

Beware lawyers who serve pie, not broccoli

Marty Trillhaase/Lewiston Tribune

Want to lose a lot of money?

Shop around for a lawyer who encourages you to file a lawsuit.

Who promises that you are on the side of the angels.

Who is all too willing to reassure you about your prospects.

Who will take your call any hour of the day to calm your nerves when you run across an unsettling piece of news.

Eventually, that unsettling piece of news is followed by another and then yet another until, ultimately, some judge or jury hands you a defeat.

And that friendly lawyer?

He submits his billable hours.

All of which brings us to the closing minutes of Thursday's televised debate between Idaho Attorney General Lawrence Wasden and his GOP primary rival, Chris (formerly Christ) Troupis.

The lawyer who helped deliver a GOP primary closed to all but registered Republicans argued, "We must stand firm for our children, their freedom and our grandchildren's freedom and for our economic independence from Washington. Tonight we've talked about Obamacare, our property rights, Idaho lands, our Second Amendment rights and reclaiming our public lands. In every case, this attorney general has taken the wrong course."

That's a nod to the argument advanced by Troupis' political ally, former House Speaker Lawrence (Boss) Denney, R-Midvale, that Idaho and other Western states can force the federal government to relinquish its public lands simply by taking the case to court.

Popular as it may be in certain quadrants of the GOP voting base, it's a fool's errand.

"It's important to distinguish between rhetoric and reality," Wasden said. "You need to have an attorney general who will tell you what you need to know, rather than what you want to hear."

And the whole story, says Wasden, has some rather inconvenient facts. Such as:

- Idaho was carved out of a federal territory. At statehood in 1890, it adopted a constitution stating the people of Idaho "do agree and declare that we forever disclaim all right and title" to the federal lands.

- Such declarations are common throughout the Western states. Hence most of Wasden's colleagues agree with his view.
- As far back as 1840 and continuing through 1976, the U.S. Supreme Court has ruled that it is up to Congress - not the courts - to dispose of public lands. In 1872, the court concluded: "That power is subject to no limitations. Congress has the absolute right to prescribe the times, the conditions and the mode of transferring this property, or any part of it, and to designate the persons to whom the transfer shall be made. No state legislation can interfere with this right or embarrass its exercise. ..."
- In 1947, Idaho lawmakers actually petitioned Congress to leave things alone. They argued federal ownership would preserve watersheds, recreation, hunting and fishing and lower public lands grazing fees while preventing a "feudal ownership" of these lands once they passed into private hands. While it's not binding, it does show how political judgments can change.

None of this is to say Wasden is picking sides between those who believe acquisition of federal lands would accelerate Idaho's economy and others who see it as a financial quagmire, leading the state to sell off those holdings to the highest bidder.

But he's counseling that there is no quick and easy fix. If the Gem State is determined to acquire more control over the federal lands within its borders, it will go through the long, slow slog of the political process - working through Congress and/or through the local collaboratives that have provided more flexibility in areas such as the Clearwater Basin.

What Troupis and his allies say may sound polished and promising. What Wasden offers has an "eat your vegetables" tone about it.

But when it involves your money and your time, you're better off listening to the lawyer who is serving broccoli. - M.T.