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VISION OF THE BAR: *To lead society in the creation of a justice system that is understood, valued, respected and accessible to all.*

MISSION OF THE BAR: *To represent lawyers in the State of Utah and to serve the public and the legal profession by promoting justice, professional excellence, civility, ethics, respect for and understanding of, the law.*

COVER: For this special “Lawyers Helping Lawyers” edition of the *Utah Bar Journal*, we have taken a different approach to our cover art. Rather than the usual landscape photo, the *Journal* committee decided that this frayed rope would best represent the challenges and desperation that some of our Bar members face...as we take a look at the help and hope that Lawyers Helping Lawyers can provide.

The *Utah Bar Journal* is published monthly by the Utah State Bar. One copy of each issue is furnished to members as part of their Bar dues. Subscription price to others, \$45.00; single copies, \$5.00. For information on advertising rates and space reservation, call or write the Utah State Bar offices.

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Letters Submission Guidelines:

1. Letters shall be typewritten, double spaced, signed by the author and shall not exceed 300 words in length.
2. No one person shall have more than one letter to the editor published every six months.
3. All letters submitted for publication shall be addressed to Editor, *Utah Bar Journal* and shall be delivered to the office of the Utah State Bar at least six weeks prior to publication.
4. Letters shall be published in the order in which they are received for each publication period, except that priority shall be given to the publication of letters which reflect contrasting or opposing viewpoints on the same subject.
5. No letter shall be published which (a) contains defamatory or obscene material, (b) violates the Rules of Professional Conduct, or (c) otherwise may subject the Utah State Bar, the Board of Bar Commissioners or any employee of the Utah State Bar to civil or criminal liability.
6. No letter shall be published which advocates or opposes a particular candidacy for a political or judicial office or which contains a solicitation or advertisement for a commercial or business purpose.
7. Except as otherwise expressly set forth herein, the acceptance for publication of letters to the Editor shall be made without regard to the identity of the author. Letters accepted for publication shall not be edited or condensed by the Utah State Bar, other than as may be necessary to meet these guidelines.
8. The Editor, or his or her designee, shall promptly notify the author of each letter if and when a letter is rejected.

Cover Art

Members of the Utah State Bar or members of the Legal Assistants Division of the Bar who are interested in having photographs they have personally taken of Utah scenes published on the cover of the *Utah Bar Journal* should send their print, transparency, or slide, along with a description of where the photograph was taken to Randall L. Romrell, Esq., Regence BlueCross BlueShield of Utah, 2890 East Cottonwood Parkway, Mail Stop 70, Salt Lake City, Utah 84121. Include a pre-addressed, stamped envelope for return of the photo and write your name and address on the back of the photo.

Interested in writing an article for the *Bar Journal*?

The Editor of the *Utah Bar Journal* wants to hear about the topics and issues readers think should be covered in the magazine.

If you have an article idea or would be interested in writing on a particular topic, contact the Editor at 532-1234 or write *Utah Bar Journal*, 645 South 200 East, Salt Lake City, Utah 84111.

The Utah Bar Journal

Published by The Utah State Bar

645 South 200 East • Salt Lake City, Utah 84111 • Telephone (801) 531-9077 • www.utahbar.org

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Manny Garcia's *Accidental Soldier: Memoirs of a Mestizo in Vietnam* (reviewed by Betsy Ross in your June/July 2003 issue) is an extraordinary book. I, too, fought in combat in Vietnam and helped kill dozens of people. A third of a century later, I am still haunted by that experience. We commit young men and women to death in battle without disclosing the cost-benefit calculus of sacrifice. Each soldier who dies – friend and foe alike – is a child, sibling, cousin, spouse, or parent whose death will devastate scores of others, now and for generations. And those who kill struggle to survive the enormity of their acts. In just the first five years after the end of the war, more than 58,000 Vietnam veterans committed suicide – more than the soldiers killed in combat. As Garcia says, "Some men know numbers. Others know words. But none knows more than a man who knows war." What Manny experienced is unthinkable; what he knows unbearable. His book is a gift of truth and great courage.

Sincerely,

James R. Holbrook
Visiting Clinical Professor
S.J. Quinney College of Law

For years, the *Utah Bar Journal* has graced its cover with what the *Journal* calls "Cover Art" – attractive pictures taken by Bar members that capture the grandeur of Utah. With the July 2003 edition, however, I could only shake my head in bewilderment at the cover picture entitled "Day's End at Dead Horse Point." In the foreground, the sun setting on the skeletal remains of a gnarled cedar tree. In the background, red rock pinnacles, buttes and mesas interlaced with sunset shadows. In between, the red desert contrasting delightfully with a deep-blue colored lake. Wait a minute. Hold everything. A lake at Dead Horse Point? Not exactly. The terraced evaporation ponds operated by the nearby potash plant are, in my opinion, a ghastly blemish on what otherwise is a remarkable opportunity to peer into the wild beyond Dead Horse Point. I've often wished that the Utah Division of State Parks and Recreation somehow could acquire the area of the ponds in order to preserve the entire vista at this State Park in all of its glory. Here's hoping that the plant's reclamation obligations for the ponds will do away with them for good one day. In the mean time, as striking as other parts of this photograph are, in the future I hope the *Journal* resists the urge to elevate pictures of industrial operations to the status of "Cover Art."

Sincerely,

Michael G. Jenkins

Submission of Articles for the Utah Bar Journal

The *Utah Bar Journal* encourages Bar members to submit articles for publication. The following are a few guidelines for preparing your submission.

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.
6. Citation Format: All citations should follow *The Bluebook* format.
7. Authors: Submit a sentence identifying your place of employment. Photographs are discouraged, but may be submitted and will be considered for use, depending on available space.

New Bar Programs on the Horizon

by Debra Moore

In keeping with the theme of this special edition of the *Bar Journal*, I want to highlight the Bar Commission's important decision to grant \$120,000 from unreserved surplus funds to Lawyers Helping Lawyers. Also on the horizon are CaseMaker and the Fall Forum – two new programs that will benefit all members, and in particular the thirty-five percent of us who are solo and small firm practitioners.

Lawyers Helping Lawyers

Between 1,100 and 1,400 Utah lawyers are believed to be impaired by some form of substance abuse or mental stress or illness. Of the disciplinary matters that are budgeted to cost the Bar over \$750,000 in fiscal 2004, as many as seventy percent may be related to substance abuse or psychological problems. Such problems also dramatically increase malpractice insurance rates and claims on the Client Security Fund. Of course, the human toll from substance abuse and mental illness – including suicide, broken families, and destroyed friendships – is immeasurable. Yet, Utah is one of only nine states without a permanently funded program to help lawyers with these problems. Most bars comparable in size to Utah have such programs.

For these reasons, the Bar Commission has voted to grant \$120,000 from unreserved surplus funds to LHL and to explore ways to permanently fund the LHL program. For most of its existence, LHL has functioned as a Bar committee, almost entirely dependent upon a dedicated core of volunteers. Under that model, LHL was able to assist only about eleven lawyers a year. Two years ago, LHL became an independent entity and has since qualified for 501(c)(3) status. The Bar Commission gave it a one-time grant of \$20,000, most of which was used to pay its part-time director, attorney Rich Uday.

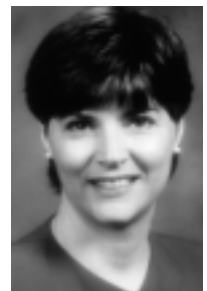
Under Rich's guidance, the program heightened its profile in the legal and health communities and greatly expanded its impact. Rich has continued his work long after the money ran out. Recently, the Litigation Section generously donated \$5,000 to the program.

But the efforts of Rich and the LHL Committee have made it apparent that to achieve the most impact, sufficient funding is needed to support LHL as a stable, sustained program. Therefore, the Commission approved an annual budget of \$120,000 to fund a full-time director, an assistant, and their expenses. In addition, the Bar negotiated with Marsh Affinity Group, the underwriter for Bar-endorsed malpractice insurance, to contribute a portion of the annual premiums it underwrites in Utah to the program, which will lower the net cost to the Bar to \$100,000.

A recent study by the Oregon State Bar furnished hard evidence that its attorney assistance program, funded from its unique mandatory malpractice insurance program, saves money and protects the public. The study compared the malpractice and discipline rates for recovering lawyers before and after sobriety. Malpractice rates for those lawyers plunged from thirty to eight percent. Discipline rates dropped from twenty-eight to seven percent. With permanent funding, the LHL program will be capable of achieving similar results.

CaseMaker

Delivery of legal services to middle-income clients will continue to be one of the major focuses of the Bar in the upcoming year and beyond. One of the most significant expenses driving the cost of legal services is computer-based legal research. The Bar Commission recently approved a proposal that will put a healthy dent in those expenses and make legal services more affordable for your clients. CaseMaker is a growing consortium of state bars that deliver on-line legal research as a benefit of membership at no additional charge. The Bar Commission has budgeted \$65,000 in fiscal 2004 to create a library tailored to Utah lawyers and join the consortium. Every consortium state has access to not only its own library, but also the libraries of every other consortium state. As of this writing, thirteen states including Oregon and Idaho, are members



and membership is under consideration by several other states.

The members of consortium states have been enthusiastic about CaseMaker both before and after its adoption in their states.

Since the Utah State Bar announced that it was considering CaseMaker, the feedback from Utah lawyers has also been overwhelmingly positive. Joining CaseMaker requires a five year commitment and therefore the Bar will be petitioning the Utah Supreme Court for approval. If the Court approves the program, we expect to launch CaseMaker in Utah in early 2004.

Fall Forum

Were you too busy to trek to the Annual Bar Meeting in Sun Valley? Come to the Fall Forum, a new one-day local convention to be held in Salt Lake City on September 26, 2003. Initiated by immediate Past President John Adams at the suggestion of small-firm attorney Carol Clawson, the Fall Forum is tailored to the needs of solo and small-firm lawyers. The convention committee, chaired by Carol and solo practitioner Dale Kimsey, has developed a program with plenty of networking opportunities, law office management tips, and CLE all for the bargain early registration price of \$75. Carol and Dale have also lined up some great speakers, including Jay

Foonberg, author of the ABA bestseller *How to Start & Build a Law Practice*; Forrest "Woody" Mosten, author of the ABA publication *Unbundling Legal Services*; and Harvard Law professor Arthur Miller, who will lead a spirited panel discussion on one of the most critical topics of our times, "Will September 11 Change the American Constitution?" Look for the CLE Calendar in this edition of the *Bar Journal* for more information.

Impact of New Programs

As the Bar moves forward with LHL and CaseMaker, it continues to maintain a healthy financial condition. At the end of fiscal 2004, the Bar is projecting an unreserved surplus of \$373,000 and a total of \$825,000 in operations, capital, and contingency reserves. At the same time, expenses from all programs continue their inevitable rise, and the day is foreseeable when the unreserved surplus will be gone. In preparation for some difficult decisions ahead, the Bar Commission will be closely evaluating all programs to determine how they fit with the basic mission and strategic priorities of the Bar. Your thoughts on these matters will be critical to that determination and the Bar will actively seek your comments.

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That Frayed Rope

by Richard G. Uday – Director, Lawyers Helping Lawyers

The superhero precariously hangs at the end of his rope. “Oh!!! No!!!” we all gasp.

The tension builds. Surely, it’s over for the superhero and maybe even for justice itself. Time is quickly running out.

*If you listen carefully enough you can hear the tick, tock, tick, tock of the clock. The striking of the clock intensifies as the frayed rope slowly unravels and begins to break, first one strand, then the next. **Tick, tock, tick, tock.** The tension mounts as another strand gives way.*

Escape is unattainable.

Then SNAP!!! Down goes the superhero. “Oh!!! No!!!” we gasp again.

But wait . . . just then an open dump truck passes immediately underneath our superhero. And as luck would have it, superhero lands directly into the middle of the truck which just happens to be hauling a load of disgusting – and squishy – horse manure that breaks the superhero’s fall.

Superhero lives on to fight another day for justice.

Lawyers Helping Lawyers (“LHL”) is the dump truck in this tale. (Yes, I said dump truck!?) We don’t want to be *just* the dump truck. We do have other aspirations (more on that point later). But, for now, we will gladly settle for that role.

