



January 2010

Inside This Edition

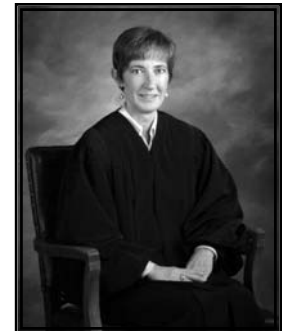
Start Court Graduation	1
Reflections of 2009	12
Upcoming Events	18
Complaints	19
Jury Trials	36

Executive Board

- Wendy Olson, President
- Kim Wherry Toryanski
President-Elect
- Bradley Williams, Secretary
- Larry Prince, Treasurer
- Robert Schwarz & Nick Vieth
CLE Programs
- Dean Arnold, Membership
- Larry Westberg, Chair
National Delegate
- Julie Tetric, Young Lawyers
- Theodore Creason
Law School Liaison
- Trudy Hanson Fouser
Pro Bono/Events
- Susie Boring-Headlee
Executive Director

MEASURING SUCCESS: A REFLECTION ON THE FIRST START GRADUATION CEREMONY FOR THE DISTRICT OF IDAHO BY JUDGE CANDY WAGAHOFF DALE

The judges, lawyers and other legal professionals reading this article have experienced many graduation, commencement or convocation ceremonies, either as the graduate or as family members or friends of the graduate. Most likely, none have graduated from a drug court and few have watched such a graduation. This article describes the significance of graduation from the District of Idaho's START program (Success Through Assisted Recovery and Treatment) for our first three graduates, our START team, and our community.



On January 6, 2010, three former "offenders" of federal criminal law were recognized for the success they achieved through intensive supervision by the START team for at least one full year. What was the degree conferred at this graduation? – reduction of one year from the term of supervised released (probation) that commenced after serving a sentence of incarceration. More so, this graduation conferred new identities for three individuals in our community who previously disliked even themselves. Graduations are a time for advancement to a new opportunity. For these three individuals, this graduation provides an opportunity for life with dignity.

Overview of START

In September of 2008, the District of Idaho joined only 13 other Districts out of 94 total in the nation by implementing a problem solving program for offenders of federal law, designed in large part after state drug and mental health courts that have found success after 20 years of existence.

MEASURING SUCCESS CONT'D.

Without repeating the contents of the article contained in the April 2009 issue of *SideBar*, authored by Magistrate Judge Mikel Williams who spear-headed our START program, it is worth repeating that our program began in Boise in September of 2008 and in Pocatello in April of 2009. We are beginning a modified program in Central Idaho in February of this year.

START is different than state drug courts, in that our participants already have been convicted and served a sentence of incarceration before entering the program. It also is a “voluntary” program, where the participant must want to and agree to be in the program, the START team must accept the participant, and the sentencing judge must refer the offender to the program.

From there, the participant is subject to monthly or more often scrutiny by our START team members – Magistrate Judge, Assistant U.S. Attorney, Probation Officer, Federal Community Defender and Treatment Provider. The Team monitors each participant’s compliance with terms of an individualized program based on stage of recovery from substance abuse, and holds each participant accountable for compliance, or non-compliance, by awarding kudos or imposing sanctions, or no action, each month. The terms for compliance are much more intense than “regular” supervision, both in frequency and substantively, all designed to address the offender’s risk of recidivism and criminogenic needs.

Our mission is to assist the offender with reentry into the community following release from prison by directing resources toward maintaining sobriety, continuation in recovery from substance abuse through treatment and counseling, obtaining and maintaining a safe and sober environment among family and friends and in housing, and obtaining employment, pursuing educational opportunities or active engagement in community service.

Our First Graduates

Al was a member of our first START court session in Boise in September of 2008. He was referred to START after he was released from a 12 month sentence of incarceration imposed for violating conditions of his supervised release term that followed 10 years in federal prison. Al wanted to participate in the program to recover from his addictions to various illegal drugs, including methamphetamine and heroin. Shortly into the program, Al suffered his biggest hurdle to completing the START program and to regaining his new life – emergency open heart surgery for a condition caused by intravenous drug use.



MEASURING SUCCESS CONT'D.

At his first START court appearance after surgery and while still recovering, Al showed the team and other participants his incision, but not as a sign of pride. Despite a set back in attendance at START court and group and individual counseling, Al committed to and completed more intense drug treatment and counseling to find himself a graduate on January 6 and to receive an Order from the Honorable Edward J. Lodge, who had imposed the 10-year sentence of incarceration, reducing one year from Al's five year supervised release term. Should all go well for Al, he'll be free from supervision in February of 2011, one year earlier than originally sentenced.



MEASURING SUCCESS CONT'D.

LeeAnn was referred to START upon facing a petition seeking revocation of her four year supervised release term that followed her 24 months of incarceration in federal prison. During her first appearance in START court, LeeAnn collapsed outside the courtroom after crumbling in pain during a colloquy between a START team member and another START participant. After surviving roller coaster styled months early in the program, LeeAnn began appreciating the assistance she was receiving from various members



CONGRATULATIONS LEEANN

of the START team, in particular the counselors who were making her work through cognitive behavior treatment, and the tools she was receiving to help her deal with the stressors of life without resorting to drug use. She started receiving “kudos” for her successful months in START during

which she remained sober and stable in employment and housing. She was married at about the half way point of the program to a man who supported her through her completion of the program. On January 6, she left the courthouse “free” from incarceration or supervision for the first time in nearly ten years.

Our third graduate, Gaynell, did not incur the more obvious hurdles during her year in the START program. However, taking one look at her before (booking) and after (a month before graduation) photographs tells a story. Gaynell commenced the START program upon recognizing, at age 50, that her prior course of making bad choices that began in high school needed to change. With a supportive home provided by her brother and sister-in-law, she complied with every arduous condition imposed by the START team. When asked during one of her START court appearances how she was managing to be so successful, she explained, with tears in her eyes, that she did not want to return to the person she was during her prior life.

MEASURING SUCCESS CONT'D.

Instead, Gaynell sought out community service opportunities that eventually lead to employment (assisting with care of elderly and disabled individuals) and started enjoying outside activities. She brought photographs of a sky diving adventure to one of her appearances and explained that the adrenaline, or “high,” she received when sky diving was far better than any she’d experience during her years of illegal drug use. She plans to continue her new life by following a dream to live on the Oregon coast, once she is released from supervision in August of 2010, one full year earlier than she expected when sentenced.



MEASURING SUCCESS CONT'D.

The Graduation Ceremony

In contrast to arraignment, sentencing, or other criminal proceedings in federal court, the ceremony on January 6 had an aura of celebration for the graduates, the five presiding judges, the START team, and the families, friends, dignitaries and court staff who attended. Chief District Judge B. Lynn Winmill commenced the proceedings, with Chief Magistrate Judge Candy W. Dale, and Magistrate Judges Ronald E. Bush, Mikel H. Williams, and Larry M. Boyle, all providing their comments to a full courtroom.

