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D. Duff McKee

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Current Positions: Retired state district court judge on senior status. Self-employed in private law practice limited to alternative dispute resolution services.

Professional overview:

August 2000 to Present:

--- Approximately 80% of time is devoted to private ADR assignments, the majority being civil case mediations. Has conducted judicial settlement conferences or private mediations on over 2,000 civil cases from 1985 through 2013. Currently handles approximately 75 ADR assignments per year. Is listed on rosters of Idaho Supreme Court and Idaho Federal District Court mediators for civil case mediation. Other ADR work includes assignments as SLRA evaluator, insurance appraisal neutral, arbitrator, special discovery master, and administrative hearing officer. Holds an “AV” peer rating from Martindale-Hubbell in ADR specialty. Listed in Mountain States Super Lawyers every year since 2008 in ADR specialty.

--- Approximately 20% of time is devoted to judicial service as senior district court judge, consisting of trial and appellate cases as designated by the Idaho Supreme Court.

July 1985 – August 2000: State District Court Judge, Fourth Judicial District, State of Idaho. Chambered in Boise, Idaho. The district court is the trial court of general jurisdiction in Idaho. Handled an all-civil case calendar for last 10 years of this time.

June 1964 – July 1985: Private practice of law, Boise, Idaho. Private practice generally concentrated on business and business litigation. Held an “AV” rating from Martindale Hubbell.

ADR Training: Advanced Mediation Training, University of Idaho Northwest Institute for Dispute Resolution, May 1998, May 2005, May 2007. Basic Mediation Training, University of Idaho Northwest Institute for Dispute Resolution, May 1997. Arbitrator II (advanced) Training, American Arbitration Association, San Francisco, November 2002.

Arbitrator I (basic) Training, American Arbitration Association, Los Angeles, November 2001. Over 250 additional hours in continuing education seminars in addition to basic and advanced training.

Professional Licenses: Idaho State Bar, 1964 to present. Member of the federal bar for the Federal District Court of Idaho, the 9th Circuit Court of Appeals, the 10th Circuit Court of Appeals and the U.S. Tax Court.

Professional Associations: Idaho District Judges Association; Idaho State Bar Association (Sections on Alternative Dispute Resolution and Litigation); American Bar Association (Sections on Dispute Resolution, Judiciary and Litigation); Association for Conflict Resolution; American Inns of Court (Founding member of Boise Chapter, 1990; Bencher and Counselor of the Inn, 1990 – 2000; Bencher Emeritus, 2000 to present)

Education:

--- **Undergraduate:** Rutgers University, New Brunswick, N.J. 1957 – 1959; University of Idaho, Moscow, Idaho, 1959 – 1961 (B.S., Business, 1961) Undergraduate degree is in accounting; passed entirety of CPA examination in 1961.

--- **Legal:** University of Idaho College of Law, Moscow, Idaho (J.D. 1964). Wm Borah Award for academic excellence; Intercollegiate Moot Court Team; Idaho Law Review.

Bibliography of Published Works:

--- Legal

“The Value of Mediation in the Simple Case,” *The Advocate* (Official Publication of Idaho State Bar, Boise, Idaho, November, 2004.)

“Challenges for Cause in Jury Selection Process,” 58 Proof of Facts 3rd 395 (WestGroup Publishing, Rochester, N.Y., 2000).

“Proof that Item of Personal Property has Become a Fixture of Real Property,” 54 Proof of Facts 3rd 303 (WestGroup Publishing, Rochester, N.Y., 1999).

“Disqualification of a Trial Judge for Cause,” 50 Proof of Facts 3rd 449 (WestGroup Publishing, Rochester, N.Y., 1999).

“Liability for Supplying False Information to Credit Reporting Agencies,” 45 Proof of Facts 3rd 221 (WestGroup Publishing, Rochester, N.Y., 1998).

“Liability for Wrongfully Furnishing or Obtaining a Credit Report Under the Federal Fair Credit Reporting Act,” 44 Proof of Facts 3rd 287 (Lawyers Cooperative Publishing, Rochester, N.Y., 1997).

