



Sidebar Idaho Chapter Federal Bar Association Quarterly Newsletter

A MESSAGE FROM J. WALTER SINCLAIR, PRESIDENT



It has been a harsh winter in Idaho, but that has not kept the Idaho Chapter of the FBA from continuing its good work. Our last Membership meeting was at 4:00 pm in the Clearwater Room in the Federal Courthouse on February 14, 2017. The meeting was well attended, including participates via conference call access, which is always available upon request. I hope you can join us for our next meeting, which will be on Tuesday, May 30, 2017 at 4:00 p.m. Mountain Time. The place has yet to be determined.

Our membership continues to slowly grow, along with an increasing law student membership in the FBA's Law Student Division with student chapters at Concordia and the University of Idaho law schools. We are looking forward to continuing to including these FBA law students in our events.

I reported last quarter that our Tri-State conference in Sun Valley was a spectacular success. I am excited about the next Tri-State conference to be held in Jackson, Wyoming, on October 5-7, 2017. Please save the date and plan on attending. When we have several of our Judges participating in these panels, it is really great to have support of our members in attendance.

Tyler Anderson has agreed to undertake the lead on the FBA Brown Bag CLE program for 2017, along with the assistance of April Linscott (north Idaho) and DeAnne Casperson (east Idaho) in organizing this program. They are undertaking efforts to build an entire statewide CLE schedule for 2017, which began with the topic of Federal Rule Amendments and eDiscovery. Ken Withers, Deputy Executive Director of the Sedona Conference, provided an overview about the amendments to the Federal Rules of Civil Procedure and the proposed amendments to the Federal Rules of Evidence. Mr. Withers is a nationally-recognized expert in eDiscovery and we are delighted he was able to join us for our first CLE of the year. We will keep you posted on additional CLEs as they develop.

I would also like to thank several other people: Mary Hobson for being the FBA Pro Bono Liaison with the Federal Court. For example, through Mary's recruiting efforts, Sara Berry and Amani Floyd of Holland &

Hart successfully represented two Iraqi women who had been denied citizenship through a series of delays by the U.S. Citizenship and Immigration Service. It took a federal lawsuit to get the federal government to ultimately agree to approve both women citizenship, which occurred on January 12, 2017. Please continue to volunteer for our federal pro bono program, it truly makes a difference.

Dana Herberholz for being our Government Relations liaison and working to prioritize the replacement of Judge Lodge as well as advancing our position on a third District Judge in Idaho. Dana has worked hard with Libby Smith and Judge Winmill to develop a report to the national FBA about the need for our third judge position in Idaho. This is a compelling report which demonstrates our need and advances the chance of getting national support for our judicial needs.

Amy Lombardo is our Civics' liaison and works with the National, the Idaho State Bar and the Attorneys for Civic Education (ACE) on improving the knowledge of our citizens about the Constitution and the importance of the Judiciary in the United States' form of government.

Katie Ball is our SOLACE liaison (SOLACE stands for "Support of Lawyers/Legal Personnel—All Concern Encouraged" SOLACE provides a way for the FBA legal

community to reach out in small, but meaningful and compassionate ways, to FBA members and those related to them in the legal community who experience a death, or some catastrophic event, illness, sickness, injury, or other personal crisis). She has coordinated assistance for a surprising number of attorneys and/or judges who had needed some help, and we have been able to offer help when requested. Thanks Katie.

Gary Cooper on his continued efforts as our membership chair. We continue to grow our membership through his efforts. If you have ideas of other activities you would like to see the FBA involved in, please let us know how we can better serve you.

Larry Prince and his assistant, Terry Hancock who have served as our Treasurer since the inception of our Chapter. Through his able monitoring of our finances, we have increased our reserves to the sum of \$17,358 as of March 2, 2017, with an additional \$8,993.73 in our pro bono account.

John Zarian, our President Elect, is planning on attending the FBA Lobby day in Washington DC this April, along with the following 2 days of Leadership training. I attended this last year and it is an excellent opportunity to lobby for our judicial needs and learn what the National has to assist us in being as effective as possible here in Idaho. I will be joining John for the Leadership training and will be one of the presenters for this year's conference.

Finally, thanks to all of you for your help this year, we hope to see you at an FBA sponsored event in the near future.

WILLS FOR VETERANS NATIONAL PRO BONO PROJECT

Our Chapter is partnering with the Idaho Military Legal Alliance (IMLA), Idaho Volunteer Lawyers Program (IVLP), Concordia College of Law, and the Student Chapter of the FBA at the University of Idaho College of Law, in hosting a pro bono "Wills for Veterans Day." The clinic will be held on Thursday, November 9, 2017 to coincide with Veterans Day on November 11, 2017.

