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THE FIRST WOMEN OF IDAHO'S BENCH AND BAR

Five years after Idaho was admitted to the Union in 1890, Helen Young was admitted to the Idaho State Bar even though she was not eligible to vote.² Eleven years later, Ola Johnesse was appointed as Clerk of the Idaho Supreme Court.³ Both were the first women to so serve. Despite these early achievements, it took decades before women would meaningfully enter the legal profession in Idaho and make their marks within the bench and bar.⁴ The stories of the first women in Idaho law have been largely unrecognized and, unfortunately, lost with the passage of time.

Opening the Bar Door

Helen Young—First Woman Admitted to Idaho Bar

Born in Lansing, Michigan, Helen Young moved with her family, following her father's death and her mother's remarriage, to the north Idaho mining town of Osburn. Her stepfather, Daniel Waldron, was a lawyer who had come to Osburn to practice in its booming mining economy. It was in Waldron's office that Young first began reading and studying the law as early as 1885.⁵ Two years later, she married Orville R.



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2. Debora K. Kristensen "1885–1975: The First 50 Women in Idaho Law" 1–4 (2005) (cited herein as "First 50").

3. Biography of Ola Johnesse on display at Idaho Supreme Court (on file with author).

4. It would take another eighty years—until 1975—before a total of fifty women had been admitted to Idaho's bar. First 50, *supra* note 1.

5. First 50, *supra* note 1 at 1.

Young, “a prominent mining man and owner of the Nellie mine.”⁶ After her marriage, Young began teaching in the public schools of Shoshone County.⁷

Young’s first contact with the law, and with many prominent north Idaho attorneys, came in a collection action brought against her husband. After the bank prevailed against Orville, it sought to collect its judgment by attaching and selling Helen Young’s separate property, consisting of two lode-mining claims in Shoshone County. She hired Weldon Brinton Heyburn to represent her in a quiet title action challenging the sale. This was likely done with the assistance of her stepfather, Waldron. Heyburn was a well-known and widely admired lawyer in north Idaho who had served as chair of the standing committee on the judiciary at Idaho’s 1899 Constitutional Convention and later became a United States senator (1903–1912). Heyburn argued that the claims had been deeded as a gift to Helen Young and were, therefore, her separate property “free from the control of her husband.”⁸ Two and a half years after the sale, in February 1895, she prevailed in her action before the Idaho Supreme Court.⁹

Young’s work with Heyburn over the course of her two-and-a-half-year legal battle likely had a large impact on them both. Just eight months after her win at the Idaho Supreme Court, Heyburn and W. W. Woods¹⁰—also a delegate to the Idaho Constitutional Convention, and later one of Idaho’s first district court judges—sponsored Young in her application for admission to practice before the Idaho Supreme Court, attesting:

[T]he applicant has been engaged in the study of law for a period of more than two years at Osburn...under the general direction of Daniel E. Waldron, Father of the applicant and an Attorney At Law of good standing.

Young submitted her handwritten application to the Idaho Supreme Court on October 14, 1895:

6. *Woman Attorney: Helen S. Young Admitted to Practice in This State*, THE IDAHO DAILY STATESMAN, Nov. 2, 1895, at 3. *See also* First 50, *supra* note 1 at 1.

7. First 50, *supra* note 1 at 1.

8. First 50, *supra* note 1 at 1.

9. *See* *Young v. First Nat’l Bank of Hailey*, 4 Idaho 323 (1895).

10. Woods knew Young through his wife, Melvina “Mell” Woods, an active suffragist and early officer in Idaho’s statewide woman’s suffrage movement. For more on Young’s role in securing the right to vote in Idaho, *see* Debora Kristensen Grasham, *Early Women Lawyers Who Helped Secure the Right to Vote in Idaho*, THE ADVOCATE, Nov./Dec. 2020, at 16–20.

Osburn, Idaho.

Oct. 14, 1895.

Mr. Sol Hasbrouck
Clerk of the Supreme Court,
Boise, Idaho.

Dear Sir:—

I hand you herewith my
application for examination at the Liveston
term on October 26th. Please file the same
and oblige

Yours respectfully,

Helen L. Young.

At the time of Young's application, Idaho statutes limited the admission of attorneys in Idaho to "white males." Nonetheless, on October 26, 1895, the Idaho Supreme Court granted Young's application, and she became the first woman admitted to the Idaho bar.¹¹

11. First 50, *supra* note 1 at 2. In an interview after Young's admission, Chief Justice Morgan discussed his thoughts about why Section 3900 of the Idaho Statutes did not bar Young's admission. Section 3900, titled "who may be admitted as attorneys" provided "Any white male citizen is entitled to admission as attorney and counsel in all the courts of the territory." The Chief Justice pointed to section 13, article 5 of the Idaho Constitution, which provides that "the legislature has no power to deprive the judicial department of any power or jurisdiction which rightfully pertains to it as a co-ordinate department of the government" and his conclusion that "the admission and control of attorneys were within the purview of this section." Then, candidly, "[w]hen asked if the same interpretation of the statute which had been given in favor of women would apply as to the admission of negroes, the chief justice replied that he thought it would." The newspaper aptly noted: "If all the women that are admitted to the bar of this state are as bright and apt as Helen Young the old practitioners may well be alarmed and look to their laurels." *Woman Attorney: Helen S. Young Admitted to Practice in This State*, THE IDAHO DAILY STATESMAN, Nov. 2, 1895, at 3.

Young's admission to the Idaho bar was remarkable for many reasons, not the least of which was the fact that Idaho women did not have the right to vote at the time. But Young was working to change that. She had long been an active member of the woman's suffrage movement in Idaho prior to her admission to the bar, and such efforts continued in full force after her admission. In fact, given her prominence as a "lady lawyer," Young was recruited by some of the national woman's suffrage leaders to "take charge of north Idaho."¹²

Eventually Idaho voters passed the Woman's Suffrage Amendment to the Idaho Constitution, in November 1896, making Idaho only the fourth state to grant women the right to vote. The vote was challenged but ultimately upheld by a unanimous Idaho Supreme Court—composed of the same three justices who had admitted Young the year before.

Young's joy at securing the right to vote, and Idaho Senator William Borah's role in successfully defending the amendment at the Idaho Supreme Court, is revealed in her letter to Borah dated December 21, 1896 (her stationery identifies her as "Attorney and Counselor at Law"):

MRS. HELEN L. YOUNG,
ATTORNEY AND COUNSELOR AT LAW.

BOISE, IDAHO, Dec. 21, 1896.

Mr. W. E. Borah
Boise Idaho.

Dear Mr. Borah,

The Equal Suffrage Clubs of Shoshone County in general, and the Wallace Club in particular, wish me to thank you most cordially for your able and successful defense of our amendment before the Supreme Court. Wishing you and yours all the joys of the season, and with hearty congratulations, I am,

Yours most sincerely,
Helen L. Young.

P.S. Wallace, E. A.
Organizer for Shoshone Co.

12. First 50, *supra* note 1 at 2.

After admission to the bar, Young continued to work as a public school teacher and eventually entered politics, successfully running for county superintendent of public instruction for Shoshone County in 1900. Thereafter Young was introduced to, and began studying, Christian Science and eventually moved to New York City to join her brother and continue her studying—leaving Orville behind. Young died in New York City in April 1951.

Eloisa “Ola” Johnesse—First Woman Clerk of the Idaho Supreme Court

Women have participated in Idaho’s state courts almost from the beginning. But it has taken many generations to have meaningful representation of women on the state court bench.

Bessie Elosia (“Ola”) Johnesse was born on January 3, 1873, in Montrose, Iowa—a small town along the banks of the Mississippi. She was the sixth of eight children born to William M. Johnesse and Adaline D. Johnson. Her father was a ship carpenter and contractor who built Mississippi River steamboats, and her mother was a native of West Virginia whose parents had come to Iowa in the early 1840s.



Johnesse’s mother died in childbirth in 1879, leaving Ola the youngest of the surviving Johnesse children. She grew up and went to public school in Iowa. Johnesse’s brother Frank E. Johnesse was a mining engineer who began working in the mines of Idaho in 1893—from the Wood River valley to Silver City and Elk City in northern Idaho—and quickly made a name for himself. Frank settled in Boise in 1902 as field engineer and general manager of the Metal & General Development Company and was widely respected in the community.¹³

Johnesse and her sister Grace followed their brother west and were living together in Idaho City in 1900. At the time, Johnesse worked as a secretary and recorder. Like her brother Frank, Johnesse was involved in community and political organizations, including the Woman’s Republican League Club of Idaho, which reportedly “did much for the success of the Republican Party in the last campaign [in 1900].”¹⁴

13. 2 JAMES H. HAWLEY, HISTORY OF IDAHO 946 (1920).

14. Letter from Mrs. Herbert W. Dunton to Judges of Idaho Supreme Court (Jan. 12, 1902), found at University of Idaho Library, Special Collections and archives, James Franklin Ailshie papers, 1902–1931 <http://archiveswest.orbiscascade.org/ark:/80444/xv97816> at 3.

By 1902 Johnesse was working as a stenographer for John L. Day & Co., a wholesale fruit-and-produce company at 812 W. State Street in Boise, Idaho.¹⁵ While in Boise, and with the help and influence of her brother Frank, Johnesse became known to some of the leading attorneys of the day, including William Borah and James Ailshie. Apparently her stenographic skills impressed many of these leaders of the bar, because they endorsed Johnesse's January 8, 1902, application for the position of stenographer with the Idaho Supreme Court.¹⁶

Boise, Idaho. Jan. 8th, 1903.
Boise, Idaho. Jan. 8th, 1903.
Honorable Judges of the Supreme Court,
Boise, Idaho.
Gentlemen:-
Please consider me an applicant for the position of stenographer for the Supreme Court. In addition to the enclosed indorsement, I refer you to the following named gentlemen of Boise for whom I have worked: M. B. Gwinn, N. M. Ruick, G. R. Hitt, Wm. McKinley, John L. Day, C. R. Shaw and E. W. Jones.
Trusting my application will be favorably considered, I am,
Very respectfully,
(Miss) Ola Johnesse.
Frank Martin
J. H. [unclear]
J. W. Houston
F. V. Linker

15. See Biography of Ola Johnesse, *supra* note 2.

16. See Ailshie papers, *supra* note 13 at 2 ("We the undersigned, respectfully indorse Miss Ola Johnesse for the position of stenographer for

Boise, Idaho, Jan. 8th, 1903.

Honorable Judges of the Supreme Court,
Boise, Idaho.

Gentlemen:-

We the undersigned, respectfully indorse Miss Ola Johnesse for the position of stenographer for the Supreme Court, and recommend her as being thoroughly competent to discharge the duties thereof.