Chief Judge Winmill introduced the many dignitaries who took time away from their busy schedules to attend the ceremony: Chief Justice Daniel Eismann, Justice Roger Burdick, Justice Joel Horton and Drug Court Coordinator Norma Jaeger of the Idaho Supreme Court; Ada County District Judge Ronald Wilper; Justine Cook from the office of U.S. Congressman Walt Minnick; Clerk of Court designee Libby Smith; Chief Deputy Clerk of Court Shannon Harris; Chief U.S. Probation Officer Marilyn Grisham and Deputy Chief U.S. Probation Officer LaVetra Castles. Next, Judge Williams made comments regarding the history of START, including the naming contest, which he initiated for the program, and introduced the members of the Boise START team. He also offered his personal words of congratulations to the graduates. Judge Bush introduced members of the Pocatello START team that were present for the graduation.



MEASURING SUCCESS CONT'D.

Perhaps the moments of most significance for the graduates followed, when Rafael Gonzalez, Criminal Chief of the United States Attorney's Office, presented a formal motion to the Court for one year reductions in the term of supervised release for each of the three graduates. With Federal Community Defender Dick Rubin joining and supporting the motion, Chief Judge Winmill granted the motion and asked the audience for something rarely heard in a federal courtroom – applause!

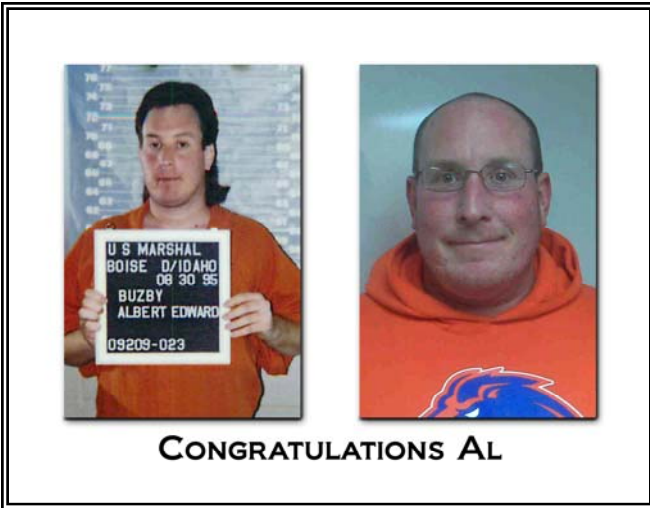


The graduates were then called forward individually by Judge Dale to hear comments from each member of the START Team and to receive certificates and other awards. Judge Dale made brief comments about memorable events during the course of progress, or at times lack thereof, for each graduate, and presented each with the order reducing the term of supervised release, a framed certificate signed by both Judges Dale and Williams, and a formal “invitation” to attend the START court session in June to mentor or inspire other participants. During her comments to LeeAnn about the doubt many had, including LeeAnn herself, about completing the START program and the tools she had received and used during the program, Judge Dale quoted one line from a letter received that day from LeeAnn: “If I didn’t have the Start Program, I would be lost or dead!”

Next, Judge Williams presented a medallion with the seal of the District of Idaho on one side and the START acronym spelled out on the reverse side — “Success Through Assisted Recovery and Treatment” with the words: “A New Start. A New Future.” Dick Rubin presented each graduate with six letters received from Idaho’s U.S. Congressional Delegation, selecting and reading from one of the letters before adding his own comments of inspiration regarding each graduate. Rafael Gonzalez presented “before and after” photographs to each graduate, which included a booking photograph and current photograph for each, adding his comments regarding the stark contrast shown in each.



MEASURING SUCCESS CONT'D.



CONGRATULATIONS AL

For example, Al’s booking photo from 1995 showed a young man with a mullet, to which Al commented about his hair and his slight physique, in contrast to his more full bodied look of today! Finally, U.S. Probation Officer Tim Messuri provided comments and a \$25 Walmart gift card to each graduate.



Following the presentation of certificates and other awards, each of the graduates made brief comments of appreciation, with LeeAnn thanking her supervising Probation Officer Kevin Hocevar, and Gaynell thanking Judge Winmill for giving them second chances. Next, each of the presiding judges had the opportunity to make comments to the graduates and the audience. Chief Judge Winmill referred to the graduates as heroes and heroines, commenting about his support of START and other programs that exemplify the fact that redemption and rehabilitation, as opposed to recidivism to crime and incarceration, are integral and visible within the federal criminal justice system.

MEASURING SUCCESS CONT'D.

Judge Boyle asked the graduates to look around the courtroom, impressing upon them the significance of the day for them as well as for our state and federal judiciary. He also commented about how “change doesn’t happen overnight,” emphasizing his appreciation for the hard work it took for each of them to accomplish tremendous changes in their adult lives. Judge Bush challenged the graduates to take hold of the seeds of hope that had been uncovered and shined by the changes they made in their lives. Judge Dale encouraged them to keep liking themselves as they do today, in contrast to when each began in START.

Judge Williams chose not to stand between adjournment of the ceremony and the cake to follow at the reception, but welcomed the graduates to the START alumni group and once again congratulated them for their success.



MEASURING SUCCESS CONT'D.

What the Future Will Hold

For each of our graduates, the accomplishments summarized previously are milestones to a sober and law-abiding life without returning to prison. State problem solving courts have been in existence for 20 years and have proven successful in saving lives, reuniting families, and saving costs of incarceration. Although the federal reentry programs, also known as recidivism reduction programs, have been in existence for a much shorter period of time, we are learning from what has worked, or not, in the state courts to implement practices that will work with our federal offenders. In fact, in early December of 2009, members of our START team (Magistrate Judges, Chief Probation Officer, Federal Defender and Assistant United States Attorney) attended a workshop presented by the Federal Judicial Center in conjunction with Duke Law School. We learned more about the evidence based practices, recidivism risk assessments, criminogenic needs assessments and program designs utilized in 10 other district courts. The FJC also is beginning a study that will evaluate and quantify the success of these programs, which understandably will take years to complete. In the meantime, our team will continue to assist our participants with reentry, which includes our acquisition and utilization of skills.

Clearly, graduation on January 6 marked success for the participants who made it and for our START team. It also marked success for our community, as long as these graduates remain sober, crime free and productive. As our START program moves forward in the months and years ahead, we will be evaluating and reevaluating our practices, and measuring “success.”

As Marc Lewis, a professor of clinical psychology, stated at a graduation ceremony: “There are times when you are going to do well, and times when you’re going to fail. But neither the doing well, nor the failure is the measure of success. The measure of success is what you think about what you’ve done.”

Before closing, therefore, I am including the full content of LeeAnn’s letter to the START team:

“When I first came into the Program in December 2008 I was a wreck. I didn’t believe in myself enough. What I learned in the program was that I am a human being and a good person.

MEASURING SUCCESS CONT'D.

Most of my thinking has changed because of the tools that were given to me but mostly because I choose to use them and work hard to get where I am. I was also pushed hard at times. I thought I wouldn't make it but I did. I know now that I have potential and that I can keep changing. If I didn't have the START program, I would be lost or dead!

Thank you everyone for believing in me and pushing me when I needed it and most of all for giving me the opportunity to be a part of the program. I would highly recommend the program to anyone that needs help but most of all wants it.”



During the first 16 months of our START program in Boise, there were times when our Team anguished about those individuals that were not successfully completing the program. However, we kept reminding ourselves that even one graduate would achieve success. Thanks to the fortitude of Al, LeeAnn and Gaynell, and the commitment of our START team members, we experienced threefold success on January 6th and look forward to many future graduations.