We will settle for that important role in the drama because you are the superhero. You fight the good fight. Every day you battle for justice and right. You are lawyer. You are judge. **YOU ARE SUPERHERO!!!**

We are dangling at the end of a rope.

Superhero, you are precariously dangling from a rope. You cannot help your predicament. Again – you are lawyer, you are judge. Some of your ropes are as thick as a mooring rope on a U.S. aircraft carrier. And wow, those are thick. I saw one once, in San Diego.² It was about three inches in diameter and I was told that it weighed almost 100 pounds for every 100 feet of length. Dangling from a rope that strong you are safe for now, and with continued good fortune you will remain safe. But you need to

understand that you are dangling from a rope, nonetheless.

Some of you dangle from ropes that are not that thick. Some of your ropes are wearing out and beginning to fray. And some of your ropes have frayed to the point that the fall is imminent. “Oh!!! No!!!” we all gasp. Unfortunately, experience tells us that many of you have ropes that have already snapped. If you disagree, review the Discipline Corner pages in this and past *Utah Bar Journals*.

The proof that we are dangling.

The statistics that follow explain some of the reasons why lawyers and judges are precariously dangling at the end of a rope.

The American Bar Association (“ABA”) estimates that 15 to 18% of lawyers and judges suffer from alcohol and drug abuse. That percentage represents a rate nearly twice the rate of the general population.³

In 1990, the Johns Hopkins Medical School conducted a study of over 28 professions finding the legal profession to have the highest rate of clinical depression, a rate 3.6 times more likely to occur in the legal profession than the other professions examined.⁴

Suicide currently ranks as one of the leading causes of premature death in our profession.⁵ Male lawyers are twice as likely as the general population to take their own life.⁶

The ABA has identified and focused increased attention on numerous other addictive behaviors plaguing lawyers and judges in increasingly visible numbers. Problems in areas such as gambling, eating disorders, compulsive behaviors, sexual addictions and the recent increase in internet addictions have all joined the lists of recognized abuses and addictions impacting lawyers and judges.⁷

RICHARD G. UDAY, Director of the Lawyers Helping Lawyers program, is a sole practitioner, primarily handling criminal defense cases. He is also an assistant professor at the Salt Lake Community College in the Paralegal Studies Program.



The reasons we are dangling.

In this year's January/February issue of the *Utah Bar Journal*, Dr. Lynn Johnson, local Ph.D. and frequent LHL consultant and speaker, explained that as a group, lawyers and judges share two characteristics in common that lead us, maybe even drive us, into choosing law as a career. Those two characteristics provide helpful insight into why we are perilously suspended in air dangling from that rope.

Perfectionism.

Dr. Johnson described "perfectionism" as the first characteristic. Perfectionism initially guides us to the law, later assists us to excel in school and ultimately awards us with entrance into the endeavor of law practice. As a profession we emphasize perfection. We are obsessively detail oriented. Our recognized mantra is to dot those "i"s and cross those "t"s. Being a perfectionist is required for the work we do and serves our clients and us quite well.

However, perfectionism comes with a burdensome price tag. To reach perfection we work extended hours on difficult and complex tasks. Most of these tasks carry serious consequences, i.e., large sums of money, imprisonment, maybe life itself. Still other issues deal with the very survival of families, or continued relationships with children, businesses or business partners. The list of battles we superheroes fight is exhaustively endless.

Likewise, the associated stressors and pressures accompanying the efforts towards perfection in these cases are overwhelming. With that stress and pressure follows a bevy of maladies hastening ill health and often destroying the quest for the high quality of life that as perfectionists we also strive to enjoy. As my dad would say, "we have placed ourselves in 'a pickle.'"⁸

Dr. Johnson described the ill effects of "perfectionism" as follows:

Perfectionism creates a chronic feeling that nothing is good enough. Perfectionism raises cortisol levels in the body, the stress hormone that is helpful in the short run and very damaging in the long run. High cortisol levels lead to burnout, vulnerability to infections, increased healing time, and mental and emotional depression. Perfectionists are more vulnerable to depression and anxiety, harder to treat with either therapy or drugs, and much more likely to commit suicide when things go very wrong.⁹

Does any of this sound familiar? Do you feel yourself dangling from that rope? Do you at least acknowledge that our passion or drive for perfection makes us vulnerable to becoming one of our own league-leading statistics? Well . . . I'm not done yet.

Pessimism.

The second characteristic we possess as a group according to Dr. Johnson, is "pessimism." While I will quibble with him on

the term he uses, his point is well taken and supported by research. The Johns Hopkins Medical School in 1990 published the findings of a study examining graduate school programs across numerous professional fields. The significant results for our purposes here are that in every graduate school program evaluated, optimists outperformed pessimists save one profession. Yes, the legal profession wins here, too.¹⁰

While I much prefer the word "skeptic" to "pessimist," inarguably we are trained and need to be pessimistic or skeptical to excel at our tasks for the benefit of our clients. We solve problems. Remember, we are superheroes. Our profession requires us to anticipate the worst of situations and even people in order to most effectively represent the interests of our clients. We learn to be skeptical of what our clients tell us (and what they are not telling us), of what witnesses and opposing counsel say and of those decisions we hear from the judges in our cases and read in the opinions from others. In fairness to those judges, I cannot even begin to imagine the skepticism – and maybe here the more accurate word choice *is* pessimism – that judges experience as lawyer after lawyer and witness after witness spout adverse explanations and contrary versions of a single event or series of events.

Unfortunately, like perfectionism, pessimism and/or skepticism reaps a costly price from our fundamental good health. High stress, chronic depression, and disillusion are among the consequences that flow from living lives full of pessimism and skepticism. Dr. Johnson describes the life of a lawyer (or judge) as doubly susceptible to the consequences of pessimism and skepticism because we not only hold these perspectives but are enmeshed in a career where the negatives of life really do happen.¹¹

As lawyers and judges we are thrust in the middle of conflict to resolve these negatives, often fighting to minimize or reduce their effects on others. Of course, as true superheroes we carry on our shoulders many of the burdens for the clients as they employ us to assume their problems and often assign us the responsibility if not the ownership to satisfactorily resolve their fate. Multiply the effects of this transference of stress by the number of clients so situated and then double that amount by the pessimism attributed to the thoughts and worries that you might let the client down, and well . . . you do the math.

That Frayed rope on the cover.

That frayed rope on the cover of this journal is symbolic of the vulnerability we have as lawyers, paralegals, and judges. We become even more susceptible if we deny or ignore the evidence. Remember, knowledge is power. Take advantage of this information and put it to use for you. You now know the vulnerability. Use the knowledge to safeguard your practice. Use the knowledge to help another. The statistics discussed herein are represented by

real people, and many of those who have become a statistic are more similar to you and have more in common with you than they are different from you.

Within the pages of this *Utah Bar Journal* you can read stories which document specific past experiences with the damaged or broken rope. Statistics bear themselves out, even here in Utah. Examining the numbers demonstrates the importance of being aware of our vulnerable spot suspended above the ground hanging tightly onto the rope. We have approximately 7,000 members of the Utah Bar. Each year the law schools both within and out of the state add more to our numbers. If 15 to 18 % of those numbers, as identified by the ABA, will suffer from an alcohol or substance abuse addiction, my calculations indicate, employing the more conservative figure, that 1,050 lawyers and judges will experience the problem sometime in their career. The costs in human terms are immeasurable. The direct impact on clients, the reputation of

the legal profession and the costs associated with the malpractice and disciplinary process are overwhelming indeed.

The Oregon Lawyers Assistance Program ("LAP") conducted a study that calculated the costs for malpractice and disciplinary cases. The Oregon Bar, through the intervention of their LAP in documented substance abuse cases alone, demonstrated savings of over a million dollars in the five year focus period.¹²

Hopefully, even you superheroes hanging on to big fat mooring ropes can see the wisdom and direct benefits to having an active LHL program as a member benefit. The easy vision to comprehend is having the program available to catch those who fall as their rope weakens and snaps. The Oregon LAP demonstrates the wisdom and vision of the program that does more than catch those who fall. The Oregon LAP demonstrates the rewards, both in human and other terms, from utilizing and supporting a program that educates about the problems and that provides

How LHL Works

All contacts with Lawyers Helping Lawyers are completely confidential.

LHL's primary purpose is to assist members of the legal community in recovery. The Secondary purpose of LHL is to assist lawyers and judges with quality of life issues confronting them through the stress and pressures of life and the practice of law.

LHL operates as a clearinghouse to help the lawyer or judge find the professional assistance necessary and best suited for the issue presented. To that end, LHL maintains a network of treatment providers and professional services available throughout the State.

Anyone who calls LHL can be assured that **complete confidentiality** will be maintained. Utah's Rules of Professional Conduct expressly recognize LHL as an approved lawyers' assistance program.¹ By virtue of this recognition, LHL members are relieved of the duty to report ethical violations discovered as a result of their LHL work. This important exception to Rule 8.3 means that any misconduct or ethical violation discovered or revealed to a member of LHL will **NOT** be reported to the Office of Professional Conduct, an employer or anyone else.

Not only is confidentiality maintained, but so is the anonymity

of the caller and the contact. The LHL office is independent from the Bar and is located separate and apart from the Law and Justice Center. LHL does not maintain records as to the personal information of the callers or the contacts. The only information maintained by LHL is the statistical data relating to the number of calls and general nature of the calls.

Federal regulations on privacy and confidentiality of alcohol dependency, chemical dependency and mental health information are adhered to by LHL. The LHL network consists of attorneys, many of whom have themselves recovered from their own dependency issues or through training and experience have successfully dealt with depression, stress or other career related problems.

A lawyer, judge, member of the legal community or any family member of such may access the program by calling the confidential phone lines of LHL at 579-0404 or 1-800-530-3743 and speak directly to director Richard Uday, or his assistant, Karianne Jensen. You may also feel free to contact any LHL Board Member listed below, or visit LHL on the worldwide web at www.LawyersHelpingLawyers.org.

1. Rule 8.3(d), Rules of Professional Conduct, Utah Code of Judicial Administration.

Stanley S. Adams
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(801) 277-0357

assistance to repair and strengthen the ropes either prior to or as they begin to show wear.

The roles of LHL.

The dump truck.

I have analogized LHL as the open dump truck to catch those who fall.¹³ I indicated we are thrilled to play that role in our drama. We are prepared and eager to assist those who need help once their rope has snapped. We are indeed mindful that this task is our primary role and the foundation from which the ABA built the national LAP program. However, we do not desire to wait until the rope has broken before we are asked to intervene. We are fervent in our desire to assist lawyers, paralegals, and judges with help arranging the tools they require to prevent the rope from breaking.

The rope-ologist.

I now return to my comment that LHL wants and needs to be more than *just* the dump truck. For the lack of a better word, allow me to invent one; LHL wants to be the *rope-ologists*. Rope-ologists could also be called the rope doctors, the rope specialists or the rope scientists. Our job as rope-ologists is about prevention, avoiding the frayed rope.

LHL's closely related secondary role must be assisting to keep those ropes strong and refurbished when starting to show the

wear from the tasks of superheroing. Prevention is not a novel concept, but unfortunately it might be a foreign concept to superheroes. Superheroes will tell you they are fine, they don't have any problems. I have even heard a superhero or two say, "not here, not in Utah." Superheroes do not need prevention. Superheroes *solve* other people's problems; superheroes don't have problems. After all, we are lawyers, and we are judges.

Not true. Prevention is critical to our health and function as lawyers and judges. Excusing the cliché, even if we dangle from the strongest of mooring ropes, we can "lose our grip." Even if we are comfortable with, or thrive on the danger and/or the excitement of the dangling we endure as superheroes, one strong and blustery storm may weaken us or weather our rope and we can quickly, and sometimes with little warning, hear the snap and the cry, "Oh!!! No!!!"

As rope-ologists, LHL can assist to prolong the strength and durability of the rope. We can do this by sponsoring CLE that focuses on quality of life issues. Why quality of life? The rope, that's why. The construction of the rope is a masterful design. The mooring rope, in particular, is not a rope at all, but a combination of ropes that together form the rope we see. As many as seven individual ropes are braided around a single core rope creating the dimension, strength and durability of the mooring rope.



