenced in 1908 had come to fruition in the form of a magnificent building that would serve the county for many decades. Recently, the courthouse was remodeled, and as a true testament to the vision of Twin Falls County's forefathers, it stands ready to serve Twin Falls County for at least another 100 years. Now one hundred years after the construction of those controversial, Bedford stone walls the courthouse remains a lasting symbol of Twin Falls County, retaining its historic character while serving a modern citizenry.



Gov. James H. Hawley

Restoration efforts focused on authenticity

In March 2009, Twin Falls County embarked on a ten-month restoration project on the third and fourth floors of the courthouse. Their goal was to revive the historic appearance of the upper floors that, after a century of use and remodels creating more storage and office space, had resulted in the installation of makeshift walls, small, "Jimmy-Carter" windows, drop ceilings, and a hodgepodge of rooms. Prosecuting Attorney Grant Loebs served as the project manager, working closely with the Twin Falls County Commissioners Terry Kramer, George Urie, and Tom Mikesell, architect Russ Lively and contractor Don Anderson. Their efforts revived the historic character of the upper floors by recreating the spacious rooms and offices in the original design and restoring, where possible, original floors, walls, lighting, molding, windows



Photo by Shauna Robinson

The third floor lobby features natural light, brass railing and wood craftsmanship.

and ceilings. Accuracy was their top priority. They used historic photographs from the Bisbee collection as references. Even original light fixtures and furniture pieces were reclaimed from local museum storage facilities to augment the vintage appearance of the third floor rooms and offices. This ambitious project was completed in December 2009, not only restoring the physical design of the upper floors, but also boosting the spirit of civic pride that the courthouse represents. Just as businessman and proud citizen C.E. Booth wrote in his letter to the editor in 1908, that is "our court house" and a little more than a century later, the strength of those words ring true in the restored upper floors within a stone landmark that remains a symbol of Twin Falls County's heritage and identity.

About the Author

Shauna Robinson is an Idaho native, having lived in Twin Falls most of her life. She graduated from Idaho State University with a degree in education (German and history) and taught junior high in Washington and southern Idaho. She is the chairwoman of the Twin Falls County Historic Preservation Commission, a member of the Idaho State Historical Society's Sites Review Board, the Herrett Forum, the Snake River Chapter of the Idaho Archaeological Society and the Ladies Golf Association of Jerome Country Club. Enjoys Golf, camping, fly-fishing and exploring Idaho are my favorite activities. She and her husband, Zeke, have a daughter, Jenni, and son-in-law, Brian Chaffin, who live in Corvallis, OR.

The many months of planning, discussion, arguments, complaints and labor that commenced in 1908 had come to fruition in the form of a magnificent building.

Endnotes

- ¹ Gentry, Jim. *In the Middle and on the Edge The Twin Falls Region of Idaho*. Twin Falls: College of Southern Idaho and the Twin Falls Centennial Commission, 2003.
- ² Twin Falls County Territorial Centennial Committee. *Territorial Centennial Twin Falls County 1863-1963 A Folk History of Twin Falls County*. Twin Falls, Idaho: Standard Printing Company, 1962.
- ³ Gentry, Jim. *In the Middle and on the Edge The Twin Falls Region of Idaho*. Twin Falls: College of Southern Idaho and the Twin Falls Centennial Commission, 2003.
- ⁴ *Territorial Centennial Twin Falls County 1863-1963: 8, 9, 11*.
- ⁵ *Twin Falls Times*, July 3, 1908.
- ⁶ (*Twin Falls Times*, September 17, 1908.
- ⁷ Wright, Patricia. *Twin Falls Country A Look at Idaho Architecture*. Idaho State Historical Society Preservation Office. U.S.A.: Craftsman Graphics, 1979.

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Justices
Daniel T. Eismann
Jim Jones
Warren E. Jones
Joel D. Horton

2nd AMENDED - Regular Fall Terms for 2011

Idaho Falls	August 23 and 24
Pocatello	August 25 and 26
Boise	August 31
Boise	September 23 and 30
Coeur d'Alene and Moscow Lewiston	September 26, 27, and 28
Twin Falls	November 2, 3, and 4
Boise	November 7, 9, and 30
Boise	December 2, 5, 7, and 9

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of the 2011 Fall Terms of the Supreme Court of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

OFFICIAL NOTICE COURT OF APPEALS OF IDAHO

Chief Judge
David W. Gratton
Judges
Karen L. Lansing
Sergio A. Gutierrez
John M. Melanson

3rd Amended - Regular Fall Terms for 2011

Boise	August 9, 11, 18 and 23
Boise	September 8, 9, 12 and 13
Boise	October 6, 11, and 18
Boise	November 8, 10, 15, 17

By Order of the Court
Stephen W. Kenyon, Clerk

NOTE: The above is the official notice of the 2011 Fall Terms of the Court of Appeals of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

Idaho Supreme Court Oral Argument for November 2011

Wednesday, November 2, 2011 – TWIN FALLS

8:50 a.m. Habib Sadid v. Idaho State University.....	#37563-2010
10:00 a.m. Thomas Weisel v. Beaver Springs Owners Assoc.	#37800-2010
11:10 a.m. Maclay v. Real Estate Commission.....	#37946-2010

Thursday, November 3, 2011 – TWIN FALLS

8:50 a.m. State v. Peppcorn	#38936-2011
10:00 a.m. Gary Brown v. The Home Depot	#38076-2010 (Industrial Commission)
11:10 a.m. Current v. Haddons Fencing, Inc.	#37740-2010 (Industrial Commission)

Friday, November 4, 2011 – TWIN FALLS

8:50 a.m. County of Boise v. ICRMP.....	#37861-2010
10:00 a.m. V. J. Magee v. Thompson Creek Mining	#36352-2009 (Industrial Commission)
11:10 a.m. Farrell v. Whiteman	#37712-2010

Monday, November 7, 2011 – BOISE

8:50 a.m. T. J. T., Inc. v. Ulysses Mori	#37805-2010
10:00 a.m. Nava v. Rivas-Del Toro	#37613-2010
11:10 a.m. City of Pocatello v. Idaho Dept. of Water Resources	#37723-2010