REFLECTIONS ON A VERY BUSY YEAR . . .

by Shannon S. Harris, Chief Deputy
 U.S. District and Bankruptcy Court, District of Idaho

Last year was an exceptionally busy year in the Clerk's Offices throughout the District of Idaho. Perhaps our biggest change was a new Clerk of Court. We were absolutely thrilled to welcome Libby Smith as our new Clerk on December 21, 2009. Libby came to us from the Eastern District of Michigan where she served as the Deputy Court Administrator for 23 Judges and 300+ staff, in three separate locations in and around the Detroit area. We are very excited about all of the positive changes a new Clerk represents. Libby has been very active in the technology arena, and has a passion for being proactive, responsive and upbeat. And, although Libby does not yet share my love of coffee, she does believe in the spirit of public service and an occasional fruity tea. Welcome, Libby! Please plan to attend Libby's formal swearing-in ceremony on Friday, February 5, 2010 @ 4:00 p.m. in Courtroom Two of the James A. McClure Federal Building and U.S. Courthouse in Boise. Reception to follow in the Jury Assembly Room on the Fifth Floor. Libby can be reached @ 208.334.1373.



"No responsibility of Government is more fundamental than the responsibility of maintaining the highest standards of ethical behavior by those who conduct the public business. There can be no dissent from the principle that all officials must act with unwavering integrity, absolute impartiality and complete devotion to the public interest." President John F. Kennedy

We also had three significant retirements toward the end of 2009, and quite the domino effect. Kathy Stutzman retired after serving 25 years in various capacities with the Court. Kathy started in our Information Technology Department as a Technician, and quickly advanced to the Courtroom Services Supervisor position. One of Kathy's goals upon retirement was to spend more time pursuing her passion for music. Kathy is an incredibly accomplished violinist, and can be seen/heard playing with the Boise Philharmonic, and at various local venues. We wish Kathy every success in her new pursuits.



Wendy Messuri was selected as our new Courtroom Services Supervisor after Kathy's retirement. Wendy had previously been both our Electronic Case Filing Helpdesk Coordinator, and a valued member of our District Court Docketing Team. Wendy brings a wealth of

Wendy Messuri
 (208) 334-9327

REFLECTIONS ON A VERY BUSY YEAR

experience to this position, and she is doing an amazing job. Wendy can be reached @ 208.334.9327.

Maria Richardson retired after 26 years of service with the District of Idaho. Like Kathy, Maria also began her career with the District in the Information Technology Department. Maria then segued to the Bankruptcy side of the Clerk's Office where she handled various functions such as statistical reporting, management of electronic case filing accounts, and maintenance of our attorney database(s). Maria had a long list of endeavors she was excited to accomplish in retirement. Congratulations, Maria.

Zach Springer was selected for a new position in the Clerk's Office this past October, 2009. Zach is our new Attorney Resources Coordinator. Zach will be handling and troubleshooting issues for local attorneys as related to our electronic case filing system. Additionally, Zach maintains the dictionaries for our District and Bankruptcy Court case filing systems, and is responsible for statistical reporting for both District and Bankruptcy Court. Zach was previously a Case Administrator on Chief Bankruptcy Judge Terry Myers' Case Administration Team. We are excited for the new challenges this position offers, and for the quality service this position represents for our electronic filers. Zach can be reached @ 208.334.9009.

Kymerly Rabbie was selected to replace Zach Springer as our newest Case Administrator on Chief Bankruptcy Judge Terry Myers' Case Administration Team. Kymerly has been working in the Intake area of the Clerk's Office since March, 2009. Kymerly is a great addition to Judge Myers' Case Administration Team, and we are excited for her to make the transition once her vacancy has been filled. Congratulations on this new challenge, Kymerly!



Zach Springer



Kymerly Rabbie

REFLECTIONS ON A VERY BUSY YEAR

The former Deputy-in-Charge of our Divisional Office in Pocatello, Diane Hutchinson, retired after 24 years of service on September 30, 2009. We had an amazing celebration for Diane in Pocatello in late September. Several of our Judges and numerous staff members made comments and shared stories that spanned all 24 years. Like Maria, Diane had a lengthy list of endeavors to tackle in retirement. She may be seen on a four-wheeler in the desert, on the open road on a Harley, or soaking up the sun in Arizona. We wish Diane all the best, and look forward to regular travel updates!

In early September, 2009, La Donna Garcia was selected as the new Deputy-in-Charge of the Divisional Office in Pocatello. Like Wendy and Zach, La Donna is already doing an amazing job in her new capacity. She was previously the Courtroom Deputy for Chief District Judge B. Lynn Winmill for 14 years, and prior to serving as Judge Winmill's Courtroom Deputy, held just about every job you could hold in the Clerk's Office. La Donna brings incredible experience to the Deputy-in-Charge position, and loves living in Pocatello. Congratulations, La Donna! She can be reached @ 208.478.4144.

Jamie Gearhart was selected in late September, 2009, as Chief District Judge B. Lynn Winmill's Courtroom Deputy. Jamie was formerly a member of the District Court Docketing Team, and the primary staff coordinator/facilitator for our joint Attorney Admission programs with the Supreme Court and State Bar. Thanks for all your hard work and efforts over the years with this joint program, Jamie. We very much miss Jamie's presence and contagious laugh in the Clerk's Office. Jamie can be reached @ 208.334.9021.

Carrie McMahan was selected as our newest District Court Docketing Team member to replace Jamie Gearhart. Carrie previously worked in the Intake area of the Clerk's Office in Boise after relocating from Ft. Worth, Texas with her family. While in Texas, Carrie worked with both GSA and the U.S. Attorney's Office.



La Donna Garcia
(208) 478-4144



Jamie Gearhart
(208) 334-9021



Carrie McMahan
(208) 334-9397

REFLECTIONS ON A VERY BUSY YEAR

Carrie brings a wealth of experience to the Docketing Team. She can be reached @ 208.334.9397.

In mid-December, 2009, Sunny Trumbull was selected to replace Carrie McMahan in the Intake area of the Clerk's Office in Boise. Sunny was no stranger to the Clerk's Office, as she was formerly an intern with the U.S. Attorney's Office and frequented the Court. Everyone that meets Sunny remarks that her name absolutely suits her! Please stop by and introduce yourself. Judge Pappas did this to Sunny just after she began with the Court. Not knowing he was a federal judge, she provided the same excellent level of service she does to the general public. It has made for a great story in the Intake area . . . you never know who is going to come to the counter!

Pam Fulwyler, a valued employee with our Divisional Office in Pocatello was recently promoted to a full-time Courtroom Deputy position in Pocatello. Pam has been with the Pocatello office for 10+ years, and will offer local Courtroom Deputy support for all of our resident and visiting Judicial Officers. Congratulations, Pam!

As many of you know, Susie Boring-Headlee was selected as our part-time Alternative Dispute Resolution "ADR" Coordinator in January, 2009, after Denise Asper took a position with the Ninth Circuit. I cannot say enough about all of Susie's efforts with our ADR/Pro Bono program. Susie has worked countless hours to both become familiar with the inner-workings of the program, and to lay the foundation for growing the program to meet the needs of our local community. ADR in the District of Idaho includes mediation, arbitration, Voluntary Case Management Conferences (VCMC), and judicially-supervised settlement conferences by United States Federal Magistrate Judges. Look for continued exciting enhancements to this program under Susie's leadership and hard work. Thanks for all you do, Susie! She can be reached @ 208.334.9067.



