



Sidebar Idaho Chapter Federal Bar Association Quarterly Newsletter

A MESSAGE FROM J. WALTER SINCLAIR, PRESIDENT



What a great year for the Idaho Chapter of the FBA. I want to thank the many people who actively participated in making our Chapter vibrant this year. We held our last Membership meeting on October 17th at the Federal Courthouse. Please join us for the next meeting if your schedule allows, at 4:00 p.m. in the Clearwater Room in the Federal Courthouse on February 14, 2017 (conference call access will be available upon request).

It is very rewarding to see our membership numbers growing. One of the driving factors for this, as I mentioned previously, is Ashley Akers, law clerk for Judge N. Randy Smith who serves on the National Board of the FBA's Law Student Division and has worked with us this fall to establish student chapters of the FBA at Concordia, Gonzaga and the University of Idaho law schools. Thanks to her efforts The University of Idaho Law

Student Chapter is up and running. The Chapter elected its first Board of six representatives this fall. The Board has participated in phone calls with members of the National Office to prepare and make plans for the new chapter. A few of the Board members attended the Tri-State Conference in Sun Valley. The Chapter will invite a speaker to the law school next semester as part of a program for students interested in federal clerkships. The Concordia Chapter is currently in the process of electing its Board and its formation is in the works.

And to top it off, FBA President Hon. Michael Newman recently appointed Marcus Johnson, National Representative from the University of Idaho Law Student Chapter, to the National Law Student Division Board. Marcus will serve as the Board's Outreach Committee Chair and Director of law schools in Idaho and Washington. His membership on the Board will be wonderful for Idaho, as he now has



Marcus Johnson
National Law Student
Chapter, Chair, Outreach
Committee

many connections with members of the National Organization. We are looking forward to including these FBA law students in our events.

I am pleased to report that the Tri-State meeting in Sun Valley was a spectacular success. Great programming, great speakers and outstanding networking. Please hold October 5-7, 2017 for the next Tri-State to be held in Jackson, Wyoming, which should be an equally great meeting. At this year's Tri-State meeting (as well as at the Boise Bench/Bar conference) the FBA awarded its Exemplary Service Award to Dan Williams. Dan has worked tirelessly for the FBA on our Tri-State conference program and has attended all of the Tri-State programs since its inception in 2005. He is also active in Bar and its CLE programs. We honored him for his efforts to improve the quality of practice in Idaho's federal courts, for his demonstrated professionalism, collegiality, mentoring, and for providing quality legal representation.

Our 2016 Brown Bag CLE programs were received very well this year -- thank you John Zarian, April Linscott and DeAnne Casperson for organizing those for 2016; and thank you Tyler Anderson for agreeing to taking on the FBA Brown Bag CLE program chair for 2017.

I would also like to thank several other people: Mary Hobson for being the FBA Pro

Bono Liaison with the Federal Court; 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; Amy Lombardo for agreeing to be the Civics Education liaison and work with the National, the Idaho State Bar and the Attorneys for Civic Education on improving the knowledge of our citizens about the Constitution and the importance of the Judiciary in the United States' form of government; and Katie Ball for agreeing to be 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).

Finally, thank you to Susie Headlee who, as our Executive Director, makes all of what we do happen. Her counsel, direction and assistance this year was outstanding and the basis of all of our successes. And thanks to all of you for your help this year, we hope to see you at an FBA sponsored event in the near future.

I hope you were able to attend our holiday reception at the Crane Creek Country Club. As always, this was a very nice event, well attended by members and our new FBA students as well as our Judges -- thank you for participating and making this a great event.

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.

CLERK OF COURT LIBBY SMITH RECEIVES DIRECTOR'S AWARD



Elizabeth A. "Libby" Smith
Court Unit Executive, District of Idaho

District of Idaho Court Unit Executive Elizabeth "Libby" Smith has been named a 2016 Director's Award Recipient for Outstanding Leadership by the Administrative Office of the U. S. Court's Director James Duff. Each year Director James Duff presents the Director's Award for Outstanding Leadership to managerial-level employees who demonstrates exemplary stewardship of court resources, including advancing Court programs that make a nationwide impact and improve service to the public. This year he has selected Libby Smith, who exemplifies these qualities and is well-deserving of this recognition.

