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### FAQs—Why Was There a Lawsuit? - Assessor vs. Commissioners - Case No. CV28-22-5938

**NOTE:** The underlined light blue text in this article are links to supporting documents—click on each link to open and review them.

**Q1:** *Why is this Q&A about the lawsuit being made public?*

**A1:** There are multiple reasons for making this Q&A public. First, transparency. Citizens want, and deserve, to know the truth. Also, so that all are aware of the restrictions and limits on the scope of authority and power that the commissioners have, so that all will learn from their mistake and this experience and so that this costly mistake made by Leslie Duncan, Bill Brooks and Chris Fillios, is not made again. Finally, the truth matters and makes a difference. The local Coeur d’Alene press has not published the truth about this story.

**Q2:** *Why was the lawsuit filed?*

**A2.0:** There are also multiple reasons for filing the lawsuit. First, our system of government has checks and balances on the scope of power and authority of all elected officials and that applies to the Commissioners, too. There are restrictions and limitations on the scope of authority and power that the Commissioners have in fixing the salaries of the other elected officials. They cannot act arbitrarily or beyond prescribed law.

The Idaho Supreme Court decision in [La Brosse v. Board of County Commissioners of Boundary County, Idaho \(1983\)](#) stated that the reasons that Commissioners have restrictions and limitations on their authority and power to fix salaries is because:

- restrictions and limitations remove from the governing body the temptation of influencing the other public officers through the use of a salary increase or decrease; and
- restrictions and limitations protect the other officers against legislative oppression which might flow from party rancor, personal spleen, enmity, or grudge; and
- restrictions and limitations establish definiteness and certainty as to the salary pertaining to the office.

**Sidebar 1:** In 2021, Bill Brooks and Chris Fillios started an initiative to change the form of county government. Consider the following rhetorical questions:  
**(1)** *“Would county commissioners who were inclined to change our*

*form of county government, be inclined to abuse discretion, transgress the law, and drive out of office an assessor who asked questions and challenged established paradigms?”* **2)** *“If Duncan, Brooks and Fillios could succeed at driving the assessor out of office, then there would be no need to change the form of government? They could just ignore the law; just try to get away with unlawful acts and see what happens?”* **3)** *“If Duncan, Brooks and Fillios had been successful in ousting the Assessor, then which elected official would be next? The Sheriff? The Coroner? The Clerk? Prosecuting Attorney? The Treasurer? No need to change the form of government.”* **End of Sidebar 1.**

Would your vote even count if the Commissioners can get away with illegally ousting any county elected official whom they don’t like? So, the lawsuit was filed to vindicate voter rights.

Items A2.1 through A2.18 in the pages that follow, provide a more complete listing of the additional reasons that the lawsuit was filed. The bottom line, however, is that the 2022 action of Leslie Duncan, Bill Brooks and Chris Fillios to punitively cut the salary of Assessor Kovacs, without having the proper authority to do so and without any supporting evidence is simply unjust.

The current Commissioners are now continuing to resist the Supreme Court decision awarding attorney fees, so the fight continues. Assessor Kovacs fronted the money to fund the lawsuit and outside legal counsel, D. Colton Boyles of Boyles Law, PLLC, deserves to be paid because he successfully fought to defend for your right to vote. The Commissioners have paid their attorney but not Kovacs or Boyles. As the saying goes, Justice delayed is justice denied.

**Additional Reasons for the Lawsuit—Supreme Court Case Law:**

**Sidebar 2:** After the May 17, 2022, Primary election, then Prosecuting Attorney (PA), [Barry McHugh](#), [asked Assessor Kovacs for a meeting](#). McHugh did not want his staff to know about the request he would be making. In the meeting, McHugh asked Assessor Kovacs to