Sunny Trumbull



Pam Fulwyler



Susie Headlee
(208) 334-9067

REFLECTIONS ON A VERY BUSY YEAR

Not as related to the above domino effect, we added three staff members in 2009 as support in our Clerk's Offices throughout the District. Lynette Parsons joined our Coeur d'Alene Divisional Office in March, 2009. Lynette came to us with a strong legal background and excellent administrative experience. Lynette confirmed she was the perfect choice for a multi-faceted Divisional Office when, on her first day in the office, she was seeking WD40 for the noisy cart we use to transport supplies and equipment to the Courtrooms. We are thrilled you joined our Team, Lynette!

Alex Krone joined the Court in June, 2009, in our Human Resources Department. Alex received his Bachelor's Degree(s) from the University of Idaho, one of which focused on Human Resources Management. Needless to say, Alex is an extreme Vandal fan, and promotes the teams with passion among our many Boise State supporters.

Trinidad Diaz joined our Courtroom Services Team in early 2009 after most recently working for the State Bar Office. Prior to locating to Idaho with her family, Trinidad worked for many years with the State Supreme and Superior Court in the Northern Mariana Islands. Thanks for finding us in the District of Idaho, Trinidad!



Lynette Parsons



Alex Krone



Trinidad Diaz

REFLECTIONS ON A VERY BUSY YEAR

Lastly, and no longer really new news, we moved into our beautiful new Courthouse in Coeur d'Alene, and officially opened on January 29, 2009. Our Deputy-in-Charge in Coeur d' Alene, Ronda Buck, and her staff, did an absolutely amazing job planning and coordinating this monumental move/effort. If you have not had a chance to visit the new Courthouse, please make plans to do so. Be sure and tour the second floor, which contains beautiful historical photographs from around the State, and take in the artwork throughout the building, some of which was done by Boise attorney, Monte Stiles.



Ronda Buck



The Coeur d'Alene Courthouse also contains a very unique Totem Pole that was generously commissioned this past October by the General Services Administration "GSA" as part of the Art-in-Architecture program. The Totem is one of 5 by George Morrison, a Native American from Minnesota. Mr. Morrison passed away in the year 2000. The Totem was previously located in Sandpoint in the U.S. Forest Service Office.

WHEW! I think this captures most of our recent movement/changes in the Clerk's Offices throughout the State. We are so fortunate to have such talented and dedicated staff in the District of Idaho, and truly amazing and supportive Judges. Please stop by the Clerk's Office in your travels and introduce yourself and/or say hello. We love visitors, and dislike that electronic filing has diminished the frequency with which we see many of you. All the best in 2010! I can be reached @ 208.334.9464.

~ Shannon Harris ~

UPCOMING EVENTS

Friday, February 5, 2010 Swearing-in Ceremony of Federal Court Clerk Libby Smith



Please join the Judges and staff of the Federal Court for the swearing-in ceremony of Libby A. Smith, the new District and Bankruptcy Clerk of Court for the District of Idaho. Our Chapter is helping sponsor the reception immediately following the ceremony. The ceremony will be held on Friday, February 5, 2010 at 4:00 p.m. in Courtroom #2 on the 6th Floor (Judge Lodge's Courtroom), at the James A. McClure Federal Building and U.S. Courthouse in Boise, Idaho. Members of your staff are also invited to attend.

Friday, April 9, 2010 - Annual Day-long CLE Program Boise, Idaho

Reception at 4:30 p.m. to 6:00 p.m.

Save the Date! Details will be forthcoming.

Email: Susie_Boring-Headlee@id.uscourts.gov



COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Bennion v. URS Corporation, CV-09-625-S-MHW

ERISA Employee Retirement
Jurisdiction: Federal Question

- Eric S. Rossman, Chad Matthew Nicholson, and Erica S. Phillips,
Rossman Law Group, PLLC, Boise, ID for Plaintiff
- Defendants have not yet appeared.

Plaintiff Jeanette Bennion is a former employee of Defendant URS Corporation and participant in the URS Severance Plan. URS Corporation is a Delaware corporation authorized to do business in the State of Idaho, with its principle place of business in Boise, Idaho. URS Corporation is the plan sponsor of Defendant Washington Group International Group, Inc., Executive Severance Plan.

At all relevant times prior to November 16, 2007, Plaintiff was the Vice President Internal Audit for Washington Group International, Inc. (WGI) and participated in WGI's Executive Severance Pay Plan. On November 16, 2007, Defendant URS acquired WGI through a series of merger agreements. Subsequently, Plaintiff alleges that URS imposed significant adverse changes in the nature or scope of her employment. On May 29, 2008, Plaintiff submitted a letter of resignation and ceased to be employed with URS on June 27, 2008.

Plaintiff alleges that URS has denied her severance benefits under the Executive Severance Plan. Plaintiff seeks WGI Executive Severance Plan benefits under ERISA, 29 U.S.C § 1132(a)(1)(B), as well as attorney's fees and costs.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Wicklund v. Page, CV-09-671-S-EJL-CWD

1983 Civil Rights Act
Jurisdiction: Federal Question

- Jacob Dennis Deaton, Law Office of Jacob Detaon, PLLC, Eagle, ID, for Plaintiff
- Defendants have not yet appeared.

Plaintiff, Mark S. Wicklund, is an individual currently residing in Ada County, Idaho. Defendant, James Page, is an individual currently residing in Ada County, Idaho, doing business as Treasure Valley Polygraph. Page allegedly also holds himself out as doing business under the name Ascertain Polygraph Services. Defendant, Idaho Department of Corrections, is a department of the State of Idaho.

In January 2008, plaintiff, a probationer, was arrested and incarcerated at the Ada County Jail pursuant to discretionary jail time vested in his probation officer. Due to health complications, Plaintiff takes Norco, as prescribed by his physician. Ada County Jail regulations prevent any person in custody from being allowed to take narcotics, such as Norco, while incarcerated. Thus, Plaintiff was unable to continue taking Norco and began to detox. Plaintiff allegedly became incoherent and was not lucid, was physically ill, suffered from extreme sweating throughout his body, was short of breath, and lost color complexion. Plaintiff alleges that while in this state, he was transported to Defendant's office and made to submit to a polygraph examination, though he was unable to consent. Plaintiff alleges that this examination was conducted despite the objection of other polygraphists in the office at the time.

Plaintiff contends that this examination violated his Fifth Amendment protection from forced self-incrimination. Plaintiff seeks damages for violation of his Fifth Amendment rights, damages for negligence and battery, as well as attorney's fees and costs.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Snider v. Arnold, CV-09-684-S-CWD

Declaratory Judgment
Jurisdiction: Federal Question

- Michael Gene Pierce, Cascade, ID for Plaintiffs/Counter Defendants
- Christ T. Troupis, Troupis Law Office, PA, Eagle, ID for Defendants/Counter Claimants

Plaintiffs Steven J. Snider and Mary A. Snider are husband and wife, as are defendants Ronald D. Arnold and Dorothy A. Arnold. Plaintiff Mary A. Snider and Defendant Ronald D. Arnold are brother and sister. The subject of this dispute is a cabin constructed by their father, Francis D. Arnold, on U.S. Forest Service Land in 1956. The cabin was constructed pursuant to a special use permit.

