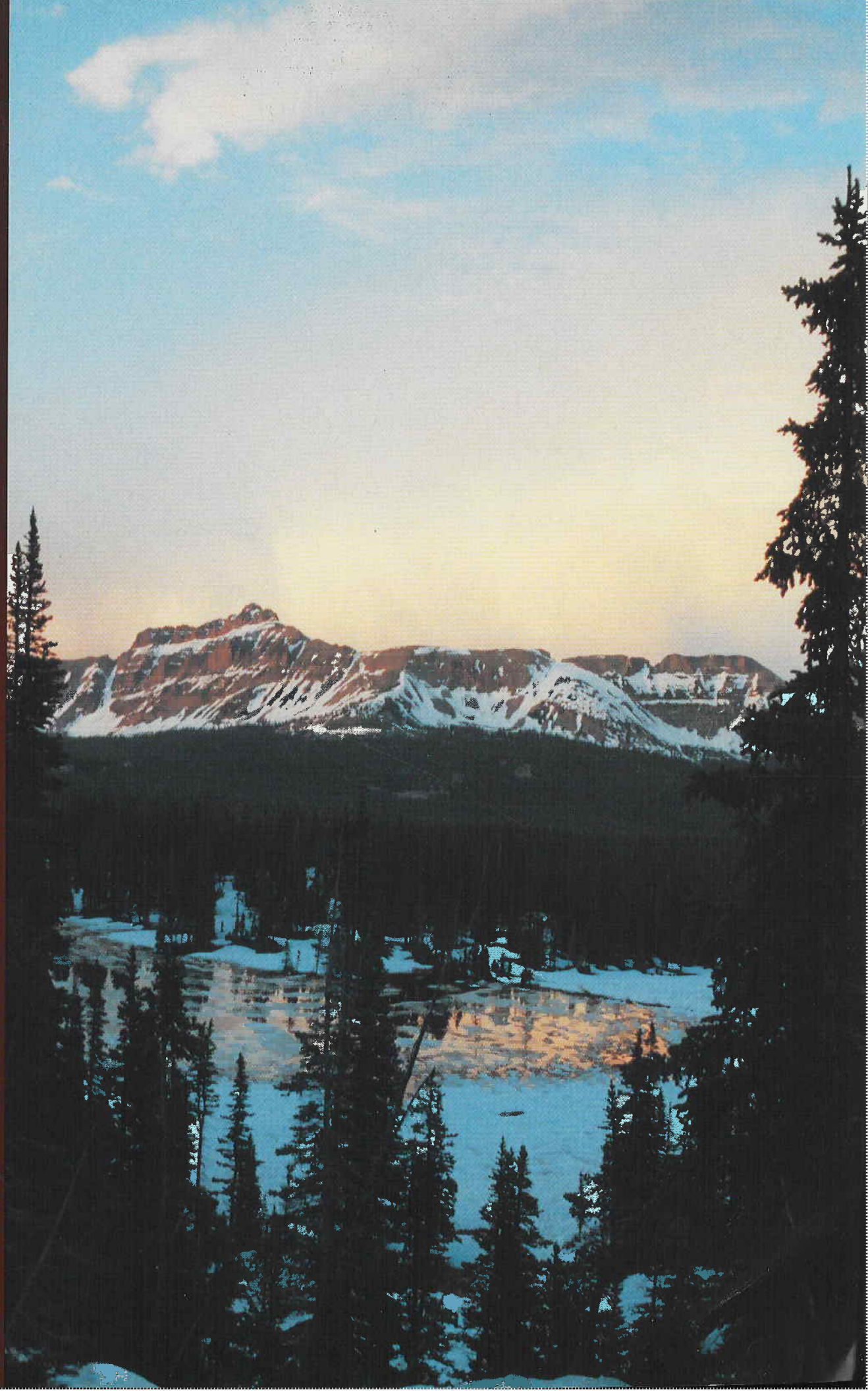


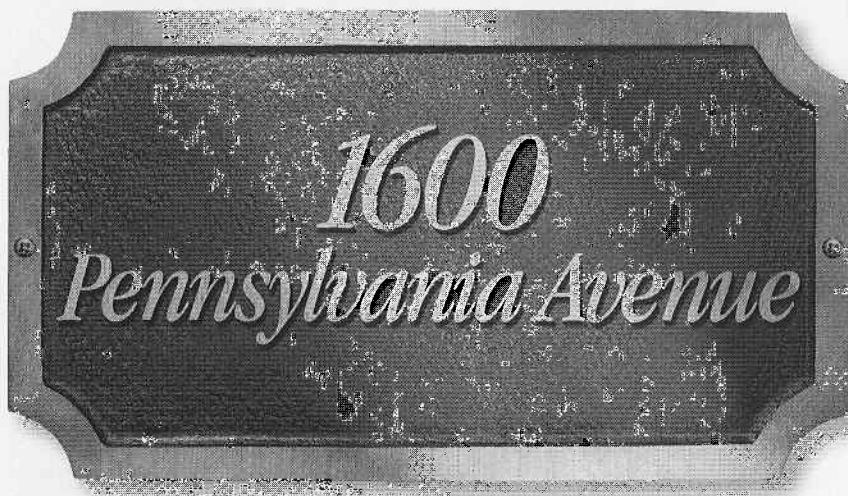
# Utah Bar JOURNAL

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**COVER:** Hayden Peak, Moose Horn Lake, Uintas, Utah, by first-time contributor, Commissioner Michael S. Evans, Third District Court.

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1. Length: The editorial staff prefers articles having no more than 3,000 words. If you cannot reduce your article to that length, consider dividing it into a "Part 1" and "Part 2" for publication in successive issues.

2. Format: Submit a hard copy and an electronic copy in Microsoft Word or WordPerfect format.

3. Endnotes: Articles may have endnotes, but the editorial staff discourages their use. The *Bar Journal* is not a Law Review, and the staff seeks articles of practical interest to attorneys and members of the bench. Subjects requiring substantial notes to convey their content may be more suitable for another publication.

4. Content: Articles should address the *Bar Journal* audience, which is composed primarily of licensed Bar members. The broader the appeal of your article, the better. Nevertheless, the editorial staff sometimes considers articles on narrower topics. If you are in doubt about the suitability of your article for publication, the editorial staff invites you to submit it for evaluation.

5. Editing: Any article submitted to the *Bar Journal* may be edited for citation style, length, grammar, and punctuation. Content is the author's responsibility—the editorial staff merely determines whether the article should be published.

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### **Jim Clegg** **April 31, 1939–January 15, 2000**

*by Charles R. Brown*

**T**he preparation of my President's Message this month is a very sad task. On Saturday, January 15, 2000 we lost Jim Clegg. Jim was President-Elect of the Bar when I was originally appointed to the Commission in 1992 and served as President from 1993 to 1994. Although I did not know Jim before joining the Bar Commission, I came to know him well while serving on the Commission. He was a straight shooter. I believe and I think most of his close friends would concur that he was really a cowboy who happened to have a law degree. He always approached the sometimes complex and sometimes controversial issues we deal with on the Bar Commission with consummate integrity. We trusted his judgment and knew that his approach to an issue would always be based on pure analytical analysis of the issue and whether it was the right thing to do, regardless of other political dynamics or external forces which might come to bear. Unlike some members of our profession, he was not full of himself. He was notorious for his dislike of that strange accessory which male members of our profession are compelled to wear (a tie). We will miss his strength, his candor and his judgment.

As a tribute I have also requested some past Presidents who knew him well to contribute their observations.

#### **The Honorable James Z. Davis**

I have known Jim since we ended up on the opposite side of a case somewhere around 1980. Jim proved to be thoroughly professional, honest, forthright and, perhaps most importantly, friendly. During the years that followed, I had the privilege of getting to know Jim much better and in different contexts.

Jim ably represented the Bar during the dark days of the Task Force in an aggressive but always courteous and professional manner; and his Bar service continued in many capacities until January 15, 2000.

Yet Jim was not a typical "Bar junkie." When I asked Jim to serve on the Executive Committee in 1991, he told me he needed some time to think about it because of his time commitments at home. Fearing the worst, and being snoopy at heart, I attempted to find out whether a problem existed. Jim immediately assured me that it was just the opposite: he delighted in his home life and other activities, and was concerned that he may not give the Bar its due.

The rest is history. Jim gave the Bar and the profession more than its due. He will be sorely missed.

**Paul T. Moxley**

I had the pleasure of working with Jim closely for some six years on the Bar Commission. He was a lawyer's lawyer—the consummate gentleman. Jim disliked committees, which is unusual for a Bar junkie. He would take on a project, do it right and not bother taking credit for it. Jim had a dry sense of humor. He understood what lawyers needed, wanted and yearned for. Jim was a great advocate of our civil justice system. He made a great contribution to the solutions of the issues involving the Law and Justice Center. Once Jim finished his stint at the Bar, he moved on to other things.

Jim will be missed by his fellow lawyers whom he understood well. Jim was introspective and reluctant to express his opinion unless he felt compelled to. Most of us wanted to know him better.

**Randy L. Dryer**

Jim Clegg was a lawyer's lawyer—an advocate who was honest, straightforward and didn't play games. He was someone with whom you could have a handshake agreement without the necessity of a confirming letter or formal stipulation. His sense of professionalism and devotion to the Bar was without equal. If I could have my son grow up to be like someone—that someone would be Jim Clegg. Jim was so unassuming and self-effacing that his understated, yet often wickedly pointed sense of humor made him all the more endearing. He will be sorely missed.

**Dennis V. Haslam**

Jim Clegg was the consummate lawyer. He was a humble man of few words. He spoke when necessary and always acted with a sense of purpose. During the early 1990s when the Bar experienced a financial crisis and underwent a thorough examination of its finances and mission by an independent Supreme Court Task Force, Jim and other Bar Commissioners stood tall and carried us through those difficult times. He served as Bar President with the philosophy that less is more. I will miss his cowboy smile.

**Charlotte L. Miller**

Jim Clegg was an exceptional lawyer, Bar President, rancher, cowboy, and friend. He was most happy in his roles as dad and husband. He was great at both. When Jim spoke of his children you could feel the warmth of his love for them. He had the wisdom to guide them while encouraging them to make their own choices, their own mistakes and their own accomplishments. Jim always spoke of Joy with such complete happiness and contentment in his voice. He admired her wisdom, saying

on many occasions, "Joy always knows how to solve a problem and what to do in a crisis." For the past ten years many of us have heard Joy say, "Oh, Jim is just so good to me," with the same brilliant smile she had when she first told us she was going to marry Jim Clegg.

To Jim's children, Lane, Janielle, Ryan, and Chantelle, and to his wife, Joy, thank you for sharing him with us. All of us who were fortunate to experience Jim's passion for life, his integrity, humor and warmth, are grateful to him and to you.

**Harold G. Christensen**

Jim Clegg was one of Utah's top trial lawyers. The scope of his practice was broad, but he was best known nationally for his defense of car manufacturers and, more recently, drug companies. In addition to being an outstanding lawyer dedicated to his profession, he was a genuine, honest, trustworthy and truly fine person and a loyal friend. What you saw and what you heard was what you got with Jim. The luster of the Utah State Bar is diminished by his absence.



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# *The Beginner's Guide to Delinquency Representation*

by Katherine Bernards-Goodman

**M**ost attorneys, even those experienced in practicing criminal law, do not practice regularly in juvenile court. Because of this, they can find themselves at a loss when they have a case in the juvenile court system. By writing this article, I hope to familiarize attorneys with some of the practices, customs, and “lingo” that will help them understand how the juvenile court system works, and how to best represent their clients. My point of view is based on my years of practice as a prosecutor in Third District Juvenile Court.

As we all know, the various districts sometimes vary in acceptable practices and procedures. If you find something in this article that is contrary to the practice in your district, I'm not surprised. Hang in there, and don't hesitate to ask questions.

Prosecutors and defense attorneys sometimes don't see eye to eye. If I miss the defense attorney's perspective, forgive me.

## **Intake and Detention**

### **How a Juvenile Gets “Charged”**

When a juvenile engages in behavior that would be a crime if an adult committed it, or that is a status offense,<sup>1</sup> they often are contacted by the police. As in any criminal case, the police agency with jurisdiction over the location where the criminal behavior took place conducts the investigation.

The investigating police officer must make some initial determinations. The officer first determines what she thinks the crime is, and whether to refer the case for prosecution.<sup>2</sup> Next, based on the level of the offense, she determines whether the case should be referred directly to the juvenile court, or whether it must be screened by the district attorney's office. The officer also decides whether the juvenile should be booked into detention or released elsewhere.

The officer's first determination must be the level of the offense, which dictates what action to take next. If the crime is a class B misdemeanor or below, the officer refers the case directly to juvenile court.<sup>3</sup> A juvenile court intake worker (social worker/probation worker) decides whether it may be diverted through a “non-judicial closure” (which is the equivalent of a diversion), or whether the defendant should appear before a commissioner

or judge.<sup>4</sup> This decision is based on the type and level of offense, the juvenile's prior record, and his social history. Almost half of the cases referred to juvenile court are resolved non-judicially.<sup>5</sup>

If the intake worker decides the juvenile should appear before a judge or commissioner, a petition (the charging document-not called an Information in juvenile court) is generated and mailed to the defendant with a summons.

If the crime is a class A misdemeanor or something more serious, the District Attorney's office screens the case.<sup>6</sup> The District Attorney's office determines what the charge is and whether the juvenile qualifies as a “serious youth,”<sup>7</sup> or whether the office wants to seek certification of the juvenile as an adult. If the officer has not already booked the juvenile, the District Attorney's office may decide to request a warrant. The office also generates petitions on class A misdemeanors and felonies, or an Information if the case qualifies as a serious youth case.

### **Will Your Client Get Booked Into Detention?**

The police officer may decide to book the juvenile into detention pursuant to the investigation. Whether the detention facility will accept the juvenile is not the officer's call. There are specific guidelines for admission to the detention facility promulgated by the Division of Youth Corrections in accordance with Utah Code sections 62a-7-104, 62A-7-205, and 78-3a-29,30.

