



***2013 Idaho Judicial Conference
September 23-26, 2013***

CONFERENCE AGENDA

***“Challenges and Opportunities for the Idaho
Judiciary”***

***Red Lion Templin’s Hotel – Post Falls
414 E. First Avenue, Post Falls, ID***

Sunday, September 22

1:00 – 5:00

Optional Activity: The Route of the Hiawatha Bike Trail (Look Out Pass)

Information about booking this tour for you and your family and renting bikes and equipment can be found at <http://www.ridethehiawatha.com/area-information>

The trail is located 63 miles from Post Falls off of I-90, 5 miles from Lookout pass, about 12 miles from Wallace. It was called one of the most scenic stretches of railroad in the country. When the Milwaukee Railroad was operating, the trains traversed through 11 tunnels and over 9 high trestles, covering a 46 mile route that crossed the rugged Bitterroot Mountains between Idaho and Montana. In May, 1998, the first 13 miles of the trail were opened to the public for hikers and wilderness biking. This stretch of the trail between Roland and Pearson currently goes through 8 open tunnels and travels over 7 high trestles following the mountainous terrain along the Loop Creek drainage.

Monday, September 23

7:30 a.m.

REGISTRATION OPENS

7:30 - 8:30

CATERED BUFFET BREAKFAST

8:30

Welcome

Hon. Roger Burdick, Chief Justice, Idaho Supreme Court

8:45 – 10:15

Law, Justice and the Holocaust

- [PowerPoint Presentation](#)

Dr. William Meinecke, Historian, Education Division, United States Holocaust Memorial Museum

This seminar encourages discussion about the Holocaust through the interpretation of images from the 1930s and 1940s with special emphasis on the role played by law and non-Nazi judges in the destruction of democracy and the establishment of the Nazi German state. This seminar seeks to examine critically and objectively the pressures faced by German jurists under the Nazis and its implications. Judges were among those inside Germany who might have effectively challenged Hitler's authority, the legitimacy of the Nazi regime, and the hundreds of laws that restricted political freedoms and civil rights, and the guarantees of property and security. And yet the overwhelming majority did not. This provides a framework for a thoughtful and meaningful debate on the role of the judiciary in society and its responsibilities in the United States today: What is the responsibility of judges to the system as a whole? What have been the challenges to a fair and impartial administration of justice in the United States today? What can judges do right now to ensure the kinds of failures that led to the Holocaust do not happen here?

10:15 – 10:30

Break

10:30 – 12:00

Law, Justice and the Holocaust – Continued

12:00 – 1:00

CATERED BUFFET LUNCHEON IS SERVED

1:00 – 2:00

Panel Discussion on Holocaust Presentation: Judicial Independence in the U.S. Today

Panelists: *Dr. William Meinecke, Historian, Education Division; Hon. Joel Horton, Justice of the Idaho Supreme Court; Hon. Sergio Gutierrez, Chief Judge Of the Idaho Court of Appeals*

The panelists will discuss current challenges to judicial independence and to the 1st Amendment to the United States Constitution that sets forth that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

2:00 – 2:15

Break

Sodas and cookies

2:15 – 4:00

Domestic Violence: Understanding the Neurobiology of Trauma and the Characteristics of Rapists

David Lisak, PhD, Forensic Consultation & Training, Arizona

This workshop will serve as an introduction to the neurobiology of fear and the neurobiology of trauma – how trauma alters the brain, and in so doing alters experience and memory. Participants will learn about the evolutionary underpinnings of the human fear response, understand the basic neural pathways involved in the fear response, understand the neurobiological underpinnings of PTSD, and the impact of traumatic fear on memory formation. In addition, participants will learn about the false stereotypes and misconceptions about who rapists are and how rapist's behavior continues to hamper both the criminal justice system and institutional response to sexual violence. Participants will have a research-based understanding of rapist behavior and characteristics, as well as research on false rape reports.

4:00

Conference Adjourns for the Day

6:00

No-host Reception

Guests are invited and encouraged to participate

6:30

Awards Dinner

Guests are invited and encouraged to participate

Chief Justice Burdick will recognize special guests in attendance, as well as judges retiring or who have retired since the last judicial conference and judges appointed since the last judicial conference. Judge Juneal Kerrick, as a member of the Kramer/Granata Awards Committee, will present the George G. Granata, Jr. Award and the Douglas C. Kramer Award. The Kramer Award is presented annually to the person who best exemplifies excellence in judicial administration, by character and action. The Granata Award is presented annually to the trial judge who best exemplifies the professionalism evidenced by Judge Granata during his more than twenty years of judicial service.