Plaintiffs allege that after the death of Francis in 1982, the parties' mother, Bette F. Arnold, desired to transfer ownership of the cabin to Mary and Ronald equally. Accordingly, Bette executed a "Request for Termination of and Application for Special Use Permit." In response, on February 7, 1983, the District Ranger sent a letter indicating that a new Forest Service Policy had been instituted, which disallowed a Special Use Permit from naming more than one person or legal entity except for a husband and wife. By agreement of the parties, it was decided that the Permit would be placed in the names of Defendants Ronald D. Arnold and Dorothy A. Arnold. Since 1983 the parties have shared enjoyment of the cabin as well as labor and expense of improvements of the property. Plaintiffs allege that recently, Defendants have taken the position that the cabin and the Special Use Permit belong exclusively to them.

Plaintiffs seek declaratory judgment entitling them to a full one-half undivided interest in the cabin and the Special Use Permit.

Defendants offer several affirmative defenses based on various statutory and common law theories and seek dismissal of Plaintiffs' Complaint. Additionally, Defendants counterclaim for a judgment declaring their exclusive ownership rights of the property and Special Use Permit.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Nield et al v. Unum Group, CV-09-670-S-BLW

ERISA Employee Benefits
Jurisdiction: Federal Question Jurisdiction

- Javier L. Gabiola and Reed W. Larsen, Cooper & Larsen, Pocatello, ID for Plaintiffs
- Samuel A. Diddle, Eberle Berlin Kading Turnbow & McKlveen, Boise, ID for Defendant

Plaintiffs are the mother and brother of Scooter Nield and are the beneficiaries of an insurance policy purchased by Nield prior to his death. Defendant Unum Group was the plan administrator.

Prior to his death, Nield was an employee of J.R. Simplot Company and purchased an accidental death benefit insurance policy through his employer. The amount of the policy was \$170,000. Plaintiffs allege that while Unum has paid the \$170,000. Unum owes, but has not delivered interest payable under the policy and Idaho law.

Plaintiffs seek damages as well as attorney fees and costs.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Lowe v. Idaho Transportation Deptment, CV-09-653-S-REB

Civil Rights Act

Jurisdiction: Federal Question Jurisdiction

- Lauren I. Scholnick, Salt Lake City, UT, and Erika Birch, Boise, ID, Strindberg & Scholnick, LLC for Plaintiff
- B. Newal Squyres and A. Dean Bennett, Holland & Hart, LLP, Boise, ID for Defendants

Plaintiff Pamela Lowe began working for Defendant Idaho Transportation Department (“ITD”) in September, 1993. The Idaho Transportation Board (the “Board”) is charged with supervision and administration of ITD. In December of 2006 Ms. Lowe was promoted to ITD Director and was the first female director of the department. Plaintiff alleges that one board member commented “no little girl” could run the department and expressed concern about what would happen if she decided to start a family. Ms. Lowe alleges that she was terminated, in part, for publically stating that she would try to renegotiate a lucrative contract with two companies that supported certain politicians’ election campaigns and were selected by the Board to work on federal grant projects for ITD. Ms. Lowe also removed several projects from the companies’ contract so that they could be administered in-house by ITD.

Ms. Lowe was asked to resign in May 2009 and states that Board members indicated certain politicians were unhappy with her leadership. Ms. Lowe alleges that she received positive performance evaluations. Ms. Lowe refused to resign and the Board terminated her employment on July 31, 2009.

In November 2009, Plaintiff filed a Complaint in state court, alleging wrongful termination in violation of Idaho’s public employee whistleblower act, Idaho Code § 6-2101 *et. seq.* She then filed a First Amended Complaint, adding multiple due process and equal protection claims under 42 U.S.C. § 1983. Defendants removed the case to federal court and Plaintiff filed a Second Amended Complaint. Defendants filed an Answer, responding that Plaintiff was fired for failure to perform her “at will” job and not because of her gender. Defendants also contend Plaintiff is not a “whistleblower.”

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Hill v. Valdez, CV-09-601-S-LMB

Habeas Corpus (State)
Jurisdiction: Federal Question

- David Tyler Hill, Appearing Pro Se
- John McKinney, Office of the Attorney General, Boise, ID for Respondent

Petitioner David Tyler Hill (“Petitioner”) filed *pro se* a Petition for Writ of Habeas Corpus challenging his state court conviction for which he was sentenced to ten years fixed with five years indeterminate. Petitioner brings several claims in his Petition: (1) that his guilty plea is invalid because it was coerced; (2) that his trial counsel was ineffective; and (3) that his appellate counsel was ineffective.

Federal habeas corpus relief is available to petitioners who show that they are held in custody under a state court judgment and that such custody violates the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2254(a). The Court conducted the review required by Rule 4 of the Rules Governing Section 2254 Cases to determine whether the Petition was subject to summary dismissal, but was unable to determine whether Petitioner’s claims are timely and properly exhausted without a review of the state court record. Respondent will provide the record to the Court, and Respondent’s Answer to Petitioner’s claims is due February 26, 2010.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

SRE-Cheaptrips, Inc. v. Media Synergy Group, LLC, CV-09-622-S-EJL

Breach of Contract
Jurisdiction: Diversity

- Michael J. Kraynick, Michael J. Kraynick, PLLC, Hailey, ID for Plaintiff
- Jeffrey A. Strother, Strother Law Office, Boise, ID for Defendant

Plaintiff SRE-Cheaptrips (“SRE”) is a Delaware Corporation having its principle place of business in Ketchum, Idaho. Defendant Media Synergy Group (“MSG”) is a Virginia Limited Liability Company operating out of Richmond, Virginia. Plaintiff states that Defendants Charles Anton and Doe Defendants 1-25 are individuals domiciled in Virginia.

SRE is a club which provides its members with an array of travel related services and benefits. The bulk of SRE’s revenue is generated through outbound telemarketing campaigns, which are conducted primarily through independent third-party call centers under contract with SRE. MSG was one of these call centers. SRE alleges that as part of its contractual obligation to SRE, MSG promised: “All outbound calls will be made in full compliance with all relevant state and federal laws following scripts developed and/or approved in writing by Cheaptrips.” SRE alleges that MSG breached the parties’ contract by misstating terms of sale, using improper sales techniques, and otherwise failing on numerous occasions to make outbound calls in full compliance with applicable law(s) following scripts developed and/or approved in writing by SRE. SRE alleges that this breach resulted in excessive cancellations, charge-backs, and refund requests causing SRE substantial money damages.

SRE further alleges that defendant Charles Anton was at all relevant times in control of the MSG call center and that in breaching the parties’ contract, Anton and/or Doe Defendants 1-25 received hundreds of thousands of dollars in commissions for bad sales to SRE’s detriment.

