



Federal Bar Association

Idaho Chapter

Sidebar

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A MESSAGE FROM WENDY J. OLSON, CHAPTER PRESIDENT

JUNE 2020



Practicing law amid a pandemic has required us all to be more flexible, forward-thinking, and, likely, forgiving. Some of us have learned about video conferencing platforms compatible with our laptops, and about conducting parts of our practice we assumed could be done only in person by video, including depositions and mediations. Some practitioners are surviving by providing employment advice applying long-

standing principles of employment law to a new and rapidly developing work environment, with new federal and state statutes in the mix. Courts have triaged hearings and other court proceedings, delaying most civil court dates. And we all have learned much more about our colleagues' kids, dogs, and "home" offices.

The Federal Bar Association, at a national level, has kept moving forward, holding its national council meeting and national government relations training by webinar. I participated in the former in the early stages of the pandemic, and Alyson Foster, chapter President Elect, participated in the latter. The content was excellent as to both. I also participated in the qui tam section's CLE on False Claims Act enforcement in the Covid-19 era. Both government and defense counsel provided analysis of where fraud and false claims could arise under relaxed health care regulations and the new Paycheck

Protection Program. In short, the FBA continues to provide value to its members. Your Idaho chapter wants to do the same, and also ensure we have opportunities to serve our community.

We hope you were able to participate in today's Zoom CLE presentation from our federal court chief judges, with court clerk Steve Kenyon moderating, as they shared with Idaho federal practitioners the challenges Idaho's federal courts faced in dealing with the pandemic, and the measures they are implementing to promote health and safety with court proceedings moving forward. Idaho Chapter members continue to benefit from our federal judges' generosity with their time and with their commitment to improve how we practice.

We also hope you will join us on June 6 to volunteer at the Idaho Food Bank from 12 p.m. to 2:00 p.m. You should

have received details about these events directly by email, but if you haven't had a chance to sign up yet, please do. We are also planning additional zoom CLEs, including a CLE on how the requirement that we use new technologies is affecting our profession, and how to use them effectively. Please share with us your ideas for any other CLEs.

Finally, as those of us who have been practicing for a few years consider how we will move forward, I encourage you to reach out to newer practitioners, to recent law school graduates and to law school students. They are all learning to navigate our profession amid uncertainty and without the benefit of the in-person conferences, CLEs and other legal gatherings where many of us found mentors and friends. Please reach out to the newer lawyers in your organizations to check in and provide guidance. While we would like them all to join us as FBA members, even more, we want them to develop as lawyers in a climate and culture that fosters collegiality.

I look forward to seeing you virtually in the near term.

The DATE OF THE 19th AMENDMENT CELEBRATION HAS CHANGED!

Please take note that the 19th Amendment celebration previously scheduled on June 5, 2020 has been moved to September 11, 2020. See page 4 below for additional details. We are grateful to Perkins Coie for serving as our luncheon host.



Please join members of our Federal Bar Association Chapter in volunteering for the Idaho Food Bank on **June 6, 2020 from 12:00 p.m. to 2:00 p.m.**

We will be sorting and packing food for members of our community in need. Because of the current pandemic, Idaho Food Bank is limiting shift sizes to 10 people – therefore, we will be social distancing! If more than 10 people wish to volunteer, we will work with the Idaho Food Bank to find an additional shift we can cover.

If you can join us, please go to <http://aswd.idahofoodbank.volunteerhub.com/> and scroll down to the **SIGN UP** button and follow the instructions. Please bring a face mask.

Thank you and we look forward to seeing you!

GOVERNMENT RELATIONS

Article III Judicial Vacancies and Confirmations by Bruce Moyer, Counsel for Government Relations; and W. West Allen, (above), Chair, Government Relations Committee



Impact of COVID-19 on Federal Court Operations.



The federal courts have continued to remain closed to the public out of continued concern for the health and safety of the public and court employees during the COVID-19 pandemic. Essential court operations have continued, while significant numbers of judges and court personnel have worked remotely. Grand jury proceedings and jury trials have been postponed and civil litigation has significantly slowed. Most courts are holding remote proceedings where practicable through phone or videoconference, as attorneys also work from home as their law firms remain closed in most respects as well.