“Liability of Debt Collectors to Debtors under the Fair Debt Collection Practices Act,” 41 Proof of Facts 3rd 159 (Lawyers Cooperative Publishing, Rochester, N.Y., 1997).

“Proof of Employment Discrimination on Account of a Repetitive Strain Injury under the Americans with Disabilities Act,” 38 Proof of Facts 3rd 129 (Lawyers Cooperative Publishing, Rochester, N.Y., 1996).

“Challenge to Eyewitness Testimony through Expert Testimony,” 35 Proof of Facts 3rd 1 (Lawyers Cooperative Publishing, Rochester, N.Y., 1996).

“Establishing Liability of State or Local Highway Administration Where Injury Results From the Failure to Place or Maintain Adequate Highway Signs,” 31 Proof of Facts 3rd 351 (Lawyers Cooperative Publishing, Rochester, N.Y., 1995).

“Liability Under Common Law Tort Theories of School Districts for the Sexual Molestation of a Student by a Teacher,” 31 Proof of Facts 3rd 261 (Lawyers Cooperative Publishing, Rochester, N.Y., 1995).

“Proof of Lost Earning Capacity,” 29 Proof of Facts 3rd 259 (Lawyers Cooperative Publishing, Rochester, N.Y., 1995).

“Establishing and Adequate Foundation for Proof of Medical Expenses,” 23 Proof of Facts 3rd 243 (Lawyers Cooperative Publishing, Rochester, N.Y., 1993).

“Termination or Demotion of a Public Employee in Retaliation for Speaking Out as a Violation of Free Speech,” 22 Proof of Facts 3rd 203 (Lawyers Cooperative Publishing, Rochester, N.Y., 1993).

“Punitive Damages Against an Insurer for the Bad Faith Handling of a First Party Claim,” 18 Proof of Facts 3rd 323 (Lawyers Cooperative Publishing, Rochester, N.Y., 1992).

“Some Subtleties in Persuasion,” *The Idaho Trial Lawyer* (Journal of the Idaho Trial Lawyers’ Association, Boise, Idaho, Winter, 1990); republished, *The Advocate* (Journal of the Arizona Trial Lawyers’ Association, Phoenix, Arizona, March, 1991).

“A Study of Surgical Consent Forms,” with Laurence E. Johnson, *Hospital Forum* (Journal of western hospital management, February, 1969).

“Specific Contradiction as a Mode of Impeachment,” 1 *Idaho Law Review* 104 (University of Idaho College of Law, Moscow, Idaho, Fall, 1964).

“Proof of Facts,” chapter in the litigation practice manual published by the Idaho Law Foundation for CLE programs in Idaho.

“Tax Free Exchanges,” chapter in the real estate practice manual published by the Idaho Law Foundation for CLE programs in Idaho.

--- **Idaho History**

“The Territorial Judges of Idaho; Opportunistic Carpetbaggers or Dedicated Pioneers?” *Idaho Yesterdays, A Journal of Idaho and Northwest History* (The Idaho Historical Society, Winter 1993).

“The People v. Caleb Lyon; The Lewiston Capital Case Revisited,” *Idaho Yesterdays, A Journal of Idaho and Northwest History* (The Idaho Historical Society, Summer, 1992).

--- **Book Reviews**

The Idaho State Constitution; A Reference Guide, by Donald Crowley and Florence Heffron (1994); reviewed for *Idaho Law Review*, spring symposium issue, 1995.

Rugged Justice, The Ninth Circuit Court of Appeals and the American West, 1891 – 1941, by David C. Frederick (1994); reviewed for *Idaho Yesterdays, A Journal of Idaho and Northwest History*, The Idaho Historical Society, Spring, 1995.

Idaho's Constitution, The Tie That Binds, by Dennis C. Colson (1991); reviewed for *Western Legal History, Journal of the Ninth Circuit Historical Society*, winter-spring, 1993.