Signed:

F. R. Gooding
W. E. Borah
H. W. Dunton
E. J. Frawley
Frank Martin
J. H. Richards
J. W. Huston
F. V. Tinker

Johnesse became a stenographer with the Idaho Supreme Court in 1902, working under the direction of Clerk of the Court Solomon Hasbrouck (the first Clerk of the Idaho Supreme Court after statehood). Her position clearly made her a bit of a celebrity, and her comings and goings were the subject of frequent reports in the *Society* pages.¹⁷

In the early 1900s, with only one woman, the aforementioned Helen Young, admitted to practice law in Idaho, it was rare for any woman to appear before the Idaho Supreme Court. But in May 1904, the prominent Montana lawyer Ella Knowles Haskell, Montana's first female lawyer, was to appear before the Idaho Supreme Court as counsel in *Monida & Yellowstone Stage Company v. Sherman*. Her impending arrival sent the Supreme Court and its staff into a flurry of concern about the proper etiquette for such an occasion.

the Supreme Court, and recommend her as being thoroughly competent to discharge the duties thereof. Signed: F. R. Gooding [Governor of Idaho and U.S. Senator from Idaho], W. E. Borah [U.S. Senator from Idaho], H. W. Dunton [Boise lawyer], E. J. Frawley [Boise lawyer], Frank Martin [Idaho Attorney General], J. H. Richards [district judge and state legislator], J. W. Huston [Boise mayor], and F. V. Tinker [Boise lawyer]").

17. See e.g., *Society*, THE IDAHO DAILY STATESMAN, July 4, 1906, at 3 ("Miss Ola Johnesse, stenographer in the Idaho Supreme Court, has gone to Idaho City to celebrate the Fourth with friends and relatives").

Clerk of Court Hasbrouck was tasked with receiving Haskell. According to the *Idaho Daily Statesman*, “Miss Johnesse, the vivacious court stenographer, insists that Mr. Hasbrouck owes it to his associates and the state of Idaho to make the appearance of the lady from Butte a memorable occurrence in the history of the tribunal.”¹⁸ Hasbrouck escorted Haskell from her hotel to the court and presented her to the justices, who, at the urging of Justice James F. Ailshie, had suggested adding flowers to the courtroom in her honor and urged the other members of the court to “spruce up” for the occasion.¹⁹ It is presumed that all went well, since there are no further reports of the proceedings. It would be twenty-five years before an Idaho woman lawyer, Adelyne Changers, would argue and win a case before the Idaho Supreme Court in 1929.²⁰

Two years after Montana’s Ella Haskell broke the glass ceiling at the Idaho Supreme Court, Ola Johnesse was elevated to become Clerk of the Idaho Supreme Court following the death of Solomon Hasbrouck. However, she was handed the position on a temporary basis only, as the justices announced that they would undertake a search for a permanent clerk.²¹

18. *Problems Face Supreme Court*, THE IDAHO DAILY STATESMAN, May 25, 1904, at 4.

19. *Montana Lawyer First Female Before Idaho Supreme Court*, IDAHO LEGAL HISTORY SOCIETY NEWSLETTER, Winter 2013, at 1.

20. *Estate of Fisher*, 47 Idaho 668 (1929). Ms. Changers was the ninth woman admitted to the bar in Idaho on Apr. 11, 1927, and she practiced in Pocatello, Idaho. First 50, *supra* note 1 at 16.

21. Biography of Ola Johnesse, *supra* note 2.

BOISE IDAHO, SEPTEMBER 10th 1906.

Supreme Court 3^{as} SPECIAL SESSION.
State of Idaho 3

Court met pursuant to an
order of the justices:

Present:
Hon. James F. Aleslie Justice.
Hon. Isaac W. Sullivan Justice.

And the officers of the court when the following
proceedings were had, to wit:

The office of Clerk of the Supreme Court having
become vacant by reason of the death of
Hon. Sol Hasbrouck, it is ordered that Miss
Ola Johnesse, be and she is hereby appointed
Clerk of the Supreme Court, to hold said office
until the further order of said court.

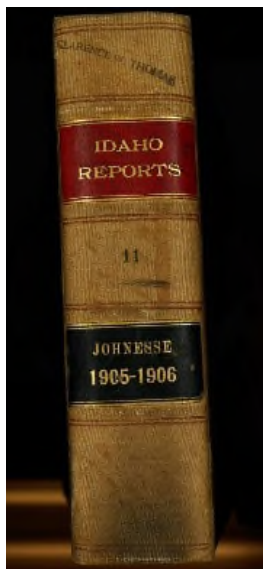
Ordered, that said special term do now
adjourn sine die.

Chas. O. Stockslager
Chief Justice.

September 10, 1906, handwritten Order of Idaho Supreme Court appointing Ola Johnesse as Clerk of the Court "to hold said office until the further order of said court" signed by Charles O. Stockslager, Chief Justice. Original order is in a bound docket book at the Idaho Supreme Court. Copy provided by current Clerk of the Idaho Supreme Court, Melanie Gagnepain.

One of the important duties of the Clerk of Court at the time was to compile all of the cases heard by the justices within the last term and submit them to Bancroft-Whitney in San Francisco for publication as the official report of decisions from the court. While Clerk Hasbrouck's name appears on volumes 1-10 of the Idaho Reports, Johnesse's name appears on volume 11—"[o]ne of the few law books to bear the name of lady."²²

22. Idaho Law Reports Bear Lady's Name, THE IDAHO DAILY STATESMAN, Feb. 24, 1907, at 5.



The justices ultimately completed their search for a permanent clerk and settled on Boise attorney Irvin W. Hart.²³ Johnesse resigned her position, and on April 15, 1907, Hart was sworn in.²⁴ Johnesse returned to being a stenographer with the court and an active member of her community through participating in various women's clubs.

Below: Supreme Court in session circa 1908. The clerk is Irvin W. Hart. On the bench are Justice Isaak N. Sullivan, Chief Justice James F. Ailshie, and Justice George H. Stewart. The women are Misses Millsap, Ola Johnesse, and Carpenter. At the right is Bailiff Kimery. Idaho State Historical Society, Image ID # 1972-2-26



23. Biography of Ola Johnesse, *supra* note 2.

24. I PROCEEDINGS OF THE IDAHO STATE BAR 150–151 (1925). In 1927, another woman would temporarily serve as Clerk of the Idaho Supreme Court when the previous Clerk passed away. Edith J. Hearne served as Clerk of the Supreme Court from 1927 to 1928. She, like Ola, worked at the court as a stenographer before being asked to temporarily serve as Clerk.

In 1909, Johnesse married attorney Fred V. Tinker. At the time, Tinker was working as the receiver of the Boise land office, having been appointed by President Theodore Roosevelt.²⁵ The wedding took place at the home of Johnesse's brother Frank and garnered substantial attention in the *Society* page:

A wedding of interest to many friends throughout the state was the marriage of Miss Ola E. Johnesse and Mr. Fred V. Tinker, both of whom enjoy a large acquaintance through their connection with the public life of Idaho.

...

Miss Johnesse, who retires from public life to assume domestic relations, has been chief stenographer in the state supreme court for six years and the presence of the judges and their wives and the entire office force at the wedding attested the esteem of those with whom she has been most intimately associated.²⁶

After the wedding, "Mr. and Mrs. Tinker went to housekeeping at once in their new home on Fourth and Resseguie [in Boise]."²⁷

Johnesse and Tinker had two children: a daughter, Elinor V. Tinker, born in 1910, and a son, Frederick Johnesse Tinker, born in 1911. The family continued to live in Boise for many years, and Johnesse remained active in both community clubs and organizations and in politics.²⁸

Johnesse died in 1952 at the age of 78 in Seattle, Washington.

25. District land offices with registers and receivers were created to take applications and review land entries for the Department of Interior under the Homestead Act.

26. *Society*, THE IDAHO DAILY STATESMAN, June 20, 1909, at 8.

27. *Id.* at 5.

28. See e.g., *Society*, THE IDAHO DAILY STATESMAN, May 4, 1919, at 12; *A Few Sherman Supporters*, THE IDAHO DAILY STATESMAN, Apr. 1, 1921, at 9.

The Groundbreaking Tradition Continues

Mary Schmitt—First Woman to Serve as Law Clerk for the Idaho Supreme Court

In 1941, the Idaho Supreme Court was composed of five men—Chief Justice Budge and Justices Ailshie, Givens, Holden, and Morgan. It would take another fifty-one years before a woman would sit on the Court. Nonetheless, in 1941 an Idaho woman started tapping on the glass ceiling of the Court when Mary Elizabeth Schmitt was hired to serve as Justice Raymond Givens's law clerk.



Born in 1914 in Madison, Nebraska, Mary Schmitt moved when she was a child to Gooding, Idaho. After graduating from Gooding High School in 1931, Schmitt attended Gooding College and worked for several years as a stenographer in the Gooding law firm of Bissell & Bird. It was during this time that Schmitt became interested in the practice of law and “decided it was the thing for her.”²⁹

To pursue her goal of becoming a lawyer, Schmitt transferred to the University of Idaho. After graduating with a degree in 1938, she was immediately admitted to the University of Idaho College of Law. Schmitt recalled that she “had a hard time convincing the dean of the school that she was in earnest about becoming an attorney.”³⁰ After spending the summer of 1939 at the University of Colorado, Schmitt graduated in 1940 with a bachelor of laws degree, only the second woman to do so.³¹ On July 27, 1940, she was admitted to the Idaho bar, making her the thirteenth woman admitted in Idaho.³²

Schmitt began her forty-three-year legal career in Rexburg, Idaho, but after eight months moved to Boise to accept the position of law clerk for Idaho Supreme Court Justice Raymond L. Givens.³³ In so doing, Schmitt became the

29. First 50, *supra* note 1 at 24.

30. *Gooding Is Home of First Woman Lawyer in Idaho*, THE TWIN FALLS NEWS, Sept. 14, 1940, at 6.

31. Mary Shelton was the first woman to graduate from the University of Idaho College of Law, in 1923, but she was never admitted to the Idaho bar. See First 50, *supra* note 1 at 27; *Obituaries: Mary Schmitt*, THE TIMES NEWS, Mar. 12, 1984, at B2.

32. First 50, *supra* note 1 at 24.

33. First 50, *supra* note 1 at 24. See also *Woman Lawyer Named as Clerk*, THE TWIN FALLS NEWS, Aug. 31, 1941, at 8; *Mary Schmitt Takes Law Clerk Position*, THE IDAHO DAILY STATESMAN, Sept. 16, 1941, at 2.

first woman to clerk at the Idaho Supreme Court. Her tenure at the court seems to have gone well; the only news that we have of her time at the court is a report from August 1942 stating that "Miss Mary Schmitt and her brother, Jim Schmitt, are spending two weeks with relatives and friends in Los Angeles. Miss Schmitt has a month's vacation from the office of Judge Raymond Givens."³⁴

When her clerkship was complete, Schmitt moved to Canyon County and worked as an associate in the firm of Dunlap & Dunlap³⁵ before opening her own law office in Nampa. Schmitt practiced law for eleven years in Nampa and Caldwell, serving as Canyon County deputy prosecutor for five and a half years. She also was active in many community organizations, served as secretary of the Canyon County Republican Central Committee, and was President of the Seventh Judicial District Bar Association while being the only woman member.³⁶

In 1956, Schmitt returned to Gooding and worked as a court reporter for Judge D. H. Sutphen and Judge Charles Scoggin for a total of eighteen years. She then opened a law office with Scoggin in Gooding, where she worked until just prior to her death in 1984.