**District Court Decision**



**Supreme Court Decision**



hire him as the new Chief Deputy Assessor. McHugh had authority over the County Human Resources (HR) department. McHugh said he wanted to keep his \$130K annual salary and he would arrange it with the Commissioners. McHugh admitted he knew nothing about appraisal or assessment, and that he would spend the rest of 2022 (May thru December) training his replacement PA. In January 2023, McHugh would become the next judge after the November 2022 election (McHugh ran unopposed). If Kovacs would agree, then McHugh would temporarily “occupy” the Chief Deputy position at a salary exceeding the department’s budget and the top end of the position’s pay range by more than \$35K, with McHugh knowing nothing about assessment and Kovacs would not have McHugh’s full, undivided, attention. Offer rejected. August 15, 2022, Ben Crotinger started as new Chief Deputy. August 19, 2022, Steve Matheson told Kovacs the Commissioners wanted him out, or they’d cut his salary. Duncan later revealed she cut the Assessor’s salary because Kovacs did not hire Barry McHugh. **End of Sidebar 2.**

**A2.2** The following list of Idaho Supreme Court cases between various elected officials and boards of county commissioners (“BoCC”) are landmark decisions that define the limits and contours of county commissioner power and authority under Idaho State Law and the Idaho State Constitution. This list is not exhaustive and not comprehensive. The bullets “a” thru “j” listed after the list of landmark cases give a summary of the conclusions about the limits and boundaries commissioner power and authority. The AGOs provide a good summary, too.

- [Gorman v. BoCC of Boise County, Idaho \(1874\)](#), pgs. 553-560
- [Meller v. BoCC of Logan County, Idaho \(1894\)](#), pgs. 44-53
- [Stokey v. BoCC of Nez Perce County, Idaho \(1899\)](#), pgs. 542-549
- [Reynolds v. BoCC of Oneida County, Idaho \(1899\)](#), pgs. 787-795
- [Dukes v. BoCC of Boise County, Idaho \(1910\)](#), pgs. 736-741
- [Prothero v. BoCC of Twin Falls County, Idaho \(1912\)](#), pgs. 598-605
- [Criddle v. BoCC of Bonneville County, Idaho \(1926\)](#), pgs. 811-819
- [Etter v. BoCC of Twin Falls County, Idaho \(1927\)](#), pgs. 192-200
- [Planting v. BoCC of Ada County, Idaho \(1973\)](#), pgs. 484-487
- [Clark v. BoCC of Ada County, Idaho \(1977\)](#), pgs. 749-757
- [La Brosse v. BoCC of Boundary County, Idaho \(1983\)](#), pgs. 730-733
- [Idaho Attorney General Opinion \(AGO\) 1986 \(AGO 86-10\)](#)
- [Idaho Attorney General Opinion \(AGO\) 1993 \(AGO 93-8\)](#)

The cumulative effect of these landmark Idaho Supreme Court decisions and AGO summaries may be summed up as follows:

- a) *Although county commissioners set the salaries of all county elected officials, the commissioners cannot cut salaries in order to assert authority over the other offices.*
- b) *The power to set salaries does not provide commissioners with a roundabout method of controlling the other elected officials or their offices.*

- c) *County commissioners cannot set salaries arbitrarily or for improper motives. Salaries must be fixed based on job duties.*
- d) *As a general principle, the various county offices should be viewed as being independent of one another.*
- e) *The Idaho Supreme Court has held that the commissioners may not assume or change the duties of other offices.*
- f) *The commissioners are not above the other county officers.*
- g) *The commissioners may not assume the duties or judge the job performance of other county officers.*
- h) *Direct supervision by the commissioners of the other county officers, and of their deputies and assistants, is forbidden.*
- i) *In Gorman v. BoCC of Boise County, the court stressed the fact that each officer is an elected official in his or her own right and the commissioners are not to judge the job performance of the deputies of the other officers.*
- j) *Supervision of all other county elected officers by the county commissioners as meant under [I.C. § 31-802](#) is limited to only financial, monetary matters and handling of county funds.*

### The Relevance of the Gorman Case

**A2.3** The following words from the Idaho Supreme Court decision in *Gorman v. Board of County Commissioners of Boise County, Idaho (1874)* are almost prophetic. Emphasis is added.