Wednesday, November 9, 2011 – BOISE

8:50 a.m. State v. John Joseph Delling	#36920/36921-2009
10:00 a.m. State v. Daniel Johnson	#37758-2010
11:10 a.m. Isabel Enriquez v. Idaho Power Co.	#37812-2010

Wednesday, November 30, 2011 – BOISE

8:50 a.m. Elliott v. Verska	#38070-2010
10:00 a.m. Stem v. Prouty	#37641-2010
11:10 a.m. Pioneer Irrigation District v. City of Caldwell	#37242-2009

Oral Argument for December 2011

Friday, December 2, 2011 – BOISE

8:50 a.m. Farber v. State Insurance Fund	#38140-2010
10:30 a.m. Lower Payette Ditch Co. v. Harvey	#38163-2010
11:10 a.m. John F. Noak, M.D. v. IDOC	#37788-2010

Monday, December 5, 2011 – BOISE

8:50 a.m. Daniel S. Fuchs v. State	#37652-2010
10:00 a.m. State v. Hanson (Petition for Review)	#38512-2011
11:10 a.m. Ismael Chavez v. Canyon County	#38378-2010

Wednesday, December 7, 2011 – BOISE

8:50 a.m. Rocky Mountain Power v. Jensen	#37998-2010
10:00 a.m. Hopkins v. Pneumotech (Industrial Commission)	#38354-2010
11:10 a.m. Perry v. Keller Supply Co. (Industrial Commission)	#37727-2010

Friday, December 9, 2011 – BOISE

10:00 a.m. Bob Henry v. Bryan F. Taylor	#38016-2010
11:10 a.m. State v. Danney (Petition for Review)	#38557-2011

Idaho Court of Appeals Oral Argument for November 2011

Thursday, November 10, 2011 – BOISE

9:00 a.m. State v. Marsh	#37185-2009
10:30 a.m. State v. Long	#38580-2011
1:30 p.m. State v. Clark	#38565-2011

Tuesday, November 15, 2011 – BOISE

10:30 a.m. State v. Martinez-Gonzalez	#37737-2010
1:30 p.m. Watts v. State	#37748-2010

IDAHO CHAPTER, FEDERAL BAR ASSOCIATION EXEMPLARY SERVICE AWARDS

Please join us as we congratulate **Donald L. Harris**, **Lowell N. Hawkes**, **Debra K. Kristensen**, and **David H. Leroy** on receiving the *Exemplary Service Award* from the Idaho Chapter of the Federal Bar Association. The *Exemplary Service Awards* honor attorneys who have improved the quality of practice in Idaho's federal courts.

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The Idaho Chapter of the Federal Bar Association will present these awards over the lunch hour at the Federal District Court Conference on Friday, November 4, 2011, at the Boise Center.



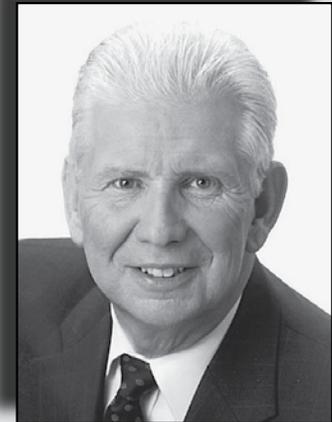
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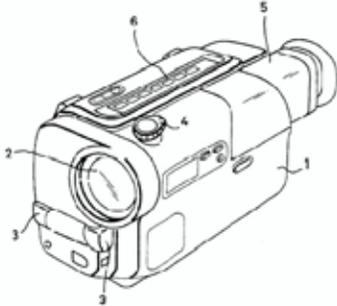


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Idaho Supreme Court and Court of Appeals
NEW CASES ON APPEAL PENDING DECISION
(Updated 10/1/11)

CIVIL APPEALS

BOND FORFEITURE

1. Did the court err as a matter of law in refusing to exonerate the bond because Rivera was not released from the sheriff's custody and the reinstatement was ineffectual?

State v. Two Jinn, Inc.
S.Ct. No. 38620
Court of Appeals

DAMAGES

1. Did the court err in declining to bar or reduce Shore's damages based on her ex-husband's duty to indemnify as set forth in the divorce decree?

Shore v. Bokides
S.Ct. No. 38454
Supreme Court

DIVORCE, CUSTODY, AND SUPPORT

1. Did the trial court err in summarily dismissing the guardian ad litem before it addressed his concerns regarding the best interests of the children?

Abolafia v. Reeves
S.Ct. No. 38189
Supreme Court

2. In determining the value of a community residence did the magistrate court abuse its discretion when it disregarded a 2009 appraisal and relied upon the insufficient and less relevant property appraisal from 2006?

Weimar v. Gallegos
S.Ct. No. 38558
Court of Appeals

EVIDENCE

1. Did the trial court err in excluding testimony regarding the parties' oral agreement in which the defendant recognized she had received a substantial benefit from Kendall's improvements to the property?

Kendall v. Orthman
S.Ct. No. 38397
Court of Appeals

2. Did the court err when it allowed Brudevold, the plaintiff's designated expert, to testify concerning claimed defects in the milk replacer?

Hurtado v. Land O'Lakes, Inc.
S.Ct. No. 38406
Supreme Court

POST-CONVICTION RELIEF

1. Did the court err in summarily dismissing Kuehl's successive petition as untimely?

Kuehl v. State
S.Ct. No. 37829
Court of Appeals

2. Did the district court err when it denied Morris' motion for appointment of counsel?

Morris v. State
S.Ct. No. 38308
Court of Appeals

3. Did the district court err in summarily dismissing Zepeda's petition for post-conviction relief?

Zepeda v. State
S.Ct. No. 38199
Court of Appeals

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

Barkey v. State
S.Ct. No. 38239
Court of Appeals

5. Did the court err in summarily dismissing Klingon-Smith's Estrada claim?

Klingon-Smith v. State
S.Ct. No. 38299
Court of Appeals

6. Did the court err in failing to address Weakley's post-conviction claim related to an admission of guilt by defense counsel in closing argument?