A “youth” (a person more than age ten and under age eighteen)<sup>8</sup> may be booked if the offense she committed is on the “Holdable Offense List.” This list includes just about every felony and a few misdemeanors. A youth also may be booked if she committed three or more non-status offenses in a single criminal episode. Additionally, a youth may be booked if she is an escapee from a Division of Youth Corrections facility, a fugitive from probation, in violation of probation, a runaway from another state, or has three bookable offenses in the last twelve months, has run from court-ordered placement, or has failed to appear at a court hearing within the past twelve months. Of course, a judge may issue a bench warrant at any time pursuant to Title 77, chapter 7, which was adopted by the Utah Rules of

*Katherine Bernards-Goodman is a Deputy District Attorney.*



Juvenile Procedure in Rule 7.9. A bench warrant also makes a juvenile bookable.

An officer may decide to take a juvenile to a receiving center. There are two receiving centers in the Salt Lake valley. They are not secure (in other words, the juvenile can walk away). The receiving center contacts parents, provides counseling and referral services, and provides the juvenile with a place to stay until his parents can pick him up.

An officer may opt to release a juvenile to his parents, or another responsible adult by driving the juvenile home, or calling the parents to come to the station. Sometimes the officer simply cites the juvenile and releases him at the scene.

### **What Rights Does My Client Have in Detention?**

Immediately after being admitted to detention, your client will be advised of her right to telephone her parent, guardian, or custodian, and an attorney. The juvenile may confer in private with her attorney, cleric, parent, or guardian. After the initial visit, visits thereafter are at reasonably established visiting hours.

No one other than a probation officer or a detention facility staff member can interview a juvenile without advising him of his rights and having those rights intelligently waived. A minor under the age of fourteen may not waive such rights without parental permission. Of course, a juvenile can invoke his right to remain silent at any time.<sup>10</sup>

### **What About Photographing or Fingerprinting?**

Photographs and fingerprints may be taken of a minor fourteen years of age and older if she is taken into custody for behavior that would constitute a crime if committed by an adult, or if she is a serious habitual offender and is under the continuing jurisdiction of the juvenile court or the Division of Youth Corrections.

For a juvenile under the age of fourteen, a judge may grant a motion to fingerprint or photograph if the behavior would constitute a felony if committed by an adult.<sup>11</sup>

## **Adjudication**

### **What Will Be the First Hearing?**

If a juvenile is booked into detention, her case will be set for a "detention hearing," (called a "D.T. hearing") within forty-eight hours excluding weekends and holidays.<sup>12</sup> A worker at the detention facility will contact a parent to provide notice of the D.T. hearing. At the D.T. hearing, the judge will determine whether there is probable cause to establish the minor's involvement in the alleged offense, and whether he should be

released or held.<sup>13</sup> Only approximately twenty percent of youth are detained.<sup>14</sup>

In the past, parents attended these hearings at the Cornell Detention Center.<sup>15</sup> The Third District Juvenile Court is now set up to handle video arraignments, and parents must appear before the judge assigned to the child's case at either the Matheson Court House or the Sandy Court House. Hearings are held every weekday at the Matheson Court House and Mondays, Wednesdays, and Fridays at the Sandy Court House. The place of the appearance for the attorney is not set in stone; it's a matter of deciding whether you prefer to be face to face with the judge, or with your client.

If a judge is concerned about releasing the juvenile, there are things that might help him feel safer about choosing release. The juvenile can go on "home detention." This is a program that tracks the juvenile and checks periodically to see that she's where she's supposed to be. This program works best if the parents enforce the rules and are responsible. The more responsible the parents appear, the better chance you have to convince the judge to go this route. "Home DT" can be done in conjunction with electronic monitoring.

There are also programs called DART and TASC in which the juvenile goes to a facility first thing in the morning and stays for the day, until parents can pick him up in the evening. The DART and TASC workers get the juvenile to school and help him with various counseling groups and opportunities for community service.

### **Unless the Juvenile Is a Non-Resident Minor,<sup>16</sup> She Doesn't Have a Right to Bail**

This is why it's not called a bail hearing.

If a juvenile hasn't been booked, he will probably receive through the mail a copy of his charges and a summons to appear in court. An arraignment shall be held within thirty days from the filing of the petition unless otherwise ordered by the court for good cause shown.<sup>17</sup> If the juvenile fails to appear, service will be attempted. If the juvenile continues to fail to appear, or can't be located, or her parents inform the court that she's on the run, a bench warrant will be issued.

Juvenile hearings are confidential.<sup>18</sup> One matter will be handled in the courtroom at a time, and participants in all other matters must wait outside until the bailiff calls the case. The commissioner does group arraignments and Drug Court is handled in a group setting, but you must still wait outside the courtroom until you are called.

### **What Is a Preliminary Inquiry?**

Prior to the juvenile's first court hearing, he will likely get a call or letter from his "intake officer." The intake officer (a court employee with a background in social work) will ask the juvenile to appear for a "preliminary inquiry" (called a "P.I."). At the P.I., the intake officer asks the juvenile about the facts of her case. This makes defense attorneys extremely nervous, and requires a case by case decision about what to do.

The P.I. is voluntary and a juvenile has the right to have his counsel present if he wishes, or may simply refuse to attend.<sup>19</sup> A parent, guardian, or custodian must be present.<sup>20</sup> A juvenile may attend a P.I. and decline to discuss the facts of the case. Any information about the facts cannot be used against the minor to determine guilt or innocence.<sup>21</sup>

Of course, if the juvenile gets into the facts with the intake worker, the prosecutor will know about it and may be led to other witnesses and information. Then again, the intake worker may persuade the prosecutor that the facts aren't what they first appeared, or that there are extenuating circumstances.

Also at the P.I., "social information" is gathered from the juvenile and her parents (and sometimes outside sources) about how she's doing at home, at school, and at work. This information can hurt or help at sentencing.

The P.I. is a double-edged sword. The interviewer will most likely be the person making sentencing recommendations. What to advise your client to do will differ from client to client and event to event.

### **A Juvenile Will Not Be Diverted Into a Non-Judicial Program Without a Preliminary Inquiry**

If the charge is minor and it is suspected that a non-judicial resolution of the case would be possible, group P.I.s are held.

### **What Happens at an Arraignment/Pretrial Hearing?**

The arraignment/pretrial hearing will most likely be a defense attorney's first opportunity to speak to the prosecutor. Prosecutors in Third District Juvenile Court don't generally attend D.T. hearings (where the juvenile has been booked) because information about the juvenile and the charge have not yet been received by the District Attorney's office. Instead, prosecutors attend the next hearing date (arraignment/pretrial hearing) which is held during the D.T. hearing or through summons. Prosecutors do not attend arraignment/pretrial hearings before the commissioner unless the defense attorney has submitted an entry of appearance ahead of time.

If defense counsel has sent an entry of appearance to the District Attorney's office, she will have been mailed discovery ahead of the hearing. If not, the prosecutor will have discovery ready to give to defense counsel at the hearing.

At the arraignment/pretrial hearing, the prosecutor will be ready to make offers. If a negotiated settlement is reached, a plea can be entered that day. If not, the prosecutor will ask for a trial date or further pretrial hearing, if it appears that a settlement is forthcoming.

The juvenile must appear at the arraignment/ pretrial hearing with a parent or guardian or other person with legal custody.<sup>22</sup> An employer must grant permission for the parent to leave the workplace if given notice at least seven days in advance. If the parents do not appear, they are subject to possible contempt proceedings and a bench warrant.<sup>23</sup>

During the arraignment/pretrial hearing, the court will inform the minor and his parents of their right to have the petition ahead of time. The court will also inform them of the juvenile's right to counsel and if the family is indigent, the juvenile's right to appointed counsel. Counsel will be asked whether a settlement has been reached. Plea negotiations may be entered in conformity with Rule 11 of the Utah Rules of Criminal Procedure, which was adopted in Rule 25 of the Utah Rules of Juvenile Procedure.

The prosecutor will propose the settlement or request a further court date. If a plea will be taken, the court will ask defense counsel to advise her client of the rights he'll be waiving. These rights are listed in Rule 26 of the Utah Rules of Juvenile Procedure, and include the right to counsel, the right to receive a copy of the petition, the right to testify in one's own behalf, the right to confrontation, the right to compulsory process, the right to remain silent, and the right to appeal. A plea form isn't used in juvenile court because the abilities of juveniles to understand are so varied. The judge will count on defense counsel to explain the juvenile's rights in language he understands. The judge wants to hear the juvenile answer out loud that he does or does not understand, which may require some advance explaining by defense counsel.

A factual basis will be taken from the defendant; the judge wants to hear what happened. Talk to your client about what to say—she will look better if she is prepared to clearly articulate what she did without minimizing and without going into more than she is charged with.

Sentencing, which is called "disposition," can proceed immediately, or if a preliminary inquiry is needed and has not been conducted, on another date. The juvenile courts have adopted a



right to "not less than two days nor more than 45." If you want time, however, the judges are usually sensitive to that.

### What Happens When the Client Commits an Offense Outside of the County?

The charges will be sent to the county in which the juvenile resides. A P.I. will be conducted, and if the juvenile intends to deny the charge, the information will be sent to the county where the offense was committed for charging and adjudication. The case may be returned for disposition, or handled in the county of occurrence.

This arrangement is by agreement with the District Attorney's office and the court in accordance with Utah Code section 78-3a-111. The procedure recently changed, but you may find yourself caught up in the old procedure (described below). I understand other districts still routinely use the method described below.

In the old procedure, the juvenile's first appearance is before her home judge (the judge she sees in the county in which she resides). A pretrial hearing will be set. If the matter is not resolved at pretrial, the case will be transferred to the county of occurrence for adjudication.<sup>24</sup>

If you want to save your client's family a trip out of county, you must call the prosecutor in the county where the offense occurred to cut a deal. Then relay the information to the home prosecutor ahead of time so the two prosecutors can confirm the deal with each other. One prosecutor doesn't have jurisdiction to deal out charges from another prosecutor's jurisdiction.

A plea negotiation can be done in the home court if the home prosecutor can assure the court that he has spoken to the prosecutor from the county where the offense occurred and the deal has been approved by the prosecutor with appropriate jurisdiction.

Under the newer arrangement adopted by the Third District Court, it is difficult, if not impossible, to save your client a trip to another county.

### I'm Going to Trial, What Now?

You are going to have a bench trial. *Don't ask for a jury*; a juvenile does not have a right to a jury trial. *See In re Gault*, 387 U.S. 1 (1967). Outside of that, the trial proceeds similarly to any other criminal bench trial. The State must prove every element of each offense beyond a reasonable doubt.<sup>25</sup> Follow the Utah Rules of Evidence, which have been adopted in Rule 43 of the Utah Rules

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of Juvenile Procedure. Exhibits are handled in accordance with Rule 4-206 of the Code of Judicial Administration, adopted in Rule 42, Utah Rule of Juvenile Procedure. If you're experienced in representing people in criminal matters, it should be smooth sailing. If you're not, associate with someone who is.

As mentioned earlier, not all Rules of Criminal Procedure apply in juvenile court. Procedure can get dicey. If you're not sure what to do, address the court ahead of time. These questions are asked regularly by attorneys with all levels of experience.

## **Sentencing and Disposition**

### **What Are the Potential Dispositions?**

If the juvenile is found guilty through trial or plea, there are numerous possible dispositions. The Utah Sentencing Commission promulgated Juvenile Sentencing Guidelines in 1997. According to "criminal episode history" (the number of criminal episodes and the most serious offense in each episode) the juvenile may move up through various levels of sanctions. The levels include: "sanctions," probation, "state supervision," "community placement," and "secure care." The guidelines are regularly referred to by intake, probation, and youth corrections workers, as well as judges, but are not mandatory. (See the accompanying box).

When a juvenile is found guilty, she has not been convicted of a crime (except for traffic matters). Instead, she has been "adjudicated delinquent." Minors' cases are considered civil proceedings. Because the minor has not been convicted of crimes, she need not report her adjudications when asked if she has been convicted of a crime.<sup>26</sup>

### **"Other Sanctions"**

A court can order several sanctions short of probation. These include the regulars, such as fines, restitution, community service hours, and detention time, as well as some that are unique to juvenile court. Most judges will order the juvenile offender to write letters of apology, as well as to participate in specific counseling such as family counseling, anger management, or sex-specific counseling. Judges will also enter no contact orders, require the juvenile to write book reports, or participate in early intervention programs such as LEAP,<sup>27</sup> ASAP,<sup>28</sup> STOP,<sup>29</sup> MAGIC,<sup>30</sup> TASC,<sup>31</sup> and various other programs.<sup>32</sup> These types of sanctions are usually ordered when a juvenile is having his first or second misdemeanor brush with the court.

If a juvenile is too young to have a job, the court has work crews to help the juvenile work off restitution and fines. If he

fails to work them off, he may find himself in contempt of court and move up in the seriousness of the case disposition.

Be warned that parents can come under the gun about their child's lack of compliance. Pursuant to Utah Code section 78-3a-119(2)(p), a parent can be ordered to perform "reasonable" requirements. If she fails to do what the judge says, she is subject to contempt.

When a juvenile and his parents go to a preliminary inquiry, the intake officer may refer them to an early intervention program. If these programs have been completed prior to disposition, a juvenile will look as though he is less in need of probation's supervision—the next step up from sanctions. If a juvenile has opted not to engage in a preliminary inquiry, he might still be able to ask the intake worker for some suggestions on early intervention programs.<sup>33</sup>

## **The Division of Child and Family Services**

Sometimes it becomes apparent that a juvenile needs the services of the Division of Child and Family Services ("DCFS"). This is often the case if the child is very young, or mentally handicapped in some way, or the family isn't coping with life and this is a major contributor to the juvenile's delinquent behavior. A judge can order a family to comply with a treatment plan through protective supervision (called "P.S.S."), under which a DCFS worker checks regularly on the family and sets up its members with various services; or something more intensive, such as family preservation, under which a social worker spends many hours helping the family.