U.S. Supreme Court. For the first time in its history, the Court began to hold live telephone conference calls to hear oral argument in cases before it. The Court on May 4 heard the first of ten cases scheduled for argument during the month of May. The trademark case *USPTO v. Booking.com* was the first in the Court's 230-year history to be argued via telephone and also the first to be audio-streamed live to the general public. The court adopted a new, more orderly format for the asking of questions, in which Chief Justice John Roberts Jr. has the first opportunity to ask questions, followed by the associate justices in order of seniority.

Federal Courts. The Administrative Office of the U.S. Courts on April 24 provided guidance to the federal

courts on reopening during the COVID-19 pandemic, encouraging courts to take their lead from local authorities as they gradually move to hold more in-person proceedings. In a memo to judiciary staff announcing the guidelines, AO Director James Duff left it to each jurisdiction to determine how best to proceed in the reopening process, based on an AO guidance document released on April 24, along with further details the AO plans to release soon. Those details will address the resumption of grand jury and petit jury proceedings, the potential of utilizing COVID-19 testing for employees and the public prior to entering the facilities, accommodating employees who must rely upon mass transportation, and the potential for requiring the use of face coverings and masks in the buildings.

The reopening process as described in the AO guidance document includes four phases, with many courts currently in the first phase. In the first phase, courthouses are closed to the public, employees are teleworking, while the essential proceedings are moving forward. Under phase two, on-site court proceedings could be increased and staff in court buildings will continue to maximize physical distance from others, but vulnerable employees should still telework. Court officials will make operational preparations for a significant increase in filings and other court proceedings (i.e., grand jury) that will likely occur during this phase. The emphasis will be on the acceptance of filings remotely to the greatest extent possible.

During phase three, most in-person, public proceedings can be held, but vulnerable individuals should keep a 6-foot distance from others. Large public spaces in courthouses could

reopen, but under limited 6-foot physical distancing protocols until the CDC rescinds guidance and additional mitigation measures are approved government-wide. Phase four has courts at full functionality, after public health officials announce the virus is suppressed within the United States.

FBA Support for Judiciary Funding Request. The Federal Bar Association has communicated to Congress its strong support for the Federal Judiciary’s Fiscal Year 2021 funding request and its latest supplemental request.

In May 4 correspondence to House appropriations leaders and their Senate counterparts (attached), FBA President Christian Adams expressed the FBA’s strong support for the Judiciary FY 2021 funding request of \$7.8 billion dollars and its supplemental request of \$36.6 million. “These requested funds are critical to assure the federal courts are able to fulfill their constitutional and statutory responsibilities in these unprecedented times,” Adams said.

He also reiterated the FBA’s support for a higher 302(b) budget allocation for the Financial Services and General Government Appropriations Subcommittee, whose jurisdiction includes funding for the General Services Administration and its courthouse repair and alteration. The FBA earlier this spring through correspondence from President Christian Adams encouraged expansion of the 302(b) budget allocation.

Federal Judicial Vacancies and Confirmations.

FEDERAL JUDICIAL VACANCIES as of May 8, 2020		
Jurisdiction	Vacancies	Nominees Pending
Supreme Court	0	0
Courts of Appeal	1	1
District Courts	74	40
U.S. Court of Intern’l Trade	2	1
Totals	77	42

Including the United States Court of Federal Claims and the United States territorial courts, 83 of 890 active federal judicial positions are vacant.

Forty-six judicial emergencies in vacancies remain, based on caseload and/or the length of the vacancy, according to the Administrative Office of the U.S. Courts. More than half (26) of the judicial emergency vacancies are in the Ninth Circuit, with seventeen in the California district courts.

DISTRICT OF IDAHO CASE SUMMARIES

The Idaho Chapter, FBA provides summaries of the District’s noteworthy decisions and complaints that have been filed. Cases are selected by the Court and summaries are drafted by University of Idaho College of Law students under the supervision of Katie Ball, Associate Dean of Students. Here is a link to the latest summaries.

<https://id.uscourts.gov/clerks/Welcome.cfm>

History Come Alive: The 19th Amendment in Idaho & Beyond

Join us as we hear from:

Matthew Pinsker

Historian from Dickinson College in Pennsylvania

and

Dr. Laura Woodworth-Ney

Historian and provost at Idaho State University

Attendees will be treated to a panel discussion following the presentations.