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The point cannot be lost. Individually each smaller rope, or strand as we now call it, could never perform the task alone. If one of the smaller strands is somehow damaged and/or breaks, then the remaining strands must shoulder even greater stress and burden than they were designed to withstand. The end result is the overall deterioration and eventual snapping of the rope. Only when added together and braided around the core rope can the rope hold up to its task.

Quality of life CLE can complement the judge and lawyer to assure that attention is paid to the individual strands that make up our ropes. Most people's ropes are made of strands representing in some fashion the professional, social, mental, physical and spiritual aspects of our lives. Each person can define his or her own strands to build or strengthen their rope, but as observed in the example of the mooring rope, your strands must be balanced to do the work most efficiently and with the least amount of stress and wear on the rope.

Healthy strands make healthy ropes, and healthy ropes make healthy superheroes. Healthy superheroes more happily and enjoyably function in this stress-laden profession. An unhealthy strand, or strands, increases your vulnerability to stress and decreases efficiency causing the enjoyment quotient to unsurprisingly drop right along with it. As important, the health quotient, both physical and mental, begins to diminish as well.

Get involved with LHL.

LHL will best serve the Bar membership as both rope-ologist and dump truck. LHL will be more effective to the Bar as a whole in the area of prevention as well as damage control. This is where the Bar membership enters the equation. LHL needs an active group of lawyers and judges who are willing not only to participate in the work we are doing but willing to get involved directly by referring those whose ropes have begun to fray to LHL.

If you have survived a particular stress-inducing experience, or are surviving one, volunteer to be on our lists at some future date, take a call and spend some time to help another through that or a similar problem. If you have dealt with alcohol or substance abuse, either directly or indirectly and personally know or understand recovery, volunteer to be on our lists and confidentially talk with and assist someone looking for that help.

Be a superhero's superhero.

I can personally guarantee you rewards beyond measure from reaching out a hand and assisting a colleague through a tough time. With good planning and support for one another, and even some luck and good timing, we might be able to survive that frayed rope on the cover and actually put our feet on the ground and more fully enjoy our careers and our lives both in and away

from the office.

Please contact us at LHL with any comments, suggestions and requests for assistance or willingness to help. Thank you.

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1. I use this term unabashedly. You are members of an honorable profession and you do honorable work. You have all worked extremely hard and long to get your degrees and obtain your licenses to practice law. You have great expectations and you deserve to achieve them. With very few exceptions, the men and women I have met as lawyers and judges within this state are impressive and immensely talented individuals. Nearly each and every day, these lawyers and judges are required to do extraordinary tasks as they represent and service clients. That they do the extraordinary so routinely qualifies them in my mind as "super," and many I have met have become my "heroes."
2. At the Annual Bar Conference on Del Coronado in 2000, the Utah Bar sponsored a tour of the USS Ronald Reagan. Included among the many incredible and impressive details of the aircraft carrier were the mooring ropes which held the ship to the dock.
3. www.abanet.org/legalservices/colap/home (American Bar Association CoLap website.)
4. Meyer J. Cohen, *Bumps in the Road*, GPSOLO, July/August 2001, at 20.
5. Id.
6. *Annual Report*, National Institute of Occupational Safety and Health, 1992.
7. Carol P. Waldhauser, *Identifying Addiction*, GPSOLO, July/August 2001, at 22.
8. Baseball term describing the event where the base runner is caught between bases running back and forth in ever decreasing space attempting to avoid the inevitable put out. I've heard and seen this term described elsewhere as "the hot box."
9. Lynn Johnson, *Stress Management*, UTAH BAR JOURNAL, January/February 2003, at 12.
10. Id.
11. Id.
12. Ira Zarov and Barbara S. Fishleder, *Highlights* (an ABA newsletter), Spring 2002, at 1-2. The study by the Oregon Lawyer's Assistance Program, completed in 2001, compares the discipline complaints and malpractice claims of 55 recovering lawyers from five years before their sobriety dates through five years after their sobriety dates. They found a 30% annual malpractice rate before sobriety and an 8% rate after sobriety. Applying the Oregon cost per claim average, the study concluded that the reduced incidents of malpractice claims in the five years after sobriety resulted in a savings of \$ 200,000 per year. Equally impressive was the finding that the Oregon annual claim rate for malpractice was 13.5 % among lawyers generally, compared to only 8% for the rate of the lawyers in recovery.
13. I intend no disparagement by suggesting that those who fall may land in a dump truck, or that those who work with LHL are dump trucks. But I like the analogy for two reasons. First, as indicated in our drama, the dump truck most assuredly contains a disgusting substance, usually garbage or manure, which helps to break the fall but necessarily gets all over the fallen superhero. So it is with life. When we stumble there are consequences that follow and oftentimes a price to pay or a need to "clean-up." This analogy operates to encourage us to get help sooner than later in order to avoid an even messier cleanup. Second, much too frequently people extend the fall into the dump truck as a judgment that the fallen have landed where they belong, that they too are garbage or manure. That judgment is harsh and often made for reasons of discomfort and insecurity. Rather than appreciate that there, but for the grace of God, go I; we feel better if we can "throw away" the fallen and attribute the fall to a general character flaw or other weakness. This thought allows us to comfortably remain unaffected by the fall of someone with whom we share so much in common. Being able to distance ourselves from the fallen we can then feel less vulnerable ourselves. We must resist this temptation to distinguish them from us. We must recognize that addiction, depression and the like are diseases. And diseases can be treated. But then that's a whole other article.

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We Are All In This Together

by Chief Justice Christine M. Durham

Someone I care about has recently admitted to a long-standing addiction that threatens to ruin a marriage “made in heaven,” an extraordinary career, and, indeed, not just a life, but many lives. This person, like many lawyers, has always enjoyed a reputation for competence, skill, and personal strength: someone who “has it all together.” By acknowledging addiction and seeking therapy, this person is facing loss of all the carefully constructed ways in which the addiction has allowed pain to be suppressed, self-doubt and anxiety to be held at bay, and a fundamental sense of inner emptiness to be assuaged, albeit temporarily and at great and constant risk. There are no guarantees this person will get well, but there is, for the first time in years, some hope. And the alternatives are pretty limited: illness, professional disaster, divorce, degradation, and death.

Few who read this will be without someone they know, and perhaps care about, who is facing similar choices. The human condition includes vulnerability to self-destructive behavior, and our lives seem to offer so many incentives. As lawyers and judges, we identify ourselves as problem-solvers. We occupy positions in our profession and our communities that define us as competent, as decision-makers, as responsible people who “have it all together.” But we also live lives dominated by high expectations, by multiple and often constant demands, and sometimes by experiences of isolation and loneliness. We are often convinced that any admission of the stress our lives generate is a sign of weakness that will undermine everything we strive to be – or at least to appear – to others. The result? Lawyers at least (there aren’t too many reliable studies of judges, although there’s no particular reason to suspect they are any different) have problems. In a recent article in this journal on “Stress Management,” psychologist Lynn Johnson pointed out some disturbing information that bears repeating: whereas 8-10% of the general population have

substance abuse, for lawyers it’s 15-18%; lawyers are more than three and a half times more likely to suffer from depression (a debilitating disease with a high mortality rate) than members of other professions; male attorneys are twice as likely as the general population to take their own lives, and, according to one study in North Carolina, 11% of lawyers in that state thought about suicide at least once a month. Not surprisingly, studies estimate that 60% of ethical violations resulting in bar discipline involve substance abuse. Increasingly, treatment communities are recognizing that other, equally devastating, forms of compulsive behavior, like gambling, pursuit of pornography (especially on the internet), and indiscriminate sexual activity, are, like substance abuse, “equal opportunity employers,” as Kent S.’s essay in this issue says. These addictions, like those involving drugs and alcohol, can destroy careers, families, and almost all of the other things that make life worth living.

So we know, or should know, two things: 1) we and our colleagues are not immune; and 2) people cannot deal with these kinds of problems without help. Kent S.’s story vividly illustrates the kinds of resources and communal care-taking that it takes to fight an addiction. It also shows the extent to which the most effective kinds of help, in addition to medical model treatment-based intervention, are the understanding and support of peers, especially professional peers, and of others a little further ahead on the path to recovery. Lawyers and judges are in a good position to help other lawyers and judges in trouble. That’s why they call it “Lawyers Helping Lawyers,” and why the Utah State Bar, with the approval and support of the Supreme Court, has plans to increase its support for this independent, non-profit organization dedicated to connecting troubled lawyers and judges with services and help, in a



context that is confidential and non-judgmental. Utah's Judicial Council, likewise, is exploring options specifically designed for judges, who are no more immune to substance abuse and other addiction issues than their colleagues in the practice, and who sometimes find it even more difficult than do lawyers to ask for help. We will be using some of our educational time at the Annual Judicial Conference in September to help judges understand the risks, recognize the symptoms of trouble, and connect to appropriate resources when help is needed.

Where does our obligation as professionals come from to concern ourselves with those among us who are in trouble? First, of course, it comes from our fundamental belief that, as professionals, we are part of a learned community and have a common stake in the community's well-being, not to mention its survival. Second,

it's humane; it is simply the right thing to do, to try to help where there is suffering. But finally, it is intrinsic to our function as lawyers to ensure the competence of Bar members and to protect the people they serve from harm at the hands of our profession. Of course, prevention, difficult as it is, is always easier than responding to full-blown addiction and mental illness. We need to do more to encourage and support realistic responses to the challenges life brings. Kent S. shares his "checklist of excuses" in his essay, and reminds us that everyone has one. No one is immune, and most of us cannot cope alone. I congratulate the Utah Bar Journal for devoting this issue to the difficult topic of lawyers and mental illness and addiction. I hope the discussion will lead to increased resources, more volunteers, and to more willingness to give and receive help.

Thank You!

...for caring enough to aid another

*We extend a special
thank you to:*

Scott Olsen, *The Les Olsen
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*Paralegal students from
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Bethann Finley

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Heather Mann

Julie Meisner

Ellen Nelson

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Kathy Olson

Larry Sorenson

We wish to acknowledge the efforts and the contributions of time and talent of those exceptional members of the Bar who volunteered and assisted in a variety of projects sponsored by Lawyers Helping Lawyers this past year. Your efforts have saved lives and lightened loads. We are indebted to you for your assistance. Additional thanks go to the many others for their availability and willingness to help. We will call on you again.

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Darkest Before the Dawn

by Kent S.¹

Introduction

My name is Kent S. and I am a recovering alcoholic and drug addict. I am sober today through the grace of God and the fellowship of Alcoholic's Anonymous. I am also a husband (married thirty-four years), father of five children, and an active member of the LDS faith. I have been a member of the Utah State Bar for thirty years, which involved one year of suspension. I have been a member of Alcoholics Anonymous – one day at a time – for seventeen years.

Alcohol, cocaine and heroin were my drugs of choice. Today at twelve noon I will have been sober for twelve hours. Tonight, when the clock strikes twelve midnight, I will have been given another day of sobriety and my sobriety date will start over. One day at a time, that's how it works for me.

I am not an expert on sobriety. This is only one alcoholic/addict's story of experience, hope and strength. It is my story about what it (addiction) was like, how I got sober and what it is like today.

Alcoholic/Addict: Who, Me?

On February 12, 1986, my wife and nine-year-old son were waiting for me to arrive at a local Boys and Girls Club to watch my son play in a Junior Jazz League basketball game. Basketball defined much of who we were as a family. It was what we did together. I never made it to the game. While my son was playing basketball, I was down on my hands and knees in a rundown local motel room struggling through another drug binge. The sweat ran off my forehead onto the cigarette scarred carpet as my heart raced on at an alarming rate. My lungs struggled for air. I had a premonition that the next "hit" would be my last. I never did take that next hit.