*“A board of county commissioners is a tribunal created by statute with limited jurisdiction and only quasi judicial powers, and cannot proceed except in strict accordance with the mode provided by statute. It has no right or authority to adopt any other mode than that required or provided by statute. The statute is its guide, and a strict adherence to it is as essential as that of the mariner to his compass. The whole tenor of the text-books and the authorities is to this effect. There is and can be no safety in any other rule. Men’s rights cannot be defeated by the mere discretion of such an inferior tribunal, and not even by one of much more extended jurisdiction. Leave when once given, to go outside of the statute and make rules and regulations to govern in such cases, would be very dangerous, not only to the letter but to the spirit of the law. The rule which will allow a board of commissioners to suspend a county officer without a “thus saith the law” would allow the district court to suspend the board, and this court to suspend the district court.”* – pgs. 556-557

*“The board of county commissioners has no authority to pass upon the malfeasance or misfeasance of an officer. The statute is plain and unequivocal upon that question, and it would be a novel proceeding if a board of county commissioners could declare an officer guilty of that for which the law imposes a heavy fine, and in some cases, imprisonment, and having done so without hearing the officer or even giving him an opportunity to be heard, declare his office vacant, and then appoint his succes-*

sor. Such a proceeding would soon render useless the criminal courts, and make the officers elected by the people ‘mere clay in the hands of the potter.’” – pgs. 559

*“Every intendment of the law is to be construed most strongly in favor of those whom the suffrages of the people have elected to serve them. Courts should not seek for excuses to defeat the will of the people as expressed at the ballot-box, but should rather seek, if seek at all, for some excuse to protect that will inviolate. In this is our only safety. We have too much of that spirit which seeks to thwart the will of the people, and we have also seen some of the deplorable consequences.”* – pgs. 559-560

#### KC Assessor v. KC Commissioners *vis-à-vi Gorman*

**A2.4** In late August of 2022, Leslie Duncan, Bill Brooks and Chris Fillios, demanded that Assessor Kovacs resign as Assessor, that he quit his campaign for the November 2022 re-election as Assessor and they threatened a drastic salary cut and a media campaign against him if he refused. The Commissioners’ demand was consistent with the warning that they sent Treasurer, Steve Matheson, to give to Assessor Kovacs on August 19, 2022, with the stated goal of making it financially difficult for Assessor Kovacs to remain in office. Duncan, Brooks, and Fillios, don’t have authority as Commissioners to interfere with an election ([I.C. § 18-2315](#)). Therefore, the lawsuit was filed in part to defend the rights of voters to choose their own assessor.

**A2.5** The disingenuous allegations and accusations made by the Commissioners (Leslie Duncan; Bill Brooks; Chris Fillios) that Assessor Kovacs missed 2022 deadlines are and remain, baseless, false, and a misrepresentation of the truth. The 2022 property rolls were delivered early by Assessor Kovacs, six weeks before the statutory deadlines. It was the Commissioners who were late. Commissioners must complete the Board of Equalization (“BoE”) process and deliver the property rolls by the second Monday of July – see [I.C. § 63-501](#) and [I.C. § 63-509](#). The reason that the Commissioners were late with the property rolls in 2022 is because they failed twice to conclude BoE hearings on time (first, they [missed the statutory deadline of July 11, 2022](#) and second, they then [missed the extended deadline of July 19, 2022](#) by losing track of ten (10) appeals). As of the 4th Monday of June each year, the Commissioners assume full control over the property rolls and after the 4th Monday of June only the Commissioners, when sitting as a BoE, can make any changes to the property rolls. As a result, the Commissioners are solely responsible for the delinquencies occurring after the 4th Monday of June. In 2022, the Commissioners were late.

**A2.6** As a result of the false allegations that the Assessor was late, on August 5, 2022, Assessor Kovacs was contacted and informed by the Prosecuting Attorney’s Office that he was being [investigated for the late property rolls](#) and that he was pos-

sibly facing 6 months imprisonment and a \$5,000 fine. This appeared to be a tactic, possibly to instill fear in Kovacs prompting him to acquiesce to the demands of Leslie Duncan, Bill Brooks, Chris Fillios, that he resign as Assessor and quit his campaign for re-election. See [I.C. § 63-310](#) and [I.C. § 63-1402](#).