Tuesday, September 24

- 6:30 – 7:30 **Optional Activity: Fun Run/Walk**
Meet in the hotel parking lot at 6:30 am for a 3K or 5K run/walk along Centennial Trail.
- 7:00 – 8:30 Judicial Performance Evaluation Committee and Idaho Judicial Council Meeting (w/breakfast) (Canvasback Room)
- 8:30 – 6:00 Tyler Technologies Hands-on Lab (Canada Goose Room)
The Idaho Supreme Court recently approved the Court Technology Committee recommendation to contract with Tyler Technologies to provide the new case management system, judicial workbench and e-filing for the Idaho Courts. In this hands-on lab, judges will be able to demo the new software.
- 7:30 – 8:15 **CATERED BUFFET BREAKFAST**
Informal discussion on legislative and budget priorities – Patti Tobias and Judge Barry Wood
- 8:30 – 10:00 **How to Maximize Your Brain Potential**
Spouses and Guests are welcome to attend

John J. Medina, PhD, Psychologist, Author of Brain Rules

In his long-running *New York Times* bestseller *Brain Rules*, John Medina will present on what scientists know for sure about how our brains work, and how that impacts our work. Some of the brain rules he will discuss are: How do we learn? What exactly do sleep and stress do to our brains? Why is multi-tasking a myth? Dr. Medina will offer transformative ideas for our daily lives on how to maximize our brain potential. In addition he will present on wellness steps to improve brain performance.
- 10:00 – 10:15 **Break**
- 10:15 – 11:30 **Statutory Construction: What did the Legislature Really Mean?**
- [2007 Willow Witching for Legislative Intent](#)
- [1959 – 2005 Statements of Intent](#)
- [2004 Senate Journal Reberger Appt.](#)
- [1972 Joint Rule 18a](#)
- [2013 JR 18 – SB 129](#)
- [2013 JR 21 – SB 131](#)
- [2013 Senate Journal H 248 State Based Exchange](#)
- [2013 IC 73-113 – SB 1189](#)

Senator Bart M. Davis, Senate Majority Leader, Judiciary & Rules Committee

Senator Davis will discuss judges' use of legislative history vs. legislative intent; US Supreme Court decisions on point; Idaho Case law on point; use of the legislative website to assist in statutory construction; statement of purpose in legislation and the fallacies of this aspect of legislation; Joint Rule 18 of the Idaho Legislature and what it means in understanding legislative intent; How the amendment process can be used to understand legislative intent and use of the Legislative Journal and minutes to understand legislative intent.
- 11:30 – 12:00 **CATERED BUFFET LUNCHEON IS SERVED**
- 12:00 – 1:15 **Idaho Judicial Council Report**
- [Judicial Council Presentation](#)
- [Model Code Study Committee Recommendation](#)
- Materials continued below...

- [Acknowledgements Study Committee for 2007 ABA Model Code](#)
- [IJC General Rules of Procedure](#)
- [ISC Amended Order re Judicial Performance Evaluation Committee](#)

Hon. Roger Burdick, Chief Justice Idaho Supreme Court; **Hon. Thomas Ryan**, 3rd District Judge; **Hon. Thomas Borresen**, 5th District, Jerome County Magistrate Judge; **Jim Carlson**, Executive Director for the Idaho Judicial Council; **Members of the Idaho Judicial Council**

The panel will discuss the number and type of complaints received by the Idaho Judicial Council over the past year, as well as the actions taken by the Council. The panel will also present on ethics opinions issued in the past year and any changes to the judicial canons. The council will report on the status of performance evaluations and future plans.