Custody and guardianship of a juvenile can be given to DCFS for placement in foster care or mental health treatment. DCFS uses some of the same programs used by the Division of Youth Corrections.

A juvenile ordered into DCFS custody is perceived as less of a criminal problem than one ordered into the custody of Youth Corrections. Nevertheless, a juvenile can go from DCFS custody to Youth Corrections if she proves more criminal and outside the control of DCFS.

DCFS custody can also be obtained by a neglect petition filed by the Attorney General's office. Although the result may be the same, this is a civil petition with allegations against the parents. The procedure is separate and different from delinquency.

## **Probation**

When a juvenile has committed a felony or has repeatedly come to court, he may be placed on probation.<sup>34</sup> Juvenile probation



begins with two weeks of house arrest. Thereafter the juvenile will have early curfews, is subject to tracking, and must keep regular appointments with the probation officer. He is subject to search and seizure and random urinalyses, may not be in possession of a weapon, and other typical probation conditions.

While on probation, the juvenile may be required to complete any of the sanctions that are listed above, including participation in early intervention programs. She may be ordered to undergo a drug and alcohol evaluation, a sex-specific evaluation, or counseling, depending on her specific problems. These evaluations could have been ordered earlier as well.

Again, if the juvenile doesn't comply with probation, fails to complete his community service hours or pay his fines, he may face contempt charges. If the court finds him in contempt, it can order him to serve detention time, to participate on a work crew or TASC, or other increasingly serious sanctions.

A judge may order a juvenile into a more intensive level of probation called "state supervision." Under state supervision the juvenile is ordered into more intensive tracking, electronic monitoring, Family Preservation with Utah Youth Village, and a life skills class (four hours a day). She may be ordered into

short term community placements, such as the juvenile work camp called Genesis, or a wilderness program, such as Aspen. Custody and guardianship is temporarily given to the Division of Youth Corrections for those out-of-home placements. When the juvenile completes the program, which usually runs from thirty to sixty days, she will be released back to probation.

### **The Division of Youth Corrections**

When a juvenile is sentenced to the Division of Youth Corrections, custody and guardianship is taken from the parents. Usually the judge orders a juvenile into a "community based placement" before taking the more extreme step of ordering him into a "secure" program or setting. Community based placements include Genesis and Wilderness, also accessed by State Supervision, as well as Observation and Assessment, Procter and Foster placements, Valley Mental Health placements, and a myriad of private providers' programs. The length of time the juvenile stays in a given program depends on the program and how the juvenile performs. If he does well, he may be permitted to trial home placement.

If the juvenile cannot perform well in community based placement, or if her record continues to grow, she may be placed in

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a longer-term program such as one of the two out-of-state boarding schools, called Clarinda or Glen Mills.

The most serious juvenile sanction is placement at Decker Lake, which is a secure facility (Wasatch is the sex offender counterpart). When a juvenile is sentenced to Decker Lake, the judge loses jurisdiction to the Division of Youth Corrections, which can keep the juvenile until his twenty-first birthday. The Juvenile Parole Board sets the guideline for the length of incarceration. Again, a juvenile may perform well and as a consequence be permitted to participate in community placement, independent living, or a trial home placement.

If a juvenile is in secure care and commits a felony, he will be treated as an adult.<sup>35</sup>

Parents should be warned that when custody and guardianship are taken by the state, (whether given to the Division of Youth Corrections or DCFS), the parent will be referred to the Office of Recovery Services and assessed child support. Many parents ready to give up on their difficult juvenile are ready to give it another shot to avoid child support obligations.

## Conclusion

It is to be hoped that your client's brush with the law is a one-time affair—most are. The District Attorney's office sees countless good kids who have had temporary lapses in judgment to the bewilderment of their parents, and only a very small percentage of those coming to juvenile court are repeat offenders.

Having an attorney who can walk a family through the system is a comfort. Knowing ahead of time what to expect makes things a lot less frightening. I hope the information provided in this article helps you provide quality representation to your client.

<sup>1</sup>A status offense is an offense that is not a crime for an adult, but is illegal for a juvenile, such as curfew, tobacco, alcohol, and truancy violations.

<sup>2</sup>Nationwide, forty to sixty percent of all juvenile investigations are not referred to juvenile court. Juvenile Court Process, Utah State Courts.

<sup>3</sup>There is no set rule on what is screened by the court and what is screened by the District Attorney's office—it's just an understanding between the two. Some class A misdemeanors might go to the court in the future.

<sup>4</sup>The intake officer can close the referral and take no further action according to Juvenile Court Operations Rule 7-301(4)(a).

<sup>5</sup>Juvenile Court Process, Utah State Courts.

<sup>6</sup>My understanding is that all cases (misdemeanors and felonies) outside of Salt Lake County are screened and charged by juvenile court intake workers unless the case is a serious youth case or a certification, in which case the county attorney charges it.

<sup>7</sup>Serious youth cases are those charged under Utah Code section 78-3a-602; certifications are charged pursuant to section 78-3a-603. These are cases where the state seeks to have the juvenile tried as an adult. This area of juvenile law would require a whole article of its own which I will save for another day.

<sup>8</sup>The Guidelines actually say twenty-one years of age. But detention does not take juveniles over eighteen years old without some extenuating circumstance such as mental retardation.

<sup>9</sup>Not all Rules of Criminal Procedure apply in Juvenile Court—only those specifically adopted by the Rules of Juvenile Procedure. See UTAH R. JUV. PRO. 2. If you go to trial on anything, you must read the Rules of Juvenile Procedure: don't assume anything.

<sup>10</sup>UTAH R. JUV. PRO. 8.

<sup>11</sup>UTAH R. JUV. PRO. 27; UTAH CODE ANN. § 78-3a-904.

<sup>12</sup>UTAH CODE ANN. § 78-3a-114(4)(a).

<sup>13</sup>Release factors can be found in Utah Rule of Juvenile Procedure, Rule 9, and Utah Code section 78-3a-114.

<sup>14</sup>Juvenile Court Process, Utah State Courts.

<sup>15</sup>Cornell Detention and Decker Lake are different places. The detention center is a newer facility located behind the new county jail.

<sup>16</sup>UTAH R. JUV. PRO. 10.

<sup>17</sup>UTAH R. JUV. PRO. 24.

<sup>18</sup>There are some exceptions. See UTAH CODE ANN. § 78-3a-115.

<sup>19</sup>UTAH R. JUV. PRO. 15.

<sup>20</sup>JUV. COURT OPERATIONS, R. 7-301(3)(c).

<sup>21</sup>UTAH R. JUV. PRO. 15(c); JUV. COURT OPERATIONS, R. 7-301(4).

<sup>22</sup>UTAH CODE ANN. § 78-3a-112.

<sup>23</sup>UTAH CODE ANN. § 78-3a-112.

<sup>24</sup>UTAH R. JUV. PRO. 16.

<sup>25</sup>UTAH R. JUV. PRO. 41.

<sup>26</sup>UTAH CODE ANN. § 78-3a-117.

<sup>27</sup>LEAP is an early intervention program offered free of charge by Salt Lake County Division of Youth Services designed to divert youth from further involvement in the Juvenile Justice System.

<sup>28</sup>ASAP is a cooperative effort of six substance abuse treatment centers and two recreation services in the Salt Lake valley, combined with additional resources of a valley-wide referral system. Included are the Pacific Islander Associations, Community Counseling Center, Youth Substance Abuse Treatment Program, Great Basin Family Support, Valley Mental Health Adolescent Day Treatment, and Youth Support Systems.

<sup>29</sup>STOP is a smoking cessation program.

<sup>30</sup>MAGIC stands for Mobilize Against Gangs In Communities. This is a free program designed to steer juveniles away from gang involvement.

<sup>31</sup>TASK is a day reporting center similar to DART, where the juvenile spends the day and is taken to school, engages in various counseling sessions and works off community service.

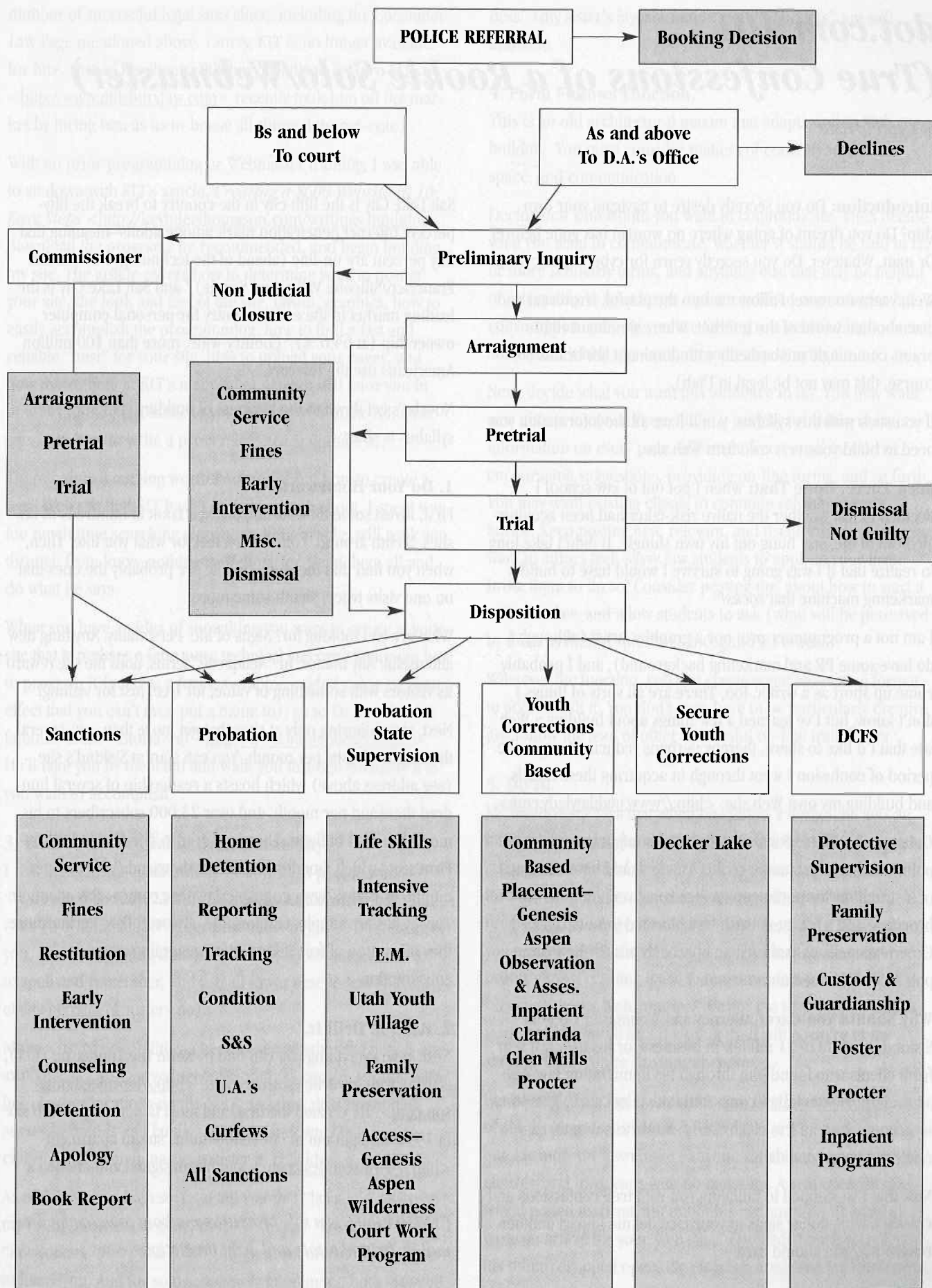
<sup>32</sup>The listed programs are by no means the only ones around. I give these examples because they're the ones I've seen most commonly used.

<sup>33</sup>I've heard that some outlying counties are stricter on their initial probation requirements, with longer periods of house arrest and earlier curfews.

<sup>34</sup>A definition of probation, their guidelines and goals can be found in Juvenile Court Operations, Rule 7-304.

<sup>35</sup>UTAH CODE ANN. § 78-3a-601.





# dot.com 101

## (True Confessions of a Rookie Solo/Webmaster)

by Cynthia Hale

**Introduction:** Do you secretly desire to navigate your own ship? Do you dream of going where no woman has gone before? Or man. Whatever. Do you secretly yearn for cyber-significance?

Well, yearn no more! Follow me into the playful, irreverent and disembodied world of the Internet. Where dominant right-brains commingle unabashedly with dominant left-brains (of course, this may not be legal in Utah).

If you stick with this syllabus, you'll have all the information you need to build your very own firm Web site.

**Been There, Done That:** When I got out of law school I decided to test whether the native risk-taker had been acculturated out of me, so I hung out my own shingle. It didn't take long to realize that if I was going to survive I would have to build a marketing machine that *rocks!*"

I am not a programmer pro, nor a graphics artist (although I do have some PR and marketing background), and I probably come up short as a writer, too. There are all sorts of things I don't know, but I've learned a few things about building a Web site that I'd like to share, thereby perhaps reducing for you the period of confusion I went through in acquiring these details and building my own Web site: <<http://www.utahlawlady.com>>.

**Orientation Note:** For those of you who might be lost, let me point out that a few years ago this article would have consisted of instructions for putting up an electronic version of a firm brochure and a business card, or a glorified yellow pages ad. Experience tells us that such an approach misses the major potential of the medium.

**Why Should You Care?** Attorney and Webmaster Gregory Siskind, brought in \$1 million in business for his firm last year from clients who found him through his immigration law Web-site: <<http://www.visalaw.com>>. <sup>2</sup> His site is not slick, pompous, or gismo-y. Instead it is clean, fairly simple to navigate, easy to read, and is updated daily.