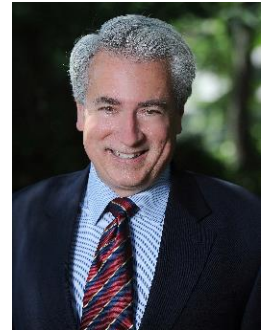
Since becoming Clerk in 2009, Ms. Smith has worked tirelessly for the District of Idaho's consolidated District and Bankruptcy Courts, one of only six consolidated clerk's offices in the country. As past Chair of the Judiciary's District Clerk's Advisory Group where she spearheaded strategic planning initiatives, which efforts culminated in national training programs for court unit executives. She is a past member of the Judiciary's Information Technology Advisory Council and the inaugural Bankruptcy Technology Working Group. She currently serves as the clerk representative to the Ninth Circuit Conference Executive Committee and ADR Committee and is the District Court Clerk Observer to the Judicial Council. Ms. Smith's innovations and creativity have provided many cost containment efforts including cross training of staff across the District. Ms. Smith has also served on many local outreach programs including the Idaho Legal History Society, where she serves on the Oral History Committee. Additionally, she is an Honorary Member of the Idaho Chapter of the Federal Bar Association where she works closely with the Pro Bono Program to ensure all Idahoans in federal court have access to justice.

Under Director Duff's leadership, the Administrative Office of the U.S. Courts operates within the judicial branch providing a broad range of legislative, legal, financial, technology,

management, administrative, and critical program support services to federal courts. Judicial Conference committees, with Court input, advise the Administrative Office as it develops the annual judiciary budget for approval by Congress and the President. A primary responsibility of the Administrative Office is to provide staff support and counsel to the Judicial Conference and its committees. We appreciate the work of Director Duff, Libby Smith, and others for their continued efforts on behalf of Idaho's Courts.

GOVERNMENT RELATIONS

The Election Aftermath by Bruce Moyer, Counsel for Government Relations and West Allen, Chair, Government Relations Committee



As the significant results of Election Day are absorbed by the nation, the wheels of Presidential transition turn and Donald Trump prepares to become the 45th President of the United States. For the first time since 2005, the same political party – the Republican Party – will control the White House, the House of Representatives and the Senate. That control extends in constitutionally-governed ways to appointments of the unelected third branch and most prominently, the Supreme Court.

Elections have far-reaching consequences, and the Presidential election results extinguished any remaining chance of President Obama's nominee – Merrick Garland – to fill the vacancy on the Supreme Court created by the death of Justice Antonin Scalia. Senate Republicans had stalled consideration of Garland's nomination since President Obama named him in March. While media speculation will mount in the coming weeks over the filling of the Scalia vacancy, a more immediate question over judicial

vacancies will involve what action the Senate will take, if any, on twenty pending district court nominations during the lame-duck session, which begins on November 14.

Also, Congressional decision-making on current funding of the federal government remains to be accomplished during the brief lame-duck session, which is expected to conclude by mid-December. Details on these developments are provided below.

The Federal Judiciary website reported the following vacancies as of November 14, 2016:

FEDERAL JUDICIAL VACANCIES

Jurisdiction	Vacancies	Nominees Pending
Supreme Court	1	1
Court of Appeals	13	7
District Courts	81	44
Intern'l Trade	2	2
Federal Claims	6	5
Totals	103	59

FBA: GIVING BACK

In early December, our Chapter and the UofI Student Chapter began a fundraising campaign with Boise Firefighters #149 during their annual Boise Fire Fighters' Toy Brigade. We are seeking donations of new toys, stuffed animals, dolls, and other age-appropriate gifts for ages newborn-16 years old, which will be given to local children who are either sick or homeless. Our hope is to bring each child an age and gender specific toy and a stuffed animal or doll (or gifts that older children would like). **The deadline for donating is December 14!**



The Firefighters Toy Brigade and the Idaho Chapter will also collect donations of toiletries and/or monetary contributions to assist families staying at the Ronald McDonald House and the Boise Rescue Mission. This is a really special program -- a week prior to Christmas, a couple of fire fighters will dress up as Santa and his Merry Elf – and then a team of fire fighters will drive around on a very special fire engine, horns tooting, and personally deliver the gifts to the kids and toiletries to families in need at the *Ronald McDonald House of Boise*, the *Children's Hospital at St. Luke's Downtown*, the *Children's Hospital at St. Alphonsus*, and the *Women and Children's Shelter at the Boise Rescue Mission*. The purpose of this event is to support sick or homeless children and their families in the city of Boise.