How did I come to the point where my power of choice over alcohol and drugs had been taken away? When I graduated from high school I did not put down "alcoholic/addict" on my list of things that I most wanted to be. Not me. I was active LDS and even went to seminary. Not me. I loved my wife (and still do – very much) and I loved my kids. Not me. I coached little league sports and served as president of a local little league baseball program. Not me. I loved my job, loved being a lawyer and, for the most part, enjoyed the people at work and in the profession. I was just a regular guy experiencing the American dream. The dream turned into a nightmare.

But the alcoholic/addict was me. I was the one who lifted the drink to my mouth or took all the "hits" of cocaine and heroin. And for that I am responsible.

I am Responsible

I used to think that all the pressures of being a family man, lawyer and servant to the community and church gave me the excuse to go for "Miller Time." What was that opening line in the best selling book *The Road Less Traveled*? "Life is tough." And so it is. Here is my checklist of excuses. Everyone has their own.

- My family life growing up wasn't so hot.
- I got cut from the football team in high school.
- Law school was harder than I expected.
- I felt inadequate as a law student and as a lawyer – I could never "measure up."
- I spent too much money trying to impress family and friends and became saddled with debt.
- My law firm broke up over a campaign contribution scheme and one of my partners was disciplined and jailed.
- I felt guilty for the secret life I was living and needed to "relieve the pain."
- If you really knew how bad I was you would not have a thing to do with me.

I drank and drugged to avoid emotional pain; to feel like a big shot; to reward myself for doing all those service projects; to fill the empty hole inside that could never be filled; and just to run away and feel good. I drank and drugged because I didn't get the attention I demanded from others; because the client didn't express enough appreciation; because the judge did not sing my praises or because things didn't go the way I wanted them to go. In the end, I drank and drugged because I had no other choice. I was an alcoholic/addict who, somewhere along the way, had lost the power to avoid the self-destructive craving to drink and use drugs.²

Alcohol and drugs are equal opportunity employers. They are ready and willing to accept applications from men and women no matter what their social stature, education, balance sheet, race, nationality or religious affiliation. Lawyers are welcome to apply as well and it doesn't matter if you are a solo practitioner, or a lawyer in a medium or large firm. You can even be a professor of law or a judge. But here is the good news. Recovery from alcohol and drugs abuse is available to all who have a desire to apply for the job.³

The Jumping Off Point

Back to that motel floor. I was now at the point we alcoholics and addicts call the "jumping off point." I knew that I could not go

on living by doing what I was doing. At the same time I wrestled with the fear of not being able to cope with life without what I had come to think of as my two best friends – but which were actually my jailers – alcohol and drugs. All recovering alcoholics and addicts know the feeling. We call it “pitiful and incomprehensible demoralization.”

It was at this jumping off place that the vision of my family came clearly to mind. It was as clear as it would have been in my most sober of moments. It was at this place and time that I experienced a powerful and profound desire to live, a desire to stop drinking and using.

I rose to my feet, walked out of the room without saying a word and drove myself to a near-by hospital, parking my car on the lawn outside the front entrance (so I was later told). It was then and there that I surrendered and came to the realization that “I was powerless over alcohol and drugs and my life was unmanageable.”

I admitted myself to a treatment center on the spot. I could not trust myself any longer. Although responsible and accountable for my conduct, I had lost the power of choice when it came to alcohol and drugs. While in treatment I was told that I had a two percent chance of “making it.” Well, someone had to be in the two percent column, so why not me?

After “graduation” from treatment, my firm took me back into full

fellowship. My family, bishop and partners worked with my after-care counselors and me to construct a sobriety plan. Everything was set in place for an onward and upward journey into sobriety. I relapsed sixty days later and found myself back in the treatment center. I immediately started up just where I had ended in that run down motel with the same people doing the same thing. I was powerless and my life was unmanageable. I was scared for both me and my family. This was not the legacy I wanted to leave my five children, and I did not want to hurt my wife any more. More importantly, I was “sick and tired of being sick and tired.”

What Happened?

There were many people who supported my recovery. Prior to my relapse, everyone and everything worked just right except for one person. Me. After a second term in the treatment center, another aftercare plan was constructed. This one worked because, along with everyone and everything else, I “worked it.” I learned that if I wanted to keep on getting what I was getting, I could keep on doing what I was doing. How many times does one have to put his or her hand on a hot stove with the expectation of different results? That would be called “insanity.” That would describe an alcoholic and drug addict’s thinking in matters involving alcohol and drugs: We have lost our power of choice.

It was time for a change. I was caught up in the bondage of self:

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self-justifying, self-centered, self-pity, and self-delusion, all of which led to self-destruction. So I fired my ego. I resigned from being Master of the Universe and decided to listen to others. I took the plug out of my ears, put it in my mouth, turned my life and will over to the care of a loving God of my own understanding (“higher power”) and became an active member of Alcoholics Anonymous. Early on in Alcoholic’s Anonymous, I learned two very important principles: (1) There is a God who has our best interests in mind and (2) He is not me.

In 1987, I was suspended for one year from the practice of law and spent a second year under probation for taking money from a client and my law firm. Gratefully, I was and remained clean and sober and I was able to make restitution to those whom I had harmed.

What had alcohol and drugs done for me? At this point I did not have a job, license, home or savings account, having lost them all. My family was scared, baffled and confused. I shamed the profession I had come to love. But I did have God, my family, friends, a burning desire to remain sober, and, according to the medical profession, a two percent chance of living.

Recovery Works if You Work it

How did I get and stay sober? I didn’t. I got drunk. Together with the help and prayers of **many, many others**, I stayed sober. I am grateful for the attorney, a good friend and law school classmate, and his firm, who helped me work out a Consent Agreement with

the Bar. I am grateful to the attorney in charge of what we now call the Office of Professional Conduct for helping me through my period of suspension and probation. She was most instrumental in my rehabilitation.

Thanks also go to the then Bar President and the Bar Commission for taking a chance on a “recovering drunk.” The Bar Commissioners and the Office of Professional Responsibility were committed to the protection of the public and the legal profession. They and many others were also committed to being a part of my recovery process. I am a living example of their care and concern.

During the term of my suspension, I remained clean and sober, much to the credit of a couple of attorneys who daily supervised and scrutinized my professional and personal actions. I was also provided research projects from a number of local attorneys. Under the care and supervision of these attorneys, I was able to make a living for my family and hold on to the hope that I could once again be a lawyer.

For several months and even years, I was pulled out of bed by friends in the morning to go run around Sugarhouse Park. I was driven to and from work by others. I took to work my brief case, a sack lunch and two dollars – never more. Some days I lived a minute at a time. I still look down at my desk and think back about the times I used to grab on to its edge and recite the Serenity Prayer⁴ in order to avoid calling a drug dealer and walking out the door and ending it all with one final binge.

What I did, instead, was pick up the “five hundred pound phone” to talk honestly and openly with my wife, sponsor and many of you, the lawyers and judges of the Utah Bar. The burning craves would then leave – for a time. They would return, but not as intense. Days turned into months and months turned into years – one day at a time – and the compulsion to drink and use dissipated. The power of choice was restored through the grace of God and fellowship of Alcoholics Anonymous. This power of choice became the fuel that fed my burning desire to stay sober. I lived each day, one day at a time, and still do. I am like a man who has lost his legs and learned to walk again with a better pair. I no longer had to use alcohol and drugs as a means for coping with people, places and things.

Some of My Best Friends Are Attorneys

My debts were many. It was an attorney (and good friend) and my bishop, who worked out a payment plan through a local debt counseling service. That attorney is now a U.S. Bankruptcy Court Judge. What service! Many, many people were patient, kind and forgiving. They gave me the opportunity to make amends. Thanks to everyone for allowing me to develop the opportunity to be responsible and accountable. And thanks for giving me your



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love rather than your money. It took nine years to pay everything off. But I avoided bankruptcy and discovered a lot of good that existed in this world.

Another attorney and life-long friend pulled me out of my office once a week to play squash or just run up City Creek Canyon. Lunch, March Madness and walks up and down Main Street with so many fellow members of the Utah Bar – these small and welcome parcels of good will turned out to be one of the main ingredients in my recovery recipe.

We all have our favorite Christmas stories. Here is one of mine. During the year of my suspension, I had no money for gifts and no credit with which to get gifts. But I was sober and my family and I were happy. About two weeks prior to Christmas, I got a call from an attorney who was counsel for a local non-profit construction trade association. Some years prior I loaned money to that association so they could keep operating. I had forgotten all about it. That attorney did not forget and went to work to have the money paid back, just in time for Christmas. We are now partners.

What it is Like Today

Today, the compulsion to use alcohol and drugs is gone. My power of choice has been restored. I do not wrestle with the craves. I cannot identify the day or any event when this phenomenon occurred. It was more like a spiritual evolution. This evolution progressed over a period of many years. I just kept showing up at the places I was supposed to be, with the people I was supposed to be with, to do the things I was supposed to be doing. I now follow and play by the rules. That's how it works for me – one day at a time. Moreover, honesty is easier because the truth is easier to remember.

I remained clean and sober and fulfilled the conditions of my suspension. If there was ever a time that I could have left the law to pursue another profession, it was at that point. I did have opportunities to earn some serious money. But I never considered ever being anything other than an attorney, so an attorney I remained.

One of the small local firms specializing in construction law invited me to associate with them on an "of counsel" basis. I remained financially independent, but they provided me with a place to office and good people to be with. They also provided me with work. These people are now my partners of thirteen years.

An attorney, who is now a member of the state judiciary, asked me to get involved in the Utah State Bar's Litigation Section. That was just the medicine I needed. Another attorney, who is a former District Court judge, Bar President and member of the State Legislature, showed me through the strength of his example the benefits of Bar related service. And still another attorney, who is now a city mayor, along with the other members of the Litigation Section's Executive Committee, made me feel like I had something



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of importance to contribute and a place to belong.

One more example: An attorney, now a very active and senior member of our Bar, provided me with the opportunity to serve with the Alternative Dispute Resolution Committee of the Utah Bar, which he had chaired for many years. Much to his credit, ADR became my new found love. I am now an active member of the recently created ADR Section.

The Promise for Today and Tomorrow

I have lived to experience Paris and the French countryside with my wife. I have lived to watch my kids play in many basketball and baseball games. I have lived to go running with my daughter. I have lived to coach my grandson's baseball team and laugh with and hang out with a second grandson. And I have lived to see my only daughter, her husband and my oldest son take the Attorney's Oath upon becoming members of the Utah Bar. They work with and are supervised by the best of the best that we have in our Bar. What a gift to a father.

For those of you who may have lost the power of choice over alcohol and drugs, there is hope for you. There is a way up and out from your "pitiful, incomprehensible demoralization." You do not have to sacrifice yourself, your friends and your loved ones to the ravages of alcoholism and drug addiction. Release yourself from the bondage of self. Get help. Surrender your

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alcoholic self and discover the self you really are. Risk it! All you have to lose is your misery, and that misery can be refunded at no charge upon the resumption of your old habits.

For those who have an alcoholic or addict in your life or firm, there is hope and there is peace in store for you. Get rid of any thought or feeling that you caused, can control or are responsible to cure his or her alcoholism or addiction. For that, they are responsible and should be held accountable for the damage they have inflicted on you and others. Let him or her know of your care and concern. But don't enable them to continue their self-destructive way of thinking and doing. This will take the best of who you are and will cause you to exercise a high level of moral strength and courage. It's worth the risk. He or she is worth the effort.

Conclusion

This is my story of experience, hope and gratitude as it pertains to alcohol and drug addiction as well as the recovery from its destruction. I can't wait for tomorrow because life gets better every day. I would like to conclude this story with the last words of Winston Churchill in his farewell address to Parliament:

*That in which we persist in doing becomes easier to do.
Not because the nature of the thing itself has changed,
but the will to conquer is increased. Never give up.
Never, never, never, never, never, give up [even when
you are given a two percent chance].*

Lawyers and Judges: keep giving your best and the best will come back to you as we "trudge down the road of happy destiny together."