**A2.7** Leslie Duncan, Bill Brooks and Chris Fillios, never had any authority under [I.C. § 31-802](#) to take any punitive action against any other county elected officer, much less Assessor Kovacs. According to long-established Idaho case law (opt. cit.), the power and authority to supervise as found Idaho State Law ([I.C. § 31-802](#)) pertains only to handling county funds, and even in such instances, the Commissioners have only the authority to refer their concerns to the prosecuting attorney, and then, only if there is a delinquency. The Assessor’s Office was not in any way delinquent in the property roll or financial matters in 2022. That the prosecuting attorney took no action proves this.

**A2.8** The Leslie Duncan, Bill Brooks and Chris Fillios have no evidence whatsoever to support their false allegations and claims they made against Assessor Kovacs. The Commissioners offered no evidence when they cut the salary, they offered no evidence or record during the lawsuit. There is no evidence and, in fact, there is no record at all. Their record, or lack thereof, is fully devoid of any support for their false allegations as so determined by the District Court on May 5, 2023, and reaffirmed by the Idaho Supreme Court on March 14, 2025.

**A2.9** The power and authority of county commissioners is narrow and limited as defined in Idaho State Law. [I.C. § 31-801](#). This is known as [Dillon’s Rule](#), named after Judge John Dillon, an Iowa Supreme Court Justice from 1858 to 1868. Dillon is one of the most prolific writers in American jurisprudence and had good reason to not trust county commissioners as they often abuse authority. Dillon’s Rule is quoted below is the American version of the ancient legal maxim known as *ultra vires* (“beyond the power”). The key phrase in Dillon’s Rule is the last sentence which places a vice on the limits of authority of commissioners for the benefit of the People. Emphasis is added.

*“It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: first, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation – not simply convenient, but indispensable. Any fair, reasonable, substantial doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied.”*

#### The Relevance of the Stookey Case

**A2.10** In *Stookey v. Board of County Commissioners of Nez*

Perce County, Idaho, (1899), the Idaho Supreme Court held the following (emphasis is added):

*“We appreciate the difficulties experienced by the legislature in providing for compensation of the different officers in the various counties. Novel conditions exist in this state. We have a large area. Some of the counties are large in area while others are small. Some are sparsely settled, while others are populous. Some have easy shipping facilities, while others are isolated and distant from railroads, making traffic expensive. Owing to this diversity of conditions, the cost of living in one county is much more than in others. It would not be fair or equitable to require an officer in a county where it is costly to live to work for the same salary paid the same officer performing the same amount of work in a county where it would cost only half as much to live. Taking into consideration these diverse conditions, the legislature considered that the amount of the salaries ought to be determined in the various counties with reference to the amount of work to be performed and the cost of living.”* – pgs. 547-548

### The Relevance of the Reynolds Case

**A2.11** In *Reynolds v. Board of County Commissioners of Oneida County, Idaho (1899)*, the Idaho Supreme Court expanded on the findings of the earlier case *Stookey v. Board of County Commissioners of Nez Perce County (1894)* as follows:

*“The duty which devolves upon the county commissioners under the act in question is a delicate, and it will generally be found to be a difficult, one. They are called upon to exercise a judicial discretion, and to act so as to carry out the intent of the statute, with due regard for the rights and interests of both the office-holder and taxpayer. Their action involves judicial discretion. They act, not as a legislative body, but quasi judicially.”* – pg. 791

*“...the interests of all--both office-holder and taxpayer--demand that salaries should be fixed at such sums as will reasonably compensate each officer for his time and labor, taking into consideration the qualifications necessary to be possessed by each county officer, and the responsibilities of his office. All of these matters should be carefully investigated and determined by the board of commissioners. The board should exercise the discretion vested in it with due regard to the rights of the parties concerned.”* – pg. 791

### KC Assessor v. KC Commissioners vis-à-vis Stookey & Reynolds

**A2.12** The assessor’s salary is the official business of the assessor ([I.C. § 31-1602](#)) as his duty to prepare a budget. The salary is full compensation for performing the duties and services rendered as prescribed by the Idaho State Law ([Idaho State Constitution, Art. XVIII, Sec. 7](#)). Therefore, the drastic salary cut, com-

bined with the sworn Oath in taking Office, made it necessary to defend the four corners of the Assessor’s Office from intrusion and usurpation by Leslie Duncan; Bill Brooks; Chris Fillios.