Now that I've stooped to titillating you with true confessions and crassly waving dollar signs in your face, let me impart another reason why you should care:

Salt Lake City is the fifth city in the country to break the fifty-percent internet penetration mark among adults—meaning that fifty percent are on-line (ahead of the technology hubs in San Francisco/Silicone Valley and Seattle), <sup>3</sup> and Salt Lake City is the leading market in the entire country for personal computer ownership (at 64.6 %). <sup>4</sup> Country-wide, more than 100 million Americans use the Internet. <sup>5</sup>

Now let's get down to the business of building your site. The syllabus is short:

### 1. Do Your Homework.

First, invest some time surfing the Net. Look at hundreds of law sites. Sleuth around. Loiter. Get a feel for what you like. Then, when you find that the sites you like are probably the ones that no one visits twice, sleuth some more.

What are you looking for? Signs of life. Personality. Anything new and useful. Any humor. In "Netiquette" terms, does the site reward its visitors with something of value, for free, just for visiting?

Next, start loitering only at sites that get more than, say, several thousands of visits per month. You can start at Siskind's site (see address above) which boasts a readership of several hundred thousand per month, and over 23,000 subscribers to his monthly e-mail bulletin. Then surf over to The Alexander Law Firm's site which (modestly) boasts "thousands" of visits per month, at <<http://www.consumerlawpage.com/>>. Pay attention. These sites are simple, comfortable, almost folksy. Furthermore, they offer a ton of free information, generally written for lay consumption.

### 2. Read It. Drill It.

Next, read everything you can find by Kevin Lee Thomason (KLT), starting with his articles archived at: <<http://kevinleethomason.com>>. He created the first, and most famous, legal Web site in 1994—straight out of law school in his studio apartment <<http://www.seamless.com>> and has designed and created a

*CYNTHIA HALE is a sole practitioner whose practice focuses mainly on real estate and asset protection.*



number of successful legal sites since, including the Consumer Law Page mentioned above. (Sorry, KLT is no longer available for hire. One of his clients, Pillsbury, Madison & Sutro LLP <<http://www.pillsburylaw.com>> recently took him off the market by hiring him as its in-house all-things-Internet-czar.)

With no prior programming or Webmaster training, I was able to sit down with KLT's article, *Creating a \$600 Website in 10 Easy Steps* <<http://kevinleethomason.com/writings.html#loc>>, download the programs he recommended, and begin building my site. The article covers how to determine what to post at your site, the look and feel of the site, layout, graphics, how to easily accomplish the programming, how to find a fast and reliable "host" for your site, how to upload your pages, and how to promote it. KLT's many other articles will tutor you in how to increase the traffic to your site, how to make it interactive, even how to write a press release to announce it.

There's almost nothing worth knowing about how to create a legal Web site that KLT hasn't already written about. I spent way too much time searching elsewhere. KLT's articles will walk you through from know-nothing to Webmaster. Read them all and do what he says.

When you have an idea of something you want to create at your site that is perhaps a little more technical and can't figure out how to program it (such as a form, a graphic, added color, or some effect that you can't even put a name to), go to Dr. Joe Burns's famous "Huh?" tutorials at <<http://www.htmlgoodies.com/>>. He'll take you by the hand and walk you through whatever it is you want to accomplish.

### 3. Choose a Memorable Domain Identity.

I was lucky to get "utahlawlady." I now meet people who say, "You're utahlawlady?" The same people would never have said, "You're cynthiahalepc?" Your firm name might be interesting to you, but we're talking marketing here! Choose something easy to spell and remember, and use all lower case letters (because eighty percent of surfers do).

Make a list of possibilities, check to see whether the names are available at <<http://www.networksolutions.com/>> (or any number of other locations on the Net), and then do a thumbnail survey of friends and family to narrow it down. Once you've chosen your domain name, register it. Quickly.

As of this writing I am sorry to tell you that "lawgeek" (high on my list of favorites) is gone, as is "lawman," "lawdude," and "lawwoman." But put a "utah" on the front of each and you're in like Flynn. And for some especially good news, both "lawgod-

dess" (my sister's favorite) and "utahlawgoddess" are still available.

### 4. Form Follows Function.

This is an old architectural maxim that adapts well to Web site building. You must consider matters of content, aesthetics, space, and communication.

Decide first with whom you want to communicate. Then decide what you want to communicate, whether it should be said in lay or more scholarly terms, and anything else that may be helpful or interesting to your target audience. When you write for lay consumption, pretend you are talking to a person face-to-face. Sometimes it helps to say it out loud as you write.

Next, decide what you want this audience to do. You may want new clients to contact you. Make it easy by providing contact information on every page, offering a free e-mail newsletter, encouraging suggestions, providing on-line forms, and so forth. You may want existing clients to continue relying on your advice. Keep posting new, relevant, and useful content. You may want to attract tech-savvy law students to apply to your firm. Invite them to do so. Consider posting tips about how to start a career in law, and allow students to ask (what will be perceived by them as dumb) questions incognito via e-mail.

Whatever the function, you can create some interesting format to accomplish it. You don't even have to be particularly creative, just follow the lead of other successful on-line trailblazers.

### 5. Do It!

My hairdresser says that when he creates a design, he gets an initial feel for what he wants to create and then when he starts cutting, "the spirit of the hair" comes out and guides him through the rest. I realize this sounds pretty airy-fairy, but it is precisely what I experienced in designing my own site. Once you actually *start*, it seems to take on a life of its own and begins almost creating itself. I sometimes feel more like a Web "servant" than a Web "master." Really, the very hardest part is starting! Then you'll find it writing itself while you're in the shower, while you're driving, whenever.

For example, a couple of months ago, I had a unique moment of clarity when I was out on a Saturday morning trying to quickly mow my lawn before anyone caught me in an old muscle shirt and torn jeans with no make-up. A real estate broker friend pulled up front, got out of his car and said, "I want to write an article for your Web site." (He hadn't even seen it yet.) My mouth dropped open, the clouds parted, and the birds sang.

This is a fabulous way for a one-woman-show such as myself to keep fresh content posted without having to write every last thing personally. (I guess this is Gregory Siskind's idea of "content partnering"<sup>6</sup> in reverse.)

Then a friend told me that the top producing leasing agent in Salt Lake City has more energy than she knows what to do with, so I asked her if she would consider writing an article for my site. She nearly tackled me to let her write a *column*, similar to one she used to write for a national Arabian horse magazine. My first reaction was that she should really have her own site and just use an article at mine to link back to hers. She insisted that her column *belongs* at my site. I can really be dense sometimes, but eventually the clouds parted again. She's now writing what amounts to a "hot skinny" column about the goings-on within the same narrow public that my site targets. I expect this "reverse" content partnering will help to create a sort of "commons" at my site, where surfers may visit to get and exchange the latest industry news—even when they don't particularly want to read what I have to say.

KLT explains it better in one sentence: "If you think of your website more like a magazine or a newspaper and less like a firm brochure, you'll start to get the idea . . ."<sup>7</sup>

## 6. Personalize Your Site.

Put something of yourself into the site. Don't take yourself too seriously. Have fun. (Try not to think of all the lawyers who are far more experienced than you who might be snickering.) And if this sort of crass self-promotion makes you queasy, get over it.

I wanted to make my site look as though it fell right off my desktop (stop snickering already). No Web designers. No editors (gulp). I also chose to use a larger font size so people can read it easily, and light colors so that when articles are printed out they still look okay. The sum of these little decisions is what will become your site's identity.

## 7. Don't Turn Back!

After missing most of my weekend visits to the family ranch this summer, I came to a point where I had invested so much "sweat equity" in creating my site that I simply couldn't turn back. That was a good thing.

How long will it take you? I'm not going to tell. (You'll probably pull it off faster than I did anyway.) It seems that most of the wonderful things you accomplish in life, you do because no one ever told you that it couldn't be done. Just be happy with that. Don't even count. Just start!

<sup>1</sup>Please forgive the first person familiar writing style. The intention is not to offend, but to help you to experience a little of the tone and culture of the Internet and to see Web site building from the viewpoint of someone who is on the field with a bloodied nose, not the sanitized view from the bleachers (you can get that view from the instant add-water-and-stir site salesmen).

<sup>2</sup>Elaine McArdle, *Attract Clients by Providing Legal Info to Companies' Websites*, *Lawyers Weekly*, Nov. 1, 1999, at B5.

<sup>3</sup>*Five U.S. Cities Reach 50% Internet Penetration Mark Among Adults According To Latest Scarborough Report* (press release Oct. 18, 1999) < [http://www.scarborough.com/scarbny/press\\_internet.htm](http://www.scarborough.com/scarbny/press_internet.htm) >.

<sup>4</sup>*Salt Lake City Tops Technology Hubs San Francisco and Seattle For Personal Computer Ownership* (press release July 6, 1998) < [http://www.scarborough.com/scarbny/press\\_rel\\_pc.htm](http://www.scarborough.com/scarbny/press_rel_pc.htm) >.

<sup>5</sup>*Study: More than 100 million Americans use Net*, Reuters, as reported by CNET News (Nov. 9, 1999) < <http://news.cnet.com/category/0-1005-200-1433825.html> >.

<sup>6</sup>*Cf. McArdle, supra* note 1, at B5 (as conceived by Siskind, "content partnering" is where an attorney writes for someone else's site in exchange for a link back to generate more, targeted traffic to the attorney's site).

<sup>7</sup>Kevin Lee Thomason, *Adding Interactivity to Your Website, Marketing for Lawyers* (1998), reprinted at (visited Nov. 19, 1999) < <http://kevinleethomason.com/articles/mfl-adding-interactivity.html> >.

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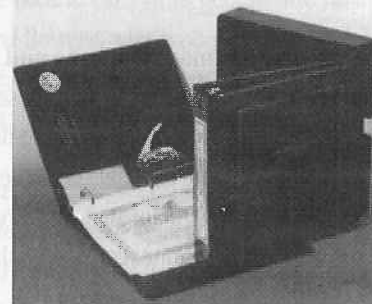
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# End of Life Issues: Organ and Tissue Donation

by Alex McDonald

Clients often approach their legal counsel about end of life issues. Confusing at best to the general public—issues such as living wills, estates, trusts, wills, and the like, involve a myriad of difficult decisions. Add to these issues involving dispersing property, funds, and funeral arrangements, and one might forget this is also an opportune time to discuss organ and tissue donation.

## 1. The Need for Donated Organs and Tissues.

There are nearly 67,000 Americans whose survival depends completely on someone else's decision about donating their organs. Thirteen people each day are taken off this list—they die before a donated organ is located. Hundreds of thousands more await donated tissues (bone, cardiovascular tissues, skin, corneas, and so on).

Newly enacted federal laws now required that all hospital deaths be reported to the local organ procurement organization ("OPO") (in this case, Intermountain Organ Recovery System). The OPO then determines whether the patient is eligible for organ and/or tissue donation. If eligible, the family is approached for consent.

Donation falls into two categories: organ donation and tissue donation. First, let us briefly explain the difference:

**Organ Donation.** This is the donation of solid, internal organs such as heart, lungs, kidneys, liver, and pancreas. A single organ donor potentially can save the lives of as many as eight recipients. In order for a person to be eligible for organ donation, blood and oxygen must continue to nourish the organs—in other words, the patient must be declared legally brain dead while his or her heartbeat is sustained by a ventilator.

This concept is confusing for the lay-person—being declared brain dead is not the same as being in a coma and on "life support." When someone is declared brain dead, many clinical examinations are performed, and a certificate of death is issued. Brain death involves the permanent loss of blood flow to the brain and brain stem, as opposed to a coma in which blood flow continues. Only a physician can declare brain death.

Transplant physicians recover organs in a hospital surgical suite. Most organ donors are also eligible to donate tissues.

**Tissue Donation.** Any death creates a potential tissue donor (subject to medical/social history and age criteria, which are determined on a case-by-case basis). To be eligible to donate tissues (bones, heart valves, corneas, fascia) a patient need not be brain dead. Tissues are recovered either at the time of organ donation, at a funeral home, a hospital, or in a surgical suite at the Office of Medical Examiner (OME).

## Prevalent Misconceptions or Myths:

*There is a maximum age to donate.* Tissues can be recovered from people who are in their seventies. The oldest organ donor in Utah to date was a seventy-nine-year-old man whose liver saved the life of a sixty-four-year-old woman.

*A signed donor card or "yes" on a driver's license is sufficient.* Signing a donor card or indicated "yes" on a driver's license is a great start, but more important is having a family discussion about organ and tissue donation so the person's desires are known. Families don't always consent to donation.

*The family/estate will have to pay for donation.* The family that says "yes" to organ and tissue donation does not have to pay the costs of recovering organs or tissue. All donation costs are paid by the recovering agency.

*An open casket funeral isn't possible.* Yes it is! Being a donor does not preclude an open casket funeral.

## 2. Living Will Issues.

One complicated misconception about donation concerns the use of life support (a ventilator). An organ donor must be brain dead but with the heart still beating, which means the donor must die in the hospital on a ventilator, typically from a traumatic head injury. Some types of head injuries that may lead to organ donation are falls, automobile or motorcycle accidents, gunshot wounds, and intercranial bleeds or aneurysms.

To preserve the option of organ donation, the heartbeat of the brain-dead person must be maintained through the use of a ventilator for six to twenty-four hours after brain death is declared. This may seem in direct conflict with a person's wish of not being placed on "life support." It is not. Typically when

ALEX McDONALD is the Director of Public Education at Intermountain Organ Recovery System.



people make this statement, they are envisioning years of assisted living in a persistent vegetative state with no hope of any meaningful recovery, which will drain the family of resources. Brain death is different. The person is legally and physically dead. The only reason there is a heart beat is because of the ventilator. If that ventilator is turned off, the heart will stop beating in minutes. Even if the ventilator remains on, a brain dead individual cannot be maintained on a ventilator but for a few hours, to a few days.