1:15 – 1:30

Break

1:30 – 2:45

Judges' Technology Panel

Moderator: *Kevin Iwersen*, Chief Information Officer, Idaho Supreme Court; **Panelists:** *Hon. Molly Huskey*, 3rd District Judge; *Hon. David Day*, Magistrate Judge, Ada County; **Tyler Technologies**

The panel will introduce, discuss and demonstrate aspects of the Idaho Judiciary's new case management system to include the judicial workbench tool, calendaring, judge work queues, e-filing and other features relevant to judges. Hon Molly Huskey and Hon David Day will provide insight into how this new solution will enable judges to efficiently and effectively access and manage critical information inside the courtroom and transform court proceedings as we transition to an electronic court record.

2:45 – 3:00

Break

Soda will be served

3:00 – 4:30

Criminal Law Update

- [Criminal Law Update Materials](#)

Tom McCabe, Esq., Westberg, McCabe & Collins, Chtd., **Ken Jorgensen, Esq.**, Office of the Attorney General

The presenters will provide a synopsis of criminal decisions for the appellate courts of Idaho and will discuss the more significant criminal decisions of the past year.

4:30

District Judges and Magistrate Judges Association Meetings

Magistrate Judges: Merganser Room

District Judges: Upper Founders

4:30 – 6:00

Tyler Technologies Hands-on Lab (Canada Goose Room)

6:00

Judicial Performance Evaluation Focus Group and Idaho Judicial Council (diner included) (Canvasback Room)

6:00

Optional Activity: River Queen Boat Cruise on Spokane River (no-host)

Those who register and pay a small fee of \$15/person will embark on a beautiful 2 hour cruise on the Spokane River via Templin's River Queen. Dinner is not included.

Wednesday, September 25

The Flu Shot Clinic will be open from 7:30 a.m. – 1:00 p.m. today next to the registration table.

6:30 – 8:30 Optional WestLaw/West KM Training (Osprey Room)

7:30 - 8:30 **CATERED BUFFET BREAKFAST**

7:30 MSAT Committee Meeting (Canvasback Room)

8:30 – 10:00 **Evidence – Part III – Admissibility of Exhibits, Demonstrative Evidence and Illustrative Aids, and Tests, Analysis and Experiments**

- [Trial Evidence for Judges – Selected Problems](#)
- [Trial Evidence For Judges: Exhibits, Demonstrative Evidence and Illustrative Aids, Tests, Analyses and Experiments](#)

Merlyn Clark, Esq and Professor D. Craig Lewis

The presenters will discuss recent evidentiary decisions by the appellate courts of Idaho. The presenters will review the Idaho Rules of Evidence chapter related to Admissibility of Exhibits, Demonstrative Evidence and Illustrative Aids, and Tests, Analysis and Experiments. Evidence scenarios with a question and answer format will be included. Mr. Clark and Professor Lewis will engage judges in a discussion regarding evidentiary issues they have faced in the past year.

10:00 – 10:15 **Break**

10:15 – 11:45 **Evidence - Continued**

11:45 – 12:45 **CATERED BUFFET LUNCHEON IS SERVED**

12:45 - 2:00 **Advancing Justice**

- [Effective Practices in Idaho](#)
- [Proposal for Developing District Caseflow Management Plans](#)
- [Statewide Caseflow Management Plan \(Draft Revised 9/9/13\)](#)
- [Time Standard Modification and Implementation Plan](#)

Hon. Barry Wood, Senior Judge, Idaho Supreme Court; Hon. Stephen Dunn, 6th District Judge; Hon. Gregory Moeller, 7th District Judge; Hon. Barbara Buchanan, 1st District Judge, Hon. Rick Carnaroli, Bannock County Magistrate Judge

Senior Judge Barry Wood will provide a brief update on the efforts of the Advancing Justice Committee over the past year as well as a report on the Committee's future goals and objectives. Judge Stephen Dunn will present the draft statewide caseflow management plan under development and describe upcoming plans to develop caseflow management plans in each judicial district. Judge Buchanan and Judge Carnaroli will offer ideas for effective case management practices in the criminal area. Judge Greg Moeller will report on upcoming plans of the newly formed Advancing Justice Rules Subcommittee.