First Women to Serve as Judges in Idaho State Court

The distinction of being the first woman to serve as a state court judge in Idaho goes to Margaret Geisler, a non-lawyer who served as a probate judge for Camas County in 1938. Geisler ran in a contested election in 1938 as a Republican against the incumbent Louis Walton, a Democrat.³⁷

34. *Gooding*, THE TIMES-NEWS, Aug. 11, 1942, at 3.

35. An article announcing Schmitt's decision to join the Caldwell firm Dunlap & Dunlap reads: "Women truck drivers, janitors and railroad yard workers have become so common these days as to pass almost unnoticed, but a lady lawyer still can be the object of a startled glance, especially if she combines the graciousness of a well-paid receptionist with the intelligence of a learned attorney and fills the bare spots with a wonderful sense of humor. Miss Mary Schmitt, new associate in the law offices of Dunlap and Dunlap here, is just such a person." *Lady Lawyer Enters Caldwell Firm*, THE IDAHO DAILY STATESMAN, Feb. 25, 1945, at 28.

36. *Nampa Attorney Heads Altrusans: Mary Schmitt Tells About Law Career*, THE IDAHO DAILY STATESMAN, Mar. 20, 1955, at 6. The article describes Schmitt: "Mary, who is about as big as a minute, and who has much of the same shy charm as the African violets decorating her office when you meet her casually, is in reality a pint-sized dynamo. The fact that she was the 13th woman admitted to the Idaho bar has brought no bad luck to this miniature whirling dervish." *Id.*

37. *Camas Entries for Primaries*, THE TWIN FALLS NEWS, July 20, 1938, at 8.

The first Idaho woman attorney to serve as a judge was Mary Smith Oldham, who was justice of the peace for Madison County in 1945.

Oldham was the tenth woman admitted to practice law in Idaho, on July 25, 1935, at the age of twenty-one. Her admission was announced in a newspaper story with the headline “Pretty Mary Smith Becomes a Member of the Idaho State Bar”:

Mary Smith, the winsome lass from Rexburg, Thursday took the oath as a member of the state bar, before Justice Raymond L. Givens....The members and attaches of the court...kept their minds on the details of the ceremony with a certain degree of difficulty. But in spite of the extremely attractive appearance of the new member all the forms were complied with.³⁸



After being admitted, Oldham returned to Rexburg, Idaho, and worked with many lawyers until she joined the practice of W. Lloyd Adams. Initially, Oldham did legal work and all of the secretarial work for both of them. Oldham said she did not mind and later reminisced that working with Adams was a pleasure and a challenge and said that she learned much.³⁹ A young woman working in Rexburg in the 1930s and 1940s attracted a lot of attention, and Oldham found that some of her first clients came to her “mainly out of curiosity.”⁴⁰ But she soon won over many and took significant responsibility for cases, including trial work.

In 1939, Oldham was admitted to practice before the United States Supreme Court—thereby becoming the second Idaho woman to gain such admission (M. Pearl McCall was the first, in 1924).⁴¹ Over the course of her sixty-plus-year career, Oldham served as Rexburg City Attorney for forty years, as Sugar City Attorney for thirty-six years, and as legal counsel for the Fremont-Madison Irrigation District. Her work for the Irrigation District caused her to become involved in lobbying in Washington, D.C., for the Teton Dam and, after it was built, to be very active in dealing with the many issues that arose when the dam failed in 1976.

In 1945, Oldham was elected to serve as justice of the peace for Madison County, after running on both the Republican and Democratic ticket.⁴² As justice of the peace, Oldham was asked to administer the oath of office to

38. First 50, *supra* note 1 at 18.

39. First 50, *supra* note 1 at 18.

40. First 50, *supra* note 1 at 19.

41. First 50, *supra* note 1 at 12.

42. First 50, *supra* note 1 at 20.

Idaho Governor Arnold Williams in 1945. Oldham was also very involved in the Idaho State Bar⁴³ and other organizations. Because of these accomplishments, two different governors wanted to appoint her to the Idaho Supreme Court, but she declined both times.⁴⁴

Marriage and family came into Oldham's life after she was well established in her law practice. She married Volney Oldham in 1949 and immediately became the mother of two preteen children. The couple also had two daughters. Oldham carried on her legal practice after the birth of her children under her maiden name of Smith, setting up a bassinet in her office.⁴⁵

Oldham received numerous awards during her lifetime, including the Idaho State Bar's Professionalism Award in 1996, and was inducted into the Idaho Water Users Association Hall of Fame in 1990. Oldham died on January 26, 2002, and thereafter achieved another first for Idaho women; in 2003, the Idaho State Bar posthumously awarded Oldham its highest honor, the Distinguished Lawyer Award, recognizing attorneys "who have distinguished the profession through exemplary conduct and many years of dedicated service to the profession and to Idaho citizens."⁴⁶

Linda Cook—First Woman to Serve as State Magistrate Judge

Born in Idaho Falls, Idaho, Linda Cook grew up in a farming family in Ririe, Idaho. After graduating from high school, she attended Ricks College and obtained both a bachelor of science in sociology and a master's of science in social psychology from Brigham Young University. Cook then began teaching in Walla Walla, Washington, where some of her classes were in the maximum-security men's prison (as the first woman employee "inside the wall" of the prison in its hundred years of operation).⁴⁷



After two years at the prison, Cook moved to Mexico to teach English before deciding on a career change. She applied to and was accepted at the University of Idaho College of Law beginning in 1970. At the time, she was

43. In 1935, Oldham became the first woman to address the Idaho State Bar at its annual meeting, speaking on the need for penal reform. First 50, *supra* note 1 at 19–20.

44. First 50, *supra* note 1 at 20.

45. First 50, *supra* note 1 at 19.

46. First 50, *supra* note 1 at 20.

47. First 50, *supra* note 1 at 79.

one of only five women in the class of 1973, and women law students were so rare that there was no restroom for them at the law school.⁴⁸

After graduation, Cook was admitted on November 1, 1973, as Idaho's forty-second woman attorney, and she returned to Idaho Falls to work as a prosecutor and in a general law practice. Less than three years later, in January 1976, Cook was appointed magistrate judge for Bonneville County.⁴⁹ She was the first woman to hold this position, and she was reelected to it every year until she took senior status in 2010.

Cook remains one of the longest-tenured judges on Idaho's state court bench.

Deborah Bail—First Woman District Court Judge

Deborah Ann Bail was born in 1949 in Wichita, Kansas. Although her family moved a few times when she was a child, Bail grew up mostly in Wichita. Just as she was about to graduate from high school, her father got a job in Hawaii, and the family relocated there. Bail attended the University of Hawaii from 1967 to 1969 and then Lewis and Clark College in Portland, Oregon, from which she graduated in 1971.⁵⁰ Immediately thereafter, she enrolled in Northwestern School of Law in Portland. After graduating in 1974, she took the Oregon bar, thinking she would live and practice in Oregon, but she soon found herself in Boise, having received a fellowship that encouraged attorneys to work there in legal services offices to aid the poor.⁵¹ She had missed the summer bar exam in Idaho, but she took the spring exam the following year and was admitted as Idaho's forty-ninth woman lawyer on April 11, 1975.⁵²



During her fellowship in Boise, Bail represented disadvantaged clients in all areas and gained both trial and appellate experience. During this time, she worked to help establish Emergency Housing Services, the first shelter in Idaho for homeless and battered women and their children. Given these accomplishments, Bail was awarded a rare third year of fellowship by the Reginald Heber Smith Community Lawyer Fellowship. When her fellowship

48. First 50, *supra* note 1 at 79.

49. First 50, *supra* note 1 at 79. See also *Judges Selected*, SOUTH IDAHO PRESS, Dec. 10, 1985, at 5.

50. First 50, *supra* note 1 at 94.

51. First 50, *supra* note 1 at 94.

52. First 50, *supra* note 1 at 94.

ended, Bail turned to developing legal services for the elderly in Idaho, working on projects with the Office of Aging and Idaho Legal Aid Services.⁵³

In 1978, Bail began work at the United States Attorney's Office for the District of Idaho, prosecuting federal crimes and representing the United States on civil matters.⁵⁴ In so doing, she gained a tremendous amount of trial experience and respect from her colleagues.

In the early 1980s, Bail became interested in becoming a judge and applied for an open position through the Judicial Council. Although she did not get that position, her name was on the short list that was sent to the Governor. Two years later, when the next judicial position became open, Bail was better known by the Judicial Council and familiar with the process, and she applied again. On February 23, 1983, Governor John V. Evans called Bail to inform her that he had selected her to be Idaho's first woman district court judge. Two months later, on April 18, 1983, Bail took the oath of office as district judge for the Fourth Judicial District of Idaho.⁵⁵ She served in this position continuously from 1983 through her recent retirement in May 2021. Bail recognized her place in Idaho history, humorously remarking, "I did not mind being a pioneer....At the time I just wished the other wagon would hurry up and get here." It would take another seven years before the other wagon showed up.⁵⁶

Throughout the course of her long judicial career, Bail continued to be involved in a number of community and bar-related organizations, many of which focused on the rights of the disadvantaged. In July 2021, Bail received the Idaho State Bar's Distinguished Jurist Award.

In June 2021, Bail moved from active to senior judge status.

53. First 50, *supra* note 1 at 94–95.

54. First 50, *supra* note 1 at 95.

55. First 50, *supra* note 1 at 95.

56. *Sitting Judge Profile, Deborah Bail*, Idaho Supreme Court, Oct. 24, 2011, at 1, available at <https://isc.idaho.gov/links/Bail-Deborah-Story.pdf> In 1990, Linda Copple Trout was elected district court judge for the Second Judicial District.

Cathy Silak—First Female Idaho Appellate Court Judge



Cathy R. Silak has held many prestigious roles in Idaho, from trial attorney with the U.S. Attorney's Office, to counsel for a major international company, to partner in a large Boise law firm, to dean of a law school. In addition, she has been significantly involved in community affairs. Even so, Silak is perhaps best known for being the first woman to serve on Idaho's appellate bench.

Silak was born and raised in New York. She attended New York University and graduated with a degree in sociology and French literature in 1971. She went on to Harvard and obtained her master's in city planning in 1973 and then, deciding to pursue a career in law, headed west to the University of California, Berkeley School of Law. Silak graduated from law school in 1976 and began work as an assistant United States Attorney in New York before moving to Idaho in 1983 and working as a Special Assistant U.S. Attorney.⁵⁷ In 1984, Silak joined the Boise law firm of Hawley Troxell and became a partner there in 1988. From 1989 to 1990, she was Associate General Counsel of Morrison Knudsen.

By the late 1980s, despite all the progress women had made in Idaho law, no woman had ever served on Idaho's appellate bench. In 1989, Idaho Governor Cecil Andrus made it publicly known that he was interested in appointing a qualified woman to Idaho's appellate bench. The Governor got that opportunity in 1990 with the retirement of Idaho Court of Appeals Judge Donald Burnett—who left the court to become dean of the law school at the University of Louisville.⁵⁸ The Idaho Judicial Council, the entity that collects, interviews, and provides a slate of judicial nominees to the Governor for consideration, reportedly conducted their deliberations to fill that vacancy “amid mounting pressure for a woman to finally be named to the appellate bench.”⁵⁹ Silak, at the age of forty, applied for the open seat on the Court of Appeals and, after making it through the Judicial Council, was quickly selected by the Governor.