**Associated Issues.** You may have clients who feel that because of a medical condition they couldn't be organ and tissue donors. Many times, people "self exclude" themselves thinking that because they are diabetic, or had hepatitis, they can't donate. Very few medical conditions preclude organ donation. The only two constant preclusions are HIV and most *active* cancers (with the exception of some primary brain tumors).

If your clients feel the need to include their wishes about organ and tissue donation in their wills and trusts, please encourage them to discuss the matter with their families as soon as possible. By the time wills are read, donation is no longer an option.

### 3. Planned Giving.

Often the issue of organ and tissue donation touches the public, especially when a moving story (such as the recent death of Walter Payton) catches the public's interest. We are often asked if there is any way the public can help increase donation. Intermountain Organ Recovery System has a large network of trained professionals who work throughout the community to educate people about organ and tissue donation.

Intermountain Organ Recovery System is a 501(c)3, not-for-profit organization. Often people are moved to help fund our educational efforts. We receive calls from people who wish to donate in lieu of funeral flowers, who wish to donate in the memory of a loved one, and who ask about including our efforts in their estate planning.

### 4. Additional Resources.

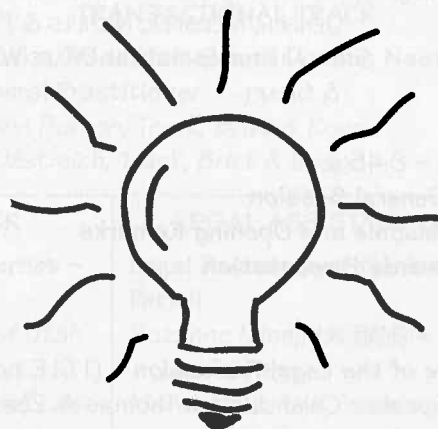
Intermountain Organ Recovery System has printed materials available if you would like to distribute information in your office. IORS staff is also available to speak to you and your staff about organ and tissue donation. Additionally, information is available at its Web site: [www.iors.org](http://www.iors.org). If you would like additional information or a speaker, please contact Alex McDonald, Public Education Director, Intermountain Organ Recovery System, 800-833-6667.

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Dear Colleagues,

Where else would you rather be after a hard winter but St. George? It will be our pleasure to welcome you to Utah's Dixie at the Mid-Year Convention at the new Dixie Center. We have a diverse program well worth your time, not to mention CLE credit, as well as some great speakers. We will be privileged to hear from Chief Justice Thomas Zlaket from the Arizona Supreme Court, who will discuss the future of the legal profession. We will also be hosting Congressman Jim Hansen, who will fill us in on the hot topic of Federal Land Issues.

In addition to our program, we have all the usual sporting events and activities for you and your family. Our Friday evening dinner will be a treat this year, featuring the Vigilante Theatre Company who will perform a Murder Mystery Dinner Theater. Don't miss the chance to mingle with friends as well as use your sleuthing skills!

Please take a moment to review the great program that our Committee has prepared for you. We hope to see you in March in St. George!

Russell J. Gallian, 2000 Mid-Year Convention Program Chair

## CLE Program Schedule

Thursday, March 9, 2000

6:00 p.m. – 8:00 p.m.

**Opening President's**

**Reception and Registration**

Sponsored by:

JONES, WALDO, HOLBROOK & McDONOUGH

Friday, March 10, 2000

7:30 a.m. – 8:00 a.m.

**Registration and Continental Breakfast**

Sponsored by: FARR, KAUFMAN, SULLIVAN, GORMAN,  
JENSEN, MEDSKER, NICHOLS & PERKINS  
SNOW NUFFER ENGSTROM DRAKE WADE  
& SMART

8:00 a.m. – 8:45 a.m.

**Opening General Session**

**Welcome and Opening Remarks**

**Awards Presentation**

8:45 a.m. – 9:35 a.m.

**The Future of the Legal Profession – (1 CLE hour)**

Keynote Speaker: Chief Justice Thomas A. Zlaket,  
Arizona Supreme Court

Sponsored by: HOLLAND & HART

9:35 a.m. – 9:55 a.m.

**Refreshment Break**

Sponsored by: SNELL & WILMER

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### CHIEF JUSTICE THOMAS A. ZLAKET

Chief Justice Zlaket received his undergraduate degree in Political Science from the University of Notre Dame and his LLB from the University of Arizona. He was admitted to practice law by the State Bar of Arizona in 1965. From 1965 to 1992, Justice Zlaket was in private practice with several firms. In 1992 he was appointed as a Justice to the Arizona Supreme Court and in 1997 was appointed Chief Justice. He is currently serving as a member of the Board of Directors, Conference of Chief Justices. He is also a member of the State Bar of California; American College of Trial Lawyers; American Bar Foundation; Arizona Bar Foundation; American Bar Association; American Board of Trial Advocates and the American Judicature Society. In 1991, Justice Zlaket was honored as Member of the Year, State Bar of Arizona.



9:55 a.m. – 10:45 a.m.

**Session I** – (1 CLE hour each)

LITIGATION TRACK		TRANSACTIONAL TRACK	
<b>The Current Status of the Family Law Initiatives</b> <i>Hon. Michael J. Glasmann, 2nd District Court</i>		<b>The Mega-Project Legal Issues &amp; Roles in the Creation of a New Town or Project in the Absence of Infrastructure &amp; Governmental Procedures</b> <i>Craig Carlile, Ray, Quinney &amp; Nebeker</i> <i>Blaine Carlton, Ballard, Spahr, Andrews &amp; Ingersoll</i> <i>Bruce K. Baird, Baird &amp; Jones</i> <i>Gerald Kinghorn, Parsons, Davies, Kinghorn &amp; Peters</i>	
BACK TO BASICS TRACK	TECHNOLOGY TRACK	LEGAL ASSISTANT TRACK	
<b>NLCLE: How to Legally Squeeze Blood from a Turnip: Nuts &amp; Bolts of the Litigation Collections Process</b> <i>Richard H. DeLoney, Bennett &amp; DeLoney</i>	<b>Legal Research on the Internet – Part I</b> <i>Suzanne Miner, University of Utah Law Library</i> <i>Marsha Thomas, Attorney at Law</i>	<b>Legal Research on the Internet – Part I</b> <i>Suzanne Miner, University of Utah Law Library</i> <i>Marsha Thomas, Attorney at Law</i>	

10:45 a.m. – 11:00 a.m.

**Refreshment Break**

Sponsored by: BEEHIVE CHAPTER, ASSOCIATION OF  
LEGAL ADMINISTRATORS  
HUNTER & BROWN  
NOVELL, INC.

11:00 a.m. – 11:50 a.m.

**Session II** – (1 CLE hour each)

LITIGATION TRACK		TRANSACTIONAL TRACK	
<b>Fundamentals of Effective Negotiation</b> <i>Karin S. Hobbs, Utah Court of Appeals</i> <i>James R. Holbrook, Callister, Nebeker &amp; McCullough</i> <i>P. Keith Nelson, Richards Brandt Miller &amp; Nelson</i>		<b>Trademarks, Trade Names and Domain Names for the General Practitioner</b> <i>H. Dickson Burton, Trask, Britt &amp; Rossa</i> <i>Paul C. Oestreich, Trask, Britt &amp; Rossa</i>	
BACK TO BASICS TRACK	TECHNOLOGY TRACK	LEGAL ASSISTANT TRACK	
<b>NLCLE: Meet the Judges</b> <i>Hon. G. Rand Beacham,</i> <i>5th District Court</i> <i>Hon. Robert T. Braithwaite,</i> <i>5th District Court</i> <i>Hon. James L. Shumate,</i> <i>5th District Court</i>	<b>Legal Research on the Internet – Part II</b> <i>Suzanne Miner, University of Utah Law Library</i> <i>Marsha Thomas, Attorney at Law</i>	<b>Legal Research on the Internet – Part II</b> <i>Suzanne Miner, University of Utah Law Library</i> <i>Marsha Thomas, Attorney at Law</i>	

11:50 a.m. – 12:00 noon

**Refreshment Break**

Sponsored by: RICHARDS BRANDT MILLER & NELSON  
NIELSEN & SENIOR  
SNOW & JENSEN

12:00 noon – 12:50 p.m.

**Session III – (1 CLE hour each)**

LITIGATION TRACK		TRANSACTIONAL TRACK	
<b>How to Represent a Licensed Professional Before a Regulatory Agency</b> <i>Blaine R. Ferguson, Utah Attorney General's Office</i> <i>Peter Stirba, Stirba &amp; Hathaway</i> <i>J. Steven Eklund, Administrative Law Judge</i> <i>Dept. of Commerce</i>		<b>Franchise Law Perils and Pitfalls</b> <i>C. Jeffrey Thompson, LLC</i>	
BACK TO BASICS TRACK	TECHNOLOGY TRACK	LEGAL ASSISTANT TRACK	
<b>NLCLE: New Rules of Civil Procedure &amp; How They Apply To Family Law</b> <i>Randy S. Kester, Young, Kester &amp; Petro</i> <i>Rex W. Olsen, Corporon &amp; Williams</i>	<b>No session at this time.</b>	<b>NLCLE: New Rules of Civil Procedure &amp; How They Apply To Family Law</b> <i>Randy S. Kester, Young, Kester &amp; Petro</i> <i>Rex W. Olsen, Corporon &amp; Williams</i>	

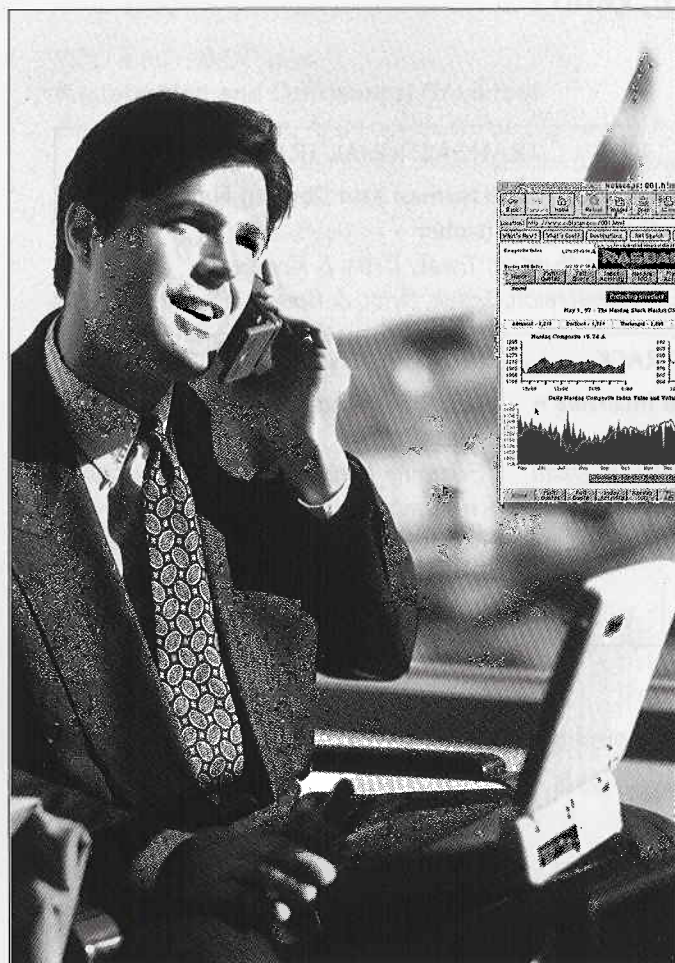
12:50 p.m.

Meetings Adjourn for the Day

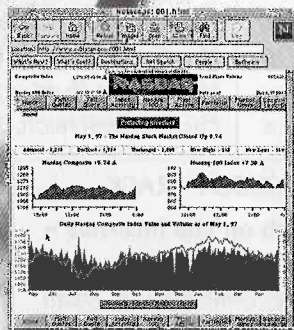
1:00 p.m.

**Legal Assistants' Luncheon** (No charge for advance reservations, \$13 for door registration.)

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2000  
Saturday, March 11, 2000

8:00 a.m. – 8:30 a.m.

**Registration and Continental Breakfast**

Sponsored by: PARSONS BEHLE & LATIMER  
STOEL RIVES LLP

8:30 a.m. – 9:00 a.m.

**General Session: Federal Land Issues – (0.5 CLE hour)**

Featured Speaker: Congressman James V. Hansen  
Sponsored by: REGENCE BLUECROSS BLUESHIELD OF UTAH

9:00 a.m. – 9:50 a.m.

**ETHICS Session: Legal Malpractice–Recognition & Avoidance – (1 CLE hour)**

J. Randolph Evans, Arnall, Golden & Gregory, LLP –  
Atlanta, GA

Sponsored by: CONTINENTAL INSURANCE AGENCY  
WESTPORT INSURANCE COMPANY

9:50 a.m. – 10:10 a.m.

**Refreshment Break**

Sponsored by: RAY, QUINNEY & NEBEKER  
PRINCE, YEATES & GELDZAHLER

**CONGRESSMAN JAMES V. HANSEN**

Jim Hansen was first elected to the U.S. Congress from Utah's First Congressional District in 1990 and is now serving his tenth term. He serves on the following committees: The Armed Services Committee, The Resources Committee where he serves as Chairman of the National Parks and Public Lands Subcommittee, and The Veterans' Affairs Committee. Previous public service includes four terms in the Utah House of Representatives, where he was Speaker of the House his last term.

**J. RANDOLPH EVANS**

Mr. Evans is an attorney, author, lecturer, and columnist. He is a partner with the Atlanta law firm of Arnall, Golden & Gregory, LLP. There, he chairs the fourteen attorney Professional Liability Department that specializes in complex matters involving professionals. Mr. Evans has authored The Practical Guide to Legal Malpractice Prevention as well as The Practical Guide to Purchasing Legal Malpractice Insurance.



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- Tony Roma's Restaurant In- House- Open Breakfast, Lunch & Dinner. Offering Room Service.

10:10 a.m. – 11:00 a.m.