Weakley v. State
S.Ct. No. 38355
Court of Appeals

SUMMARY JUDGMENT

1. Did the district court err by applying the "sham affidavit" doctrine and by striking the affidavit of Arregui's expert witness on the applicable standard of chiropractic care?

Arregui v. Gallegos-Main
S.Ct. No. 38496
Supreme Court

2. Whether there exist genuine issues of material fact to preclude summary judgment on Mickelsen's claim for fraud in the inducement.

Mickelsen v. Broadway Ford, Inc.
S.Ct. No. 38111
Supreme Court

3. Did the district court err when it failed to apply the facts of the plaintiff's case to the duty owed to an invitee of a proprietary or private business enterprise owned and operated by a municipality?

Ball v. City of Blackfoot
S.Ct. No. 38530
Supreme Court

WATER LAW CASES

1. Did the Idaho Department of Water Resources have authority to change its position in the SRBA and to recommend the City of Pocatello's interconnected municipal ground water rights with a condition that previously was not recommended or decreed for similar municipal water rights at the SRBA court?

*City of Pocatello v.
Idaho Dept. of Water Resources*
S.Ct. No. 37723
Supreme Court

WILLS

1. Whether the magistrate court erred in its application of the legal presumption of undue influence to fiduciaries.

Wooden v. Martin
S.Ct. No. 38430
Supreme Court

CRIMINAL APPEALS

EVIDENCE

1. Did the district court abuse its discretion by admitting prior bad acts evidence pursuant to I.R.E. 404(b)?

State v. McAvoy
S.Ct. No. 37393
Court of Appeals

2. Did the court err in allowing the state to present I.R.E. 404(b) evidence that was not relevant and was overly prejudicial?

State v. Coleman
S.Ct. No. 37584
Court of Appeals

3. Was there substantial competent evidence admitted at trial from which the jury found beyond a reasonable doubt that Smelser was guilty of driving under the influence?

State v. Smelser
S.Ct. No. 38420
Court of Appeals

4. Did the court abuse its discretion when it denied Grist's request to impeach a witness with a felony theft conviction?

State v. Grist
S.Ct. No. 37372
Court of Appeals

5. Did the court abuse its discretion by admitting the detective's identification testimony?

State v. Salazar
S.Ct. No. 37832
Court of Appeals

6. Was there substantial evidence presented to support the jury finding that Vargas was guilty of grand theft by possession of stolen property?

State v. Vargas
S.Ct. No. 38274
Court of Appeals

PLEAS

1. Did the court err in denying Lynch's post-sentencing motion to withdraw his guilty plea and in finding he failed to prove manifest injustice in the form of coercion or ineffective assistance of counsel?

State v. Lynch
S.Ct. No. 37303
Court of Appeals

**SEARCH AND SEIZURE –
SUPPRESSION OF EVIDENCE**

1. Should the Idaho Supreme Court overrule *State v. Guzman*, and hold that Article I, Section 17 of the Idaho Constitution, like the Fourth Amendment to the United States Constitution, is subject to the good faith exception adopted by the United States Supreme Court in *United States v. Leon*?

State v. Koivu
S.Ct. No. 38106
Supreme Court

2. Did the search of Smith's backpack violate his right against unreasonable searches?

State v. Smith

S.Ct. No. 38230
Court of Appeals

3. Did the court err in denying Stewart's motion to suppress and in finding the evidence in her car was obtained pursuant to a valid inventory search?

State v. Stewart
S.Ct. Nos. 37767/38051/38078
Court of Appeals

4. Did the court err in denying Randle's motion to suppress and in finding he was not seized?

State v. Randle
S.Ct. No. 38047
Court of Appeals

SENTENCE REVIEW

1. Did the court abuse its discretion and act in manifest disregard of ICR 32 when it failed to *sua sponte* order a mental health evaluation of Carter prior to sentencing?

State v. Carter
S.Ct. No. 38038
Court of Appeals

SUBSTANTIVE LAW

1. Did the court have authority to modify its final judgment entered June 9, 2010?

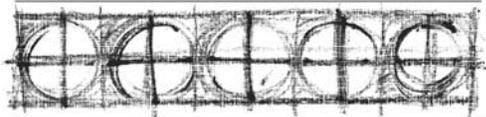
State v. Moore
S.Ct. No. 38285
Court of Appeals

2. Did the district court abuse its discretion in refusing Wicklund's request to set aside the remainder of his fine based on Wicklund's claim of impossibility?

State v. Wicklund
S.Ct. No. 38310
Court of Appeals

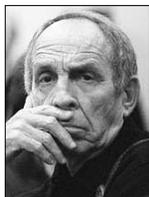
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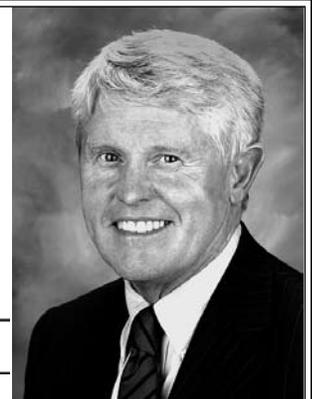
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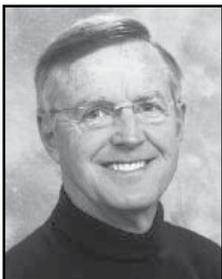
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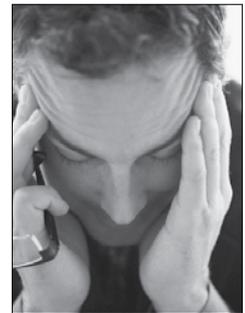


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LAUGHING ALL THE WAY TO COURT: AVOIDING THE HUMOR AND HEADACHES CREATED BY MISPLACED MODIFIERS

Tenielle Fordyce-Ruff
Rainey Law Office

My client has discussed your proposal to fill the drainage ditch with his associates.

Do you have a wonderful image of your client tossing his associates into a ditch? Technically, that's what this sentence says. While I'm sure we have all had moments when throwing a client's associates into a drainage ditch makes sense, it's not likely that the writer actually proposed this remedy. Instead, the hasty author probably created some unintended humor with a misplaced modifier.