2:00 – 2:15 **Break**

Sodas and cookies

2:15 – 4:00

Break Out Sessions
District Judges – Canada Goose/Blue Heron Room
Magistrate Judges – Merganser/Wigeon Room

District Judge Sessions	Magistrate Judge Sessions
<p><u>Topics:</u></p> <ul style="list-style-type: none">• Felony Sentencing Committee Developments• CSG Reports on Justice Reinvestment Initiative• IDOC Update<ul style="list-style-type: none">• Trio of Options – offender placement• Status of PSI's• Assessments/Treatment <p>- IDOC Brief Handout - Recidivism Handout</p>	<p><u>Topics:</u></p> <ul style="list-style-type: none">• Appointment of Counsel for Indigent Defendants – Judge Mick Hodges and Senior Judge John Varin• Mediation in Criminal Cases – Judge David Kress and Judge Tyler Smith• Tips for Handling Domestic Violence Cases – Judge Penny Friedlander and Judge Michelle Mallard• Techniques for Reducing Conflict in Family Law Cases – Judge Russell Comstock

5:30 – 6:30

1st & 2nd District HUB Meeting (Idaho Department of Health and Welfare) At the request of the 1st District TCA Office, judges from the 1st and 2nd district, who hear CPA cases, are invited to attend this meeting with HUB representatives. (Blue Heron/Canada Goose)

4:30 – 6:30

Optional WestLaw/West KM Training (Osprey Room)

5:30 – 8:30

Felony Sentencing Committee Meeting with Justice Reinvestment Initiative Focus Group (includes dinner) (Chief Seltice Room)
Justice Joel Horton presiding

Thursday, September 26

- 7:30 - 8:30 a.m. **CATERED BUFFET BREAKFAST**
- 7:30 – 8:30 **Juvenile Justice Advisory Team Regarding Office of Performance Evaluation Study (OPE). (Canvasback Room)**
- The JJAT will meet with Maureen Brewer from OPE regarding the evaluation of community-based alternatives and re-entry programs that may reduce the confinement rates of juveniles in Idaho.
- 8:30- 9:45 **Constructing a Comprehensive Mental Health and Substance Abuse Treatment System: Strategies for Planning, Leadership, Finance, and Service Development**
- [11th Judicial Circuit CMHP Co-op Agreement](#)
 - [Conference of Chief Justices JLI Resolution 2006](#)
 - [Desmarais et al IAFMHS](#)
 - [Florida Supreme Court Ethics Opinion 1999](#)
 - [FMHI Miami-Dade Heavy Users Data \(handout\)](#)
 - [FMHI Miami-Dade Heavy Users Data \(powerpoint\)](#)
 - [Judges Guide to Mental Illnesses in the Courtroom](#)
 - [Leifman –Sample MOU and AO](#)
 - [Mental Health CMHP Program Description](#)
 - [Mental Health Online Resources](#)
 - [Mental Health Presentation Objectives](#)
- Hon. Steven Leifman**, Associate Administrative Judge; Miami-Dade County Court, Miami, Florida; Chair, Task Force on Substance Abuse and Mental Health Issues in the Court; Supreme Court of Florida
- Participants will learn how and why the “deinstitutionalization: of psychiatric facilities led to the criminalization of mental illness, how the justice system is responding and new and effective strategies that are being developed and employed to transform the mental health system. Judge Liefman will also provide information on how to help recognize mentally ill litigants in the courtroom.
- 9:45 – 10:00 **Break**
- 10:00 – 11:15 **U.S. Supreme Court Update**
- [Handout](#)
- Professor Neil S. Siegel**, Professor of Law and Political Science, Duke University School of Law, Durham, North Carolina
- Professor Siegel will present the number of cases decided by the United States Supreme Court, the various voting blocs by the justices, the trends of the court and an analysis of the most recent decisions of the United States Supreme Court.
- 11:15 – 11:30 **Break**
- 11:30 – 12:30 **U.S. Supreme Court Update – Continued**

12:30 – 1:00 **BOXED LUNCHES ARE SERVED**

1:00 – 2:15 **U.S. Supreme Court Update – Continued**

2:15 **Judicial Conference Adjourns**

2:15 Registration for Mental Health Court Conference (**Upper Founders Rooms**)

2:30 – 5:00 ***Mental Health Court Conference (for Mental Health Court Teams) (Upper Founders Rooms)***

2:30 – 6:00 CFCC Committee Meeting (Canada Goose Room)

Friday, September 27

8:30 – 2:15 **Mental Health Court Conference (Merganser/Redhead/Wigeon)**

8:30 – 2:00 CFCC Committee Meeting (Canada Goose Room)