**Session I – (1 CLE hour each)**

LITIGATION TRACK		TRANSACTIONAL TRACK	
<b>Point/Counterpoint: Litigating Covenants Not to Compete (From the Employer's and the Employee's Perspectives)</b> <i>Lincoln W. Hobbs, Hobbs &amp; Adonakis</i> <i>Derek Langton, Parsons Behle &amp; Latimer</i>		<b>The Revolving Door—Are More Lawyers Moving from Job to Job?</b> <i>Nanci S. Bockelie, Attorney at Law</i> <i>Elizabeth S. Conley, Parsons Behle &amp; Latimer</i> <i>Virginia S. Smith, Department of Workforce Services</i>	
BACK TO BASICS TRACK	TECHNOLOGY TRACK	LEGAL ASSISTANT TRACK	
<b>2002 Olympics Impact on State &amp; Local Governments &amp; What You Need to Know</b> <i>Reed M. Richards, Deputy Utah Attorney General</i>	<b>Seven Steps to Making Technology Make You Money</b> <i>Michael B. Bennett, Bennett &amp; DeLoney</i>	<b>Ideas for Better Writing</b> <i>Kelly De Hill, Westminster College General Counsel</i>  This session is available to all interested individuals.	

11:00 a.m. – 11:10 a.m.

**Refreshment Break**

Sponsored by: STRONG & HANNI

ROBERT J. DEBRY & ASSOCIATES

11:10 a.m. – 12:00 noon

**Session II – (1 CLE hour each)**

LITIGATION TRACK		TRANSACTIONAL TRACK	
<b>Views from the Appellate Bench</b> <i>Panel Members To Be Announced</i>		<b>Environmental Law: Midnight Dumping, Whistleblowers, and You: What To Do When the Investigator Comes Knocking</b> <i>Spencer E. Austin, Parsons Behle &amp; Latimer</i> <i>H. Douglas Owens, Parsons Behle &amp; Latimer</i>	
BACK TO BASICS TRACK	TECHNOLOGY TRACK	LEGAL ASSISTANT TRACK	
<b>ETHICS: The Multi-Disciplinary Practice Task Force Update</b> <i>Michael D. Blackburn, MDP Task Force Co-Chair</i> <i>Ray O. Westergard, MDP Task Force Co-Chair</i>	<b>Computers Practicing Law: How to Use Document Generation</b> <i>Ryan Warburton, Ballard, Spahr, Andrews &amp; Ingersoll</i>	<b>Ideas for Better Writing, cont.</b> <i>Kelly De Hill, Westminster College General Counsel</i>  This session is available to all interested individuals.	

12:00 noon – 12:15 noon

**Refreshment Break**

Sponsored by: SALT LAKE COUNTY BAR ASSOCIATION

12:15 p.m. – 3:15 p.m.

**Salt Lake County Bar Film Presentation & Discussion: "A Man For All Seasons" – (2 hours CLE, which includes 1 hour in ETHICS)**

*Hon. Leslie A. Lewis, 3rd District Court*

*Hon. Ronald E. Nehring, 3rd District Court*

*Dr. Aden Ross, University of Utah*



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The Mid-Year Convention Committee extends its gratitude to these sponsors for their contribution in offsetting the costs to registrants and making this an enjoyable Mid-Year Convention. Please be sure to show your appreciation by supporting our sponsors and visiting the exhibit tables.

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## Sporting Events & Other Activities

Friday, March 10, 2000

9:30 a.m. – 12:30 p.m.

### Kids' Fiesta Fun Activity

Meet at the Fiesta Fun-Family Fun Center,  
171 East 1160 South

Children ages 6 and over are invited to experience fun and games at this year's Mid-Year Convention. A \$17.00 registration fee per child will provide supervised activities including unlimited miniature golf; a choice of 2 batting cage tokens, 8 video game tokens or 1 soft play pass; as well as a choice of 2 of the following: 1 Bumper Boat ride, 1 Go-kart ride, or 2 Kiddie Kart passes. Pizza, drink and popcorn will also be provided.

12:00 p.m. – 11:00 p.m.

### Golf Clinic

Sunbrook Golf Course

A one-hour clinic will be held at 12:00 noon. The clinic will be conducted by PGA Professional Reed McArthur. Space is limited, so be sure to sign up early. The cost of \$10.00 covers group instruction, range balls and refreshments. For more information, contact Richard Dibblee at (801) 297-7029.

1:30 p.m.

### Golf Tournament

Sunbrook Golf Course

The tournament will begin at 1:30 p.m./shotgun start. The format is a four person scramble (1 low ball/for women, men and couples. The tournament is limited to the first 155 players. The cost of \$63.00 includes green fees and cart. Prizes will be awarded to tournament and special hole event winners. You can put together your own foursome, or we will do it for you. For more information contact Richard Dibblee at (801) 297-7029.

2:00 p.m.

### Tennis Tournament

Green Valley Tennis Courts

The tournament will be a doubles mixer played in a round-robin format. Attorneys, spouses/partners and family members are invited to participate. A \$20.00 fee per player covers courts, balls, refreshments and prizes. For more information contact Marty Olsen at (801) 255-7176.

7:00 p.m.

### Reception

Dixie Center Lobby

Sponsored by: LEXIS PUBLISHING

7:30 p.m.

### Mystery Dinner Theater: "Mystery Manor"

Dixie Center Ballrooms

At this very special dinner at Mulrooney Hall, everyone is an honored guest . . . but someone has unsavory intentions. Your hosts, Charles and Victoria, serve a frightfully elegant plum pudding, but when the topic of inheritance arises, the proof is in the murder.

Shocking revelations are in store during this evening of surprises in which you, yourself may become Lord Phinneas Mulrooney's heir. Music, mystery and laughter are the order of this delightful evening—but only with the help of our invited guests can justice be served! The cost is \$30.00 per person.

Sponsored by: DURHAM, JONES & PINEGAR

### THE VIGILANTE THEATRE COMPANY

Founded in Dillon, Montana at Western Montana College in 1981, the Vigilante Players, Inc. moved to Bozeman in 1983 at the invitation of the Department of Media and Theatre Arts at Montana State University. In 1990, the Players changed their name to the Vigilante Theatre Company. This professional, touring repertory company, in its 19th season, is widely recognized for presenting quality theatre wherever people gather. The four actors' diverse theatrical backgrounds encompass classical to contemporary, dinner theatre, children's theatre, film and television.



## Commission Highlights

During its regularly scheduled meeting of December 3, 1999, held in Salt Lake City, the Board of Bar Commissioners received the following reports and took the actions indicated:

1. After review and discussion, the Commission approved the minutes of the September 24 and October 29 meetings as amended.
2. Charles R. Brown gave a report on the Bar Leadership Retreat, the Oregon Bar Convention, the New Mexico Bar Convention and discussed Web site navigation.
3. Charles R. Brown and Toby Brown led a discussion on the future of the profession.
4. Steven Waterman, Chair of the Admissions Committee, gave a report on the proposals to amend the rules and procedures

of the admission rules. The Board of Commissioners approved the changes.

5. Karin Hobbs, Chair of the ADR Section, and Kent Scott led the discussion on the ADR Section By-Laws. The Board of Commissioners approved the By-Laws.
6. Gary Sackett addressed the Commission and reviewed Ethics Advisory Opinion 99-07. After review and discussion, the Opinion was approved.
7. Wayne Searle was appointed to the Statewide Advisory Board on Children's Justice.

A full text of minutes of these and other meetings of the Bar Commission are available for inspection at the office of the Executive Director.

### Utah State Bar Ethics Advisory Opinion Committee

#### Opinion No. 99-07

(Approved December 3, 1999)

**Issue:** May a lawyer refer a client to an investment advisor for investment and financial planning and take a referral fee from the commission paid by the client to the investment advisor?

**Opinion:** It is not *per se* unethical for a lawyer to refer a client to an investment advisor and take a referral fee from the commission paid to that advisor, although the lawyer has a heavy burden to insure compliance with applicable ethical rules.

### Ethics Opinions Available

The Ethics Advisory Opinion Committee of the Utah State Bar has produced a compendium of ethics opinions that is available to members of the Bar in hard copy format for the cost of \$20.00, or free of charge off the Bar's Website, [www.utahbar.org](http://www.utahbar.org), under member benefits and services. For an additional \$10.00 (\$30.00 total) members will be placed on a subscription list to receive new opinions as they become available during the current calendar year.

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## ***Notice of Petition for Reinstatement***

On January 10, 2000, Frank J. Falk filed a Petition for Reinstatement and Pursuant to Rule 25 of the Rules of Lawyer Discipline and Disability, Civil Number 980906892 MI, the Honorable William B. Bohling, Third Judicial District Court, presiding. Pursuant to Rule 25 (Reinstatement Following a Suspension of More Than Six Months; Readmission) of the Rules of Lawyer Discipline and Disability, the Office of Professional Conduct ("OPC") hereby gives notice of the Petition. Any individuals wishing to express opposition to or concurrence with the Petition should file notice with the District Court within thirty days of the date of this publication.

On December 22, 1997, pursuant to a Discipline by Consent and Settlement Agreement, the Honorable Anne M. Stirba

entered an Order of Discipline Suspension against Frank J. Falk, a Salt Lake City attorney. Mr. Falk was ordered suspended for a period of one year. The suspension was stayed and Mr. Falk was ordered to be on supervised probation for one year.

On July 17, 1998, pursuant to a Discipline by Consent and Settlement Agreement, the Honorable Leon A. Dever entered an Order of Discipline Suspension (Stayed) against Frank J. Falk. Mr. Falk was ordered suspended for one year following his December 22, 1997, suspension. The suspension was stayed and Mr. Falk was placed on supervised probation for one year.

## ***A Fond Farewell to a Wonderful Life in a Noble Profession***

And it, indeed, has been a wonderful life in what, indeed, is a noble profession. After forty-five years at the Bar, I have decided to fade away from the active practice of the law and to yield to younger and more competent lawyers before failing memory and lower tolerance for stress cause me to become an embarrassment to the firm and to the Bar.

I feel extremely fortunate in having begun the practice:

1. Before electric typewriters, copying machines, dictating equipment, calculators, computers, fax machines, and more recently, e-mail and the Internet.
2. When the Bar was so small that every member knew every other member.
3. When patent law was the only true specialty and almost every lawyer was a general practitioner.
4. Before the federal bureaucracy had invaded nearly every aspect of our professional lives.
5. When lawyers were more counselors than "hired guns."
6. Before the billable hour created great inefficiencies in the delivery of legal services.
7. Before airlines became our primary mode of interstate travel.

Also, I am extremely fortunate to have witnessed:

1. The growth of the Bar, in numbers and competence.
2. The growth in the number and stature of our outstanding state and federal judges, some of the best in the land.

3. The competence and professionalism of this vast new crop of lawyers with so very few buffoons and unethical practitioners.
4. The tremendous technical advances made in travel, communications and law practice management.
5. The advances made and the services now performed by the Utah State Bar, the Utah Bar Foundation, the Salt Lake County Bar Association, and the American Bar Association and its many affiliated organizations.
6. The revision of federal tax laws to permit better financial and retirement planning for lawyers.
7. The tremendously favorable impact that the Rule of Law has made in strengthening personal liberties for hundreds of millions of people.
8. And finally, the marvelous camaraderie of my former partners, associates, and staff members at the firm.

In bidding fond farewell, I would like to thank all who have made this wonderful life in this noble profession possible for me. To name each of you out there who have made this possible would take volumes. You are family members, teachers, advisors, partners, colleagues, adversaries and judges, all of whom have contributed to make my professional life so enjoyable.

Thank you all  
*Keith E. Taylor*



## Revised Notice as to Universal Citation Form

(This notice effective as of 01/14/2000 supercedes the announcement published in the January 2000 Utah Bar Journal and results from the decision to identify the Utah Court of Appeals as UT App rather than Utah Ct. App. This notice also corrects the form earlier given for the initial citation of a Utah Court of Appeals decision before publication in the Pacific Reporter but after publication in the Utah Advance Reports.)

Effective March 1, 2000, the initial citation of any published opinion of the Utah Supreme Court or the Utah Court of Appeals, released on or after January 1, 1999, in any brief, table of cases in the brief, memorandum, or other document filed in the Utah Supreme Court or the Utah Court of Appeals, shall include the case name, the year the opinion was issued, identification of the court that issued the opinion (UT for Utah Supreme Court and UT App for the Utah Court of Appeals), and the sequential number assigned to the opinion by the respective court. Citation to specific portions of the opinion shall be made by reference to the paragraph numbers assigned by the court. A comma and then a paragraph symbol (§) should be placed immediately following the sequential number assigned to the case. Subsequent citations within the brief, document, or memorandum should include the paragraph number and sufficient references to identify the initial citation. *Initial citations shall also include the volume and initial page number of the Pacific Reporter in which the opinion is published.* When an opinion is in slip form awaiting inclusion in a *Pacific Reporter* volume, the slip opinion form should be used. A pinpoint citation is not required in the parallel citation to the *Pacific Reporter* since the paragraph numbers assigned by the court are included in the *Pacific Reporter* version. Likewise, it is not necessary to include the year the case was published since that will be evident from the initial citation.

Examples of an initial citation to a Utah Supreme Court opinion or a Utah Court of Appeals opinion issued on or after January 1, 1999, using fictitious decisions, would be as follows:

### Before publication in Utah Advance Reports:

*Smith v. Jones*, 1999 UT 16.

*Smith v. Jones*, 1999 UT App 16.

### Before publication in Pacific Reporter but after publication in Utah Advance Reports:

*Smith v. Jones*, 1999 UT 16, 380 Utah Adv. Rep. 24.

*Smith v. Jones*, 1999 UT App 16, 380 Utah Adv. Rep. 24.

### After publication in Pacific Reporter:

*Smith v. Jones*, 1999 UT 16, 998 P.2d 250.

*Smith v. Jones*, 1999 UT App 16, 998 P.2d 250.

Examples of a pinpoint citation to a Utah Supreme Court opinion or a Utah Court of Appeals opinion issued on or after January 1, 1999, would be as follows:

### Before publication in Utah Advance Reports:

*Smith v. Jones*, 1999 UT 16, ¶ 21.