**A2.13** The Commissioners commissioned a 2022 wage study by an independent third party. The [2022 wage study revealed](#) that based on the Assessor’s work duties as prescribed in State Law by the Idaho State Legislature, the 2021 salary should have been \$103,844. Under the false pretenses that they had the authority by [I.C. § 31-816](#), Commissioners Leslie Duncan, Bill Brooks and Chris Fillios suppressed the 2022 wage study results and instead followed-through on their prior threat to cut the Assessor’s salary. While in concept and at face value, the fixing of a salary might implicitly include the possibly of decreasing it, long-established precedent in Idaho Supreme Court case law shows that commissioners cannot use their authority to fix salaries as a means to exert control over the other elected officials nor for punitive reasons (see [AGO 86-10](#)). Case law establishes that the fixing of salaries must be fact-based criteria and upon the body of work and duties to be performed by the county assessor. Idaho State Law gives commissioners no power or control over the job duties and functions of to be performed by other county elected officials. According to the Idaho Attorney General, the following two cases relate to the fact that even the legislature cannot decrease or take away the duties given to constitutional county officers. [State v. Malcom, 39 Idaho 187, 226 P. 1083](#); and [State ex rel Wright v. Hedrick, 65 Idaho 148, 139 P.2d 76 1](#). See [AGO 86-10, pg. 2](#) and [1979 AG’s Report on AGO at pg. 250](#).

### Efforts by Kovacs to Settle KC Assessor v. KC Commissioners

**A2.14** In early September of 2022, Assessor Kovacs attempted in the following ways to end the dispute caused by the actions of Leslie Duncan, Bill Brooks and Chris Fillios:

- a) By appealing to the Board directly; however [Leslie Duncan refused](#) while Bill Brooks and Chris Fillios did not respond. Leslie [Duncan denied](#), and the [Board as a body denied, attorney services](#) and therefore also denied due process to Assessor Kovacs.
- b) By [submitting a claim in 2023 to the County](#); however, [Leslie Duncan, refused to consider the claim](#); Bruce Mattare responded verbally saying he thought the matter needed to be decided in court; Bill Brooks did not respond. The Commissioner’s can only consider a claim as a body and the record does not show that they considered it publicly for action.

The actions (or rather inaction) by Leslie Duncan, Bill Brooks, Chris Fillios and Bruce Mattare only added time, attorney fees and costs to the dispute. The attorney fees and costs that are now due and payable is a direct result of the wrongful acts,

and/or the failures to take swift and prompt corrective action, on the part of Leslie Duncan, Bill Brooks, Bruce Mattare and Chris Fillios to end the conflict correct and resolve their error.

#### District Court's Decision - KC Assessor v. KC Commissioners

**A2.15** On [May 5, 2023, the District Court judge ordered](#) the reinstatement of the Assessor's salary. Consistent with the Reynolds Supreme Court decision and its progeny, the District Court judge found that Leslie Duncan, Bill Brooks and Chris Fillios drastically cut the Assessor's salary by more than half while there was no reduction or change in the required statutory duties performed by the Assessor, and further found that Leslie Duncan, Bill Brooks and Chris Fillios denied the cost-of-living increase to the Assessor that the Commissioners gave to all county personnel, including themselves. The District Court judge deemed that:

- a) Leslie Duncan's, Bill Brooks' and Chris Fillios' action of cutting the Assessor's salary without evidentiary support exceeded the bounds or reason; and
- b) Leslie Duncan's, Bill Brooks' and Chris Fillios' action was arbitrary; and
- c) Leslie Duncan's, Bill Brooks' and Chris Fillios' abused their legal discretion as County Commissioners.
- d) Leslie Duncan's, Bill Brooks' and Chris Fillios' action was prejudicial to a substantial right of Kovacs as an individual and to the office of assessor because it would have adversely impacted any person elected to the office of assessor.