SRE seeks consequential, compensatory, and punitive damages as well as attorney’s fees and costs.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Perkins v. Mercy Medical Center, Nampa, CV-09-649-S-BLW

Job Discrimination (Age)
Jurisdiction: Federal Question

- Julie Klein Fischer, Morrow & Fischer, PLLC, Nampa, ID for Plaintiff
- Justin Andrew Steiner and Robert Blaine White, Givens Pursley, LLP, Boise, ID for Defendants

Plaintiff Mary Dianne Perkins was an employee of Defendants Mercy Medical Center Nampa and Catholic Health Initiatives (CIH) for nearly 20 years. Plaintiff claims she was terminated on July 26, 2007 without cause and was replaced by a younger employee. Plaintiff alleges that the cited reasons for her termination are pretextual and the motivating factor was her age. It is further alleged that Defendants have failed to pay severance pay to which she was entitled. Plaintiff brings claims for violation of Idaho Wage Laws, Idaho Code § 45-601 et seq.; Breach of the Covenant of Good Faith and Fair Dealing; violations of the Age Discrimination in Employment Act and the Idaho Human Rights Act; Wrongful Discharge; breach of contract; and Intentional or Negligent Infliction of Emotional Distress. Plaintiff seeks an award of three times her unpaid wages plus interest pursuant to Idaho Wage Laws; special damages; general and emotional damages; exemplary damages; and interest, costs, and attorney's fees.

Defendants deny Plaintiffs' claims and assert defenses that Plaintiff has failed to mitigate her damages and failed to protect herself from avoidable consequences; Plaintiff's claims are barred by the applicable statute of limitations; Plaintiff's claims are barred by the doctrines of waiver, estoppel, ratification, and laches; Plaintiff was an at-will employee of Mercy Medical Center; Plaintiff failed to exhaust her administrative remedies; and that CIH has never employed Plaintiff. Defendants seek judgment in their favor as well as attorney's fees and costs.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Lee v. ITT Federal Services Corporation, CV-09-658-S-EJL

Breach of Contract
Jurisdiction: Diversity

- Daniel E. Williams, Thomas, Williams & Parker, LLP, Boise, ID for Plaintiffs
- Defendants have not yet appeared.

This is a class action filed by Plaintiff Ricky Lee on behalf of himself and other employees hired by Defendant ITT Corporation through its wholly-owned subsidiaries to perform services in Kuwait. Plaintiff alleges they were not provided all employment-related pay and other benefits promised pursuant to their contracts with Defendant and otherwise required under Kuwaiti law.

Plaintiff seeks declaratory relief holding that ITT's practices in denying rights, benefits, and compensation violate its contract and applicable law; an injunction against further violations; retroactive and prospective benefits and compensation; damages; pre-judgment interest; as well as attorney's fees and costs.

Windham v. Haworth, CV-09-631-N-MHW

1983 Civil Rights Act
Jurisdiction: Federal Question

- Gregory Richard Rauch. Law Offices of Magyar, Raunch & Thie, PLLC, Moscow, ID for Plaintiffs
- Defendants have not yet appeared.

Plaintiffs Donny and Coleen Windham are husband and wife and residents of Clearwater County, Idaho. Plaintiffs Tommy and Ashley Windham are the children of Donny and Coleen Windham. Defendants are the City of Orofino; the City of Orofino Police Department and its Chief of Police; City of Orofino Police Officers; Clearwater County; the Clearwater County Sheriff's Department and its Sheriff; several Clearwater County Sheriff's Deputies; and Clearwater County court clerks.

Plaintiffs allege that Defendants are responsible for the false arrest of Plaintiff Donny Windham at Plaintiffs' home on December 7, 2007, during which Plaintiffs suffered violation of their constitutional rights under the Fourth and Fourteenth Amendments of the Constitution of the United States; loss of physical liberty without due process of law; and substantial physical and emotional injury, requiring the expenditure of money for medical and psychological treatment, including torn tendons, chronic pain, and psychological suffering. Plaintiffs seek declaratory judgment, damages, as well as attorney's fees and costs.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Gibson et al v. Credit Suisse Securities USA, LLC, CV-10-001-S-EJL

Racketeering (RICO) Act
Jurisdiction: Federal Question

- Michael J. Flynn - Rancho Santa Fe, CA; Chris Flood - Houston, TX; James C. Sabalos - Houston, TX; John Flood - Corpus Christi, TX; Peter C. Neumann - Reno, NV; Philip H. Stillman - Olivehain, CA; and Robert C. Huntley, Huntley Law Firm, Boise, ID for Plaintiffs
- Defendants have not yet appeared.

This is a class action filed by Plaintiffs L.J. Gibson and Beau Blixseth on behalf of a proposed plaintiff class composed of persons who purchased real property and homes in resort land developments known as Lake Las Vegas, Tamarack, Ginn Sur Mer, and Yellowstone Club, which lie situated in Nevada, Idaho, Grand Bahamas, and Montana. Defendants are Credit Suisse AG, a Swiss corporation; Credit Suisse Securities (USA), LLC, a Delaware limited liability company; Credit Suisse First Boston, a Delaware limited liability corporation; Credit Suisse Cayman Island Branch, an entity of unknown type; Cushman & Wakefield, Inc., a Delaware corporation, and Doe Defendants 1-100.

Plaintiffs allege that they incurred losses caused by a pattern of racketeering and money laundering by the Credit Suisse defendants, assisted by Defendant Cushman & Wakefield, an international real estate firm. Plaintiffs allege that by means of mail and wire fraud, and money laundering, Defendants violated and conspired to violate the Racketeer Influence and Corrupt Organizations Act (RICO) 18 U.S.C. § 1962(1), (c), and (d).

Plaintiffs seek damages from the alleged RICO violations as well as for state law claims for breach of fiduciary duty, fraud, negligence, and breach of the covenant of good faith and fair dealing. Plaintiffs also seek punitive damages as well as attorney's fees and costs.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Joe Hand Productions, Inc. v. Bach, CV-10-009-N-BLW

Federal Communications Act of 1934
Jurisdiction: Federal Question

- Jefferson Hunt West, Fletcher & West, LLP, Boise, ID
and Julie Cohen Lonstein, Lonstein Law Office, Ellenville, NY for Plaintiff
- Defendants have not yet appeared.

Plaintiff is a nationwide distributor of closed circuit pay-per-view boxing and special events with its primary place of business located in Feasterville, Pennsylvania. Plaintiff alleges that Defendant Molly Bach is the operator of Defendant Millie's Inc., d/b/a Millie's Cocktail Lounge, located in Priest Lake, Idaho.

By contract, Plaintiff was granted the right to distribute the UFC #93 Broadcast, including all undercard bouts and the entire television broadcast, scheduled for January 17, 2009, via closed circuit television and via encrypted satellite signal. Plaintiff entered into subsequent agreements with various entities in the State of Idaho, allowing them to publicly exhibit the Broadcast to their patrons. Plaintiff alleges that with full knowledge that the broadcast was not to be received or exhibited by entities unauthorized to do so, the Defendants and/or their agents or employees unlawfully intercepted, received and/or de-scrambled the satellite signal, and exhibited the Broadcast at Millie's Cocktail Lounge in violation of 47 U.S.C § 605(a) or 47 U.S.C. § 553, depending upon the method of interception.

Plaintiff seeks statutory damages as well as attorney's fees and costs.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Black Dog Outfitters, Inc. v. State of Idaho Outfitters and Guides Licensing Bd., CV-09-663-E-EJL
Civil Rights / Jurisdiction: U.S. Government Defendant

- John M. Curney, Jr., Curney, Garcia, Farmer, Pickering & House, San Antonio, TX for Plaintiff Black Dog Outfitters
- Bruce J. Castleton, Naylor & Hales, Boise, ID for Defendant State of Idaho Outfitters and Guides Licensing Board
- Defendants Bureau of Land Management of the Dept of Interior and U.S. Forest Service have not yet appeared.

