

Idaho Chapter: 12th Annual FBA Tri-State Conference

The FBA's Tri-State Conference is an annual conference addressing a wide range of timely topics that rotates among the world-renowned resort towns of Sun Valley, Idaho; Park City, Utah; and Jackson Hole, Wyo. It was started 12 years ago by three former chief judges—Hon. Dee Benson (Utah), Hon. Bill Downes (Wyoming), and Hon. B. Lynn Winmill (Idaho)—with the objective of discussing issues that affect western states and providing opportunities for the members of the three FBA chapters to meet fellow federal practitioners.

The Idaho Chapter played host this past October in Sun Valley, where we were fortunate to have 16 federal judges in attendance, including FBA President Judge Michael Newman, who served as the keynote luncheon speaker.

The conference began with an interactive program on proportionality, where panelists Chief Judge Nancy Freudenthal (Wyoming); Chief Judge Winmill (Idaho); Magistrate Judge Evelyn Furse (Utah); Magistrate Judge Kelly Rankin (Wyoming); and Steve Andersen, partner, Andersen Schwartzman Woodard Brailsford (Idaho), guided roundtable discussions regarding the new discovery protocols, the importance of applying the rules, and the impact these changes have on the duty to preserve evidence.

A bankruptcy panel featured Chief Bankruptcy Judge Terry L. Myers (Idaho); Chief Bankruptcy Judge Casey D. Parker (Wyoming); Bankruptcy Judge Joel Marker (Utah); and Larry Prince, partner, Holland & Hart (Idaho). The panelists discussed various hot bankruptcy topics, including the impact of U.S. Supreme Court decisions on the ability of a bankruptcy court to enter final judgments. Both Ninth and Tenth Circuit Court bankruptcy issues were addressed.

Other panels included lively discussions surrounding intellectual property and recent developments in IP litigation with retired Chief Judge of the U.S. Court of Appeals for the Federal Circuit Randall Rader; Senior District Judge Benson (Utah); Teague Donahey, of counsel, Holland & Hart (Idaho); and Dana Herberholz, shareholder, Parsons Behle & Latimer (Idaho).

Judge Candy Wagahoff Dale (Idaho) moderated a panel on federal land management conflicts and issues surrounding the Malheur National Wildlife Refuge occupation. Videos were shown with comments from all sides of the issues, rounding out great discussions on recent conflicts and efforts to transfer management to state or private control. The panel examined the *Hammond* arson case,



Idaho Chapter: (l to r) Judge Paul Warner (Utah); Chief Judge B. Lynn Winmill (Idaho); J. Walter Sinclair, president, Idaho Chapter; and Judge Michael Newman, president, Federal Bar Association.

which led to the Malheur occupation and standoff in Oregon. In addition to Judge Dale were U.S. Attorney John Huber (Utah); professor John Freemuth, Boise State University (Idaho); and Alan Schroeder, partner, Schroeder & Lezamiz Law Offices (Idaho).

At the conference, FBA member Dan Williams was recognized by Idaho Chapter President J. Walter Sinclair as this year's Exemplary Service Award recipient for the Idaho Chapter. FBA President Newman was the keynote luncheon speaker where he provided an overview of his initiatives for the FBA including the SOLACE program and civics education.

Another panel featured Senior Judges David Sam and Dale Kimball (both from Utah); Magistrate Judge Rankin (Wyoming); and Matthew Lalli, partner, Snell & Wilmer (Utah), discussing behavior by counsel during trials that was ineffective and unethical. The panel also provided scenarios it felt captured jurors' attention.

On Saturday morning, a fascinating criminal program was held by Judge Paul Warner (Utah); Rafael Gonzalez, first assistant U.S. attorney (Idaho); and Scott Wilson, assistant federal public defender (Utah). The United States has the highest rate of incarceration of any nation in the world, and the nationwide cost to state and federal budgets was \$90 billion in 2010. The panel provided an overview of their district's focus on prevention, reentry, mental health, and Veterans Courts. Panelists agreed that to remain effective, federal courts should begin to focus on prevention and reentry courts and use



evidence-based strategies to curb the disturbing rates of recidivism by those reentering our communities.

The conference concluded with a panel of all the judges discussing practices they find to be effective and persuasive. As usual, this was the most highly attended portion of the program and we were delighted to have 10 federal judges join the panel, which was moderated by Idaho Chapter President Sinclair. Topics ranged from best practices in federal court, judges' individual preferences and case management in the three respective districts.

Next autumn, the Tri-State Conference will be held in Jackson Hole. It will present a great opportunity to learn from and interact with judges in the intermountain west. We hope to see you there! ☺

Top left: (l to r) Kristin Hoff Sinclair; J. Walter Sinclair, president, Idaho Chapter; Ron Kerl; Deborah Ferguson; Rick Ferguson; and Dan Williams. Top right: (l to r) Marcus Johnson; Judge Michael Newman, president, Federal Bar Association; Colt Catlin, president, University of Idaho Student Chapter; and Katie Ball. Bottom left: (l to r) Magistrate Judge Kelly Rankin (Wyoming), Nickie Arney, and Rex Arney. Bottom right: (l to r) Craig Adamson, Dart Adamson & Donovan (Utah); and Rex Johnson, shareholder, Parsons Behle & Latimer (Idaho).

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Top left: (l to r) Chief Judge Nancy Freudenthal (Wyoming); Magistrate Judge Kelly Rankin (Wyoming); Chief Bankruptcy Judge Casey D. Parker (Wyoming); and Magistrate Judge Evelyn Furse (Utah). Top right: (l to r) Marcus Johnson; Judge Candy Wagahoff Dale (Idaho); and Colt Catlin, president, University of Idaho Student Chapter. Middle left: (l to r) Bob Sykes, Senior Judge Dale Kimball (Utah), Judge William Thurman (Utah), and Bankruptcy Judge Joel Marker (Utah). Middle right: (l to r) Randall L. Skeen, Cook, Skeen & Robinson (Utah); and Senior District Judge Dee Benson (Utah). Bottom: (l to r): Susie Headlee, executive director, Idaho Chapter, and Parsons Behle & Latimer; and Penny Anderson.

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²⁸*Id.*

²⁹*Id.* ROBERT V. PERCIVAL, CHRISTOPHER H. SCHROEDER, ALAN S. MILLER & JAMES P. LEAPE, ENVIRONMENTAL REGULATION: LAW, SCIENCE AND POLICY 7 (6th ed. 2009); JAMES SALZMAN & BARTON H. THOMPSON, JR., ENVIRONMENTAL LAW AND POLICY 12 (3d ed. 2010).

³⁰ROBIN KUNDIS CRAIG, ENVIRONMENTAL LAW IN CONTEXT 29 (2d ed. 2005).

³¹See Kirsten H. Engel, *Harnessing the Benefits of Dynamic Federalism in Environmental Law*, 56 EMORY L.J. 159, 160 (2006); GLICKSMAN ET AL., *supra* note 27, at 75.