Most would understand that the client in this example had a conversation with his associates about the proposal, but this sentence makes the reader pause and then choose between the technical meaning or the most logical intended meaning. The clearer version, the one that keeps the reader from guessing, is:

My client has discussed with his associates your proposal to fill the drainage ditch.

Misplace a modifier and your word order might lead the reader to chuckle, or worse. . .

Modifiers

Of course, before you can figure out where to put a modifier, you need to know what one looks like. Modifiers modify: They limit, change, describe, or add detail. They help add color and additional meaning to the basic English sentence patterns.

Modifiers can be single words or groups of words. Single word modifiers come in two flavors: adjectives and adverbs. Adjectives modify nouns or pronouns — *illogical* argument, *thoughtful* lawyers. Adverbs modify verbs, adjectives or other adverbs — *quickly* answered, finished *soon*, *very* recently. Phrases (groups of words acting as modifiers) always lack a subject, a verb, or both. *Applying the test*, the court ruled the defendant's constitutional rights were not violated.

So, now that you remember what a modifier looks like, let's move on to where to put them.



Tenielle Fordyce-Ruff



Logic and placement

English is supposed to be logical and your readers expect a basic sentence pattern: subject, verb, object. Keeping subjects and verbs close together creates logical sentences. *Lawyers make arguments.* Placing modifiers close to the words they modify creates interesting, logical sentences. *Thoughtful lawyers make very persuasive arguments.*

Readers understand this, and they logically attach a modifier to the words nearest it in the sentence. Understanding this basic premise can help you convey the meaning you intend.

Only lawyers can research in the firm's library. (Non-lawyers must keep out.)

Lawyers can only research in the firm's library. (They can't write there.)

Lawyers can research only in the firm's library. (They can't research at their desks.)

Each of these sentences is grammatically correct. The placement of the word *only* changes the writer's intent significantly. Stated differently, your intent, as the writer-determines the proper placement of the modifier.

Now that you understand what modifiers look like and where to put them, let's move on to how to fix common gaffes caused by misplaced modifiers.

Drifting modifiers

Modifiers can create unintended humor, or hurl unintended insults, when we forget that they need to be near the word they modify and let them drift somewhere.

Being insane, the judge ordered the petitioner's transfer to a mental hospital.

Who is insane? Technically, *being insane* modifies *the judge*. The writer intended to convey that the petitioner is insane, but allowed the modifier to drift. There are two fixes for this sentence: move the *insane* modifier closer to the petitioner or move the petitioner closer to the *insane* modifier.

Being insane, the petitioner's transfer to the mental hospital was ordered by the judge.

This sentence clarifies that the petitioner, not the judge, is the insane party, but if you want to avoid the passive voice, you would choose the second option.

The judge ordered the insane petitioner's transfer to a mental hospital.

Here is another drifter to consider:

Megan was hit by a motorcycle walking her dog.

Do you picture a Harley out for a leisurely stroll with a cute puppy? Technically, that's what this sentence means. In this instance, moving *walking her dog* closer to *Megan* creates the correct mental picture.

A motorcycle hit Megan, who was walking her dog.

While walking her dog, Megan was hit by a motorcycle.

Squinting Modifiers

Squishing modifiers into the middle of a sentence is another source of humor and consternation.

A trustee who steals dividends often cannot be punished.

Here, *often* is a squinting modifier. It could modify either what comes before or after it: Either crime frequently pays, or

frequent crime pays? Moving the modifier or re-writing the sentence would cure the ambiguity

Often, a trustee who steals dividends cannot be punished.

This state struggles to punish trustees who steal dividends often.

Here's another example:

We agreed at our first meeting to implement the new procedures.

Did the agreement take place at the first meeting, or are the new procedures to be implemented at the first meeting? Because *at our first meeting* is squinting, the reader can't know for sure. Make your intent clear by moving the modifier next to what it modifies.

At our first meeting, we agreed to implement the new procedures.

We agreed to implement the new procedures at our first meeting.

Overreaching modifiers

Misplaced modifiers in lists create ambiguities because the reader won't know for sure how far the modifier reaches.

The defendant was charged with transporting endangered salamanders and frogs.

Were both the frogs and the salamanders endangered or is transporting frogs illegal regardless of their status? Ease the reader's burden by either repeating the modifier or rearranging the list.

The defendant was charged with transporting endangered salamanders and endangered frogs.

The defendant was charged with transporting frogs and endangered salamanders.

Nesting modifiers

We legal writers are particularly notorious for using nested modifiers—sets of modifying phrases each nested in the next. These eggs are a headache for the reader to unscramble.

A claim for a homestead exemption, which in the case of a dwelling used for housing not more than a single family, shall not exceed \$200,000 or fifty percent of the fair market value, whichever is less, must be filed with the county assessor by April 10.

(How many times did you have to pause while reading that gem to figure out the details?) To fix nested modifiers, keep each egg in its proper shell by delivering the information in multiple sentences.

A claim for a homestead exemption must be filed with the county assessor by April 10. A homestead exemption claim for a single-family dwelling cannot exceed \$200,000, or fifty percent of the fair market value, whichever is less.

Dangling modifiers

These modifiers modify something, but whatever or whoever it is doesn't appear on the page. (Quelle mystère!)

Going around the bend, the peaks of the Sawtooths came into view.

I assure you that the peaks were not travelling! Instead, some unknown person was out for a lovely afternoon drive. Fix this sentence by making sure the reader knows who enjoys a leisurely trip.

As Sadie came around the bend, the peaks of the Sawtooths came into view.

Conclusion

Who knew that misplacing a simple adjective or adverb could create humor, ambiguity, headaches, and mysteries! Taking a few extra minutes to make sure

your modifiers are near to the words they modify can avoid inadvertent humor, ambiguity in a contract, or having to explain to the judge that you did not really mean to suggest that he was insane.