Plaintiff, Black Dog Outfitters, is an Idaho corporation doing business in the State of Idaho. In particular, Plaintiff operates a waterfowl hunting business on the South Fork of the Snake River and commercial fishing services on the Main Snake River in Idaho Falls, Idaho. Defendants are government agencies tasked with, among other things, regulating commercial access to the rivers upon which Plaintiff operates.

Plaintiff alleges that Defendants' policies governing licensure and permits is arbitrary and capricious and has created monopolistic activity. Plaintiffs further allege that Defendants have actively discriminated against Plaintiff in making licensure and permit decisions as well as other policy enforcement. Plaintiff seeks declaratory and injunctive relief.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Wolf Recovery Foundation v. U.S v. Forest Service, CV-09-686-S-BLW

Review of Agency Action - Environment / U.S. Government Defendant, Federal Question Jurisdiction

- Laird J. Lucas, Law Office of Laurence J. Lucas, Boise, ID for Plaintiffs
- Defendants have not yet appeared.

Plaintiffs Wolf Recovery Foundation and Western Watersheds Project are non-profit conservation organizations. United States Forest Service and APHIS Wildlife Services are both agencies under the United States Department of Agriculture.

In 2002, the U.S. District Court for the District of Idaho, per Chief Judge Winmill, held that wolves within the Sawtooth National Recreation Area (SNRA) of central Idaho are wildlife protected by the SNRA Organic Act; and that livestock grazing is secondary use that may not “substantially impair wolves or other wildlife in the SNRA.”

Plaintiffs allege that since Judge Winmill’s ruling, the federal government — acting through defendant APHIS Wildlife Services — has unnecessarily exterminated or dispersed wolf packs within the SNRA while lacking any current or valid environmental analysis in violation of both the SNRA Organic Act and the National Environmental Policy Act (NEPA).

Plaintiffs further allege that defendant U.S. Forest Service continues to authorize livestock grazing in and around the SNRA without adequate NEPA analysis and in violation of the SNRA Organic Act and other statutory mandates. Plaintiffs claim that the Forest Service has also authorized helicopter intrusions into the Frank Church-River of No Return Wilderness without adequate NEPA analysis.

Plaintiffs claim the Forest Service and APHIS Wildlife Services are violating the SNRA Organic Act, the Wilderness Act, NEPA, and other federal statutes in their wolf-related actions and are seeking declaratory and injunctive relief.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Inclusion, Inc. v. Armstrong, CV-09-634-S-BLW

Tort Negligence
Jurisdiction: Federal Question

- James M. Piotrowski, Herzfeld & Piotrowski, Boise, ID for Plaintiffs
- Margaret “Peg” M. Dougherty, Office of the Attorney General, Boise, ID for Defendants

Plaintiffs are Residential Habilitation Agencies and Developmental Disability agencies that provide Supported Living and Developmental Therapy services to developmentally disabled participants in Idaho’s Medicaid program. Plaintiffs contract with the State of Idaho and its Medicaid program to provide those services across the State of Idaho. Defendant Richard Armstrong is the Director of Idaho’s Department of Health and Welfare (IDHW) which has the legal authority and responsibility to operate Idaho’s Medicaid Program. Defendant Leslie Clement is the Administrator of the Medicaid Division of Idaho’s Department of Health and Welfare and has the day to day responsibility for overseeing and implementing Idaho’s Medicaid program. Both are sued in their official capacities.

Plaintiffs allege that by accepting Medicaid funds from the Federal Government, the state of Idaho became obligated to comply with the requirements for state Medicaid programs set out in 42 U.S.C. § 1396a. These requirements include that the state set methods and rates of reimbursement for services provided that “assure payments are consistent with economy, efficiency and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such services are available to the general population in the geographic area.” Plaintiffs allege that IDHW has made significant changes in methods and rates of reimbursement and that do not comport with the requirements of 42 U.S.C. § 1396a.

During the 2005 legislative session, the Idaho Legislature adopted Idaho Code § 56-118, requiring IDHW to submit all rate adjustments to the Legislature as part of IDHW’s annual budget request. Plaintiffs allege that Defendants violated § 56-118 by making reimbursement changes without submitting such changes to the Legislature for approval. Plaintiffs are seeking injunctive relief as well as costs and fees.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Shoshone-Bannock Tribes of the Fort Hall Reservation v. DOJ, CV-10-004-E-CWD

Environmental Matters / Jurisdiction: Federal Question

- Paul Echohawk, Echohawk Law Offices, Pocatello, ID for Plaintiff
- Defendants have not yet appeared.

Plaintiff appeals a June 5, 2009 Interior Board of Land Appeals decision affirming the December 21, 2007 decision of the Pocatello Field Office of the Bureau of Land Management (“BLM”) to approve a land exchange that will result in the expansion of the Pocatello Simplot Don Plant phosphogypsum stack located on the Eastern Michaud Flats NPL Superfund site. Plaintiff submits this appeal based on BLM’s alleged failure to prepare an EIS to analyze the significant impacts to the human environment resulting from this land exchange as required under NEPA.

The BLM approved the land exchange by releasing an Environmental Assessment (“EA”) and a Finding of No Significant Impact (“FONSI”) without complying with the Environmental Impact Statement (“EIS”) requirement of the National Environmental Policy Act (“NEPA”). Plaintiff seeks declaratory and injunctive relief, challenging the decisions of the United States Department of the Interior, its Board of Land Appeals (“IBLA”), and its Bureau of Land Management (“BLM”) to approve a large land exchange with the J.R. Simplot Company (“Simplot”) that will facilitate the expansion of the phosphogypsum waste stack at the Simplot Pocatello Don Plant and the Eastern Michaud Flats (“EMF”) NPL Superfund.

The Fort Hall Reservation is adjacent to the lands on Howard Mountain and the EMF superfund site. Plaintiff alleges, however, that the entire area at issue is within the Tribes’ aboriginal homelands as set forth in the 1868 Fort Bridger Treaty with the Eastern Band of Shoshoni and Bannock Tribes of Idaho (15 Stat. 673) and entirely within the portion of the original Fort Hall Reservation ceded by the Tribes in 1898 Article 4 of the Fort Bridger Treaty recognizes the Tribes’ off-reservation hunting and fishing rights, including the BLM land selected for exchange in this case. Plaintiffs also allege that the EA/FONSI does not properly analyze and consider the reasonably foreseeable and indirect environmental impacts resulting from the expansion of the Simplot gyp stack on the selected exchange lands. Plaintiffs assert that these impacts include negative effects on air quality, groundwater, human health, plants & animals, a Tribal cultural site, and Tribal off-reservation treaty rights and that the EA/FONSI also does not properly analyze and consider the cumulative effects and indirect impacts of the land exchange on the environment and public interests.

COMPLAINTS FILED IN FEDERAL COURT DISTRICT OF IDAHO

Wolff Enterprises, LLC v. 727 E. State St., LLC, CV-09-685-N-CWD

Contract
Jurisdiction: Diversity

- Peter J. Smith and Paul R. Harrington, LUKINS & ANNIS, Coeur d'Alene, ID - for Plaintiff
- Defendant has not yet appeared.