Collections are being received at the following (thank you, Ernie Hoidal for dropping off toys and games!):

- Parsons Behle & Latimer, 800 West Main Street, Suite 1300
- Manweiler Breen Ball & Davis, 355 West Myrtle Street
- Elam & Burke, 251 East Front Street, Suite 300
- University of Idaho College of Law, Law & Justice Center, Boise, 514 West Jefferson Street, 3rd Floor, Room 329

UNIVERSITY OF IDAHO COLLEGE OF LAW STUDENT CHAPTER

Congratulations to two of our U of I student chapter members! April Eggers and Dani Glass have been selected as members of the University of Idaho

College of Law team for the 2017 Dean Jerome Prince Memorial Evidence Competition, conducted each Spring at Brooklyn Law School in New York City, New York.

This competition draws over 30 law school teams to participate in an appellate moot court competition addressing an issue at the forefront of evidence law. The Competition provides law students from across the nation the opportunity to write and argue an appellate brief that addresses evidentiary issues in a contemporary context. Each year, distinguished jurists and judges join to preside over the competition. It took significant brief writing and preparations for oral argument to advance to the national competition.



April Eggers
 Danielle Glass
 University of Idaho College of Law, 3Ls

COLLABORATING WITH IDAHO WOMEN LAWYERS

On October 12, 2016, our Chapter collaborated with the Idaho Women Lawyers (IWL) by participating in the Circuit Training for Leaders Luncheon. The training provides a mechanism for identifying leadership and career opportunities available to attorneys in Idaho and to encourage participation and service on boards and committees. Participating in the program was our Executive Director Susie Headlee who spoke about leadership opportunities in the FBA both locally and nationally.

TRI-STATE FBA CONFERENCE



Magistrate Judge Paul Warner (Utah); Chief District Judge B. Lynn Winmill (Idaho); J. Walter Sinclair, President, Idaho Chapter; and Judge Michael Newman, President, FBA National

The Tri-State FBA Conference began twelve years ago by three Chief Judges (at that time), Dee Benson, Bill Downes, and Lynn Winmill. The organizational structure would be that each state would take turns hosting the conference, providing CLE programs with the bench and bar, and sharing ideas that affect western states, and providing opportunities for the members of the three FBA chapters to meet one another for networking opportunities and to grow our respective FBA memberships.

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

The Conference began with an interactive program on Proportionality, where panelists (Chief Judge Nancy Freudenthal (Wyoming), Chief Judge B. Lynn Winmill (Idaho), Magistrate Judge Evelyn Furse (Utah), and Steve Andersen, partner, Andersen Schwartzman Woodard and Brailsford (Idaho), drew audience participation by holding round-table discussions directly with attendees by walking into the audience. Discussions were held outlining the new discovery protocols, the importance of applying the rules and

the impact these changes have on the duty to preserve evidence.

The Bankruptcy panel was held with a group of distinguished jurists including 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 and a variety of issues of interest to both bankruptcy and non-bankruptcy practitioners, including the impact of U.S. Supreme Court decisions on the ability of a bankruptcy court to enter final judgments. Both 9th and 10th 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 Dee Benson (Utah), Teague Donahey, Of Counsel, Holland & Hart (Boise), and Dana Herberholz, shareholder, Parsons Behle & Latimer (Idaho).

Judge Candy Dale (Idaho) moderated a panel on Federal Land Management Conflicts, and issues surrounding the Malheur Refuse 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 case, which led to the Malheur Refuse Occupation and Standoff in Oregon. In addition to Judge Dale who moderated, was United States Attorney John Huber (Utah), Professor John Freemuth, Boise State University (Idaho), and Alan Schroeder, partner, Schroeder & Lezamiz Law Offices, (Idaho).

At the noon luncheon, FBA member Dan Williams was recognized as this year's Exemplary Award Recipient for the Idaho Chapter. FBA President Michael Newman was the keynote luncheon speaker where he provided an overview of his initiatives for the FBA including

the SOLACE program and civics education.

A very interesting program was held immediately following lunch where panelist highlighted past lawyer's behavior during trials that was not effective, that could be considered questionable, or on the verge of unethical. The panel of Judges including Senior Judges David Sam and Dale Kimball (both from Utah), provided input as to what *is* effective and persuasive, and Judge Kelly Rankin (Wyoming) and Matthew Lalli, partner, Snell & Wilmer, provided additional scenarios that are considered reasonable and sometimes delightful for a jury's consideration.