About the Author

Tenielle Fordyce-Ruff is a partner at Rainey Law Office. Her practice focuses on civil appeals. She was a visiting professor at University of Oregon School of Law teaching Legal Research and Writing, Advanced Legal Research, and Intensive Legal Writing and, prior to that, clerked for Justice Roger Burdick of the Idaho Supreme Court. While clerking for Justice Burdick, she authored *Idaho Legal Research*, a book designed to help law students, new attorneys, and paralegals navigate the intricacies of researching Idaho law. You can reach her at tfr@raineylawoffice.com.

Sources

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ATTORNEYS MAKE SACRIFICES TO FIGHT HUNGER

The 2011 Attorneys Against Hunger fund drive was the most successful in years, raising \$8,460 in pledges, all of which will be donated to the Idaho Foodbank. The Idaho Young Lawyers Section chose to challenge its members to eat for one week on \$4.30 a day — the average amount an Idahoan receives in food stamps. About 20 attorneys took the challenge, which inspired firms and individuals to pledge their donations.

“I’m interested in how the challenge will provoke discussion, raise awareness and get people thinking about these issues,” Section Chairman Ritchie Eppink, told the *Boise Weekly*.

Some of the Young Lawyers who took the challenge posted comments on the web site www.idahoyounglawyers.org. A few snippets of those observations are printed below:

Day 1: Ritchie A. Eppink - Leaving with my one bag’s worth of groceries today certainly did not come with the usual glow and anticipation that buying fresh and yummy ingredients often can. I’m not looking forward to any life-enriching, memorable meals this week. Raw hunger, instead, is what’s getting me excited. Absurdly, right now it’s getting me excited to take some of those so-cheap potatoes to the exquisite julienner I picked up at Ketchum Kitchens this summer while in Sun Valley for the state bar convention. Not sure if that’s a typical food stamp method, but mmmm.... hash browns....

Day 2: Mark P. Coonts - While I realize that it is completely self-imposed, I know that if I wanted to, I can open up our freezer and have all of the bounty of Costco spill out. A comforting thought in case by Thursday both my wife and I are so cranky that an argument could erupt about who is the grumpiest, and how that person should quit, for the sake of sanity. It would be another feeling altogether if the safety net was not there. I cannot imagine what it would feel like if there were no options that would allow me to quit at any time and know that I have the option to quit. For me, my feelings and situation are a fiction for our Challenge, and not a reality. I know for many families in Idaho, my week is their year; my fiction is their reality.

Day 3: Chris C. Christensen - The last two nights I have, sadly, foregone my snack and crawled in to bed feeling the slightest twangs of hunger. Although



Ritchie A. Eppink’s Winco receipt shows planning and restraint used by a typical Idahoan who lives on \$4.30 a day in food stamps. The participating attorneys discovered what it means to go without.

Photo by Ritchie A. Eppink

what I have felt the last two nights is VERY mild, it has reminded me that this year’s challenge is truly an exercise in empathy and reinforced just how lucky I am compared to many other folks in this great state and certainly around the world.

Day 4: Leslie M. Hayes - The hardest part of the Challenge so far is not being able to eat out. Sunday afternoon I had to turn down an offer to meet with friends for lunch, which was disheartening. Over the last two days, I’ve realized how many of my social interactions revolve around food.

Day 5: Chris C. Christensen - Today I got lucky. I went to bed hungry again last night. And, much like yesterday, I spent the day very hungry. The \$.20 banana for breakfast and the \$.88 frozen pasta lunch just didn’t cut it. However, our firm was hosting a small reception tonight and so I got free food!

Day 6: Deborah A. Gates - This experience has made me cognizant of how poverty forces one to eat calorie laden, nutritionally valueless foods, in an effort to keep from going hungry. During this week, instead of reaching for healthy, expensive celery sticks or an orange, I selected the cheaper alternative—a sugary granola bar or graham crackers.

I couldn’t help but be mindful of how a family in poverty might be forced to supplement dinner with a box of macaroni and cheese instead of fresh vegetables or a healthy green salad. I was reminded that the nutritional needs of children living in poverty were more than likely not being met—a silent epidemic in our society.

Day 7: Chris C. Christensen - This has been an amazing experience! I have learned so much about budgeting, my eating habits, and really feel like I have made significant strides towards being able to empathize with those who are less fortunate that I am.

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LICENSING AND MCLE COMPLIANCE: USE PAPER FORMS OR GO ONLINE

Annette M. Strauser
ISB Membership Administrator

Licensing

The 2012 licensing packets will be mailed in mid November. The licensing deadline is February 1, 2012. Your payment and paperwork must be received in our office by that date. Postmarked is not enough. If it is not received by February 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, 2012. 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 cancelation of your license.

Paying Online

Online licensing renewal will be available again this year. Attorneys or their firms may complete the 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 once the licensing packets have been mailed. Note: the only way to pay by credit card is through the online licensing program.

MCLE Compliance

If it is your year to report your mandatory continuing legal education (MCLE) credits, you will receive a MCLE certificate of compliance in your licensing packet. The deadline for obtaining the required MCLE credits is December 31, 2011. However, the certificate of compliance does not have to be submitted until the February 1 licensing deadline.

You must have at least 30 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. Remember, 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. If you attended courses that do not appear in your attendance records, use the "Search Approved Courses" page on our website to verify they are approved. As long as the course has been approved for Idaho MCLE credit and we have not



Photo by Dan Black

Smiles all around, Idaho State Bar staff members take a breath after stuffing about 5,000 licensing packets. From left are Jenay Hunt, Andrea Bates, Kyme Graziano and Cheryl Taylor.

already received the attendance list, you may simply add the course to your certificate of compliance before signing it. Most certificates will have written additions.

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 and CDs 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 MCLE credits on demand. 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 additional MCLE credits as the deadline nears. 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 recorded course, it will always 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 obtain live credit.

If, despite your best efforts, you do not think you will be able to complete the MCLE requirements by the December 31 deadline, you can request an extension until March 1, 2012. To get the extension, pay the \$50 MCLE extension fee with your licensing or send us a separate written request with the extension fee. Credits

earned during the extension period will be counted toward your reporting period that ends in 2011. Your certificate of compliance should not be submitted until the requirements have been met. However, the rest of your licensing materials must be submitted by the February 1 deadline to avoid the licensing late fee. The final deadline for submitting your completed certificate of compliance is March 1, 2012. If you have not completed the MCLE requirements by March 1, your name will be given to the Idaho Supreme Court for cancelation of your license.