On August 2, 1990, Silak was sworn in as judge of the Idaho Court of Appeals, and became the first woman to serve on Idaho's appellate bench.

57. *Silak Sworn in as 2nd Woman In Idaho Supreme Court History*, THE LEWISTON TRIBUNE, Mar. 16, 1993.

58. *Panel Nominates 1st Woman to High Court*, THE TIMES-NEWS, Aug. 2, 1990, at 13.

59. *Id.*

Governor Andrus was in attendance and declared it a “historic moment for Idaho” and noted that “we must provide more opportunities for women in the judicial branch of government.”⁶⁰ During her swearing-in ceremony, Silak remarked, “I’ve always viewed the courts as a place of great hope in our society” and “I would hope that not just women but all people who feel they have been excluded from institutions would take courage....I hope it is a beacon of light to all people.”⁶¹

Silak served on the three-member Court of Appeals until 1993, when Governor Andrus again selected her to fill an open seat on the Idaho Supreme Court. Speakers at her swearing-in ceremony said “it was important that gender was not a factor in her appointment, and yet it was a good signal women were taking a greater role in the judiciary.”⁶² Silak’s appointment to the state’s highest court made her the second woman to fill that seat (the first was Linda Copple Trout the year before).⁶³ Gail Bray, a member of the Idaho Judicial Council at the time, commented on Silak’s appointment to the Court: “It is remarkable....But it will be even more remarkable when it no longer is remarkable.”⁶⁴

In 1997, Silak became the Court’s Vice-Chief Justice.⁶⁵ She continued to serve on the Court until 2000, and in 2001 she resumed her partnership with Hawley Troxell.⁶⁶ Silak continued to remain very active in the community and served as the founding dean of Concordia University School of Law, Idaho from 2008 to 2016. She then transitioned to become Concordia University’s vice president of Community Engagement, before returning in 2017 to Hawley Troxell as of counsel.⁶⁷

Silak has been recognized for her achievements by many organizations; she received the Distinguished Lawyer Award from the Idaho State Bar, the Kate Feltham Award from Idaho Women Lawyers, the Icon Award from the Idaho Business Review, and many more.⁶⁸

60. *Woman Fills Vacant Seat on Gem Appeals Court*, THE TIMES-NEWS, Aug. 3, 1990, at 1.

61. *Id.*

62. *Silak Sworn in as 2nd Woman in Idaho Supreme Court History*, THE LEWISTON TRIBUNE, Mar. 16, 1993.

63. *Id.*

64. *Id.*

65. *Cathy R. Silak Biography*, Hawley Troxell, available at <https://hawleytroxell.com/people/cathy-r-silak/>.

66. *Id.*

67. *Id.*

68. *Id.* at *Memberships and Accolades*.

Linda Copple Trout—First Female Justice and Chief Justice of Idaho Supreme Court

Governor Andrus's work at creating a more diverse bench in Idaho did not stop with the appointment of Cathy Silak to the Idaho Court of Appeals in 1990. In 1992, Idaho Supreme Court Justice Larry Boyle resigned his position and became a U.S. Magistrate Judge for the District of Idaho.⁶⁹ Justice Boyle's resignation left Governor Andrus with the opportunity to appoint a new Supreme Court justice. Once again, Governor Andrus publicly announced that he wanted to appoint a woman to fill the vacancy, in part because there are some things "men don't have the genes to judge."⁷⁰ Enter Linda Copple Trout of Lewiston.



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Born in Tokyo in 1951, Trout was adopted by Dr. B. I. "Bing" Copple, a doctor at Tokyo Army Hospital.⁷¹ When her father's military service was up, the family moved to Boise, and Dr. Copple became a pediatrician. Trout grew up in Boise and graduated from Boise High in 1969. Thereafter, she attended the University of Idaho, graduating with a degree in English with a minor in French in 1973.

Trout originally thought she would pursue a career in journalism, but she ended up going to law school after talking to family members who were attorneys.⁷² Trout graduated from the University of Idaho College of Law in 1977 and went to work with the Lewiston law firm of Blake, Feeney and Clark.⁷³ During her six years at the firm, she had the opportunity to be "in court quite a bit," and she became interested in becoming a judge. "There were two elements about judging that especially appealed to Trout: research and people."⁷⁴ Thus, when a magistrate position in Lewiston opened up in 1983,

69. Trout Takes Oath as Gem High Court Justice, THE TIMES NEWS, Sept. 19, 1992, at 3.

70. *Id.*

71. Jeanne Huff, 2016 Lifetime Achievement Award: Linda Copple Trout, Justice, Idaho Supreme Court in Boise, IDAHO BUSINESS REVIEW, Nov. 17, 2016, at 16–17, available at <https://idahobusinessreview.com/2016/11/17/2016-lifetime-achievement-award-linda-copple-trout-justice-idaho-supreme-court-in-boise/>.

72. *Id.*

73. *Id.*

74. *Id.*

Trout applied, and she was chosen.⁷⁵ During her tenure as a magistrate judge, Trout also taught family law at the University of Idaho and served as a trial court administrator.⁷⁶

In 1990, Trout ran for and won a seat as a Second District Court judge in Lewiston.⁷⁷ She was the first woman to hold such a position in the Second District, and only the second woman in Idaho to ever be a district court judge.⁷⁸ It was during her tenure as district court judge that Justice Boyle resigned his position on the Idaho Supreme Court.

Trout recalls: “Gov. Andrus said he’d really like to appoint a woman....How many opportunities are you going to have to be considered for the Supreme Court? I finally thought, ‘I have nothing to lose.’”⁷⁹ And so, Trout applied for the position, and in August 1992 she was appointed by Governor Andrus to be the first woman justice on the Idaho Supreme Court.⁸⁰ She was just forty years old.⁸¹ Always one to offer a humorous remark, shortly after her appointment to the Court, Trout quipped to an audience of law students that she “must hold some sort of record for the most number of jobs held after leaving Moscow [law school]” but that her appointment to the Court should “wind up this period of job hopping.”⁸²

In 1993, Justice Silak joined Justice Trout on the Idaho Supreme Court—the first time that two woman served together on the five-member Idaho Supreme Court.

75. *Id.* Trout was only the second woman to serve as a magistrate judge in Idaho—the first was Linda Cook, beginning in 1976.

76. Kara Garten, *Justice Trout Gives Tips to Law Students*, MOSCOW-PULLMAN DAILY NEWS, Oct. 8, 1992, at 3A.

77. *Id.*

78. *Trout Wins Race for Second District Judge*, MOSCOW-PULLMAN DAILY NEWS, May 23, 1990, at 10A. At the time, the only other woman to serve as district court judge in Idaho was Deborah Bail, in the Fourth Judicial District. *See* First 50, *supra* note 1 at 95.

79. *2016 Lifetime Achievement*, *supra* note 70.

80. *Id.*

81. *Trout Takes Oath as Gem High Court Justice*, THE TIMES NEWS, Sept. 19, 1992, at 3.

82. *Tips to Law Students*, *supra* note 75 at 3A.



Idaho Supreme Court 1993 (left to right): Justice Cathy Silak, Justice Steven Bistline, Chief Justice Charles McDevitt, Justice Byron Johnson, and Justice Linda Copple Trout. Photo courtesy of Idaho Supreme Court

Trout's notable firsts continued when, in December 1996, Chief Justice Charles McDevitt announced his retirement from the Court and "[i]n a historic move, the court unanimously selected Linda Copple Trout to serve as its first woman chief justice when McDevitt's term in that capacity expires in February [1997]."⁸³ Trout served two consecutive terms as Chief Justice.

Trout retired from the Idaho Supreme Court in 2007 and has since served as a senior judge for the court as a pro tem and settlement judge as well as handling administrative matters on assignment from the administrative director of the Idaho courts.⁸⁴

In 2021, Idaho's appellate courts have greater gender diversity than ever before. The five-person Idaho Supreme Court has two female justices (Justices Robyn Brody and Colleen Zahn) and the four-person Idaho Court of Appeals

83. *Chief Justice to Retire in September*, MOSCOW-PULLMAN DAILY NEWS, Dec. 13, 1996, at 4A.

84. 2016 *Lifetime Achievement*, *supra* note 70. See also Dean A. Ferguson, *Idaho High Court's First Woman Retires*, THE LEWISTON TRIBUNE, Sept. 1, 2007 (updated Apr. 12, 2011), available at https://lmtribune.com/northwest/idaho-high-courts-first-woman-retires/article_9ec5ca0f-32eb-55ea-a4b8-e52ffba564b.html.

has three women judges (Chief Judge Molly Huskey and Judges Jessica Lorello and Amanda Brailsford).⁸⁵



Justice Robyn Brody and Justice Colleen Zahn. Courtesy of Idaho Supreme Court.

85. See Idaho Supreme Court's website at <https://isc.idaho.gov/main/historyandprocedures> (last visited Nov. 1, 2021).

The First Women on the Federal Bench in Idaho

Idaho's federal district court was established shortly after statehood in 1890, creating the District of Idaho and one district court judge to cover the entire district. In 1954, Congress added a second district court judgeship for the District of Idaho. Since the establishment of the district court in Idaho more than 130 years ago, twelve men have served as district court judges. No women have served on the district court bench, and no women have represented Idaho on the Ninth Circuit Court of Appeals. Nonetheless, women have made their mark on Idaho's federal bench in other ways.