*Smith v. Jones*, 1999 UT App 16, ¶ 21.

*Smith v. Jones*, 1999 UT App 16, ¶¶ 21-25.

### Before publication in Pacific Reporter but after publication in Utah Advance Reports:

*Smith v. Jones*, 1999 UT 16, ¶ 21, 380 Utah Adv. Rep. 24.

*Smith v. Jones*, 1999 UT App 16, ¶ 21, 380 Utah Adv. Rep. 24.

### After publication in Pacific Reporter:

*Smith v. Jones*, 1999 UT 16, ¶ 21, 998 P.2d 250.

*Smith v. Jones*, 1999 UT App 16, ¶ 21, 998 P.2d 250.

If the immediately preceding authority is a post-January 1, 1999, opinion, cite to the paragraph number:

*Id.* at ¶ 15.

Any questions about the universal citation form may be directed to:

Matty Branch, Appellate Court Administrator

450 South State Street, 5th Floor

P.O. Box 140210

Salt Lake City, Utah 84114-0210

phone: (801) 578-3834

fax: (801) 578-3999

email: mattyb@email.utcourts.gov

## UTAH STATE BAR ADDRESS CHANGE FORM

The following information is required:

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- You may designate either your business, residence, or a post office box for mailing purposes.

**\*PLEASE PRINT**

1. Name \_\_\_\_\_ Bar No. \_\_\_\_\_ Effective Date \_\_\_\_\_

### 2. Business Address – Public Information

Firm or Company Name \_\_\_\_\_

Street Address \_\_\_\_\_ Suite \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail address (optional) \_\_\_\_\_

### 3. Residence Address – Private Information

Street Address \_\_\_\_\_ Suite \_\_\_\_\_

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### 4. Mailing Address – Which address do you want used for mailings? (Check one) (If P.O. Box, please fill out)

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Signature \_\_\_\_\_

All changes must be made in writing. Please return to: UTAH STATE BAR, 645 South 200 East, Salt Lake City, Utah 84111-3834:  
Attention: Arnold Birrell, fax number (801) 531-0660.



# Marty Olsen Elected to ABA Board of Governors

by Mark Quinn, Brian Jones, and Todd Weiler

Attorney Martin N. Olsen was recently elected to a seat on the on the American Bar Association's Board of Governors. The Board of Governors is composed of thirty-nine members, including the ABA officers, and is the main governing body of the ABA. Olsen's campaign for office was hotly-contested and lasted an entire year, with Olsen finally prevailing over his opponent from Washington D.C. in a secret ballot election of the Young Lawyers Division Assembly during the ABA's Annual Meeting in Atlanta. Olsen is currently traveling with the Board of Governors, and will begin his three-year term as a member of the Board in July of this year.

Olsen practices with two of his brothers and his father at Olsen & Olsen in Midvale. His practice concentrates on child advocacy, family law, and civil litigation. He has previously received recognition as one of Utah's most active attorneys in the pursuit of fulfilling the legal needs of children, as well as numerous other social and legal causes, having received the ABA's Child Advocacy Award in 1998, and Salt Lake County's Vital Volunteer Award, and was Utah's Young Lawyer of the Year for 1998.

Olsen received his law degree from the University of Utah College of Law in 1991, after having been graduated from the University *cum laude* with a degree in Finance in 1988. Olsen clerked for Judge Leonard H. Russon, then of the Utah Court of Appeals, for a period of eighteen months following his graduation from law school. After working with his father and brothers for two years, Olsen spent a year as an attorney for the office of the Guardian ad Litem as part of the Third District Court Permanency Project, representing abused and neglected children who had been in the State's custody in excess of eighteen months.

Even though he is still a young lawyer, Olsen has a long history of service to the community and the profession, having served on numerous committees of the Utah State Bar and the ABA, as well as having been elected President of the Utah State Bar Young Lawyers Division, appointed a Director of the ABA/YLD, appointed District Representative to the ABA/YLD for Utah and Nevada, and having served as Chair of the ABA/YLD Western

Caucus. Olsen currently serves on the Executive Board of the Utah State Bar Litigation Section, as a member of the Supreme Court Advisory Committee on the Rules of Juvenile Procedure, and as a Pro Tempore Judge in the Sandy Department of the Third Judicial District Court.

In addition to the recognition and representation that Olsen's election will bring to the State of Utah in a national setting, his election is also significant for Utah attorneys because he is the first young lawyer from Utah to be elected to the ABA Board of Governors in its history. Olsen's goals as a member of the Board of Governors, as typical for him, are expansive. In addition to pushing children's issues to the forefront of the ABA's agenda, he hopes to garner additional attention for Utah and other less well-represented states in the ABA, and expand the participation of Utah attorneys in the ABA's government and policy decisions. "Many Utah attorneys have chosen not to participate in the ABA because of the perception that the ABA has taken some unpopular stands in the past," says Olsen, "but by failing to participate, Utah attorneys fail to get the representation they need and deserve in the only national professional organization that exists for lawyers. They also miss out on all the great advantages and benefits that the ABA has to offer." Wherever the requirements of his new office take him, Olsen commits to conscientious representation and a voice for the concerns of Utah attorneys and young lawyers throughout the country. Issues facing the ABA in the near future include the increasing globalization of the practice of law and the pressure from some for allowing multi-disciplinary practices. Olsen invites input on these and any other issues of importance to the lawyers he represents.



DATES	TITLE	PLACE, TIME, CLE CREDIT, PRICE
2-3-00	<b>ALI-ABA: Negotiating Commercial Leases: How Owners and Corporate Occupants Can Avoid Costly Errors</b>	Law & Justice Center: 9:00 a.m.-4:00 p.m.; 6 hrs CLE; \$299; to register: 1-800-4PLI or on <a href="http://www.pli.edu">www.pli.edu</a> .
2-7-00	<b>Law &amp; Economics: Detecting Collusion from Economic Data</b>	Law & Justice Center: 12:00 p.m.-1:30 p.m.; 1.5 hrs CLE; \$35. Includes lunch.
2-10-00	<b>ALI-ABA: Employee Benefits Changes for 2000</b>	Law & Justice Center: 10:00 a.m.-2:00 p.m.; 4 hrs CLE; \$165 (\$85 for government employees, \$50 for students); to register: 1-800-CLE-NEWS or on <a href="http://www.ali-aba.org">www.ali-aba.org</a> .
2-17-00	<b>ALI-ABA: Annual Winter Estate Planning Practice Update</b>	Law & Justice Center: 10:00 a.m.-1:15 p.m.; 3 hrs CLE; \$165; to register: 1-800-CLE-NEWS or on <a href="http://www.ali-aba.org">www.ali-aba.org</a> .
2-17 & 18-00	<b>Intellectual Properties Mid-Winter Institute</b>	Midway, UT—Homestead Resort: \$150 for I.P. Section members, \$200 non-section members, \$30 for each additional dinner ticket; 8 hrs CLE; additional registration, activities and agenda information available at <a href="http://www.utahbar.org/sites/IP/">www.utahbar.org/sites/IP/</a> and <a href="http://www.utahbar.org/cle">www.utahbar.org/cle</a> .
2-18-00	<b>Why Bad Things Happen to Good Lawyers</b>	Law & Justice Center: 9:30 a.m.-4:00 p.m.; 6 hrs CLE; \$125; Registration must be received before 2/16/00, 5:00 p.m.
2-24-00	<b>Mortgage &amp; Title Insurance: How to Include the House with Your Garage Sale</b>	Law & Justice Center: 5:30-8:30 p.m.; 3 hrs CLE/NLCLE; \$40 YLD, \$55 all others. (Door registrants add \$10.00)
3-9 thru 11-00	<b>Utah State Bar Mid-Year Meeting</b>	St. George, Utah.
3-16-00	<b>ALI-ABA: 1) Retirement Plan Distribution Fundamentals for Estate Planners; 2) Financial Planning and the Practice of Law</b>	Law & Justice Center: 10:00 a.m.-12:00 p.m.; 2 hrs CLE; Program 2) 12:30 p.m.-2:00 p.m.; 2 hrs CLE; \$125 per program or \$195 if registering for both. To register: 1-800-CLE-NEWS or on <a href="http://www.ali-aba.org">www.ali-aba.org</a> .
3-23-00	<b>Employment Law: The Hire/Fire Mire (and Other Messy Stuff)</b>	Law & Justice Center: 5:30-8:30 p.m.; 3 hrs CLE/NLCLE; \$40 YLD, \$55 all others. (Door registrants add \$10.00)

For current seminar information and registration, access our Website at [www.utahbar.org/cle](http://www.utahbar.org/cle).

## REGISTRATION FORM

Registration for each seminar must be received at least 2 days prior to ensure availability. Cancellations must be received in writing 48 hours prior to seminar for refund, unless otherwise indicated. Door registrations are accepted on a first come, first served basis, plus a 25% late charge unless otherwise indicated.

Registration for (Seminar Title(s)):

(1) \_\_\_\_\_ (2) \_\_\_\_\_

(3) \_\_\_\_\_ (4) \_\_\_\_\_

Name: \_\_\_\_\_ Bar No.: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Total \$ \_\_\_\_\_

Payment: ☐ Check Credit Card: ☐ VISA ☐ MasterCard Card No. \_\_\_\_\_

☐ AMEX Exp. Date \_\_\_\_\_



DATES	TITLE	PLACE, TIME, CLE CREDIT, PRICE
3-28-00	<b>ALI-ABA: Hot Issues in Employment Law &amp; Litigation</b>	Law & Justice Center: 10:00 a.m.-2:00 p.m.; 4 hrs CLE; \$165; to register: 1-800-CLE-NEWS or on www.ali-aba.org.
3-29-00	<b>Trial Academy 2000: Part II Opening Statements</b>	Gore Auditorium, Westminster College: 6:00-8:00 p.m.; 2 hrs CLE/NICLE; \$30 YLD, \$40 Litigation Section Members, \$50 nonmember per seminar. <b>For six part series:</b> \$150 YLD, \$200 Litigation Section Members, \$250 non-members. See map on-line.
3-30-00	<b>ALI-ABA: Health Plans, HIPAA, and COBRA Update</b>	Law & Justice Center: 10:00 a.m.-2:00 p.m.; 4 hrs CLE; \$165; to register: 1-800-CLE-NEWS or on www.ali-aba.org.
3-31-00	<b>Estate Planning: Exploring the Charitable Remainder Trust &amp; Irrevocable Trust</b>	Law & Justice Center: 9:30 a.m.-3:00 p.m.; 6 hrs CLE; \$110. Includes lunch.

## NATIONAL CLE CONFERENCE

In cooperation with the Utah State Bar

Co-Sponsored by

ABA Criminal Justice Section, Utah Prosecution Council

Utah Association of Criminal Defense Lawyers

**March 30-31, 2000, Park City, Utah**

### THURSDAY, MARCH 30, 2000

8:00 a.m. **DNA Evidence** – *Barry Scheck, Attorney at Law, NY, NY*  
10:15 a.m. **Utah Legislative Update** – *Paul Boyden, Exec. Dir., Statewide Assn. of Public Attorneys, SLC, UT; Jim Housley, Chair, SWAP Legal Affairs Comm., SLC, UT; Richard Mauro, private practice, SLC, UT; Michael Sikora, private practice, SLC, UT*  
12:15 p.m. **Lunch** – Guest Speaker  
1:45 p.m. **Search & Seizure** – *Marian Decker, AG's Office; Joan Watt, Legal Defenders, SLC*  
**Mental Health Issues** – *Creighton Horton, AG's Office; Mark Moffat, private practice*  
**Juvenile Justice** – *Pat Nolan, Cache County Attorney; Lynn Donaldson, private practice*  
4:00 p.m. **Ethics Panel** – *Moderator: David Rudolph, Chapel Hill, NC; Panelists: Hon. Lynne Abraham, DA, City of Philadelphia, PA; Hon. David Blackwell, Emery County Att., Castle Dale, UT; Kenneth Brown, private practice, SLC, UT; Hon. Lynn Davis, Fourth District Court, Provo, UT; Peter Neufeld, private practice, NY, NY*

### FRIDAY, MARCH 31, 2000

8:00 a.m. **Topic Pending** – *Hon. Michael Johnson, Concord, NH*  
10:00 a.m. **Separate Meetings**  
**Utah Prosecution Council** – *Hon. Ronald Boyce, U.S. Magistrate Judge*  
**UACDL** – *Hugo Rodriguez, Miami, FL; Charles Illsley WVC Police Clan. Labs; Bruce Lyons, Ft. Lauderdale, FL*  
**ABA** – *Committee Meetings*  
4:00 p.m. **Expert Witness** – *Jerry Goldstein, San Antonio, TX*

### SEMINAR REGISTRATION

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Amount Enclosed: \_\_\_\_\_ Bar Number: \_\_\_\_\_ Tel. Number: \_\_\_\_\_

Public Defender or attorney in practice less than five years, UACDL Members: \$170

CLE 20 hrs. including 2 ETHICS

Private Practice Attorneys, UACDL Members: \$200

Registration for the Prosecution Council, Contact Marilyn, at (801) 366-0202

Questions: Call Amy Carlson, Exec. Dir., (801) 364-6474

Registration for ABA members, Contact Sherrill Klein, at (202) 662-1512

\*UACDL, P.O. Box 510846, SLC, UT 84151

# Welcome to the ADR Section

Recognizing the growth of ADR in Utah, the Bar Commission recently created the ADR Section. ADR affects all areas of practice, and the ADR Section hopes to partner with other sections to bring you continuing education that augments your skills as attorneys, mediators, and arbitrators.

## 1. What benefits will the ADR Section provide?

The ADR Section will provide quality CLEs for attorneys, mediators and arbitrators. We will partner with other sections to provide a wide range of trainings in ADR-related areas. We will also maintain current information on the Utah State Bar's Webpage, including upcoming programs and links to maintain current information on the Utah State Bar's Webpage, including upcoming programs and links to ADR sites.