1. The full name of the author has been withheld in recognition of Tradition Eleven of Alcoholics Anonymous: "Our public relations policy is based on attraction rather than promotion; we need always maintain personal anonymity at the level of press, radio and films." The statements and opinions of the author are his own and do not reflect those of the Utah State Bar, the *Utah Bar Journal*, or Alcoholics Anonymous. The author can be reached by contacting Lawyers Helping Lawyers through richuday@aros.net or at (800) 530-3743.
2. The responsible and legal use of alcoholic beverages is everyone's right. Alcoholism is defined to mean the obsessive and compulsive craving of alcohol to the point where one has lost the power of choice as to whether or not to drink. See "The Doctor's Opinion," *The Big Book of Alcoholics Anonymous* (4th ed.).
3. Tradition Three of Alcoholics Anonymous: "The only requirement for membership is a desire to stop drinking."
4. The first three lines of the Serenity Prayer, attributed to Dr. Reinhold Niebuhr although he in turn may have attributed it to Friedrich Oetinger, are familiar to many:
*God, grant me the serenity to accept the things I cannot change,
Courage to change the things I can,
And the wisdom to know the difference.*

These sentiments have deep roots, and a very similar prayer may date to the fourteenth century:

*Almighty God, our heavenly father, give us serenity to accept what
cannot be changed, courage to change what should be changed,
and wisdom to know the one from the other. Amen*



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Relapse Prevention

by Dr. Vickie Gregory

“To cease smoking is the easiest thing I ever did. I ought to know because I’ve done it a thousand times.”¹

Anyone who has ever tried to quit smoking (drinking, using drugs, over-eating, etc.) understands Mark Twain’s humorous comment. It is difficult to change behavior, particularly addictive behaviors. Once changed, it can be even more difficult to maintain the change, especially abstinence from substances.

Realizing this difficulty, psychologists began to focus on long-term effects of intervention, i.e. the maintenance of treatment gains. The working assumption was that the maintenance of behavior change was associated with different factors than the cessation of the behavior.

During the 1980’s Marlatt & Gordon’s² seminal work in this area resulted in the development of a new treatment approach. They designed a self-control program aimed specifically at teaching individuals with addictive behavior problems how to anticipate and cope with relapse crises. Their Relapse Prevention model is a maintenance plan which begins after an initial cessation of treatment. This model applies to individuals who have made the commitment to abstinence, following voluntary cessation of the use of the addictive substance.

Since its development in the early 1980’s, the Relapse Prevention model has been expanded and applied in the treatment of mental disorders (e.g. depression and anxiety) as well as addictive behaviors. The specific examples given below will be discussed in terms of addictive behaviors (cigarettes, alcohol, drugs) although many will apply to other addictions and to treatment of mental disorders.

What follows is a starting point for developing your own road map to maintaining behavioral changes, based on the Relapse Prevention model. It is not meant to replace aftercare and traditional treatment methods of psychotherapy. It focuses on enhancing self-management skills. What I like about this approach is the focus on analyzing and solving the problems associated with your own individual situation. (Sounds somewhat like practicing law?)

A major component of relapse prevention is the identification of high-risk situations, i.e. those triggers for the addictive behavior. Negative emotional states are such an important facet of high-risk situations that they deserve to be discussed separately. They are only briefly mentioned in this article. The next step is to develop coping strategies when encountering a high-risk situation. Successful coping will enhance self-efficacy,³ thereby reducing

the risk of relapse. Finally, the Abstinence Violation Effect⁴ is addressed in the event of an actual relapse.

1. Identification of high risk situations

Analysis of past relapses and self-monitoring of current temptations increase awareness of situations in which relapse is most likely to occur. Keeping a journal might prove useful in the analysis. Some common high-risk factors identified by research and clinical experience include:

- Presence of other drinkers/smokers (easy access, support)
- Alcohol consumption
- Following a meal
- Avoidance of food
- Social pressure
- Deadlines/trials

2. Negative emotional states

One of the highest risks for relapse is a negative emotional state. Think about past experiences and develop a list of your own negative emotional states related to the behaviors you want to change. Common emotions triggering relapse episodes include:

- Frustration
- Anger
- Restlessness
- Boredom
- Impatience
- Anxiety & Depression

While mood fluctuations are normal, symptoms of anxiety and depression become clinical concerns when the symptoms are severe/chronic and result in impairment in ability to function at work or socially. This degree of anxiety or depression may require professional intervention and treatment with medication.

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Many people use alcohol and drugs in an attempt to self-medicate, i.e. treat a psychological disorder. Anxiety disorders, affective disorders (depression, bipolar disorder), and Attention Deficit Hyperactivity Disorder are common underlying diagnoses in individuals who abuse substances. Treatment of these disorders with therapy and medication will aid in recovery and decrease the risk of relapse via self-medication.

3. Coping skills training

The most powerful determinant of the outcome of a relapse crisis is the coping response. Use of coping responses leads to increases in self-efficacy and reduces the risk of relapse. Below is a list of coping skills.

Stress management/Relaxation Training – Take advantage of community resources, e.g. stress management seminars

List alternative/incompatible behaviors – Draft a contract promising not to continue the behavior further (Make it legal – don't forget the consideration)

Take a brisk walk after dinner

Exercise, exercise, exercise – A moving target's hard to hit

List rationalizations – Make a list of the rationalizations that reinforce the behavior. Once recognized, rationalizations lose their influence on the behavior. For example, some common rationalizations include:

I'll only have one.

No one will know.

(The substance) really wasn't so bad.

I could get through this mess if I could only use.

I'm beginning to gain weight and I could lose it if I started again.

A (substance) would help me to relax and calm down.

Note the number of rationalizations related to negative affective states.

Improve decision making skills –

- List reasons for behavioral change
- Recall rationalizations
- Detail short-term pay-offs versus long-term consequences
- Educate yourself
- Use your legal training in decision making/analysis to advance your personal goals

Seek outside assistance –

- Attend a support group
- Attend Alcoholics Anonymous (or the equivalent)

- Participate in group or individual therapy
- Call Lawyer's Helping Lawyers

4. Beware the Abstinence Violation Effect

The Abstinence Violation Effect is the feeling that once you have used, you have blown it. You feel guilty, like failure, ashamed. . . Self-efficacy decreases and you continue to use. Steps to cope with these feelings include:

- Recognize and label the Abstinence Violation Effect
- Remind yourself that to *err is human*
- Don't panic
- Analyze the lapse, the high-risk situation
- How could you have coped?
- Talk to someone who is sympathetic and helpful
- Go immediately back to your cessation program
- Don't get caught up in *I blew it; I can't stop*

5. Have some fun

So basic, yet so frequently forgotten

- Get a hobby
- Catch up with friends
- Enjoy your pet (or adopt one)
- Contact Rich Uday, he's always up for a game of golf

Relapse prevention is a psycho-educational treatment combining behavioral skills training with cognitive interventions. The Relapse Prevention model assumes that addictive behaviors are over-learned, maladaptive habits developed by performance before or during stressful, unpleasant occasions. Further addictive behaviors are strongly influenced by the individual's expectations associated with the use of the substance.

Importantly, this model does not adopt the traditional treatment method equating use of any substance as a treatment failure, inducing guilt. Rather, the relapse prevention model views a lapse (substance use) as a learning experience rather than a failure. The model assumes that abstaining individuals experience a sense of perceived control and enhanced self-efficacy. Thus, the strategy develops a game plan for use when high-risk situations are encountered. New coping skills are developed. Self-efficacy increases. The probability of a relapse decreases, and after all, that is what we are after.

1. Mark Twain
2. Marlatt, G. A., & Gordon, J. R. (Eds.) (1985) *Relapse prevention: Maintenance strategies in the treatment of addictive behaviors*. New York: Guilford Press.
3. Bandura, A. Self-efficacy: Toward a unifying theory of behavioral change. *Psychological Review*, 1977, 84, 191-215.
4. Marlatt & Gordon, *supra*, note 2.

My Mother, My Father, and Me – A Story About a Childhood and the Effects of Suicide and Substance Abuse

by Karianne Jensen

She did it. She actually did it. She'd been talking about it for years, but she actually drank a whole bottle of Benadryl, then a bottle of muscle relaxers, and convulsed to death in her car on a lonely road off a deserted highway.

Obituary

Roberta Jean Abbott Jensen, age 46, beloved mother, wife and daughter departed from her earthly existence with all of its struggles on September 21, 1995. She will be remembered by all who encountered her beautiful spirit and were touched by her in so many ways. Most of all she will live on in the lives of her children, whom she loved more than words can express.

My Mother

I am the second to the youngest child in a family of six. My three older sisters had moved to college during my teenage years, so my mother turned to me for womanly bonding and friendship. As a teenager, I did not understand our relationship as I do now. I completely missed the loneliness my mother felt. I thought she was trying to be my friend for *my* sake. I didn't realize that *she* yearned for a close relationship to fill the emptiness inside her.

In 1993, my mother landed her dream job as a park ranger at the Dinosaur National Monument. She got paid to hike hundreds of miles of trails so she could give specifics about each hike to the tourists. I often accompanied her on these long hikes and we became extremely close. Sometimes she spoke about her dreams for the future. Other times we enjoyed the silence. She never talked about the past. I was oblivious to the hurt that she lived with every day.

When my mother died, I couldn't imagine a time when I wouldn't feel the pain of her death every moment of every day. But the intense pain passed, as did the anger and the seemingly unbearable sorrow. In the back of my mind, I am always thinking about my mother. Sometimes I get angry with her for taking herself away from me. Sometimes I become terribly frightened. Sometimes I

become unbearably sad. In my lifetime, I have experienced thoughts of suicide. But I would rather live my life in excruciating misery than put my loved ones through the hell suicide creates for those left behind to cope with their death.

In the summer of 2000, I decided to get married to an amazing man. I knew nothing about wedding etiquette, wedding dress shopping, where to get the necessary paperwork, invitations, photos, and so on. My married sisters had my mother's assistance but were now busy with their young families. I had no one to guide me through this time, no one to share the joy or the stress. To simplify things, we decided not to have a wedding, and we got married at the courthouse.

Now that I am married, I have discovered that I need my mother's advice now more than ever. How I would love to hear my mother's advice on a myriad of marriage issues, like money, cooking, sex, children, different religious backgrounds, equality and roles. Instead, I am left to piece together advice from a thousand different sources and try to fit them into the framework my mother began.

It has been over seven years since my mother took her life. Society expects me to be over her. I shouldn't still be encountering "mother-issues" as I call them. The hardest part about losing a loved one is that everyone surrounds you right after it happens, but too soon they forget your misfortune. Life goes on, but now you have this terrible pain to cope with while you try to navigate the hurdles of everyday life. I miss my mom every day.

KARIANNE JENSEN is a legal assistant and the administrative assistant for Lawyers Helping Lawyers.



My Father

When I was a child, I knew that my dad was the best dad on the block. He took us shopping, camping and treated us to meals out on special occasions. He took us for rides on his motorcycle, one kid at a time, for hours. He told me on a regular basis (and still does) that I am his favorite child. Two years ago I found out he told this to each of us when we were alone. This is how I would like to remember my childhood.

However, most of the time my father would come home late and go straight to his bedroom without saying a word. He would dismiss the beckoning of his children as though he did not even hear our cries for attention. Occasionally he would come home in a rampage and yell at my older brother. My brother was always acting out and getting into trouble with the law. My father didn't know how to deal with him on top of all the chaos in his own life. My father was spiraling downward and his life had become unmanageable.

Treatment

It was late one night during the Christmas Season of 1987. My father was still not home from work. My mother called us all into the living room and began speaking very calmly and softly.

She told us that my father was sick and would not be home for Christmas. He had checked himself into a hospital three hours from our home. She told us that we were also going to spend Christmas at the hospital for a week of family therapy. I was only ten years old at the time. I didn't understand the magnitude of the situation. Mostly I remember being excited because my uncle generously offered to pay for our stay in a ritzy hotel for the duration of the family therapy. It wasn't until nearly a decade later that I realized how much this night would change my life.

My father is a sole practitioner from a small town. He is known for his outgoing kindness and generosity. He coached youth sports teams, he was a leader in the Boy Scouts of America and he held a high position in the LDS Church. Very few people knew the pain that my father was drowning in all those years ago. He was a very visible professional man in the community. He became overwhelmed with all the pressures of running his own business and providing for such a large family. He carried the burden of religious duties along with the conflict of his religious beliefs. His marriage left everything to be desired. My parents were definitely not on the same team. However, for the sake of the children, they never fought in front of us. I think they assumed that we wouldn't know they were having trouble if we didn't hear them

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fighting. It got to the point that he did not want to go home after work at all. Of course, this made things much worse with his wife, so he came up with a remedy. He began self-medicating.