Ina Mae Wheeler Hanford—First Idaho Woman to Serve as Law Clerk for the U.S. District Court in Idaho

Ina Mae Wheeler Hanford was born in a farmhouse in a rural area of north Idaho, north of Bonners Ferry, in 1928. The family led a simple life on the farm and did not have electricity until "REA came through in about 1937."⁸⁶ Hanford went to Bonners Ferry High School and graduated as valedictorian in 1946. She had always thought that she would become a teacher, but in the spring of her senior year, Hanford worked as a secretary for a local attorney. While working in that office, the bright young woman was encouraged to pursue the study of law.⁸⁷



Although Hanford did not have the money to attend college after high school, she was able to save enough to attend Idaho State College in the fall of 1947. At the time, students could earn a bachelor of laws degree with two years of pre-law study and three years of law school. Hanford took this path and, after completing her two years at Idaho State College, transferred to the University of Idaho College of Law.⁸⁸ Hanford recalled that there were three women in her law school class and all were "well accepted by the men in the law school."⁸⁹

Hanford graduated from law school in 1952 and returned to her parents' home in Bonners Ferry to help out on the farm and study for the bar exam, scheduled for August 1952. In mid-July, however, she got an unexpected call from Glenn Bandelin, an attorney in Sandpoint, who asked her if she would be interested in clerking for U.S. District Court Judge Chase A. Clark, noting

86. First 50, *supra* note 1 at 49.

87. First 50, *supra* note 1 at 49.

88. First 50, *supra* note 1 at 49.

89. First 50, *supra* note 1 at 49.

that Dean Stimson of the University of Idaho College of Law had recommended Hanford for the position.⁹⁰ Hanford jumped at the chance and, after an interview with Bandelin in Sandpoint, was hired by Judge Clark—making her the first woman to clerk for the U.S. District Court in Idaho.⁹¹

Hanford moved to Boise and began working for Judge Clark on July 26, 1952. Shortly thereafter, she sat for the Idaho bar exam and was admitted on September 13, 1952, as the twenty-fifth woman attorney in Idaho.⁹² At the time, Judge Clark was the only Federal District Court Judge in Idaho, and twice a year he and his clerk traveled to Pocatello, Moscow, and Coeur d’Alene for court sessions. Hanford described her time clerking with Judge Clark as exciting and challenging, exposing her to some of the “outstanding legal minds” of Idaho.⁹³

In 1955, U.S. District Court Judge Fred Taylor was appointed to fill the second judgeship created in 1954. This split the work in Idaho, so with time available, both judges were assigned to help out in other jurisdictions. Over the years, in addition to traveling throughout Idaho, Hanford joined Judge Clark in court in Portland, San Francisco, Los Angeles, Phoenix, Las Vegas, and cities in South Carolina and Virginia. After Hawaii and Alaska were admitted to the union, Hanford particularly enjoyed traveling to those states to assist in the transition from territorial courts to federal courts.⁹⁴

While the usual tenure of law clerk was one or two years, Judge Clark told Hanford that as long as she wanted to stay in her position, he was not interested in training a new law clerk. Hanford enjoyed the work and travel, was still single, felt accepted by her peers, and made a good living—while many of her female peers “had difficulty making a good living.”⁹⁵ Hanford decided to stay with Judge Clark and did so for twelve years.

When Judge Clark assumed senior status in April 1964, Hanford went to work for his successor, U.S. District Court Judge Raymond McNichols.⁹⁶ Shortly thereafter, Hanford married William Hanford, and by the end of September 1964, the newlyweds decided to move to Portland, Oregon, and Hanford left the court and the practice of law. She turned her attention to raising her children and, after returning to Boise in 1974, declined offers of employment and instead supported her husband’s business and volunteered in her community.⁹⁷

90. First 50, *supra* note 1 at 49.

91. First 50, *supra* note 1 at 50.

92. First 50, *supra* note 1 at 50.

93. First 50, *supra* note 1 at 50.

94. First 50, *supra* note 1 at 50.

95. First 50, *supra* note 1 at 50.

96. First 50, *supra* note 1 at 50.

97. First 50, *supra* note 1 at 51.

Ladora Butler—First Woman Clerk of the Court, District of Idaho

Ladora L. Butler served as Clerk of the Bankruptcy Court for the District of Idaho from October 1, 1979, to July 7, 1985, during a time of great change and tumult. Prior to that, she had long worked in the clerk's office and, after 1985, continued to work as a deputy clerk for the court for many years. She is the first woman to have served as Clerk of Court in the District of Idaho.



Butler was born in 1935 in Burns, Oregon, and grew up on a farm in Nyssa, Oregon, and in Nampa, Idaho.⁹⁸ She did not attend college; instead, after marrying in high school, she concentrated on raising her family for a number of years.⁹⁹ In 1960, Butler joined the Clerk's Office of Ada County, Idaho, and eventually became courtroom deputy for district court judge Merlin S. Young.¹⁰⁰ Judge Young was appointed United States Bankruptcy Judge for the District of Idaho in December 1969. Butler left Ada County shortly thereafter, in 1970, and joined Judge Young at the federal court in Idaho.¹⁰¹

In 1978, Congress passed comprehensive legislation—commonly referred to as the Bankruptcy Code—that drastically overhauled the bankruptcy system effective October 1, 1979.¹⁰² In particular, the legislation granted new bankruptcy jurisdiction to be exercised primarily by bankruptcy judges as an Article I judge appointed for a set term. Judge Merlin Young became the first bankruptcy judge in Idaho under these provisions. Butler was named Clerk of the newly constituted Bankruptcy Court of the District of Idaho,¹⁰³ while the district courts operated as a separate unit, with their own Clerk of Court, Jerry Clapp.

Unfortunately, shortly after this, the United States Supreme Court held that the Bankruptcy Code's delegation of jurisdiction to bankruptcy judges was an unconstitutional delegation of Article III powers to non-Article III

98. Interview of Ladora Butler by Glenda Longstreet, deputy clerk, United States District Court, in Boise, Idaho (Mar. 28 and 29, 2001) at 1.

99. Butler Interview, *supra* note 97 at 4–6, 9.

100. Butler Interview, *supra* note 97 at 13–14.

101. Butler Interview, *supra* note 97 at 15.

102. Bankruptcy Reform Act of 1978, Pub. L. 95-598, 92 Stat. 2549 (Nov. 6, 1978) (creating new 11 U.S.C. § 1 *et seq.*).

103. Butler Interview, *supra* note 97 at 22.

judges.¹⁰⁴ This obviously caused serious disruption and concern for the bankruptcy courts. Butler recalled how Clerk Clapp informed Judge Young of the *Northern Pipeline Co. v. Marathon Pipe Line Co.* decision:

When the day came and the case says you are no longer a judge, [Clerk of the District Court] Jerry Clapp came over to the bankruptcy court, Judge Young was still in court, and he says, until they tell me I'm off the bench, I'm going to preside, so it was the next day, I think it was, or maybe it was two, within days after this decision, and then Jerry Clapp, much to his reluctance, had to come over and tell the bankruptcy judge that he would have to come off the bench. The courtroom was full of people, proceedings were going on, and he came off the bench and that ended court that day.¹⁰⁵

Butler describes this time as "very demeaning...some judges just left and didn't see it through. Judge Young hung around, he came to the office for a couple of days and then he quit coming to the office. There wasn't anything for him to do."¹⁰⁶

A number of continuing resolutions continued court operations for some time, until, in 1984, Congress enacted legislation to resolve the concerns raised by *Marathon* and continue hearing cases. But by then Judge Young had decided to retire. Butler recalls this series of events as one of the worst times of her career with the courts:

The worst times were those years in transition when the Supreme Court case upset bankruptcy by the judge not being a judge, not having jurisdiction until the dust settled and they worked their way through it and there was just a lot of, I mean that was not a local thing, that was nationwide. Good men, good bankruptcy judges left the bench because of that incident and never came back. A loss, a real loss.¹⁰⁷

In 1985, the District of Idaho consolidated its bankruptcy and district courts, naming Jerry Clapp as Clerk of the consolidated courts and Butler was named chief deputy clerk.¹⁰⁸ Butler retired in 2001, after serving the District of Idaho for thirty-one years.¹⁰⁹

104. See *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982).

105. Butler Interview, *supra* note 97 at 19.

106. Butler Interview, *supra* note 97 at 19.

107. Butler Interview, *supra* note 97 at 36.

108. Butler Interview, *supra* note 97 at 20.

109. *Boisean Finds Renewed Energy*, THE IDAHO STATESMAN, Oct. 4, 2001, at Life 3.

Betty Richardson—First Woman U.S. Attorney for the District of Idaho



The United States Attorney's Office for the District of Idaho was created in 1863, when Idaho became a territory. President Abraham Lincoln appointed Richard Williams to be the District's first U.S. Attorney.¹¹⁰ Since the Office's founding, there have been thirty-one presidentially appointed U.S. Attorneys—all men until 1993.

Betty Hansen Richardson was born and raised in Lewiston, Idaho, in a blue-collar, pro-union family of Democrats. From a young age, she was exposed to and became involved with the Democratic Party in Idaho. At Lewiston High School, Richardson was a student body officer, debater, band member, basketball player, and delegate to Syringa Girls State and to the YMCA Youth Legislature.¹¹¹ In her senior year, Richardson worked as a page in the Idaho House of Representatives and, at the age of eighteen, she was Idaho's youngest delegate to the 1972 National Democratic Convention.¹¹²

As a young adult, Richardson "worked in blue-collar, pink-collar, and white-collar jobs to put herself through college at the University of Idaho."¹¹³ She graduated magna cum laude with a degree in political science from the University of Idaho in 1976. After college, she worked on the staff of Senator Frank Church in his Washington, D.C., and Moscow offices and as the executive secretary of the Idaho Democratic Party.¹¹⁴

When it came time to choose a career, Richardson chose the law. She attended the University of California Hastings College of Law. After graduating in 1982, Richardson clerked for the Criminal Division of the San Francisco Superior Court, but she soon returned to Idaho to clerk at the Idaho Supreme Court with Justice Robert Huntley.¹¹⁵ Richardson was admitted to the Idaho bar in 1984.

When her clerkship ended, Richardson practiced civil and criminal law in Boise. Throughout this time, she remained active in Democratic Party

110. The history of the U.S. Attorney's Office for the District of Idaho is detailed at the U.S. Department of Justice's website, *available* at <https://www.justice.gov/usao-id> in "About the District."

111. *About Betty Hansen Richardson* to author (Oct. 2021) (on file with author).

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

activities, including serving as chair of the Ada County Democratic Central Committee as the party made strides in the Idaho legislature in the 1988 and 1990 elections.¹¹⁶ These activities caused party leaders—including newly elected Idaho Governor Cecil Andrus—to take notice of the smart lawyer in Boise.

In 1991, Governor Andrus appointed Richardson as the first woman commissioner of the Idaho Industrial Commission. The Industrial Commission is the state agency in Idaho that is responsible for managing the state's workers' compensation system, with both judicial and regulatory functions. At the time, the Industrial Commission employed about 120 people and had a budget of \$8 million.¹¹⁷ In 1993, she was elected Commission chair.

Betty Richardson's nomination as the first woman in Idaho to hold the position of U.S. Attorney for the District of Idaho followed the November 1992 election and a change in administration, which gave the party in power the opportunity to make a variety of new appointments. Idaho Representative Larry LaRocco—the ranking Democrat in Idaho's congressional delegation—supported Richardson's nomination with the White House.¹¹⁸ LaRocco commented, "As the first woman to be nominated as U.S. Attorney for Idaho, Betty Richardson represents change and a step forward."¹¹⁹

On September 30, 1993, Richardson's nomination was unanimously confirmed by the U.S. Senate, making her the first woman to serve as U.S. Attorney for the District of Idaho.¹²⁰ She was just thirty-nine years old at the time.¹²¹ Richardson held that office for seven years, until 2000, when she resigned her position following the next change in administration. Richardson returned to private practice in Boise, serving as of counsel in the firm of Richardson and O'Leary.

116. *Id.*

117. *President Nominates Boise Attorney to Federal Post*, THE TIMES-NEWS, Sept. 8, 1993, at 6.

118. *Senators Will Support Attorney Pick*, THE TIMES-NEWS, Sept. 18, 1993, at 7.

119. *President Nominates Boise Attorney to Federal Post*, THE TIMES-NEWS, Sept. 8, 1993, at 6.

120. *Idaho Gets 1st-Ever Female U.S. Attorney*, THE TIMES-NEWS, Oct. 1, 1993, at 10.