Breakfast and lunch will be served at the Idaho Historical Museum | RSVP
(208) 867-8169 | sheadlee@parsonsbehle.com | 610 Julia Davis Dr., Boise ID



Friday | September 11, 2020 8 am • 1 pm

Open to the Public | 3.5 hours CLE Requested from ISB



Federal Bar
Association
Idaho Chapter

PERKINS coie
COUNSEL TO GREAT COMPANIES
Our Luncheon Host



Federal Bar
Association
University of Idaho College of Law
Student Chapter

Members of the Federal judiciary provided an overview of the Federal Court's Coronavirus and its plan for reopening. The program consisted of the three chiefs (David Nye, Joe Meier and Ronald Bush, and the program was moderated by Stephen Kenyon, Clerk of Court. A few highlights are as follows:



Idaho Chapter Officers and Committee Members

Wendy J. Olson, President
Susie Headlee, Executive Director
Alison Foster, President Elect
Dan Williams, Vice-President
Rafael Gonzalez, National Delegate
Edward Dindinger, Treasurer
Marcus Johnson, Secretary
Katie Ball, SOLACE and Mentorship
Gary Cooper, Membership Chair
Alex Semanko, Northern Membership
Merlyn Clark, Special Events Chair
Tyler Anderson, Brown Bag CLE Chair
April Linscott, CLE Northern
John Cutler, CLE Eastern
Matthew Christensen, Pro Bono Liaison
Amy Lombardo, Government Relations
Wendy Olson, Civics Education
Sonyalee Nutsch, Young Lawyers Liaison
James Schaefer, Veterans Program
Judge N. Randy Smith, Ninth Circuit Liaison
Judge Candy W. Dale, Federal Judge Liaison

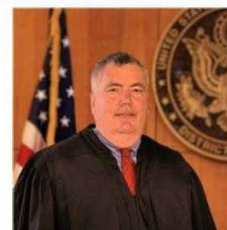
- [General Order 367](#) is the most recent Order with information regarding court operations.
- The court is making decisions about operations based upon the stages of reopening set forth in Governor Brad Little's stay healthy orders and in consultation with Dr. Sky Blue, epidemiologist hired by the court.
- Since Idaho has now moved into Stage 3, the courthouse is open to the public and jury trials and in-person hearings have resumed, with requirements:
 - Everyone must wear a face mask/covering (attorneys, witnesses, jurors, court staff, etc.)
 - Physical distancing – 6 feet – must be observed.
- The Court's goal is that by June 15th it will be operating at full capacity (although 50% of the staff will be teleworking).

The Federal Court's Coronavirus Response – A Road Map to Reopening

The Federal Bar Association invites you to join us and members of Idaho's federal judiciary as they describe the preparations and actions they took in response to the coronavirus pandemic. The judges will share the precautions the court will be taking as it begins to gradually return to pre-pandemic operations. The panel discussion will be moderated by Steve Kenyon, Clerk of Court, and the judges will answer questions at the end of presentation regarding the measures that will be taken to ensure the health and safety of all courthouse users.



Chief U.S. District Judge
David C. Nye



Chief U.S. Bankruptcy Judge
Joseph M. Meier



Chief U.S. Magistrate Judge
Ronald E. Bush



Clerk of Court
Stephen W. Kenyon

Thursday, June 4, 2020
12:00 p.m. – 1:00 p.m.
Via Zoom

No Charge FBA or Student Chapter Member
\$10 Non-member
1.0 hrs. CLE Credit Requested, ISB

RSVP by Friday, May 29, 2020

Contact Susie Headlee to Register and for Zoom Details – sheadlee@parsonsbehle.com