My mother spent her days yelling at her children and trying to get us to help her with the household chores. She tried to make job charts, but they never lasted more than a week. She tried to discipline us, but we ignored her and did our own thing. She decided that it was easier to run the home all by herself than continue nagging her husband and her children. She tried threatening us with the traditional, "wait until your father gets home." However, my father was timing it so that his drugs would kick in just when he was arriving home. By the time he got home, my mother was exhausted and frustrated with her role. She began to furiously resent him. One day my mother had been nagging us for hours to do our homework when my father arrived home with bags of candy and popped in a video. This is just one example of the rift that consumed my mother and father's marriage.

After years of fighting, I think my parents stopped talking altogether. My father had a colleague and a friend that convinced him to check himself into a residential treatment center. My father was blessed with an incredibly understanding staff at his practice. They cancelled all his appointments until further notice. Some of

them even told him that they would stay employees even though they had no idea when my father and the practice would be functioning again. My father spent over a month in treatment and learned the skills to help him turn his life around.

While my father's life gradually got better, my mother's did not. My father was altering his approach to life and applying new skills he obtained in treatment. My mother did not have those skills. She did not have the support groups that my father was building in the recovering community. Her hopelessness eventually became unbearable because she didn't have anyone that she felt like she could relate to and share with.

I am happy to report that my father is remarried to a loving woman that has a wonderful daughter. He has successfully been in recovery for many years. He is not perfect and he has "slipped," but today he is clean and sober. He is active in his recovery and has no misconceptions about recovery being easy. My father has shared his experiences with anyone that will listen. He speaks at professional and church meetings whenever he can. He believes that if his experiences help even one person, it is worth the trials he has been through. He still has rough days, but he is living them one day at a time.


Me

A few years after my father had checked himself into a treatment center, I found myself in the same position. My parents had no idea what to do with me. I was hanging out with a rather sinister crowd and experimenting with every drug I could get my hands on. I was acting out sexually and placing myself in extremely dangerous situations. A severe depression had consumed me, and it affected every area of my life. I had attempted suicide several times before my parents found out about it. I swallowed a bottle of aspirin one evening to ease my pain. I became violently ill. My parents took me to the emergency room and I was forced to drink crushed up charcoal with 7-up mixed in. When I recovered, they sent me to a therapist who put me on medication. I would not cooperate with the therapist, and I resisted taking the medication, so I went to treatment.

I wasn't in treatment long, but I felt camaraderie among those teenagers with the exact same problems as I had. The treatment center provided hours of individual therapy and honest group therapy amongst my peers. I was encouraged to talk about the bad and the good in my life-and people listened! They wanted to hear what I had to say. I finally got the attention that I was craving without having to act out by hurting myself.

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Today

I have grown up more in the past ten years than most people do in a lifetime. I found meaning in my life through the people that I love. My family is stronger than I ever could have imagined. We would do anything for each other. I know that I have a support group that would be there for me no matter what. I have also found a man that makes my life worth living. I have been blessed with a man for whom I feel an intense and fulfilling love.

I believe that the same things that made my mother take her life are the same things that encouraged my father to abuse drugs. Financial, familial, marital and religious struggles affect every one of us. Left untreated, these issues can bring us to our knees – or worse.

I am a member of the legal community in Utah. I am a legal assistant. I am also the administrative assistant to Lawyers Helping Lawyers. I am the person I am today because of the experiences life has presented to me. I feel like my past has made me much more compassionate and aware. I am dedicated to helping other people who are suffering and feeling alone. My involvement with Lawyers Helping Lawyers allows me to reach out and connect with people who are feeling hopeless and afraid. I only hope that those isolated souls will seek the support they need wherever they can.

Call us at Lawyers Helping Lawyers. We have a network of professionals who listen and who *want* to hear what *you* have to say.

At Your Side Bar

by . . . *I think I'll take the Fifth*

I know a great number of attorneys. I currently work in a large law office and have worked in several others over the years. However, I am not an attorney, but I am married to one. I also know and have spoken with many of your spouses and partners. Yes, we stand at our own sidebars comparing notes. Nonetheless, we continue to be amazed with the schedules you keep.

From remarks gathered through those sidebars we spouses/partners seem to share similar viewpoints in common. The lawyer life is very demanding, often to the exclusion of anything else. A balanced, well-rounded life can change in an instant and regrettably remain out of balance for an extended period of time. The imbalance can continue long enough so that the out of balanced life now appears to be balanced or somehow seems normal.

Yes, there are always breaks in the action. Trials don't last forever, transactions do conclude and clients' disputes settle. The frenetic schedule quiets and the house seems again to be balanced. Then the lull gives way to the realization that history will repeat itself.

So, on behalf of the non-lawyer spouses and partners I must ask these questions.

Raise your right hand. Do you swear . . .

- Tell me do you own a watch? A cell phone? A PDA or calendaring system?
- Do you have an assistant?
- Counselor, exactly when did you forget how to tell time?
- Could that time coincide with forgetting our home phone

number? And the dance recital?

- How, in fact, did your client Mr. Smith get our home phone number?
- Is there supporting evidence that you really needed an adrenaline rush by waiting until the last minute to finish that pleading?
- At what point did you begin to believe that you could motion for a continuance of our anniversary? Birthday? Valentines Day? MOTION DENIED!
- In your experience, is dinnertime the best time to practice your cross-examination skills?
- In fact, is a relationship best built through the use of cross-examination techniques?
- Who died and left you in charge of the priority list?
- When dividing the trunk space for vacation who determined that your laptop, briefcase and THAT box of documents counted as one family member?
- And while on the subject of vacation, who delegated me to pack your bag, so you could arrive home just in time to get into the car for the drive?
- How would you describe yourself in a relaxed state? When was that?
- Finally, counselor, at what age will you start sleeping through the night?

No cheese needed with this whine, but answers are required.

Effective Stress Management

by Lynn Johnson, Ph.D.

Perhaps anger and fear are practical jokes that Mother Nature has played on us. After all, throughout most of our history as a species, the three stress responses (fight, flight, and freeze) could handle most problems. Hit it with a club, run, or play dead. Our ancestors who mastered those three instincts survived, and we carry the genes of their success.

But those three responses come from parts of our brain that are not particularly intelligent.

Effective stress management has a foundation in up-to-date understanding of how our brain works. In counseling with clients or in the courtroom, you want to use your brain at its most effective mode. This briefing will help you.

We all have moods. Sometimes if a child is acting up, the mother may say, "Oh, he is just in a bad mood right now," and sure enough, after a while, the child is behaving much better. So also with adults. When we are in a bad mood, the world seems dark, but often the mood passes and things look better to us.

So moods are like the weather. If your brain is functioning normally, moods will shift from time to time. If you don't like your mood, wait a while, and pretty soon another one will come along, one you like better. But what causes our moods to be high or low, happy or sad? Why do negative moods seem to have such a "hold" on us?

The Reptile Brain

We now know that when we are in those bad moods, a particular part of our brain is more "in charge." Bad moods are driven by higher activity levels in the lower areas of the brain. This means simply that when you are angry or scared, you are less intelligent. I realize some attorneys believe the opposite, that anger sharpens their minds. They are wrong; perhaps I can explain why.

The lowest area of the brain is the most primitive. We call it the "reptile" or alligator brain. It is a part of the brain that is located *underneath* the higher thinking part of our brain or the cerebral cortex. It looks somewhat like the head of a golf club, sitting on top of the spinal column.

The reptile brain is concerned with three questions:

- Is it something I can eat?
- Is it something that can eat me?

- Can I mate with it?

The reptile brain is an action brain. The emotions that are present are primitive, like rage and fear. You who specialize in criminal defense work have probably run into some clients whose lives were run primarily by reptile brain dominance. So when you are acting in foolish or destructive ways, your reptile brain is most energized, and your higher brain functions are more quiet. Have you noticed that when you have fallen into reacting with anger or fear, you say and do the same old things and you aren't very creative? That lack of creativity is a sure sign the reptile brain is mainly in control of your behavior.

The reptile brain is probably 90% to 100% selfish, so when people are being controlled by that part of their brain, you cannot expect much cooperation out of them. The best thing you can do is just wait for things to pass for the mood to change. Moods always change. There is really no point in discussing things while you or your partner are in bad moods. It is better to wait until the mood lightens up and things look brighter to you.

The Primitive Mammal Brain

On top of the reptile brain we find the limbic system and cingulate gyrus. This is the emotional center of the brain. It is called the "mammal brain" because it shows up in the higher animals. I notice that these higher animals are higher because they have the ability to learn more and also the ability to cooperate and show unselfish behavior. While all mammals have a reptile brain and while the reptile brain can still control the behavior of mammals, they also have a higher brain, and when they are feeling safe they can cooperate well. Deer group together in herds to help each other to be safe from predators. The wolves group together to help each other catch the deer. The mammals take much better care of their young than do reptiles. So we might conclude that the mammal brain is perhaps 50% or more

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cooperative and is capable of some acts of self-sacrifice, like the famous cat that went into a burning house several times, burning herself in the process, in order to rescue her own kittens.

These parts of the brain are the centers of emotion, both positive and negative. The negative emotions, as we have seen, energize the reptile brain. The positive emotions of love, concern, and cooperation make mammals more successful and resourceful than reptiles.

The Human Brain

Above the emotional brain we find the neocortex (or, cerebral cortex), the newest part of the brain. The Prefrontal Lobes are the part of the cerebral cortex that makes us fully human. While our brains are much larger than nearly all other animals, our prefrontal lobes are where the real action is. We have large, powerful, creative, sensitive prefrontal lobes, and we are capable of greater acts of love, creativity, unselfishness, and cooperation than the rest of the creatures on this earth.

Our brains also have little switches in them, the amygdala. Our amygdala are located on each side of our brains, midway between the corner of the eye and the ear. If you put your fingers over that spot, you have located your amygdala. They are about the

size of a small almond. When the front part of the amygdala is energized then your frontal lobe on that side is energized. And when the back part of the amygdala is energized, then your reptile brain is getting all the energy!

In brain functioning there is a process we call *kindling*. This is the process of developing habits or patterns. If your amygdala is often switched forward, then it becomes easier and easier for you to be in a positive, happy, and creative mood. In this state you are 100% cooperative and unselfish. Your own needs don't even come into the picture. You have forgotten yourself and are working for higher purposes.

And the opposite is also true. When we stay in moods of depression, anxiety, anger, jealousy, and so on, the brain pathways become worn in, fixed if you will. The brain is ready and able to go to those unpleasant states of mind at the smallest provocation.

Yet we are at our most intelligent when our whole brain is working well, when the frontal lobes are highly energized. Once we recognize this, the next question is obvious.

How do I energize my frontal lobes?

There are many ways for energy to shift to the frontal lobes when

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you are upset. I will cover three of them, but I am curious to learn what ways *you* are going to discover. So when you discover other ways, please let me know!

First, *wait and distract*. This is the most common way people have of bouncing back. When you are in your “alligator” brain and you are upset and angry and feeling absorbed in your self and your own problems, *just wait for a while*. Usually you won’t stay in that bad mood for a long time, and if you realize you are in a bad mood and it is going to pass, it will pass.

Of course, as you have probably already figured out, it is important to distract yourself from thinking about whatever put you in the bad mood in the first place. If your spouse insulted you, if

your senior partner was unfair to you, if your kids were selfish and mean, these things may have triggered some bad feelings in you. That is all right, it is perfectly normal to be in bad moods when those things happen. The key to solving them, however, is not to remain in a bad mood.

Remember, *the brain doesn’t use all its resources when you are in a bad mood*. The bad mood limits our thinking; we are not as intelligent and insightful and thoughtful. So, to solve the problem of how do we deal with our spouse, our boss, our kids, we have to get back into a more balanced mood. So just wait a while, and *think about something else*. Distract yourself by getting involved in a useful project, something that will interest

Personal Resiliency: Your Key to a Successful Relationship

Research into successful relationships found that people with the happiest relationships did not (to the surprise of the researchers) necessarily fight less. In the successful relationships was at least one partner who knew how to *self sooth* when discussions got too intense.