121. *Id.*



Five Clinton-era U.S. Attorneys (left to right): Kate Pflaumer (Western District of Washington), Sherry Matteucci (D. Montana), Betty Richardson (D. Idaho), Kathryn Landreth (D. Nevada); and Karen Schreier (D. South Dakota). They affectionately refer to themselves as “The Wild Women of the West” and have been gathering for more than twenty-five years.

Richardson remained active in Idaho Democratic Party politics after leaving office, including an unsuccessful run for the U.S. House of Representative, District 1, in 2002.

Candy Dale—First Woman to Serve on Idaho's Federal Bench



It is impossible to discuss the impact of women on Idaho's federal bench without talking about Candy Wagahoff Dale. Dale is the first—and so far the only—woman to have served in any judicial capacity for the District of Idaho. She broke that barrier in 2008 when she was selected to serve as a United States Magistrate Judge for the District of Idaho.

Dale grew up in Boise and, after graduating from Borah High School, enrolled at the College of Idaho to study math and English. After spending a semester in Oxford, England, on an American exchange program, she returned to the College of Idaho and enrolled in a political science class. She enjoyed the class so much that she asked her professor and adviser from the math department whether she should attend law school. Dale said that “they virtually signed me up for the LSAT and encouraged me to pursue law.”¹²² Her math adviser further counseled her that the “logic of mathematics was a perfect foundation for law.”¹²³

After graduating cum laude and as a Gipson Scholar from the College of Idaho in 1979, Dale attended the University of Idaho College of Law. There, too, she excelled academically. Dale served as editor in chief of the *Law Review*, received the Idaho Law Foundation scholarship for 1981–1982, and graduated cum laude in the top ten of her class of 1982.¹²⁴ She was one of fewer than twenty women in her graduating class. After graduation, Dale joined the Boise law firm Moffatt Thomas Barrett & Blanton, eventually being elected shareholder of the firm. In 1988, she and some of her colleagues left the firm to create their own firm: Hall, Farley, Oberrecht & Blanton. She practiced business litigation and employment law with the firm for many years and earned a reputation as one of Idaho's premier employment lawyers.¹²⁵

A vacancy created by the retirement of two U.S. Magistrate Judges (Judges Mikel Williams and Larry Boyle) prompted Chief District Court Judge B. Lynn Winmill to appoint a merit selection panel to find qualified candidates for these positions.¹²⁶ Dale decided to apply. In addition to having

122. Deb Kristensen, 118 *Years in the Making: A Woman Takes the Federal Bench in Idaho*, 51 THE ADVOCATE, Feb. 2008, at 13.

123. *Id.*

124. *Id.*

125. *Id.*

126. See U.S. District Court for the District of Idaho, General Order 220 entitled “In re: Appointment of Merit Selection Panel for United States Magistrate Judges,” dated Sept. 19, 2007.

a reputation as a gifted trial lawyer, she was well known to the members of the federal bench in Idaho from her years of service to the district as a lawyer representative to the Ninth Circuit Judicial Conference, a member of the Ninth Circuit's Advisory Board and as a member of the Gender Fairness and Long Range Planning committees for the District.¹²⁷ In December 2007, Chief Judge Winmill announced Dale would become Idaho's first female federal judge.¹²⁸

On March 30, 2008, Dale began her tenure as U.S. Magistrate Judge for the District of Idaho, succeeding U.S. Magistrate Judge Williams.¹²⁹ Shortly thereafter, on October 1, 2008, she served as the first Chief Magistrate Judge for the District of Idaho, a position she held until September 30, 2015. Dale was reappointed as the court's Chief Magistrate Judge on June 10, 2021.

In addition to handling some of the most complex and high-profile cases to come through the District of Idaho,¹³⁰ Dale has taken on a number of administrative responsibilities, including chairing the Local Civil Rules Advisory Committee and planning the court's annual Teachers Institute. Dale was appointed by Chief Justice John Roberts to serve a two-year term as the magistrate judge observer to the Judicial Conference of the United States, and she served in that capacity from October 2017 through September 2019. She was also a member of the Fairness Committee for the Ninth Circuit and the Jury Trial Improvement Committee and was past chair of the Magistrate Judges Executive Board for the Ninth Circuit.¹³¹

Judge Dale is scheduled to retire from her position on March 31, 2022, but will continue on recall status to serve on the Court.

127. *Id.*

128. *Id.* See also Dale, *Bush Named Federal Magistrate Judges for Idaho*, THE TIMES-NEWS, Dec. 3, 2007, at 27.

129. *118 Years in the Making*, *supra* note 121 at 13.

130. See, e.g., *Latta v. Otter*, 19 F. Supp. 3d 1054 (D. Idaho 2014) (Judge Dale's decision overturning Idaho's ban on same-sex marriages), *aff'd* 771 F.3d 456 (9th Cir. 2014).

131. See U.S. District Court for the District of Idaho's website, "Chief U.S. Magistrate Judge Candy W. Dale," *available* at https://id.uscourts.gov/district/judges/dale/General_Information.cfm (last accessed on Nov. 1, 2021).

The First Women of Color to Join the Idaho Bar

Idaho has never been a racially diverse state. According to the U. S. Census Bureau, as of July 2019, Idaho's population was 81.6 percent white, 12 percent Hispanic or Latino, 1.7 percent Native American, 1.6 percent Asian, and 0.9 percent African American.¹³² As of October 2021, there were a total of 5,429 active attorneys in the state,¹³³ with women making up about 27 percent of them.¹³⁴ With such relatively small numbers, it is even more remarkable and inspiring to learn about each of the first women of color who joined the bar in Idaho. Their struggles make their triumphs even more noteworthy.

Rei Osaki—First Japanese American Woman to Graduate from University of Idaho College of Law and Be Admitted to Bar in Idaho



Rei Kihara Osaki was born on December 16, 1918, in Wapeta, Washington.¹³⁵ The daughter of parents who emigrated from Japan, Osaki grew up on her family's farm in Harrah, Washington, on the Yakima Indian Reservation with parents who placed great importance on education for their children.

When Osaki entered first grade, she knew only one word in English—"elephant"—but she quickly learned, speaking English at school and Japanese at home.¹³⁶ Osaki knew at an early age that she "wanted to do good, to change things" and initially considered becoming a doctor. Her plans changed to law, however, after her mother, who had worked as a nurse in Japan, advised that medical care was hard work.¹³⁷

In 1936, Osaki began college at Washington State University and studied political science in preparation for law school. She graduated in 1940 and, after one of her professors suggested that, given how quiet she was, she might be interested in a small law school, decided to attend the University of Idaho College of Law.¹³⁸ Going to school in Moscow, Idaho, changed her life in more ways than one.

132. See United States Census Bureau, Quick Facts, Idaho, *available at* <https://www.census.gov/quickfacts/fact/table/ID/RHI825219#RHI825219>.

133. See Idaho State Bar, Membership Count as of 10/5/21, *available at* <https://isb.idaho.gov/licensing-mcle/membership-count-statuses/>.

134. See Jessica R. Gunder, *Women in Law: A Statistical Review of the Status of Women Attorneys in Idaho*, 62 THE ADVOCATE, Feb. 2019, at 23.

135. First 50, *supra* note 1 at 32.

136. First 50, *supra* note 1 at 32.

137. First 50, *supra* note 1 at 32.

138. First 50, *supra* note 1 at 32.

On February 19, 1942, shortly after the bombing of Pearl Harbor, President Franklin D. Roosevelt signed Executive Order 9066, which forcibly removed Americans of Japanese ancestry—even U.S. citizens—from their homes within certain military zones along the Pacific Coast and incarcerated them in isolated internment camps throughout the west. Osaki escaped incarceration because she was outside the internment area, but her family did not. While she was spared the “real fear, the anguish” that her family experienced in being forcibly relocated from their farm in Washington to Wyoming’s Heart Mountain Relocation Camp, she felt guilty and offered to leave school.¹³⁹ Her father refused her offer, saying, “You’re the only free person in the family. Take all my savings and finish law school.”¹⁴⁰ Osaki did that and, in 1943, became the fourth woman to graduate from the University of Idaho College of Law and its first Japanese American graduate.¹⁴¹

Osaki passed the Idaho bar and was admitted on September 15, 1943, as Idaho’s sixteenth female attorney and the first Japanese American woman admitted to the Idaho bar.¹⁴²

After graduation, Osaki “had no home to return to,” so she headed east and accepted a position with a real-estate office in Elkhorn, Wisconsin. She was in Wisconsin when her father and brother were released from Heart Mountain. Tragically, her family had lost more than their freedom during their internment; the family farm was gone too.¹⁴³ Osaki worked with her father to start over, not only returning what remained of his savings but also buying him a tractor.¹⁴⁴

In the following years, Osaki moved to Chicago and worked as a lawyer for the Office of Price Administration. But after marrying, she and her husband settled in Pasadena, California, and she was no longer interested in pursuing law as a career.¹⁴⁵ Instead, she set her “roots down by getting involved in various community activities, especially partisan politics.”¹⁴⁶ She also devoted herself to her family and was the mother of three sons and numerous grandchildren.

Osaki died at her home in Pasadena on November 15, 2006.¹⁴⁷

139. First 50, *supra* note 1 at 32.

140. First 50, *supra* note 1 at 32.

141. First 50, *supra* note 1 at 32.

142. First 50, *supra* note 1 at 32.

143. First 50, *supra* note 1 at 32–33.

144. First 50, *supra* note 1 at 33.

145. First 50, *supra* note 1 at 33.

146. First 50, *supra* note 1 at 33.

147. First 50, *supra* note 1 at 33.

Cassandra Lee Furr Dunn—First Native American Woman Admitted to Idaho Bar



Born in Pinehurst, North Carolina, to a Cherokee mother and a Shoshone Dutch father, Cassandra Lee Furr Dunn described herself as “three-quarters” Native American.¹⁴⁸ Neither of her parents could read or write, and she was the only person in her family who “got past the 7th grade.”¹⁴⁹ Dunn recalls that “we lived in a shack on the side of a mountain when I was growing up. I remembered what it was like to be dirt poor.”¹⁵⁰ Her life story is one of determination and triumph over tragedy.