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) or Jenay Hunt (jhunt@isb.idaho.gov) in the Licensing/MCLE 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 Beth Conner Harasimowicz (bconner@isb.idaho.gov) in the Member Services Department.

For more information on licensing, MCLE, the list of upcoming courses, the list of rental programs and online courses, etc. – visit our website at www.isb.idaho.gov.

OF INTEREST

Kira Pfisterer joins Hepworth Janis & Kluksdal

Hepworth Janis & Kluksdal is pleased to announce the addition of Kira Dale Pfisterer as an attorney with the firm. Kira's practice involves general civil litigation with an emphasis on personal injury, medical malpractice, and products liability. Kira has experience with multi-district litigation and is working on the firm's active metal-on-metal hip implant cases, including the Depuy ASR and Zimmer Durom Cup cases. She also has experience with environmental tort cases.

Kira graduated from the University of Utah College of Law, Order of the Coif, in 2002. Immediately following graduation, she clerked for then Chief Justice Linda Copple Trout of the Idaho Supreme Court. Most recently, Kira served as a law clerk to the Honorable United States Magistrate Judge Ronald E. Bush and as a staff attorney to the Prisoner Litigation Unit of the United States Court for the District of Idaho.

Originally from Phoenix, Kira attended Duke University graduating in 1993 with degrees in political science and economics. At Duke, Kira was also a member of the women's cross-country running and swimming teams. Kira moved to Boise in 1996 after working as a high school social studies teacher in New York City.



Kira Dale Pfisterer

Jacob Naylor joins Naylor & Hales, P.C.

Naylor & Hales, P.C., is pleased to announce the addition of associate attorney Jacob H. Naylor to the firm. Mr. Naylor's practice concentrates on municipality and public entity defense; Section 1983 prison litigation; and administrative law.

Jake received his Juris Doctorate from the University of Idaho in 2010.

He graduated with a Bachelor's Degree from Brigham Young University in 2007. While in law school, Jake was the recipient of the James E. Rogers Scholarship and participated as a member of the 2010 Idaho College of Law Evidentiary Moot Court Team. He also completed externships with the Fourth Judicial District and the U.S. Attorney's Office. At graduation, Jake was recognized in his *pro bono* service as achieving "Service with Distinction," with more than 120 hours over his law school career.

Prior to joining Naylor & Hales, Jake served a one-year clerkship with the Judge Cheri C. Copsey of the Idaho Fourth Judicial District. Jake is currently a member of the American Inn of Court No. 130.



Jacob H. Naylor

NEW ADMITTEES

Admitted 09/29/11 and 09/30/11

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 Kathleen Renee Arnold
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 Stephanie Hall Barclay
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During a light moment in an otherwise serious ceremony, new admittees fumble their responses to repeat the oath. During another try, the new attorneys repeated it flawlessly.

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STEMMING THE TIDE: MAINTAINING A STRONG FOUNDATION IN DIFFICULT TIMES

Katherine S. Moriarty
President of the Idaho Law
Foundation, Inc.

Most of us probably remember the childhood story about the little Dutch boy who saved his community when he put his finger in the dike to stop a flood. Lately, the people who work with and volunteer for the Idaho Law Foundation remind me of that little Dutch boy. The Law Foundation continues to perform its important work helping Idaho people on behalf of the legal profession, even through these difficult times. But, I find myself wondering: How much longer are we going to be able to avert a disaster?

We all realize that times are rough.

This year we are looking at our fourth year of decreased IOLTA funding. Notably, while some of our traditional sources of funding have decreased, our needs remain constant, or in fact, have increased. Now more than ever, we need to fund the important work of the Law Foundation. When it comes to legal services for the disadvantaged and law related education for the public, some recent data show how important it is that we support these types of programs.

• **Legal Services:** A recent editorial in *The New York Times* indicates that four-fifths (80%) of low-income people do not have access to an attorney for their civil legal needs. In practical terms, this means that many people who are seeking legal assistance in cases such as domestic abuse are unable to obtain the help they need to ensure that they and their family members are safe.

• **Law Related Education:** An Annenberg Public Policy Center survey conducted from national samples of the U.S. population found that just 47% knew that a 5-4 decision by the Supreme Court carries the same legal weight as a 9-0 ruling; almost a third mistakenly believed that a U.S. Supreme Court ruling could be appealed and 23% believed a 5-4 decision by the Supreme Court was referred to Congress for resolution. At a time when we need to depend on the rule of law more than ever, too many of our citizens don't possess the requisite knowledge and understanding of our nation's legal system that's necessary to make informed decisions.



Katherine S. Moriarty

As the Law Foundation works to improve the lives of Idaho citizens, even in the most difficult of economic times, we cannot meet our goals and continue our important work without your help. A gift to the Idaho Law Foundation is an investment in the people of Idaho and the future of the legal profession in Idaho.

I realize that this information might seem a bit grim; but as unfortunate as it is, sometimes, especially in our current economic situation, the truth is grim. Does that mean we just throw up our hands and give up? I certainly hope not. Personally, when I find myself in the face of difficult circumstances, I have an even stronger sense of resolve to make the situation better.

It's one of the reasons I am so proud to be involved with the Idaho Law Foundation. Law Foundation programs like **Idaho Volunteer Lawyers Program** help ensure the availability of legal services to Idahoans who do not have the resources to hire an attorney for their civil legal matters. Programs like our **Law Related Education Program** provide students and teachers at all grade levels with the necessary tools to reinforce civic and legal education while simultaneously helping build positive relationships between students and members of Idaho's legal community. These programs are not just valuable to our communities; they are critical.

With the decrease in IOLTA funding, it's more important than ever that we find other avenues of funding, so that our programs remain fiscally sound. As of today we still need to raise approximately \$30,000 to meet our 2011 goals to support the Foundation and its programs, **Idaho Volunteer Lawyers Program** and **Law Related Education**.