This program is not the first of its kind in Idaho – far from it! It is, however, the first time the FBA has been involved in this very worthwhile program for our veterans and active duty members on a national level.

Stand by for more details as we begin our planning. If you would like to volunteer to assist our Chapter, please contact Susie Headlee at sheadlee@parsonsbehle.com who is serving as Chair of this initiative.

CLERK'S CORNER



Libby Smith, Clerk of Court

Each year the United States Federal Court makes funds available for its Community Outreach Grant Program. This year the Court will award up to \$40,000 for Idaho programs that enhance the public's trust and confidence in the judiciary, promote a better understanding of the judiciary, and improve communication with the public about the role of courts and the legal process. This grant funding must be related to community education.

Any interested organization may apply for funding from this program by completing the application form specified by the United States District and Bankruptcy Courts. The application should briefly describe the organization, the date it was organized, its history and purpose, and its tax status. The application must be submitted or co-signed by an active member of the Bar of the United States District and Bankruptcy Courts for the District of Idaho. Only one application can be submitted by a single organization or entity. Preference will be given to non-profit agencies or organizations.

The 2017 Community Outreach Grant Application and Budget Form can be found at http://www.id.uscourts.gov/clerks/Community_Outreach.cfm.

Deadline for Grant Applications: Completed applications must be emailed no later than May 15, 2017 to clerk@id.uscourts.gov.

U OF I STUDENT CHAPTER

The University of Idaho College of Law's Federal Bar Association, Law Student Division, is the only Student Division in the state of Idaho. Within months of its inception, which was September 2016, student members have participated in, and learned from, various Federal Bar meetings and events.



**Marcus Johnson, April Eggers,
and Colt Catlin, President**

In April, 2017 the College's Law Student Division will sponsor an on-campus event that will host Judge Stephen Trott, a Senior Circuit Judge for the Ninth Circuit Court of Appeals. He will discuss the use of jailhouse informants to provide evidence in support of convictions and the problems that can arise. Specifically, his presentation will cover courtroom strategy, tactics, discovery, and evidence. Currently, another event is being planned for spring 2017, which will host Idaho U.S. District Court judges and law clerks.

The College's Law Student Division may be of short tenure, but it has been busy. Some past involvement included attendance by two student members to the September 2016 Tri-State Conference in Sun Valley, Idaho. That December, approximately fifteen student members attended the Idaho Federal Bar Association Christmas party. Students were very appreciative of both experiences, because they were provided the opportunity to meet esteemed federal practitioners that ranged from practicing and retired attorneys, U.S. District Court judges, and law clerks. Moreover, with each event and informational meeting, students' feedback is that they become more informed about federal practice and are incentivized to continue involvement with the Federal Bar Association as attorneys.

GOVERNMENT RELATIONS

By Bruce Moyer, Counsel for Government Relations

The first three weeks of the Trump Administration have been bold and turbulent, giving birth to many of the actions that candidate Trump promised during his campaign, with twenty executive orders in ten days. One of them, imposing a temporary travel ban on the flow of immigrants and refugees into the United States, precipitated the first major legal challenges to the new Administration. The President nominated Circuit Judge Neil Gorsuch to become associate justice to the United States Supreme Court, and Sen. Jeffrey Sessions was confirmed by the Senate as Attorney General. Judicial vacancies on the federal bench remained at high levels.



The Gorsuch Nomination - President Trump on January 31 nominated Judge Neil M. Gorsuch of the Denver-based Tenth Circuit Court of Appeals to the United States Supreme Court, succeeding the late Justice Antonin Scalia. Now it is up to the Senate again to give its "Advice and Consent," and Senate Judiciary Committee Chairman Chuck Grassley (R-IA) has indicated he will convene hearings on the nomination by mid-March, in line with the timeline since the 1980's for Supreme Court nomination hearings. Since 1900, the Senate has given hearings to every Supreme Court nominee except for two who withdrew and Judge Merrick Garland.