Plaintiff seeks specific performance of a contract in which Defendant allegedly promised to sell to Plaintiff the Rock Pointe Apartments in Ada County, Idaho. Plaintiff alternatively seeks damages for breach of contract and breach of the implied covenant of good faith and fair dealing. Plaintiff alleges that it made a \$100,000 down payment on the property and, after the down payment became non-refundable, learned that Defendant had not commenced the defeasance process for a loan existing on the property and later that Plaintiff planned not to close on the transaction. The closing date passed without a closing occurring. Plaintiff then filed this action in federal court.

Okland Construction Company, Inc. v. CG Elkhorn Hotel, LLC, CV-09-630-S-REB

Breach of Contract / Jurisdiction: Diversity

- Ted F. Tollefson, Holland & Hart LLP, Boise, ID for Defendants
- Defendant has not yet appeared.

Okland and CG Elkhorn Hotel are parties to a contract for the construction of certain buildings (the "Project") that form part of a project commonly known as the Elkhorn Springs. Okland contends that CG Elkhorn Hotel currently owes it a total of \$805,789.16 for its construction of the Project. Okland's claims for breach of contract and unjust enrichment arise out of (1) work that it alleges it performed on the Project that was outside of the Contract's scope of work but arose from defects in the Project plans and specifications, and (2) the alleged failure by CG Elkhorn Hotel to make payments required under the Contract.

THANKS AND APPRECIATION TO
MIKE BAND
JUDICIAL EXTERN
UNIVERSITY OF IDAHO COLLEGE OF LAW

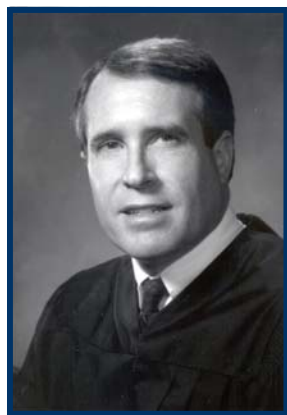
AND

KATE BALL
CAREER LAW CLERK FOR JUDGE RONALD E. BUSH
UNITED STATES DISTRICT COURT

FOR PROVIDING THE SYNOPSIS
OF THIS EDITION'S COMPLAINTS



JURY TRIALS -DISTRICT OF IDAHO



Chief Judge B. Lynn Winmill
 U.S. District Judge
 U.S. District Court, Idaho

US v. Hamilton & Cattanea, CR-09-02-E-BLW

Attorney for Plaintiff: Wendy Olson, Assistant U.S. Attorney
 Attorneys for Defendants: Kelly Kumm & Steven Richert

Jury selection on 11-9-09 and trial started on 11-16-09
 Verdict reached on 12-02-09 - Guilty on all Counts.

US v. Fred Covey, CR-09-213-S-BLW

Trial was scheduled to begin on 12-16-09

Attorney for Plaintiff: Wendy Olson, Assistant U.S. Attorney
 Attorney for Defendant: Pro Se

After jurors reported for selection on 12-16-09,
 the defendant decided he wanted counsel to represent him.
 Trial was continued to 2-1-10.



Chief Justice John Roberts
United States Supreme Court

SUPREME COURT DECISIONS

Hemi Group, LLC v. City of New York, 08-969

Author: Chief Justice John Roberts

Link: <http://www.supremecourtus.gov/opinions/09slipopinion.html>

Subject Matter: RICO

Holding: Reversing a decision of the Second Circuit, 541 F.3d 425 (2008), the Supreme Court held that the City of New York could not state a claim under RICO because it could not show that it lost tax revenue “by reason of” the defendant out-of-state, online cigarette seller’s failure to submit customer information, as required by the Jenkins Act. The Court did not decide whether the City’s allegations of lost tax revenue constituted an injury to its “business or property.”

Pending Cases Potentially Affected by this Opinion:

Avalos v. Baca, 07-56511 (arg. & sub. PAS 8/7/09 KMW CMC Beistline);

JM Martinac Shipbuilding Corp. v. State of Washington, 08-35754

(arg. & sub. SE 10/13/09 JBR CMC rdc);

Couch v. Cate, 09-15599 (cal. SF 2/12/10 CHH MMM Zilly);

Desoto v. Condon, 08-56832 (cal. PAS 3/4/10 PAR KMW).

SUPREME COURT DECISIONS

The United States Supreme Court recently decided the following cases:

Briscoe v. Virginia, 07-11191, per curiam Opinion

Link: <http://www.supremecourtus.gov/opinions/09slipopinion.html>

Subject Matter: Habeas Corpus / Criminal Law

The Supreme Court vacated the judgment of the Supreme Court of Virginia, reported at 657 S.E.2d 113 (Va. 2008), and remanded for further proceedings not inconsistent with the Supreme Court’s opinion in *Melendez-Diaz v. Massachusetts*, 557 U.S. ____ (2009) (holding that crime lab reports are testimonial statements covered by the Confrontation Clause under *Crawford v. Washington*, 541 U.S. 36 (2004)).

Pending Cases Potentially Affected by This Opinion:

United States v. Aguila-Montes De Oca, 05-50170

(opinion 1/20/09 DRT TGN RMG; PFPR/PFREB pending);

United States v. Ramos, 09-50059

(arg. & sub. PAS 12/8/09 SR SST KMW);

United States v. Orozco-Acosta, 09-50192

(cal. PAS 3/2/10 WCC RMG SSI);

United States v. Velasquez-Bosque, 09-50066

(cal. PAS 3/2/10 WCC RMG SSI);

United States v. Villavicencio-Burrue, 09-50204

(cal. PAS 3/2/10 WCC RMG SSI).

Idaho Chapter FBA

Wendy Olson, President
Assistant U.S. Attorney
U.S. Department of Justice
(208) 334-1211

We're on the Web!
www.fedbar.org



OUR MISSION

- To serve as the national representative of the Federal legal profession;
- To promote the sound administration of justice;
- To enhance the professional growth and development of members of the Federal legal profession;
- To promote high standards of professional competence and ethical conduct in the Federal legal profession;
- To promote the welfare of attorneys and judges employed by the Government of the United States;
- To provide meaningful service for the welfare and benefit of the members of the Association;
- To provide quality education programs to the Federal legal profession and the public;
- To keep members informed of developments in their respective fields of interest;
- To keep members informed of the affairs of the Association, to encourage their involvement in its activities, and to provide members opportunities to assume leadership roles;
- To promote professional and social interaction among members of the Federal legal profession.

SUSIE'S BOOKSHELF

FEDERAL JUDGES REVEALED

BY WILLIAM DOMNARSKI

Federal Judges Revealed is based on over one hundred oral histories of Article III judges found around the country. It is published by the Oxford University Press and is William Domnarski's third book on federal judges. The others are *In the Opinion of the Court* (Urbana: University of Illinois Press, 1996), and *The Great Justices* (Ann Arbor: University of Michigan Press).

Domnarski writes a column for the *Los Angeles Daily Journal*, where he frequently writes about practice in federal court. This new book has all sorts of great material about the lives and thoughts of federal judges -- including a long chapter on how they got their lifetime appointments. Domnarski is a federal court practitioner, working exclusively in the Central District of California as a CJA panel member. Additionally, he will be one of our speakers at our April 9, 2010 CLE program in Boise.