When we think back on the story of the little Dutch boy, it's important to remember that, in averting the disaster, he had help. A kind stranger came along and saw the boy trying to stop the flood and offered his assistance. Right now, I'm counting on you to provide your assistance and support to the Idaho Law Foundation.

As the Law Foundation works to improve the lives of Idaho citizens, even in the most difficult of economic times, we cannot meet our goals and continue our

important work without your help. A gift to the Idaho Law Foundation is an investment in the people of Idaho and the future of the legal profession in Idaho.

Would you consider a tax-deductible donation to help continue the work of the Idaho Law Foundation? If you have given in the past, would you consider increasing your donation amount this year? If you have never given to the Idaho Law Foundation, would you consider joining your colleagues who give to the Idaho Law Foundation and making a donation of \$100 or more? Of course, any donation amount is always gratefully accepted.

There are many ways to give to the Law Foundation:

- Donate through a designation on your 2012 Licensing Form (either hard copy or online);
- Download an ILF Donor Form at www.idaholawfoundation.org that you can fill out and return to the Foundation; or
- Make an online donation by clicking on the "Donate Now" button on the main page of our website.

If you need additional information about the Law Foundation, please contact Carey Shoufler, the Foundation's Development Director, at (208) 334-4500 or cshoufler@isb.idaho.gov. She will be happy to answer any questions you may have. Thank you for your continued support of the Idaho Law Foundation.

About the Author

Katherine S. Moriarty is the President of the Idaho Law Foundation. She received her J.D. from the University of Idaho and was admitted to the Idaho State Bar in 1991. Ms. Moriarty is a member of the Idaho State Bar and the Employment and Labor Law Section of the Idaho State Bar. Ms. Moriarty previously has served as President of the Seventh Judicial District Bar Association. Ms. Moriarty is Senior Counsel for Battelle Energy Alliance, LLC.



Photo by Dan Black

The sleek, industrial design of the library gives a workshop feeling, with its open space, mezzanine, and wood surfaces. Dean Cathy Silak said the architects designed many intriguing spaces to help students feel “like this is the center.”

CONCORDIA BUILDS A LAW SCHOOL FOCUSED ON COMMUNITY CONNECTIONS

Its urban setting allows internships and helping society

Concordia’s embryonic School of Law shows an emerging, but distinct personality. With its walls up, the carpet down, designer lighting hung and chairs populating classrooms – the school’s mission comes into better focus. One can imagine future students learning the law, and translating those lessons into serving the urban community that surrounds the school. Its slated opening: September, 2012.

“Engaged” is a word that Dean Cathy Silak repeats with intensity. Engagement runs tightly woven throughout the school’s lofty expectations. The school’s first students will find a core curriculum, flexible hours, and a building all designed to aid the students’ interactions with the community.

“It really comes out of Concordia’s national model,” she said. “To develop successful leaders, we emphasize service – learning through community engagement.”

That ideal appears increasingly tangible. In these final months of preparation Dean Silak emphasizes the Boise metropolitan landscape as a practical laboratory. The school’s advisory committee has identified specific areas the law school and its service-oriented students will address, such as pro bono work for refugees, juveniles, Idaho Legal Aid and Idaho Volunteer Lawyers Program. Boise is also a regional hub for

practicing governmental law and intellectual property law, which will be important electives. These areas of law also provide opportunities for internships, externships and job networking. Most importantly, Dean Silak said, is the school’s core curriculum - the law - which students need to succeed.

Inside the new 54,000-foot school on Boise’s busy Front Street, students will of course learn the foundations. But these, along with supervised clinics, will allow students to engage (there’s that word again) the community. Each student, she said, will study under the guidance of a mentor attorney. Adjunct faculty drawn from Boise’s rich legal community will give a “real world” influence on students’ development, she said.

Despite her being the school’s dean, the first woman appointed to the Idaho Court of Appeals and a former Idaho Supreme Court Justice, Justice Silak, or Dean Silak, prefers to be called simply “Cathy.” But her informality belies a fierce passion for the school’s altruistic mission.

Singular purpose in an upscale building

Walking through a cavernous foyer/library that glows with natural light, Cathy explains that the building was designed to meet environmentally-friendly LEED Gold Certification. Its library was built at the center of the school with cozy study areas and class rooms on the periphery. Rooms for mock trial and moot court reflect actual court room sizes and design. A large lecture hall with graduated level seating and electronic



Photo by Dan Black

Concordia University School of Law stands on the corner of Front and Fifth Streets in downtown Boise. Concordia is a non-profit Lutheran University based in Portland.

projectors accommodate the latest instructional technology. Cathy points out the tiered or “cloud” ceiling tiles. Their layered levels dampen noise and give an intimate, human-scale proportion to the rooms.

Everything feels new, if not futuristic, though an original 17,000 square foot building was transformed into the George R. White Law Library. The additional structure seamlessly uses a brick exterior which helps it blend in with its downtown neighbors. The Ada County Courthouse sits across the street.

The acquisition and remodel was done for about \$10.2 million, Cathy said, and was designed by Group MacKenzie, from Portland. The contractor was Union Corner Construction, from Vancouver, Washington, which added amenities like a secure bike garage and student showers.

Who are the students?

Defining the school’s unique niche, classes will be held primarily in the afternoons and evenings to accommodate those who do externships and hold part-time or full-time jobs. The school will offer part-time and full-time enrollment. Tuition, as well, is meant to make attendance within reach. Donors known as the “Scholars Society” are being asked to front a series of \$5,000 grants for each student in the inaugural class which Concordia intends to match. Together, if the donations meet expectations, these would reduce a student’s expense by \$30,000 over three years. Regular full-time tuition for the nonprofit private college has been set at \$28,500.

Cathy said Concordia University is accredited by the Northwest Commission on Colleges and Universities and the Boise Law School will seek accreditation from the American Bar Association (ABA). That process will take between five and six years and provisional accreditation cannot be initiated until a law school’s second year of operation. According to the school’s web site, a student at a provisionally approved law

Education/Community/Family

Cathy Silak received her B.A. from New York University, her Master’s Degree in City Planning from the Kennedy School of Government at Harvard University, her Law Degree from the University of California at Berkeley School of Law and a Master of Law Degree from the University of Virginia, Charlottesville.