The Senate unanimously approved Judge Gorsuch's nomination to the Tenth Circuit in 2007, but a contentious path to confirmation yet remains. Democratic opposition, compounded by frustration over Republican obstruction over the Garland nomination last year, will more likely delay confirmation than defeat it. If confirmed, the 49-year old appeals court judge would be the first conservative addition to the Supreme Court in a decade and the youngest justice since Clarence Thomas. Judge Gorsuch also would be the first former law clerk to serve on the bench along-side his or her old boss, Justice Anthony Kennedy. Whether Senate Republicans invoke the so-called nuclear option and remove the 60-vote requirement

on ending filibusters on Supreme Court nominations is unclear. Democrats ended the requirement on district and circuit nominations in November 2013 when they controlled the Senate. President Donald Trump on February 1 said Senate Republicans should "go for it" and invoke the nuclear option.

The Sessions Confirmation

In other action, the Senate Judiciary Committee on February 8 confirmed the nomination of Sen. Jeff Sessions (R-AL) as Attorney General, 52-47, almost entirely along party lines. Observers attributed the vote to a reflection of Sessions' long conservative voting record and the hyper-partisanship of contemporary politics. A recent Pew Research Center poll showed that 86 percent of people describe the country as more politically divided today than in the past, while 61 percent anticipate bickering between the two political parties to increase in the year ahead.

Circuit and District Judicial Vacancies

As of February 13, in addition to an open Supreme Court seat, 117 Article III judicial vacancies await nomination by the President, including 18 seats on the federal courts of appeals and 91 federal district court seats. That is more than twice as many vacancies that existed when President Obama took office in 2009, providing considerable opportunity to the new Administration to populate and reshape the federal bench.

The Federal Judiciary website reported the following Article III vacancies as of February 13, 2017, of which forty-four of the vacancies are considered "judicial emergencies" by the Judicial Conference, the policy-making body of the Federal Judiciary.

FEDERAL JUDICIAL VACANCIES

Jurisdiction	Vacancies	Nominees Pending
Supreme Court	1	1
Court of Appeals	18	0
District Courts	91	0
Intern'l Trade	2	0
Federal Claims	6	0
Totals	118	1

Bankruptcy Filings

The Federal Judiciary reported on January 25, 2017 that filings in federal bankruptcy courts during 2016 declined by 5.9 percent. The number of filings – 794,960 cases – represented the lowest number of filings for any calendar year since 2006, and the sixth consecutive calendar year that filings have fallen. Observers predict that a decline in bankruptcy filings over the next 12-24 months will continue, but at a slower pace, followed by a rise in filings as interest rates continue to creep up.

Recently-Introduced Judgeships Legislation

The Federal Bar Association supports the authorization and establishment of additional permanent and temporary federal judgeships, including bankruptcy judgeships, along with support personnel, as proposed by the Judicial Conference of the United States, when rising caseloads in the federal courts threaten the prompt delivery of justice.

The Judicial Conference is expected next month to transmit its biennial recommendations to Congress for the establishment of additional federal judgeships in alignment with current caseload demands. On April 20 during FBA Capitol Hill Day, FBA leaders and members will educate Congress about how overwhelming caseloads threaten the ability of the Third Branch to effectively administer justice.

TRI-STATE CONFERENCE

Please mark your calendars for the upcoming 13th Annual FBA Tri-State Conference hosted by the Wyoming Chapter in Jackson Hole on October 5-7, 2017. This year's conference will bring together excellent speakers from across the country on topics including public land transfers, immigration reform, qualified immunity, sentencing enhancements, the fate of *Chevron* deference, and other issues important to federal practitioners. Attendees will have opportunities to ask questions of our esteemed panels of federal judges from Wyoming, Idaho, and Utah. Details will be forthcoming later in summer from the Wyoming Chapter, who is hosting in 2017.

2017 Idaho Chapter, FBA Members

**We are delighted to welcome our new members:
Jaclyn Gans, Kate Holey, Jason Rudd, Christopher Sanchez, Benjamin Stein and Matt Walters**