#### Supreme Court Decision - KC Assessor v. KC Commissioners

**A2.16** On March 14, 2025, three judges of the [Idaho Supreme Court unanimously found](#) that Leslie Duncan's, Bill Brooks' and Chris Fillios' decision to cut the Assessor's salary lacked any evidence, and was wholly devoid of facts and circumstances, and was made without any reasonable basis in fact. In fact, [Leslie Duncan admitted early on there was no evidence and record](#) but yet she still fought the lawsuit. The Court also found that there were also no facts to explain why Leslie Duncan, Bill Brooks and Chris Fillios, denied the cost-of-living increase that they gave to all county personnel, including themselves.

**A2.17** The March 14, 2025, unanimous decision by three Idaho Supreme Court judges [reversed the District Court's denial to award attorney fees and costs](#). The three Idaho Supreme Court judges unanimously held that because Leslie Duncan, Bill Brooks and Chris Fillios, did not act with a reasonable basis in fact, and found that the lower court's decision to not award attorney fees and costs was inconsistent with its determination that Leslie Duncan's, Bill Brooks' and Chris Fillios' decision was arbitrary and an abuse of discretion. The Court held that "arbitrary" means that Leslie Duncan's, Bill Brooks' and Chris Fillios' decision and action was made without consideration of,

or regard for facts, circumstances, fixed rules or procedures.

#### Commissioners' Challenge Supreme Court Decision

**A2.18** On April 3, 2025, the Commissioners met in [Executive Session](#) with outside attorney, Peter "Erblin" (*sic*). The [meeting minutes](#) misspelled the his last name as "Erblin". The correct spelling is "Erbland". The Executive Session was to "*discuss the legal ramifications of and legal options for pending litigation or controversies not yet being litigated but imminently likely to be litigated*" [I.C. § 74-206(1(f))]. The meeting minutes indicate that the [Commissioners exited the Executive Session and then voted unanimously to proceed](#) as directed in the Executive Session. The action then taken by the Commissioners on April 10, 2025, in response to the March 14, 2025, Supreme Court decision was to file a motion to oppose and challenge the award of attorney fees and costs as ordered by the Court. Far from saving any costs, this action on the part of the Commissioners will now only add additional attorney fees and costs for both sides to continue frivolously fighting this lawsuit.

#### Closing Remarks—Some Habits are Hard to Break

The current Board of Commissioners might attempt to justify their latest action by saying they have a duty to try and reduce liability and costs to the county. They are not alone – all elected officials have the duty to reduce liability and costs. However, they also have a duty to abide by the law, and the law, common sense and basic morality dictates the proper way to reduce liability and costs is to first not take an immoral and illegal action that exposes the county to risk, liability and expense. Moreover, if the action has created legal exposure, liability and harm, then not only is it just and morally proper to make swift and certain restitution and recompense, but the law demands it. See [I.C. 12-117](#). After all, the Commissioners swore an oath to uphold the laws of this State when they assumed office.

Observe that [AGO 93-8](#) was issued directly to Kootenai County and on page 5, and the AG makes a bad example of how the Kootenai County Board of County Commissioners improperly hired outside legal counsel. On page 1, page 6 and page 10, of [AGO 93-8](#) the AG carefully outlines the steps commissioners must take each time there is a need to hire outside legal counsel. But on [October 4, 2022](#), Leslie [Duncan, Bill Brooks and Chris Fillios took less than 1 minute](#) to [hire Peter Erbland of Lake City Law](#) to defend themselves in this lawsuit using unlimited tax dollars and failed to properly document the record or perform the steps required in [AGO 93-8](#). An [email from the Commissioners' Office](#) confirmed that October 4, 2022 is when they hired Lake City Law and also confirms there is no record and no contract for the thousands, and thousands, of dollars they've spent. Voters should hold Commissioners responsible. Thomas Jefferson wrote, "*Respect for the law is the foundation of order.*"