The self-soothing person has a habit of talking optimistically and compassionately to herself or himself. Where a person might say, “What’s wrong with him? He’s just being a selfish jerk!” in response to someone being rude, *the resilient* person would say, “The poor guy must be having a bad day. I wonder what has gone wrong for him?” Their self-talk focuses on positive ways of interpreting situations. *It is **not** that resilient people say no negative things; it is that the positive or compassionate self talk is about twice as frequent as the negative self-talk*. It is the *balance* of two positives to one negative that is important.

Why Must I Self-Sooth

The law profession is intrinsically stressful. When you are under stress, your mind is in an attack or flee mode. The highest centers of your brain are sidelined and your instincts and habits take over. Your thinking is *not* creative and reflecting at just the time you need it to be!

Good News/Bad News The bad news is that moods are the result of *extremely* automatic habits that happen so fast that we usually believe that our moods are caused by events, not by our own self-talk. We don’t notice how our own thoughts are behind our feelings, not what others do to us.

The good news is that even though the habits are very quick and automatic, they can be changed. While it takes a good deal of work, you can train yourself to have resilient thinking habits.

Once you are in a habit of thinking resiliently, your life and relationships are much more *stress free* than you would have imagined possible. You see answers where there were just questions, and solutions where there were problems.

Skill Building: Resilient Self-Talk

Think of a situation that *recurs* and causes you some grief. You might feel angry, hurt, sad . . . it doesn’t really matter which particular feeling. All negative feelings have a similar pattern. Now write down what you *say to yourself* during and after the situation. Notice how those statements would logically cause the feelings you are having.

Look at the situation again. Practice compassion and understanding. Can you see a more soothing way to look at it?

- Could there be a positive intention even if the behavior is bad?
“*He’s just trying to be playful and friendly.*”
- Could there be a hidden benefit that comes from the situation?
“*This is an opportunity for me to learn patience.*”
- Are their compensating factors?
“*She is generally much more positive, she must just be in a bad mood.*”
- Will it soon pass and is therefore not an important issue?
“*Our finances are generally bad at this time of year, but in three months we will be fine.*”

Practice this more compassionate way of thinking, reviewing troublesome situations in your mind and finding a more peaceful way to look at them. Bear in mind that you solve problems better when you are calm, so calm and peaceful is your goal.

— Lynn Johnson, PhD

you. When you feel your mood lift, then ask your creative brain, "Can I come up with a useful and positive way of dealing with this problem?" Don't spend a lot of time thinking about it, just ask the question and then stand back and wait. A good idea will come along.

After all, haven't you ever had the experience of trying to remember someone's name, and you just can't? But when you stop trying so hard to remember that name, after a while that very name pops into your mind. Well, that is how the brain works. When you are in a good mood, the brain works in the background to come up with useful ideas, without you worrying about it.

But if you are in a harsh, pressured, stressed mood, the name just never seems to come. So it is with good ideas. You have to be in a good mood to invent new ways of handling problems. So wait and distract yourself and soon the mood will lift.

Reframe

To "reframe" something is to take the event and put a new frame around it. The event is the same, but the new frame changes the meaning.

A "frame" is a meaning we attribute to an event. For example, imagine you are in a line of people and the person in back of you

keeps bumping up against you. The event is the bumping; you make a meaning around that, such as "What a rude person!" Finally you turn around and you see the person is wearing very dark glasses and holding a white cane. The event is the same but your meaning is different. And your emotional reaction changes in a moment.

So when we reframe, we take an event that upset us and try to find a new way to look at it. We try to find another meaning that will change our emotion from negative to positive, or at least to neutral.

When I try to reframe a problem to myself, I like to say to myself, "Yes that is bad. But it is also good. It is good because . . ." and then I see what meaning can come into my mind. I keep doing that over and over again, thinking of all the ways the bad event is really something good.

Good intentions behind a bad behavior

For example, perhaps someone did something mean-spirited to me. I am in a bad mood, and I want to bounce back to a good one. So I'll think of some good intentions that might be behind the bad behavior. Perhaps the person is trying to help me, but in a not-so-good way. Or perhaps the person mistakenly thought I was a threat to him, and is trying to defend himself, a perfectly

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normal thing to do.

Hidden or overlooked benefits

Maybe there is some benefit to me or others. Once I was counseling with an elementary student who would do homework but wouldn't turn it in. As we were discussing it, an overlooked benefit came to mind, and I mentioned, "Well, at least by not turning in your homework you give the teacher more time to pay attention to the other kids." That statement had a remarkable effect and he seemed startled. The next week he turned in the homework he was keeping back.

Choose appreciation

It seems that *appreciation* is a wonderful way to move the brain to higher functioning. When we feel grateful or appreciative, or when others give us appreciation, it is freeing and empowering to us. When you are confronted with a problem that takes you into a bad mood, you can look for something to appreciate, even if it is not related to the problem. The psychiatrist Viktor Frankl wrote of his experiences in a concentration camp during World War II. He was a slave laborer but he appreciated the song of a bird as he was marched out to another day of forced labor. He took pleasure in hearing the song of that bird. You can take pleasure in anything that pleases you, even if it is not related to the problem.

Transform

Practice good moods. Recall positive times, and recall especially the good feelings that went with those times. How did you feel? How did your heart feel? Your stomach? Your throat? Your arms and legs?

Psychologist Barbara Fredrickson at the University of Michigan has found through her research that we can foster good moods by recalling good times and feeling appreciation for them. The more we practice good moods, the more we can feel them. Just as when you practice a skill – say, piano or guitar – the better we get at it. So also, good moods are something we can practice and get better at!

There are a couple of things to keep in mind.

First, notice and appreciate when you spontaneously feel good. Revel in the good feeling! Have you ever seen a dog prance around when he sees his master? Or when he sees another dog he is fond of? Dogs seem to epitomize joy in those circumstances. And dogs are really quite resilient and able to handle stress well, perhaps because they do enjoy their own enjoyment. So follow their example. Enjoy your enjoyment, take pleasure in your own pleasure.

Second, recognize when you are under stress and actively cope with it. Transform your bad times into good by stepping back from the initial reaction, focusing your attention on your heart, and recalling the good feelings. This energizes your frontal lobes, and you will find that you are much more intelligent.

Objections

It would be only natural if you have some objections to the ideas presented here. After all, being able to look critically at something is very helpful, and it keeps us from being swept up like children into useless and even harmful fads.

Here are some questions that people often ask:

"Don't you have to admit you have a problem in order to work on it?"

There is real truth to this objection. I haven't focused on that in this article. A person who denies he has a problem probably feels at a deeper level that he cannot deal with the problem so he or she ignores it. But if a person feels more capable by beginning to understand how the brain works, he or she is more likely to admit there really is a problem. As we practice having strong positive feelings, we are more capable and can handle things much better!

"When you are trying to keep a good mood all the time, aren't you avoiding reality?"

There is a real truth implied in this question. We do have to deal with reality. And I am not suggesting that we *should* be in a good mood all the time.

But I am suggesting that for important discussions, decisions, and plans, you do need to be in a good mood. And if you are not in a good mood, I suggest that you may want to postpone those decisions or discussions until your mood has shifted.

I am also saying that the more you are in a good mood, the better you get at maintaining good moods. So experiencing high moods is like anything else. The more you do it, the more you can do it.

"Are you saying that we should never be in bad moods?"

It might seem like that is what I am saying. But I don't think that. Bad moods are inevitable; they are part of how our brains are made. Actually, what I am trying to suggest is that we should know that we do bounce back from bad moods. Bad moods we will always have with us. When we realize we also have good moods, we can release the bad moods and bounce back.

May all your bad moods pass quickly, and may you discover your own genius and brilliance in your highest functioning mind!

Lower Your Stress with these Law Management Tips

by Toby Brown

In addition to the stress of getting clients' legal work done, many lawyers have the added stress of running a business. This article gives a few quick tips to help you reduce that stress.

Financial Management

1. **Get a Retainer** – A retainer is your way of doing a credit check of a potential client. It measures both the willingness and ability to pay you for your services.
2. **Keep Time Daily** – The ability to generate good revenue for any business is based on having the best information. By recording your time on a daily basis, you will have the best information possible for billing your clients. Better information = better income.
3. **Get Bills Out** – Make it a top priority to get bills out in a timely fashion. Some lawyers have even gone to twice a month billing. It means you get paid more frequently, and the amounts are smaller for clients.
4. **Sign All Checks** – Help your staff stay honest by not giving them the opportunity to 'borrow' money from you. As a check on outgoing money, be the one who signs all checks (especially for Trust accounts).

Staffing

5. **Be Nice** – Your staff is a primary contact for your clients. If you treat them nice, they will (more likely) treat your clients well. Given them regular feedback (a.k.a. constructive criticism) on their performance and reward them when they do well.

Marketing

6. **Join a Non-profit Board** – Besides being socially responsible, serving on a non-profit board will help you build your network of contacts. People hire lawyers based on relationships so you should always be building your network.

Customer Service

7. **Return Phone Calls** – Perhaps the top complaint clients have about lawyers is they do not return phone calls. Primarily, clients are buying access to you. Give it to your clients by

returning their calls.

Technology

8. **Use Technology** – Lawyers (should) lose sleep over tracking so many deadlines. Technology can greatly ease this burden. Case Management software can help you manage deadlines, information and many other aspects of your client relationships. To find good information about legal technology, check out: www.abanet.org/tech/ltrc/home.html.
9. **Use a PDA** – As an extension of #8, use a Personal Digital Assistant (PDA). Palm and Pocket PCs allow you to take your office information with you. Good information is more valuable when it's accessible.
10. **Outsource** – Consider outsourcing some of your law management functions. More and more options are appearing to outsource technology, financial management, marketing and other law management functions. You are better off spending your time practicing law, than performing other tasks.

Hopefully these tips gave you some ideas on how to simplify your practice and reduce the stress of law management!

TOBY BROWN is the Director of Communications for the Utah State Bar. He also provides technical and business consulting to a number of New England State Bars.



Bottom of the Totem-Pole Blues

by Rebecca R. Long

We all know that being a lawyer can be taxing, but demands on new lawyers are particularly unique. Oftentimes new lawyers have stout billable hour requirements that are the gauge for survival at a firm, without the leniency extended to more experienced lawyers. More experienced lawyers often feel that newer lawyers must “pay their dues” and therefore do little to make the firm culture any less painful for the new associate than when they were in that role. New lawyers are often quoted statistics about how bar complaints and disciplinary actions are more common against them. Finally, firms usually have some conversation with the new associate that assures the associate understands how expensive new lawyers are and that the firm will experience a bleed for several years because the firm is hiring this young lawyer.

The pressure to learn quickly, perform optimally, and financially cover oneself is immense. Without careful planning and attention to these pressures, one may fall prey to substance abuse, depression or other mental health problems and addictions. Here are some keys to avoiding these pitfalls.

PROFESSIONAL LIFE. Connect with other new lawyers and as many more experienced lawyers as you can. The Utah Bar, the American Bar Association and the Utah Trial Lawyers Association have numerous opportunities for CLE, committee work and service. Tap into these organizations and find others with whom you feel comfortable sharing your fears and successes. The contacts made in these efforts will prove invaluable to your law practice throughout your career.

FIRM LIFE. It *is* expensive for a firm to have a new lawyer on board. But, it is even more expensive for a firm to churn through new lawyers every year or two. The firm wants you to stay, wants you to succeed and will often be very responsive to requests to alleviate some of your stress.

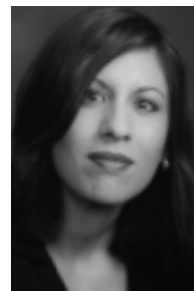
SOCIAL LIFE. Family and friends feel your tension and they don't want it to exist anymore than you do. Discuss with your family and friends the possibility of putting an “emergency plan” or system in place that goes into effect when periods of high-stress are imminent. This can reduce your tension and allow you to still be present and involved with the non-work part of your life.