Greg Adams	Merlyn Clark	Alyson Foster
Ashley Akers	Gary Cooper	William Fuhrman
Tyler Anderson	Tom Cruz, Student Chapter	Jennifer Fuhs, Student Chapter
Maria Andrade	Christopher Cuneo	Michael Gaffney
Sam Angell	Hon. Candy W. Dale	Jaclyn Gans
Tom Arkoosh	James Dale	Patrick Geile
Sarah Arnett	Kira Dale	Mark Geston
William Bacon	Jennifer Dempsey	Danielle Glass, Student Chapter
John Bailey	Katy DeVries, Student Chapter	Rafael Gonzalez
James Ball	Bradley Dixon	John Goodell
Katie Ball	Teague Donahey	Alexandra Grande
Aaron Bell, Student Chapter	William Dryden	Richard "Dick" Greener
Steven Berenter	Keely Duke	Brit Groom
Sara Berry	Yvonne Dunbar	F.J. Hahn, III
Erika Birch	Angelique EagleWoman	Blake Hall
Brook Bond	Wendy Earle	Brady Hall
Hon. Larry M. Boyle	Dylan Eaton	Rich Hall
Christopher Brown	April Eggers, Student Chapter	Nicole Hancock
Grant Burgoyne	Charissa Eichman	Syrena Hargrove
John Burke	Michael Elia	Jordan Harshfield, Student Chapter
Robert Burns	Jamie Ellsworth	Maria Hart
Hon. Ronald E. Bush	Ford Elsaesser	Susie Headlee, Honorary Member
Aaren Carnline, Student Chapter	Ritchie Eppink	Richard Hearn
Colt Catlin, President, Student Chapter	Peter Erbland	Kara Heikkila
DeAnne Casperson	Joshua Evett	Dana Herberholz
Bruce Castleton	Robert Faucher	Mary Hobson
Craig Christensen	Deborah Ferguson	Alexandra Hodson, Student Chapter
	Jessica Fernandez, Student Chapter	

Ernest Hoidal	Christine Meeuwsen	Alan Schroeder
Kate Holey	Jason Moore, Student Chapter	Benjamin Schwartzman
Amy Holm	Michael Moore	Patrick Shearer, Student Chapter
Jessalyn Hopkin, Student Chapter	Rachel Murphy	Brian Sheldon
Regina Hovet	Hon. Terry L. Myers	R. Jonathan Shirts, Student Chapter
Sarah Hugues, Student Chapter	Jaycee Nall, Student Chapter	Cathy Silak
Matt Hunter, Student Chapter	Kirt Naylor	J. Walter Sinclair
Josh Hurwit	Ryan Nelson	Bill Smith
Emily James, Student Chapter	Derek Newman, Student Chapter	Libby Smith, Honorary Smith
Marcus Johnson, Student Chapter	Bryan Nickels	Hon. N. Randy Smith
Kacey Jones, Student Chapter	Sonyalee Nutsch	Slade Sokol
Julie Kane	Phillip Oberrecht	Newal Squyres
Ron Kerl	John Oborn	Benjamin Stein
Shanna Knight	Patricia Olsson	Jon Stenquist
Steve Kraft	Hon. Jim D. Pappas	Erik Stidham
Debora Kristensen	James Piotrowski	Jordan Stott
Maureen Laflin	Christopher Pooser	Kirsten Svendsen, Student Chapter
Reed Larsen	Jason Prince	Greg Tollefson
Marsha Larson, Student Chapter	Larry Prince	Amanda Ulrich
Tamsen Leachman	Mark Prusynski	Matt Walters
April Linscott	Sanja Prutina	Cameron Warr, Student Chapter
Hon. Edward J. Lodge	David Risley	Elijah Watkins
David Lombardi	Ausey Robnett	J. Kevin West
Amy Lombardo	Richard Rubin	Larry Westberg
Laird Lucas	James Ruchti	Robert White
Kennedy Luvai	Jason Rudd	Brandelle Whitworth
Stacy Mahar, Student Chapter	James Runft	Daniel Williams
Kelsey Manweiler, Student Chapter	Christine Salmi	Hon. Mikel H. Williams
Tara Martens Miller	Christopher Sanchez	Jeffrey Wilson
James Martin	Kevin Scanlan	Hon. B. Lynn Winmill
Franchell McClendon, Student Chapter	Sam Schiffler, Student Chapter	Brian Wonderlich
Kelly McConnell	Lee Schlender	Shannon Work
Charles McDevitt	Steven Schossberger	John Zarian

FBA Executive Board

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Amy Lombardo

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April Linscott, Northern
DeAnne Casperson, Eastern

MEMBERSHIP
Gary Cooper

PRO BONO LIAISON
Mary Hobson

SOLACE PROGRAM, Katie Ball

SPECIAL EVENTS/TRI-STATE
Dan Williams

U of I STUDENT CHAPTER
Colt Catlin, President

YOUNG LAWYERS LIAISON
Sonyalee Nutsch



SAVE THE DATE!

for the 13th Annual
Tri-State Conference

Idaho • Utah • Wyoming

**Presented by the Wyoming Chapter of the
Federal Bar Association**

Spring Creek Ranch, Jackson Hole, Wyoming
October 5-7, 2017