2020 Idaho Chapter, FBA Members

Welcome new Chapter Members

Monte Gray, Larsen Kohler, Kate Horwitz and Grant Michael Patton

Alyson Acheson	Matthew Christensen	Deborah Ferguson
Greg Adams	Merlyn Clark	Olivia Nicole Ford, Student Member
Andrew Alder	Kyle Cole	Alyson Foster
Tyler Anderson	Aspen Compton, Student Member	Trudy Hanson Fouser
Maria Andrade	Gary Cooper	Steven Arthur Friskel, Student Member
Sam Angell	Marisa Crecelius	William Fuhrman
Kendra Ankrum, Student Member	David James Cummings	Jaclyn Gans
Payden Henry Ard	Christopher Cuneo	Patrick Geile
C. Tom Arkoosh	Hon. Candy W. Dale	Jack Gjording
Sarah Arnett	James Dale	Amber Goeden
Darrel R. Aubrey, Student Chapter	Bart M. Davis	Rafael Gonzalez
William F. Bacon	Jennifer Dempsey	John Goodell
James Ball	Edward W. Dindinger	Wendy Gordon, Student Member
Katie Ball	Teague Donahey	Alexandra Grande
Brenda Bauges	William Dryden	Monte C. Gray
Sara Berry	Keely Duke	Daniel Green
Erika Birch	Yvonne Dunbar	Richard "Dick" Greener
Walter H. Bithell	Kassadie Dunham	Kevin Griffiths
Kacie Bitzenburg, Student Member	Wendy Earle	Rebecca Gullett
Katherine Bolton	Dylan Eaton	Blake Hall
Brook Bond	Michael Elia	Brady Hall
Joseph Borton	Hailee Elledge, Student Member	Nicole Hancock
Bennett Briggs	Jamie Ellsworth	Christina Hardesty
Garrett Brown, Student Member	Ford Elsaesser	Syrena Hargrove
Grant Burgoyne	John Epperson, Student Member	Maria Hart
John Burke	Ritchie Eppink	Dillon Haws, Student Member
Robert Burns	Peter Erbland	Susie Headlee, Honorary Member
Hon. Ronald E. Bush	Thomas Everson	Richard Hearn
DeAnne Casperson	Joshua Evett	Kara Heikkila
Bruce Castleton	Robert Faucher	Dana Herberholz
Craig Christensen	Spencer Felton, Student Member	Noah Hillen

Alexandra Hodson	Michael McIntyre	Benjamin Schwartzman
Ernest Hoidal	Christine Meeuwsen	Stephanie Michelle Scull, Student Member
Kate Horwitz	Hon. Joseph M. Meier	Sydney Sears, Student Member
Regina Hovet	Whitney Mestelle, Student Member	Norman Semanko
Loren Ipsen	Serena Minasian, Student Member	Jeff Severson, Chief Deputy Clerk
Emily James, Student Member	Michael W. Moore	Cathy Silak
Bryce Jensen	Allan Moriarty, Student Member	Hon. N. Randy Smith
Andrew J. Johnson, Student Member	Tishra Murray, Student Member	Scott Smith
Marcus Johnson	Jennifer A. Nelson	William Lloyd Smith
Samuel W. Johnson, Student Member	Hon. Terry L. Myers	Slade Sokol
Hon. Jim Jones (ret.)	Hon. Ryan D. Nelson	Newal Squyres
Julie Kane	Bryan Nickels	Craig Stacey
Stephen Kenyon, Clerk of Court	Sonyalee Nutsch	Sarah St. John, Student Member
Ron Kerl	Hon. David C. Nye	Benjamin Stein
Gwen King, Student Member	Phillip Oberrecht	Jon Stenquist
Steve Kraft	John Oborn	Jordan Stott
Debora Kristensen Grasham	Wendy Olson	Danielle Stollo, Student Member
Maureen Laflin	Tori Osler	Jennifer Tengono, Student Member
Reed Larsen	Hon. Jim D. Pappas	Stephen R. Thomas
Edward Lawson	Eric Pedersen, Student Member	Christopher Thompson, Student Member
Tamsen Leachman	James Piotrowski	Lauri Thompson
Tristan Leavitt	Michelle Points	Aubrey Thorne, Student Member
Courtney Lennberg, Student Member	Larry Prince	Greg Tollefson
April Linscott	Sanja Prutina	Dawn E. Trivolis, Student Member
Jeremy Litster	Lee Radford	Amanda Ulrich
Hon. Edward J. Lodge, ret.	Andrew Rawlings	Matthew Walters
David Lombardi	Morgan Reese, Student Member	Elijah Watkins
Amy Lombardo	David Risley	Larry Westberg
Laird Lucas	Kyle Rozanski, Student Member	Robert White
Erika Malmen	S. Richard Rubin	Brandelle Whitworth
Lauren C. Markuson, Student Member	James Ruchti	Daniel Williams
Tara Martens Miller	Jason Joe Rudd	Max Williams, Student Member
James Martin	John Runft	Hon. Mikel H. Williams
Jason Mau	Christine Salmi	Jeffrey Wilson
Hailey McClung, Student Member	Kevin Scanlan	Hon. B. Lynn Winmill
Kelly McConnell	Alan Schroeder	

Brian Wonderlich

Peter Wucetich

John N. Zarian