Her childhood was not a happy one. In 1947, when she was fifteen, she hitchhiked her way to Washington, D.C., to leave the “strange people” she called her family.¹⁵¹ Along the way, Dunn met a truck driver whom she later married. Dunn worked during the day and took classes at night to complete her high school education. On January 1, 1951, she gave birth to her daughter, and on the same day, her husband abandoned her.¹⁵² Determined to make a better life for herself and her daughter, Dunn sought education wherever she could, including “sneaking” into college classes at George Washington University, because she did not have the money to pay for them.¹⁵³

In 1952, Dunn left Washington, D.C., with her young daughter for Los Angeles. Having no money, they hitchhiked their way across country, eventually ending up in Fresno. In 1954, she met and married her second husband, and they had a son. He contracted polio and was left severely handicapped. Soon after, she discovered that her husband was a child molester. She left him immediately and raised her two young children alone. She took in sewing at night to meet the medical bills.¹⁵⁴

Although she was busy raising her children and working three jobs, Dunn’s desire “to do something” had not waned. She wanted to become a lawyer but knew that she first needed a college education. Fortunately, California was one of the few states at the time that offered a college

148. First 50, *supra* note 1 at 86.

149. First 50, *supra* note 1 at 86.

150. First 50, *supra* note 1 at 86.

151. First 50, *supra* note 1 at 86.

152. First 50, *supra* note 1 at 86.

153. First 50, *supra* note 1 at 86.

154. First 50, *supra* note 1 at 86.

equivalency test to fulfill this requirement for graduate students.¹⁵⁵ Dunn took and passed the test and, with her high score, was accepted at Humphreys College of Law in Fresno, California, in 1959.¹⁵⁶ For the next four years, Dunn worked numerous jobs during the day, attended law school at night, and raised her children as a single parent. She graduated from law school in 1963 and was admitted to the California bar on January 6, 1964.¹⁵⁷

After law school, unable to find a job in a law office, she opened her own, a one-room office next to the Fresno County Courthouse. She would sit in courtrooms, waiting to be assigned cases as a public defender for \$25 per case. Given her success in the courtroom, the Fresno County district attorney offered her a job. Dunn accepted the offer¹⁵⁸ but was wary of doing so because the men in the office had never treated her well. Her wariness proved well founded, as she experienced significant harassment from the lawyers in the office and the judges she appeared before.¹⁵⁹ In 1966, Dunn left the District Attorney's Office to resume her own practice.



Dunn speaking with Pit River Indian tribal chief in 1970. *Indian Land Claim Rights Hold Focus in Shasta Testimony*, The Sacramento Bee, Oct. 9, 1970, at 13

In 1968, her life took a new, happier direction when Dunn met and married Don Kendall, a real-estate developer. They were married for twenty-five years, until his death. During this time, Dunn also started working with Native American groups to represent them in various high-profile demonstration matters throughout the state, including the Pit River Indians American occupation of the Pacific Gas and Electric facility in Shasta County in 1970.¹⁶⁰

This work catapulted Dunn into the spotlight as a leading Native American attorney in California and attracted national attention. In 1971, the White House called and offered her

155. First 50, *supra* note 1 at 86.

156. First 50, *supra* note 1 at 87.

157. First 50, *supra* note 1 at 87.

158. *Mother of Two New Deputy D.A.*, VENTURA COUNTY STAR-FREE PRESS, July 30, 1964, at 16 ("Mrs. Cassandra Dunn, a Fresno mother of two, is the first woman ever appointed deputy district attorney in Fresno County").

159. First 50, *supra* note 1 at 87.

160. First 50, *supra* note 1 at 87.

a job at the Environmental Protection Agency.¹⁶¹

In 1971, Dunn went to work as chief legal counsel for the U.S. Environmental Protection Agency Region IV (the first woman to hold that position) under President Nixon.¹⁶² In this role, she was responsible for setting up hearing procedures throughout the west, including in Idaho. After a trip to Idaho, Dunn decided to move to Boise and rented a house there, while her husband stayed in Fresno.¹⁶³ On October 11, 1974, Dunn was admitted to the Idaho bar as the forty-sixth woman and the first Native American woman.¹⁶⁴

Dunn's self-described "nomad" ways continued when she moved to New Mexico in 1975 and then, a year later, returned to California.¹⁶⁵ Once back in California, she left the EPA and started a private practice in Fresno. Dunn remained in private practice until her retirement, and along the way she also became a real-estate broker and investor. Having come a long way from the days of sneaking into college classes, Dunn lectured at universities in the west and in Hawaii and taught American Indian Law at California State University in Fresno. She was also involved in numerous professional organizations and served as a judge in juvenile court in Fresno County and on California State Attorney General task forces.¹⁶⁶

Joanne Rodriguez—First Hispanic Woman Admitted to Idaho Bar

No records of specific categories of "first" admittees are maintained by the Idaho State Bar. Thus, determining who was the first to be admitted in any particular category is an exercise in patience and persistence. With that disclaimer in place, it is believed that Joanne P. Rodriguez was the first Hispanic woman to be admitted to the Idaho State Bar, on May 11, 1983.

Rodriguez has been an Assistant U.S. Attorney for the District of Idaho since May 1983. She is an experienced litigator with extensive criminal and civil experience and has served as a mentor for less experienced AUSAs for years. In July 2018, Rodriguez was named senior litigation counsel for the U.S. Attorney's Office and continues to litigate civil cases and serve on the management team.¹⁶⁷

161. First 50, *supra* note 1 at 87.

162. First 50, *supra* note 1 at 87.

163. First 50, *supra* note 1 at 87.

164. First 50, *supra* note 1 at 87.

165. First 50, *supra* note 1 at 88.

166. First 50, *supra* note 1 at 88.

167. Press Release, United States Attorney for the District of Idaho, "U.S. Attorney David Announces New Leadership Roles Within Office," July 12, 2018.

Ida Leggett—First African American Woman Admitted to Idaho Bar and to Serve on an Idaho Bench



Ida Rudolph Leggett was born and raised in a small town in Alabama at a time when racial tensions were high.¹⁶⁸ Her father was a sawmill worker and her mother was a schoolteacher. Separate water fountains existed for whites and people of color, along with separate entrances to the courthouse. When Leggett was young, she was not permitted in the whites-only city library.¹⁶⁹ An avid reader, she read anything and everything should could get her hands on. When she was seven, one of the magazines she found was an issue of *Ebony* with an article about Thurgood Marshall arguing *Brown v. Board of Education*. When Leggett asked her mother about it, she explained Marshall's role as chief counsel for the NAACP Legal Defense and Education Fund and said that he was "going to change the schools because he could argue in court."¹⁷⁰ That is when Leggett decided to become a lawyer and help bring about change herself.

Leggett graduated from her segregated high school in 1965 and attended Tuskegee Institute, in Alabama.¹⁷¹ After just a year and half, however, she got married and dropped out of school. She became a mother, and then a single mother, to three children, before she returned to college.¹⁷² When she applied for financial aid, she was denied based on the argument that she had chosen her career as a mother over other options. Leggett persevered without the financial aid and returned to college later. She graduated from the University of South Florida in Tampa in 1979, the first integrated school she had attended.¹⁷³

After college, Leggett was not sure what to do with her life, even though she had aspirations of becoming a lawyer. Her finances were tight and she had three children and very little support. But she decided, "I can do this

168. Richard D. Eadie, *Judge Ida Leggett: A Pioneer Jurist in Idaho*, Washington State Courts, EQUAL JUSTICE NEWSLETTER, Mar. 2000, available at https://www.courts.wa.gov/programs_orgs/pos_mjc/newsletter/032000/equaljustice.cfm?article=leggett.htm.

169. *Id.*

170. *Id.* See also *Ida Leggett: First African-American Woman Admitted to the Idaho Bar*, IDAHO LEGAL HISTORY SOCIETY NEWSLETTER, Spring 2017, at 3.

171. Pioneer Jurist, *supra* note 168.

172. Pioneer Jurist, *supra* note 168.

173. Pioneer Jurist, *supra* note 168.

myself,” and she began applying to law schools throughout the nation.¹⁷⁴ One day she received a telegram offering a fellowship to pursue her legal education at Gonzaga Law School in Spokane, Washington. Leggett described how she had to pull out a map to see where Washington State was, but she happily accepted the offer.¹⁷⁵ With her three kids in tow, she moved from Florida to Washington in 1979.

Leggett recalls studying for her law school classes at night while her children slept. She attended summer terms at Gonzaga and graduated cum laude after just two and one-half years.¹⁷⁶ During that period, Leggett participated in two moot court teams that won regional championships and one that placed third in the nation.¹⁷⁷ She also worked as an Assistant U.S. Attorney in Spokane. After graduation in 1981, she accepted a clerkship with Chief Justice William Williams of the Washington Supreme Court.¹⁷⁸ Leggett was admitted to the bar in Washington State one year later.

After her clerkship, Leggett accepted a position with the Lane Powell law firm and worked in civil litigation, including insurance defense and construction law.¹⁷⁹ A few years later, a law school classmate invited her to move to Coeur d’Alene, Idaho, to start their own firm. She accepted and practiced civil law for several years.

Leggett was admitted to practice law in Idaho on April 25, 1986, and thereby became the first African American woman admitted to the Idaho bar. Later that year, Leggett was interviewed by the Associated Press about the racism she had experienced in Coeur d’Alene.¹⁸⁰ Leggett described how her son had been taunted by high school classmates using racial epithets. Her secretary had been followed home by people who yelled the same words, and Leggett described the precautions she herself took each day to stay safe.¹⁸¹ A newspaper of the day reported:

In September, when bombs rocked the rugged, mountain ringed beauty of smalltown Coeur d’Alene, Ms. Leggett got serious about precautions.

She left markers on the hood of her car each day to warn her if someone tampered with the engine. She drove different routes to and from work.

174. Leggett in Idaho, *supra* note 170 at 3.

175. Pioneer Jurist, *supra* note 168; Leggett in Idaho, *supra* note 170 at 3.

176. Pioneer Jurist, *supra* note 168.

177. Pioneer Jurist, *supra* note 168.

178. Pioneer Jurist, *supra* note 168.

179. Pioneer Jurist, *supra* note 168.

180. *Lawyer Is Fearful of New Idaho Life*, SOUTH IDAHO PRESS, Dec. 31, 1986, at 3.

181. *Id.*

"No one should have to live this way," she said. "Probably the only reason we're here now is because I don't want him [her son] thinking he has to run for his life."¹⁸²

Nevertheless, she persisted.

Within a few years, Leggett came to the attention of the Idaho Governor Cecil Andrus, and in 1988 he appointed her to the State Commission on Pardons and Parole.¹⁸³ In this position, Leggett found herself in a new role as decision maker and having to find consensus with her fellow board members. She was the only woman and only person of color on the commission.

As previously mentioned, in 1992, Governor Andrus announced his intention of appointing a woman to the open seat on the Idaho Supreme Court. Leggett decided to throw her name into the mix, becoming the first black woman to apply for an Idaho Supreme Court position.¹⁸⁴ During her interview with the Judicial Council, Leggett told the members that the circumstances of her life had forced her to excel—something she would continue to do as a justice. She said she had been so successful in private practice that she would be taking a pay cut if she were named to the Supreme Court. The job paid \$74,701.

"I am qualified to do this job; I'm willing and I'm able," Leggett said. "And because of what my parents have given me, I don't have any choice but to do a good job."¹⁸⁵

Linda Copple Trout was chosen for the position, but that did not end Leggett's ambition to join the bench. In fact, Trout's elevation to the Idaho Supreme Court meant that her district court seat in Lewiston was now open. Leggett decided to apply for that seat; at the time, only one other woman served as a district court judge in Idaho, Deborah Bail in Ada County.

Leggett "received strong support from a number of groups" in her judicial application.¹⁸⁶ On November 16, 1992, Governor Andrus appointed Leggett to the district court bench in the Second Judicial District in Lewiston, noting, "I am particularly impressed that she intends to lead the effort to make the citizen more comfortable in what sometimes can feel like the insider's realm of the courtroom."¹⁸⁷ In so doing, Leggett became the first African American woman to hold a judicial position in Idaho.