## 2. How do I join the ADR Section?

Send your name, address, Bar number and check for \$25 to the Utah State Bar ADR Section, Attention: Connie Howard, 645 South 200 East, Salt Lake City, Utah 84111-3834, or contact a member of the executive committee: Karin S. Hobbs, Chair; Kent Scott, Vice-Chair; Kenneth Rigrup, Secretary; P. Keith Nelson, Treasurer. See application form below.

## Upcoming CLEs

### February 15, 2000

Section meeting-11:30

Law & Justice Center

CLE 12:00-1:00

#### **The Mindframe of a Mediator**

Diane Hamilton

### March 10, 2000

Mid Year Bar Meeting-St. George

#### **Fundamentals of Effective Negotiation**

How to best serve your client in a negotiation, getting a negotiation back on track, and effective negotiating techniques.

James R. Holbrook, Esq.

P. Keith Nelson, Esq.

Karin S. Hobbs, Esq.

### March 21, 2000

Section meeting-11:30

Law & Justice Center

CLE 12:00-1:00

#### **Fundamentals of Effective Negotiation**

How to best serve your client in a negotiation, getting a negotiation back on track, and effective negotiating techniques.

James R. Holbrook, Esq.

P. Keith Nelson, Esq.

Karin S. Hobbs, Esq.

### April 18, 2000

Section meeting-11:30

Law & Justice Center

CLE 12:00-1:00

#### **Solving Property Disputes Through Mediation**

Diane Banks, Esq.

### May 16, 2000

Section meeting-11:30

Law & Justice Center

CLE 12:00-1:00

#### **Mediating Contested Probate Cases**

### ADR Section Application

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State/Zip \_\_\_\_\_

Bar Number \_\_\_\_\_

Mail application and check to:

Utah State Bar ADR Section

Attn: Connie Howard

645 South 200 East

Salt Lake City, Utah 84111



## RATES & DEADLINES

**Bar Member Rates:** 1-50 words – \$35.00 / 51-100 words – \$45.00. Confidential box is \$10.00 extra. Cancellations must be in writing. For information regarding classified advertising, please call (801)297-7022.

**Classified Advertising Policy:** No commercial advertising is allowed in the classified advertising section of the *Utah Bar Journal*. For display advertising rates and information, please call (801)538-0526. It shall be the policy of the Utah State Bar that no advertisement should indicate any preference, limitation, specification, or discrimination based on color, handicap, religion, sex, national origin, or age. The publisher may, at its discretion, reject ads deemed inappropriate for publication, and reserves the right to request an ad be revised prior to publication.

*Utah Bar Journal* and the Utah State Bar do not assume any responsibility for an ad, including errors or omissions, beyond the cost of the ad itself. Claims for error adjustment must be made within a reasonable time after the ad is published.

**CAVEAT** – The deadline for classified advertisements is the first day of each month prior to the month of publication. (Example: May 1 deadline for June publication). If advertisements are received later than the first, they will be published in the next available issue. In addition, payment must be received with the advertisement.

## WANTED

**Pacific Reporter**—Setting up new Criminal law practice in St. George next fall. Desire to purchase a complete used set of the Pacific Reporter (or at least the full 2d series). Any leads on a set for sale would be appreciated. Call Greg Saunders (801) 579-0839 or (801) 355-0320.

## FOR SALE

Six complete hardback sets of the UTAH CODE ANNOTATED. Last updated late 1999. (Without Court Rules.) Please contact the Library Department at 801-532-7840.

**BOOKS FOR SALE—Utah Code Annotated, with current 1999 pocket parts (28 volumes):** Mint condition, \$300.00, Contact Marijane Lambert, (801) 521-9000 ext. 7313.

## POSITIONS AVAILABLE

**ASSOCIATE ATTORNEY POSITION AVAILABLE**—Twelve lawyer, AV rated, firm in Western Colorado seeks versatile attorney with two to four years experience. Excellent academic credentials, writing and analytical skills required. Sophisticated practice in small city with year-round outdoor recreational opportunities. Send resume and writing sample to Firm Administrator, Hoskin, Farina, Aldrich & Kampf, P.C., Post Office Box 40, Grand Junction, Colorado 81502.

**Law Clerk** to Honorable Judith A. Boulden, United States Bankruptcy Judge. *Starting Salary*—\$41,834 (JSP 11) to \$50,139+ (JSP 12) or JSP 13, depending on qualifications. *Application Deadline*—March 27, 2000. *Qualifications*—1) One year of experience in the practice of law, legal research, legal administration, or equivalent experience received after graduation from law school. Substantial legal activities while in military service may be credited on a month-for-month basis whether before or after graduation. OR 2) A recent law school graduate may apply, but the applicant must have: a) graduated within the upper third of his/her class from a law school on the approved list of the A.B.A. or the A.A.L.S.; or b) served on the editorial board of the law review of such a school or other comparable academic achievement. The selection and appointment will be made by the United States Bankruptcy Judge. **Applicants should send resume and transcript only. Do not provide a writing sample and references until requested.** Applications should be sent to: Judge Judith A. Boulden, United States Bankruptcy Court, 350 South Main Street, Room 330, Salt Lake City, Utah 84101. **EQUAL OPPORTUNITY EMPLOYER.**

**ERISA ATTORNEYS** – Smith & Downey, a national law firm, with a practice limited to human resources law, seeks an experienced ERISA attorney to open and manage or co-manage its Salt Lake City office. See "Professional Job Opportunities" at [www.smithdowney.com](http://www.smithdowney.com).

**Provo Law Office looking for attorney** with minimum of 3 years' experience to join expanding practice. Office space, secretary, accountant, advertising, and benefit package will be provided for percentage of profit. Minimum of 25 billable hours/week and some clientele base preferred. Inquiries will be kept confidential (801) 371-8744.

**In-House Attorney:** Title insurance company in Salt Lake City seeking in-house attorney for claims handling, administrative issues, cleaning up title problems, etc. Salary commensurate with experience. Experience in the title insurance industry a plus but not necessary. Send resume and salary requirements to Christine Critchley, Confidential Box #75, 645 South 200 East, Salt Lake City, UT 84111.

Salt Lake City office of regional law firm seeks an attorney with 3-5 years experience in the areas of corporate, commercial transactions and securities law. Excellent writing skills required. Inquiries will be kept confidential. Please send resume to Christine Critchley, Confidential Box #77, Utah State Bar, 645 South 200 East, Salt Lake City, Utah, 84111.

**BUSINESS ATTORNEY** – Seeking 1-2 attorneys with at least 5 years experience and established client base in the areas of corporate, tax, securities, commercial and/or estate planning to form practice group with attorney who has substantial client base, over 16 years experience in corporate, commercial, securities and estate planning, and downtown office space. Send resume to Christine Critchley, Confidential Box #70, 645 South 200 East, Salt Lake City, Utah 84111.

#### POSITIONS WANTED

Salt Lake attorney with 15+ years experience in real estate, construction and business matters in AV firm seeking change of venue. Submit inquiries to Confidential Box #76, Utah State Bar, 645 South 200 East, Salt Lake City, Utah 84111.

#### OFFICE SPACE/SHARING

**SANDY OFFICE SPACE**—Share space with two established attorneys. Includes reception area, conference room, copier, fax, etc. For additional information, please call (801) 255-7475.

**Draper**, Class A office (270 sq. ft.) available with 3 other established attorneys, secretarial space, phone, conference room, fax, Internet, copy machine, parking, easy access to I-15 and Bangerter, 10 minutes from Third District Court, 495-3500. Great view of Lone Peak.

**OFFICE SPACE/WEST VALLEY LOCATION**—Established attorneys seek attorney to share space. Features include two conference rooms, reception area, parking, fax machine, copier, kitchen, library, utilities included, secretarial space and telephone hookups available, swimming pool on premises—\$500/month. Please call 801-967-5500.

Small law firm downtown with deluxe office space for two attorneys. Facilities include private office, receptionist, conference room, limited library, fax, copier, telephone system, kitchen facilities. Call Tracy at (801) 532-7858.

#### SERVICES

**CONTRACT RESEARCH AND BRIEFS**—I have 36 years of general practice experience in Utah and am seeking contract work in the area of research and writing briefs at trial and appellate levels. Contact Jay A. Meservy, 210 Pebblewood Lane, Centerville, UT 84014. Telephone and FAX (801) 298-2069. E-mail: jame-serv@burboyne.com..

**BACKGROUND VERIFICATIONS**—Zaeplex, Inc. Background Checks & Public Record Retrieval Nationwide. Call 1 (800) Background or (800) 222-5476.

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# Intellectual Properties Mid-Winter Institute



February 17 & 18, 2000  
Midway, UT

Join the I.P. Section of the Utah State Bar for their Second Annual Mid-Winter Institute. This year the Institute will be held at the Homestead resort in Midway, Utah.

## The Institute is pleased to have included as speakers:

Hon. Randall R. Rader, U.S. Court of Appeals for the Federal Circuit

Hon. Dee V. Benson, U.S. District Court

Stephen G. Kunin, Deputy Assistant Commissioner for Patent Policy and Projects

Additional information regarding registration, skiing and other activities is accessible on the Utah State Bar website at [www.utahbar.org/cle](http://www.utahbar.org/cle) or [www.utahbar.org/sites/IP](http://www.utahbar.org/sites/IP).

8 CLE Hours

\$150.00 for I.P. Section Members

\$200.00 all others

See you at the Homestead!

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- Landlord/Tenant
- Consumer/Merchant
- Real Estate Disputes
- Employer/Employee
- Construction Disputes
- Insurance Claims
- Commercial Claims

In addition, UDR offers training in Mediation & Conflict Resolution for individuals, agencies, organizations, schools, and businesses.

### WHERE?

The Law & Justice Center  
645 South 200 East  
Salt Lake City, Utah 84111  
(801) 532-4841

### WHEN?

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Monday through Friday



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*MCLE Administrator*  
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## CERTIFICATE OF COMPLIANCE

For Years 19\_\_\_\_ and 19\_\_\_\_

### Utah State Board of Continuing Legal Education Utah Law and Justice Center

645 South 200 East

Salt Lake City, Utah 84111-3834

Telephone (801) 531-9077 • FAX (801) 531-0660

Name: \_\_\_\_\_ Utah State Bar Number: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

#### Professional Responsibility and Ethics

Required: a minimum of three (3) hours

1. \_\_\_\_\_  
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Program Title  
\_\_\_\_\_  
Date of Activity                      CLE Hours                      Type of Activity\*\*
2. \_\_\_\_\_  
Provider/Sponsor  
\_\_\_\_\_  
Program Title  
\_\_\_\_\_  
Date of Activity                      CLE Hours                      Type of Activity\*\*

#### Continuing Legal Education

Required: a minimum of twenty-four (24) hours

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Provider/Sponsor  
\_\_\_\_\_  
Program Title  
\_\_\_\_\_  
Date of Activity                      CLE Hours                      Type of Activity\*\*
2. \_\_\_\_\_  
Provider/Sponsor  
\_\_\_\_\_  
Program Title  
\_\_\_\_\_  
Date of Activity                      CLE Hours                      Type of Activity\*\*
3. \_\_\_\_\_  
Provider/Sponsor  
\_\_\_\_\_  
Program Title  
\_\_\_\_\_  
Date of Activity                      CLE Hours                      Type of Activity\*\*
4. \_\_\_\_\_  
Provider/Sponsor  
\_\_\_\_\_  
Program Title  
\_\_\_\_\_  
Date of Activity                      CLE Hours                      Type of Activity\*\*

**IF YOU HAVE MORE PROGRAM ENTRIES, COPY THIS FORM AND ATTACH AN EXTRA PAGE**

## **\*\*EXPLANATION OF TYPE OF ACTIVITY**

**A. Audio/Video Tapes.** No more than one-half of the credit hour requirement may be obtained through self-study with audio and video tapes. See Regulation 4(d)-101(a).

**B. Writing and Publishing an Article.** Three credit hours are allowed for each 3,000 words in a Board approved article published in a legal periodical. An application for accreditation of the article must be submitted at least sixty days prior to reporting the activity for credit. No more than twelve hours of credit may be obtained through writing and publishing an article or articles. See Regulation 4(d)-101(b).

**C. Lecturing.** Lecturers in an accredited continuing legal education program and part-time teachers who are practitioners in an ABA approved law school may receive three hours of credit for each hour spent in lecturing or teaching. No more than twelve hours of credit may be obtained through lecturing and part-time teaching. No lecturing or teaching credit is available for participation in a panel discussion. See Regulation 4(d)-101(c).

**D. CLE Program.** There is no restriction on the percentage of the credit hour requirement which may be obtained through attendance at an accredited legal education program. However, a minimum of one-third of the credit hour requirement must be obtained through attendance at live continuing legal education programs.

THE ABOVE IS ONLY A SUMMARY. FOR A FULL EXPLANATION SEE REGULATION 4(d)-101 OF THE RULES GOVERNING MANDATORY CONTINUING LEGAL EDUCATION FOR THE STATE OF UTAH.

**Regulation 5-102** — In accordance with Rule 8, each attorney shall pay a filing fee of \$5.00 at the time of filing the statement of compliance. Any attorney who fails to complete the CLE requirement by the December 31 deadline shall be assessed a **\$50.00** late fee.

I hereby certify that the information contained herein is complete and accurate. I further certify that I am familiar with the Rules and Regulations governing Mandatory Continuing Legal Education for the State of Utah including Regulations 5-103(1).

**DATE:** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_

**Regulation 5-103(1)** — Each attorney shall keep and maintain proof to substantiate the claims made on any statement of compliance filed with the board. The proof may contain, but is not limited to, certificates of completion or attendance from sponsors, certificates from course leaders or materials claimed to provide credit. This proof shall be retained by the attorney for a period of four years from the end of the period of which the statement of compliance is filed, and shall be submitted to the board upon written request.



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