On Saturday morning, a fascinating criminal program was held by Judge Paul Warner (Utah), Rafael Gonzales, First Assistant, U.S. Attorney (Idaho), and Scott Wilson, 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 program ended with the ever-popular judges' panel, which is far and away the most highly attended portion of the program. We were delighted to host 10 federal judges at the panel, which was moderated by President J. Walter Sinclair. Topics ranged from best practices in federal court, judges' individual preferences and effective case management of each state.

Please mark your calendars for the Tri-State Conference, which will be held October 5-7, 2017 at Spring Creek Ranch in Jackson Hole, Wyoming.



FBA President Michael Newman's civics education initiative has taken root with the Idaho Chapter, with Amy Lombardo (shown below), of Parsons Behle & Latimer, spearheading our Chapter's participation and serving as the liaison with Idaho's ACE program.



Over the past few months ACE has been working to broaden its activities in order to further its mission. Two areas of focus going forward are encouraging new schools to participate in *We the People* and *Youth in Government* and hosting a CLE awareness/recruiting event in February, 2017. Regarding encouraging new school participation, ACE is attempting to do this by proactively contacting each of the target schools to recruit teacher-coaches for the program. The next phase will be to recruit lawyers in the area of the target school to partner with the teacher-coach in building the program.

The second area of focus is what ACE has termed its "I Heart Civics" event, as we will be holding it the day after Valentine's Day. ACE is encouraging attorneys to "share the love" for civics. The basic structure will be an hour and a half CLE where ACE introduces its programs: *Idaho Mock Trial*, *We the People*, and *Youth in Government*. That is, a representative from each program will do a short summary. Following each summary, a prior attorney-volunteer for the program will briefly say a few words about what it is like to volunteer for the program, how to prepare, what to do, etcetera. There will also be a time for questions and information about ACE in general.

In furthering President Newman's goals, our Chapter will participate in this very worthwhile event, which will be held Wednesday, February 15, 2017, from 3:30 p.m. to 5:30 p.m. at the Idaho Law

and Justice Learning Center. It is ACE's hope that by decreasing the "mystery" surrounding these programs, and providing readily accessible information on how to get involved, this event will increase volunteerism for these programs.

HOLIDAY "MIX & MINGLE" HELD AT CRANE CREEK COUNTRY CLUB



Almost every year our Chapter hosts a holiday "mix and mingle" as an opportunity to say thank you to our members for their participation, and as a way to meet other practitioners.

Additionally, for the first time, several of our guests were members of the newly-formed University of Idaho Student Chapter, who we paired up at the event to ensure they were introduced and made to feel welcome.

The party was held at Crane Creek Country Club in Boise where we were treated to the delightful sounds of Larry Buttel, with holiday music and music of Frank Sinatra.

Attending were federal and state court judges, members of the court staff and practitioners from across the Treasure Valley. Please find a photo gallery of the evening can be found on the next page.

FBA Executive Board

PRESIDENT, J. Walter Sinclair

EXECUTIVE DIRECTOR
Susie Headlee

PRESIDENT ELECT, John Zarian

VICE PRESIDENT, Rafael Gonzalez

TREASURER, Larry Prince

SECRETARY, Dana Herberholz

PAST PRESIDENT/NATIONAL
DELEGATE, Keely Duke

FEDERAL JUDGE LIAISONS
Judge N. Randy Smith
Judge Candy Wagahoff Dale

FBA Committee Members

CIVICS EDUCATION LIAISON
Amy Lombardo

CLE PROGRAMMING
Tyler Anderson, Chair
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

Mix & Mingle Holiday Party, Crane Creek Country Club



Chief District Judge B. Lynn Winmill, Paul Headlee, and John Runft



Ernie Hoidal, and Idaho Supreme Court Chief Justice Jim Jones
and Kelly Jones



Christine Meeuwsen, Andrew Masser,
and Maria Andrade



**Lorette and Judge Mikel H. Williams, and
Idaho Supreme Court Justice Roger Burdick and Rachel Burdick**



**Rafael and Janet Gonzalez, Sarah Seidl,
Paul Headlee, and Keely Duke**



**Susie Headlee, Executive Director,
and J. Walter Sinclair, President
Idaho Chapter, FBA**

2016 Idaho Chapter, FBA Members

**We are delighted to welcome our new members
Sam Angell, Brit Groom, Blake Hall, and Shanna Knight!**

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

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