182. *Id.*

183. Pioneer Jurist, *supra* note 168.

184. *Idaho Judicial Council Begins Screening Applicants for Vacancy*, THE TIMES NEWS, Aug. 16, 1992, at 12.

185. *Id.*

186. *Andrus Mulls Lewiston Court Seat*, THE TIMES NEWS, Nov. 13, 1992, at 10.

187. *Id.*

In Lewiston, Leggett was “highly visible as an African American woman, a woman professional, and an African American judge.”¹⁸⁸ The lack of privacy made her vulnerable to threats and, unfortunately, she received them. One particularly horrendous example occurred during her presiding over a high-profile murder trial. Leggett received racially motivated death threats and had a cross burned on her front lawn.¹⁸⁹ In 1998, Leggett decided that the “isolation and fishbowl nature of her life” was too much, resigned her position, and moved to Seattle to be closer to her family.¹⁹⁰

A colleague and friend of hers, Judge Richard D. Eadie of the King County Superior Court in Seattle, Washington, described Leggett as:

a quiet but determined woman who has endured poverty, racism—both overt and subtle—and the challenges of education and employment as a single parent and sole support of three children. She is an accomplished lawyer and jurist; a person with dignity and class. She has faced enormous challenges, but always found the inner strength to overcome.¹⁹¹

Other Notable Firsts By Idaho Women Lawyers

In addition to the many amazing “first ladies” of Idaho’s bench and bar described above, numerous other woman have achieved firsts worth mentioning.

Kate E. Feltham—First Woman Elected as Idaho Prosecutor

Kate E. Feltham was born in 1859 in Adams, New York. After high school, Feltham worked as a teacher in Iowa before moving to Nampa, Idaho, in 1893.¹⁹² Once in Idaho, she married Lot Feltham, the city attorney for Caldwell, on September 21, 1893, and began teaching again. Feltham immersed herself in the Caldwell community and soon became an active member of the woman’s suffrage campaign, serving as the president of the Caldwell branch of the Idaho Equal Suffrage Association.¹⁹³ In that capacity,



188. Pioneer Jurist, *supra* note 168.

189. Kathy Hedberg, *Standing in Judgment*, THE LEWISTON TRIBUNE, Oct. 26, 2018.

190. Pioneer Jurist, *supra* note 168.

191. Pioneer Jurist, *supra* note 168.

192. First 50, *supra* note 1 at 9.

193. First 50, *supra* note 1 at 9.

she attended statewide meetings and worked with Helen Young, Idaho's only woman attorney at the time, on the board of the Idaho chapter of the National American Women Suffrage Association.¹⁹⁴

Feltham's efforts at securing the right to vote in Idaho gained her attention, including receiving "about 9 [write-in] votes for city engineer" in 1898 while she was working as a clerk in a Caldwell election.¹⁹⁵ Feltham continued to be involved in her community, founding the first free public reading room in Caldwell and becoming the founding president of the Progress Club, a forerunner of the Future Club of Caldwell.¹⁹⁶

By 1910, Feltham and her husband were living in the Weiser, Idaho, area and were listed in the 1910 census as "fruit farmer[s]." But it is clear that Feltham was doing more than farming; she was preparing for a career in the law by studying in her husband's law office. At the time, law-office study or "reading for the law" was an alternative form of legal education allowed by the Idaho State Bar. Four years later, on September 22, 1914, Feltham applied for, and was admitted to, the Idaho State Bar and became its fifth woman attorney.¹⁹⁷

Feltham practiced law in Weiser for thirty years and shared an office with her husband, whom she later divorced. In 1926, she was elected to serve as prosecuting attorney for Washington County; she was the first woman to hold a prosecuting attorney position in Idaho.

Feltham died in Weiser on August 28, 1936. The local newspaper reflected on her life:

"Gifted with a mind of unusual power and with determined will and pioneer spirit she entered upon the study of law, and was admitted to the bar at time when this was considered exclusively a field for the activity of men."¹⁹⁸ Today, Idaho Women Lawyers, Inc., honors Feltham each year through its top award named in her honor. The Kate Feltham Award is given to individuals in recognition for their work in "promoting equal rights and opportunities for women and minorities in the legal profession."



194. First 50, *supra* note 1 at 9. See also *Early Women Lawyers*, *supra* note 9 at 18–19.

195. First 50, *supra* note 1 at 9.

196. First 50, *supra* note 1 at 9.

197. First 50, *supra* note 1 at 9. The other four were: (1) Helen Young in 1895; (2) Bertha Stull Green in 1904; (3) Della M. Gregory Thomas in 1907; and (4) Margaret Beall Connell in 1911. See First 50, *supra* note 1 at 1–8.

198. First 50, *supra* note 1 at 10.

Edith Miller Klein—First Woman Lawyer to Serve in Idaho Legislature



Edith Miller Klein was born in Wallace, Idaho, in 1915. When she was growing up, her parents had a house in Moscow, Idaho, and a meat shop in Kellogg, Idaho, and she divided her time between these two places.¹⁹⁹

Klein's parents were advocates of a university education, and she enrolled at the University of Idaho after high school. While there, Klein stayed very busy: while living at home with her parents in Moscow, she took twenty credits a semester, worked four part-time jobs, was a "Hell Diver" with the swimming team, and also played on the soccer and basketball teams.²⁰⁰ She graduated from college in just three years with a degree in business administration in 1935 at the age of nineteen.²⁰¹ After college, Klein attended nearby Washington State University on a teaching fellowship and completed a master's degree.²⁰² When her fellowship ended, she returned to Moscow and held several jobs before moving to Pocatello to work for the State Employment Service and later to Weiser to teach vocational school.²⁰³

In 1943, Klein decided to move to Washington, D.C., to work for the Labor Department and later the War Department. While in D.C., Klein worked during the day and began attending law school at George Washington University at night. At the time, GWU was one of the few law schools that accepted women—many other law schools, including Georgetown, did not—and as a result, GWU attracted women students in large numbers.²⁰⁴ Klein graduated in 1946 and took and passed the D.C. bar, reflecting that World War II had opened up many more opportunities for women than had existed prior to the war.²⁰⁵

Klein returned to Idaho after law school, took and passed the Idaho bar, and on January 7, 1947, became the seventeenth woman admitted to practice in Idaho.²⁰⁶ Klein applied for but did not receive a position with a prominent Boise firm. Undeterred, she approach two other attorneys for a job and was

199. First 50, *supra* note 1 at 34.

200. First 50, *supra* note 1 at 34.

201. First 50, *supra* note 1 at 34.

202. First 50, *supra* note 1 at 34.

203. First 50, *supra* note 1 at 34.

204. First 50, *supra* note 1 at 34.

205. First 50, *supra* note 1 at 35.

206. First 50, *supra* note 1 at 35.

hired—the stipulations being that she would receive the same salary as the office secretary, do her own stenographic work for all cases, and receive a finder's fee of one-third of the fee for the cases she brought to the office.²⁰⁷ That arrangement, Klein recalled, gave her a “foot in the door.” Klein soon developed a solid practice of her own, which included being appointed a part-time Boise city judge (a first in Boise).²⁰⁸

Klein was always interested in politics, so in 1948 she decided to run for the Idaho legislature.²⁰⁹ At the time, Idaho had had a few female legislators, but a female legislator—particularly a woman attorney—from Boise was a novelty.²¹⁰ Klein was the first woman attorney elected to the Idaho legislature.

During her first term in office, from 1949 to 1950, Klein met Sandor (“Sandy”) Klein, a journalist with United Press International, and they married soon thereafter.²¹¹ In 1953, the couple moved to Washington, D.C., and Klein earned her L.L.M. in tax from George Washington University in 1954. She worked for the Federal Communications Commission and then, after two years, moved to New York, where, after being admitted to the bar, she worked for the United States Housing Administration.²¹²

In 1957, Klein returned to Idaho and joined the firm of Langroise & Sullivan in Boise, and her husband became the managing and executive editor of the state's largest newspaper, *The Idaho Statesman*.²¹³ Klein once again pursued elected office but, after being defeated three times, took a job as attorney for the House of Representatives to draft legislation.²¹⁴

In 1964, Klein successfully ran for the House of Representatives and served there until 1968, when she was elected to the Idaho Senate. Klein served in the Senate until 1982, for a total of twenty years in the legislature, including fourteen years as the only woman in the Idaho Senate.²¹⁵

Klein was on a number of cultural and philanthropic boards in Boise and was honored by many organizations for her tireless work. She died in Boise on December 31, 1998, at the age of eighty-three.²¹⁶

207. First 50, *supra* note 1 at 35.

208. First 50, *supra* note 1 at 35.

209. First 50, *supra* note 1 at 35.

210. First 50, *supra* note 1 at 35.

211. First 50, *supra* note 1 at 35.

212. First 50, *supra* note 1 at 35.

213. First 50, *supra* note 1 at 35.

214. First 50, *supra* note 1 at 35.

215. First 50, *supra* note 1 at 35–36.

216. First 50, *supra* note 1 at 36.

Other notable firsts by women in Idaho include the following:²¹⁷

- Susan Flandro of Pocatello was the first woman to serve as deputy Idaho Attorney General in 1968.
- Mary Hobson of Boise was the first woman to serve as an Assistant United States Attorney for the District of Idaho, in 1978.
- Kaye O’Riordan of Boise was elected as the first woman to serve on Idaho State Bar’s Board of Commissioners (representing the Fourth Judicial District), in 1986.
- Merrily Munther of Boise was the first woman to serve as president of the Idaho Law Foundation, in 1986.
- Kaye O’Riordan was the first woman to serve as president of the Idaho State Bar, in 1988.
- Marsha Smith of Boise was the first woman appointed as commissioner of the Idaho Public Utilities Commission, in 1991.
- Susan Graham of Boise was the first woman elected to serve as president of the Idaho Trial Lawyers, in 1992.
- Linda Palmer Judd of Post Falls and Boise was first woman awarded the Idaho State Bar’s Professionalism Award, in 1993.
- Mary Oldham Smith of Rexburg was the first woman awarded (posthumously) the Idaho State Bar’s highest honor, the Distinguished Lawyer Award, in 2003.

Conclusion

Idaho has been blessed with a wealth of smart, gritty, and determined women who have made an impact on Idaho’s bench and bar. Their life and work should serve as an inspiration for both the men and women of Idaho for generations to come. There are still a few important positions that women have not held in Idaho, including United States District Court judge²¹⁸ and judge on the Ninth Circuit Court of Appeals. With time, and with the continued persistence of the smart women of Idaho’s bar, these positions will someday be held by women, and the ultimate glass ceiling of the bar will fall.

217. See First 50, *supra* note 1 at “Milestones for Women In Idaho Law.”

218. As of Nov. 1, 2021, Judge B. Lynn Winmill of the U.S. District Court, District of Idaho, had taken senior status, and his position remained open without a nomination from President Biden and Idaho’s senators.