She has served on the boards of St. Luke’s Regional Medical Center, Boise State University Foundation, The Children’s School, Bishop Kelly Foundation, Boise Family YMCA, Idaho Youth Ranch and Idaho Human Rights Education Center; was a Founding Member of the Idaho Coalition for Adult Literacy; served as an Advisory Board Member of United Way Success by Six, Project Safe Place of the Bannock Youth Foundation, The Learning Lab and Boise State University Legal Assistants Program. She is married to Boise attorney Nicholas G. Miller and has three children, Hartley, Martha and Michael Miller.

school and an individual who graduates while the school is provisionally approved are entitled to the same recognition given to students and graduates of fully approved law schools.

With so much planning already done it feels like the Concordia School of Law has already developed its personality. Furniture arrives daily and technical glitches are being ironed out. A ribbon-cutting ceremony is planned for Oct. 27 and the school will begin its next phase in development. Cathy expects a great deal of community engagement in the very near future.

— Dan Black



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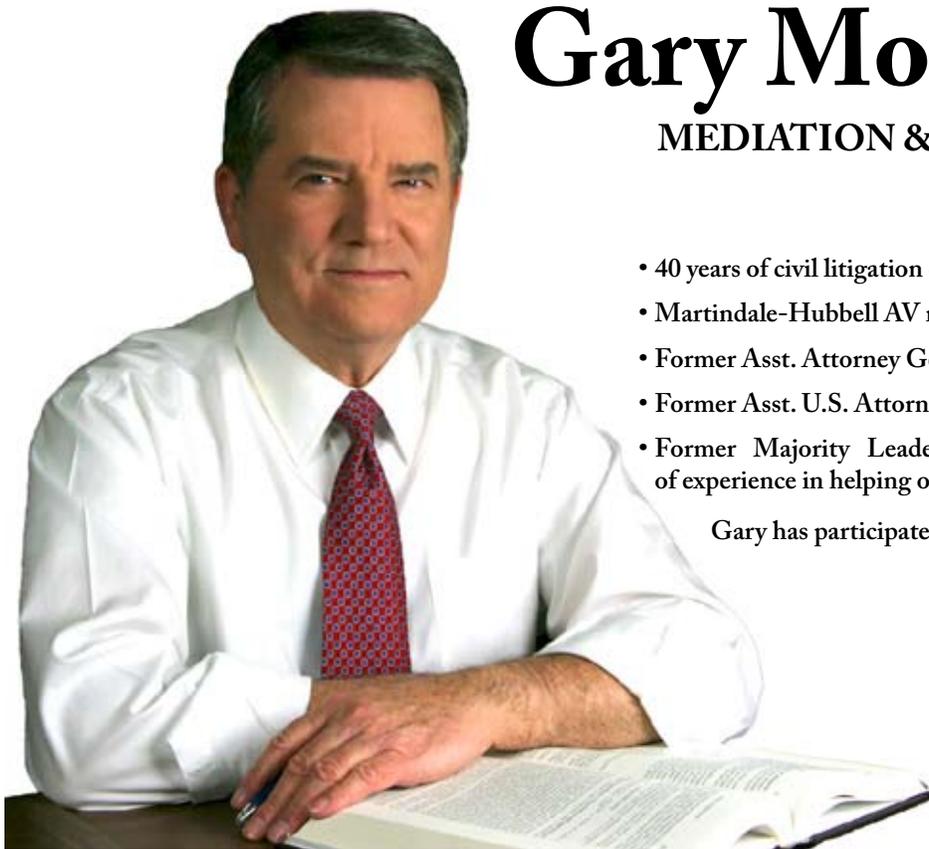
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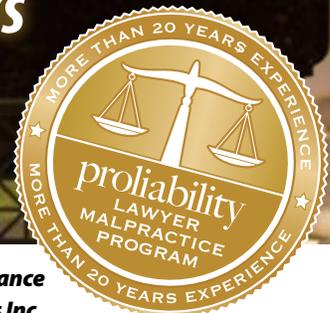


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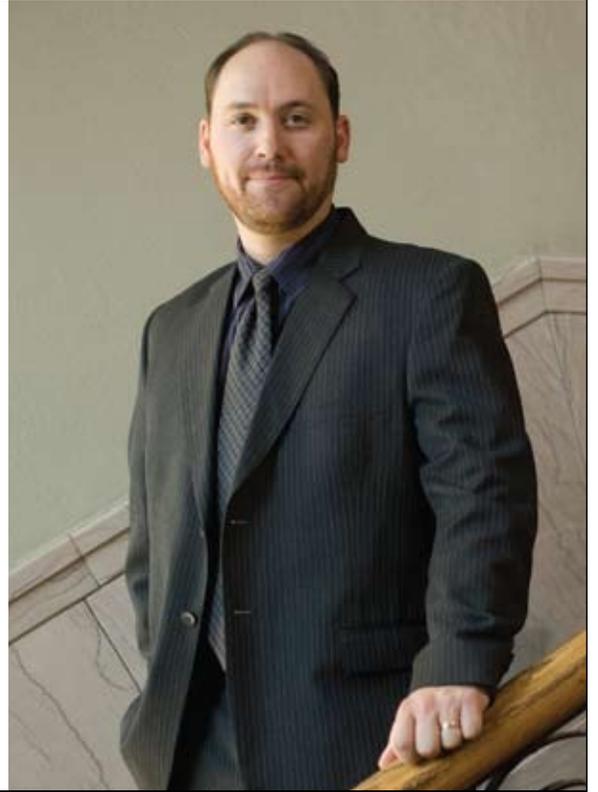
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Pete Sisson is a National Board Certified Elder Law Attorney (www.nelf.org) and a VA Accredited Attorney. Since 1993, The Elder Law Firm has helped thousands of Idaho seniors and their families avoid the financial ruin that is caused by long-term care costs.

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