GET A LIFE. If work is all you do, you are setting yourself up for falling down — hard. You've heard this advice a million times, but maybe this time you'll set down your phone and go golfing.

HELP A LIFE. Utilize Lawyers Helping Lawyers. This program is not just for people who have become so stressed that they have begun to have disciplinary problems, or have begun to self-medicate with drugs and alcohol. Lawyers Helping Lawyers is designed to help lawyers who are having problems, whatever the source, and to help the lawyer prevent problems from escalating to that more serious condition. LHL is completely confidential, completely voluntary and completely focused on helping lawyers who are reeling a bit, even just a little, from the effects of being a lawyer. No reason not to tap into this program, if only for a little vent, a little breathing room.

The new lawyers that I know are amazingly competent individuals who have much to offer this community. However, we should allow ourselves to acknowledge that this is a stressful path we have chosen. We may find that leaning on another from time to time only enhances our enjoyment of the practice of law.

REBECCA R. LONG practices Family Law at Corporon & Williams, P.C. in Salt Lake City and is on the board of Lawyers Helping Lawyers.



The History and Purpose of Lawyers Helping Lawyers

by LHL Director, Richard G. Uday

In 1988 the Board of Governors of the American Bar Association (“ABA”) created the Commission on Impaired Attorneys to assist lawyers and judges whose lives and practices were impacted negatively by the abuse of alcohol and/or drugs. In 1996 that name was changed to the Commission on Lawyer Assistance Programs (“CoLAP”) to both remove the stigma implied in the earlier name and to indicate the expanded role of the program to include lawyers and judges suffering from stress, depression and other mental health problems. (Statistical information supporting the ABA’s decision to announce this program is contained in an article on page 8 in this volume of the *Utah Bar Journal*.)

The ABA encouraged state bars to create a similar program within their associations to provide the much needed service to members. CoLAP functions as the guiding resource to the state programs to better assist the individual lawyer and judge in need. To assist the states, CoLAP has created a model Lawyer Assistance Program (LAP) for states to review and incorporate into their programs. CoLAP encourages the state affiliate to function as a clearinghouse to elicit and arrange help from a network of available professionals who can confidentially advise and assist members of the Bar to successfully deal with the debilitating issue(s) impacting them as well as to enhance their lives and practices in other ways. (See our web site at www.LawyersHelpingLawyers.org for additional information.)

The Utah Bar Association (“the Bar”) accepted the challenge from the ABA and organized a Bar Committee who identified themselves as the Lawyers Helping Lawyers Committee (“LHL”) to tackle this daunting task. Historically, the LHL Committee has been quietly active since the late ‘80s assisting lawyers, paralegals and judges with addiction, substance abuse and issues affecting mental health. Since my involvement in 2001, I have heard numerous stories from judges and lawyers about the work the various LHL Committees have accomplished over the years. The lives of numerous attorneys and judges have benefited tremendously from the good work and service this volunteer committee has performed.

In 1990 the LHL Committee urged and obtained an amendment to Rule 8.3 of the Utah Rules of Professional Conduct specifically

exempting LHL members from the duty to report misconduct learned by them through their work with LHL. Accordingly, all contacts to LHL are completely confidential. Rule 8.3 and the commentary that follows the rule provides that, when appropriate, members of the profession may choose to contact LHL as a practical alternative to meet their ethical obligation to report misconduct.

As a committee LHL was as active as time permitted the particular committee volunteers to be. While great work was being accomplished by the committee, more needed to be done. In 2000 the committee approached the Bar with its decision to reorganize as a not for profit corporation in an effort to enhance its ability to serve members in an unquestionably confidential and independent manner separate and apart from the confines of the Bar. This option was further intended to bring itself more in line with the model LAP as recommended by the ABA. In 2001 the Bar responded and provided a \$20,000.00 grant to LHL to begin the process.

I was hired as a part-time director of LHL in August of 2001. In December of that year LHL sponsored its first annual, 3 hour, Ethics Seminar. 2001 was a heavy reporting year for CLE and on a Friday afternoon, at the Law and Justice Center, approximately 170 lawyers were in attendance. They were a captive audience and we took advantage to educate the group about the purposes and justifications of LHL. Speakers Justice Matthew B. Durrant and then Bar President Scott Daniels spoke about LHL and its relationship to professionalism. Our concluding speakers were a representative from CoLAP who discussed the national program and state responses and successes, and Dr. Lynn Johnson who addressed the group on the topic of lawyers, judges and stress. He discussed recognizing stress in others and in ourselves and how to more effectively handle stress for more enjoyable and rewarding lives and practices.

The response to the Seminar was positive, in two important ways. First, the reaction was very encouraging as lawyers and judges in attendance seemed genuinely interested in receiving CLE credit for discussing quality of life issues. Second, and even more important, a number of phone calls requesting assistance were received at LHL in the two weeks immediately following the seminar. Import-

Helpful Links

There are thousands of links on the Internet that can offer comfort, support and direction. Listed below are a few of the most common resources.

Alcoholics Anonymous:

<http://www.alcoholics-anonymous.org/>

Cocaine Anonymous:

<http://www.ca.org/>

Gamblers Anonymous:

<http://www.gamblersanonymous.org/>

Narcotics Anonymous:

<http://www.na.org/>

Overeaters Anonymous:

<http://www.overeatersanonymous.org/>

Nicotine Anonymous:

<http://nicotine-anonymous.org/>

Debtors Anonymous:

<http://www.debtorsanonymous.org/>

Recovering Couples Anonymous:

<http://www.recovering-couples.org/>

Sex Addiction:

<http://www.sa.org/>

Marijuana Anonymous:

<http://www.marijuana-anonymous.org/>

Co-Dependents Anonymous:

<http://www.codependents.org/>

Adult Children of Alcoholics:

<http://www.adultchildren.org/>

Internet Addiction:

<http://alcoholism.about.com/library/weekly/aa990830.htm>

Or: <http://www.netaddiction.com/>

Alanon:

<http://www.al-anon.org/>

tantly, these two successes represent two of the important purposes that LHL, applying the CoLAP guidelines, has established as program goals.

LHL's mandate from the ABA is to assist attorneys and judges in need to find suitable and appropriate professional guidance for the difficulties they are experiencing. We attempt to accomplish this all important task by establishing a network of professional contacts in the community who are adept and available to work with lawyers and judges in a confidential and competent fashion. Implicit in this mandate is the need for attorneys and judges to feel comfortable to contact LHL and request assistance knowing that their inquiry will be dealt with in a completely confidential and professional manner.

Second, lawyers and judges must be able to recognize the debilitating effects of alcohol, drugs, stress, depression and the like amongst their colleagues. Lawyers and judges must feel comfortable in making referrals to LHL knowing that both the contact they make with LHL and the person in need will be respected and treated with complete confidentiality, independence and professionalism. This mandate dictates that LHL be very active in CLE programs involving lawyers and judges to both educate about the serious debilitating nature of these problems and to create a trust in LHL so that members feel confident in their participation with LHL.

A closely related goal that the ABA and LHL recognize is the need to assist the efforts in place to upgrade professionalism within the Bar. Statistics demonstrate that a high percentage of discipline cases occurring in most state Bars, and Utah is no exception, have addiction, substance abuse and mental health problems at their base or root cause. Oregon, for example, recently conducted a study which verifies that an active LHL program saves the Bar literally hundreds of thousands of dollars each year. (This data is supplied in the second article I've written elsewhere in this volume)

Said more simply, LHL is here to assist attorneys and judges directly and/or indirectly by means of arranging assistance or arranging CLE opportunities. Additionally, LHL benefits the practice of law by importantly contributing to the protection of the public and to the continued improvement in the integrity and reputation of the legal profession. Providing needed assistance to lawyers with impairment often prevents future ethical violations resulting in the reduction of disciplinary actions against Bar members. To that end LHL has been active in traveling the state to speak with Bar sections and local Bar associations, as well as our state Bar's mid-year and annual conventions. Most members who

have attended these CLE's have noted positive comments and appreciated the important impact of discussing quality of life topics geared to give practical advice to improve the enjoyment of our legal careers and our lives in general.

One such seminar occurred in early 2002 when LHL sponsored the lunch-time CLE for the Litigation Section. LHL introduced Dr. Corydon Hammond from the University of Utah who addressed the group on reducing stress and relaxation exercises. Dr. Hammond spent about 20 minutes of his time in a relaxation technique that lawyers and judges could utilize during the work day to more effectively deal with the stresses of the job. Some lawyers and judges participated by taking the invitation from Dr. Hammond to lie on the floor; most just closed their eyes and relaxed in their chairs. Dr. Hammond then methodically walked us through a process, almost hypnotic-like, which twenty minutes later left the group refreshed and with a new technique to employ on one of those days we too routinely encounter. One attendee noted that he had fallen asleep in many a CLE, but never quite so rewardingly.

In December of 2002 LHL hosted three ABA CoLAP Commissioners who traveled to Utah to evaluate LHL as a program. Involved with this evaluation were members of our Supreme Court, the Utah Court of Appeals, Bar leadership including both the then current

Bar President John A. Adams, and Bar President-Elect Debra Moore, Mr. Billy Walker and Mr. Colin Winchester from the Office of Professional Conduct and the Judicial Conduct Commission, respectively. Also participating were numerous Bar Commissioners, the Dean of each law school within the state and several committee members of LHL. The evaluation resulted in the ABA's preparation of a 16 page report.

The results of that evaluation were analyzed by our Supreme Court and our Bar leadership and after much discussion the Commission Highlights of the June/July Volume of the *Utah Bar Journal* reported acceptance by the Commission of most recommendations from the ABA. The Commission elected to fund the program to assure continued and stable operation of LHL on a full-time basis. This decision will assure independent and confidential assistance to any Utah lawyer, judge, or paralegal whose professional or personal life might be impaired due to addiction, mental health issues or substance abuse.

It is my personal belief that this decision to fund LHL full-time will, with time, be recognized as a courageous and responsive decision to the times in which we live. This news is, in fact, historic. For years to come, lawyers and judges will receive a members' benefit that will be immeasurable in the savings of lives and law practices,



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increased quality of services to clients and dollars gained through CLE education and savings in disciplinary costs. LHL both thanks and congratulates our Court and Bar leadership in this decision.

Likewise, the ABA is pleased to move Utah from the minority of seven states without a full-time program to the group of state Bars forming a coalition to assist lawyers and judges with practical and professional assistance with the debilitating problems facing many of us today.

Importantly, LHL has enjoyed an increase in contacts since moving even to a part-time program. In not quite two years LHL has received 53 formal contacts. This number represents a significant increase from the numbers observed while structured as a committee of the Bar. Those numbers represent actual individuals, members of the Utah Bar who have experienced struggles and reached out for assistance. Some have been serious. Some have been less serious. There have been wonderful successes among these numbers. There are touching and promising works in progress represented by these numbers. Unfortunately, there are heartbreaking failures included in these numbers, as well.

One such failure was the tragic suicide of an attorney, a husband and father, who took his life within a short time of his court-ordered disbarment. LHL, regrettably, was unaware of his predicament

until after his death. Frankly, there have been failures to maintain contacts with those needing assistance. I apologize for those times we may have let someone down. The move from part-time to full-time will hopefully alleviate many of those failures and provide the more stable and consistent program the ABA recommended and the Commission contemplates us to be. LHL is committed to our mission and we will strive to serve the members of the Bar the best we can.

Two final thoughts: First, we need members of the Bar to help us succeed in our tasks. We need volunteers to be on our lists of available contacts to work with lawyers and judges who are experiencing particular difficulties. If you have survived or are surviving a stress inducing experience and are willing to be available as a mentor or someone to talk to when that event(s) happens to someone else, please contact LHL and offer your experience and compassion. Likewise, if you are experienced with recovery and able to confidentially assist someone who has started down that road, please contact LHL and let us know of your availability to sponsor or take a call and discuss your recovery with someone who can benefit from your experience.

I share a quick story to establish the tremendous resources we have available to help those in need by looking within our Utah Bar. I recently presented an LHL program at the Law and Justice Center to new lawyers attending a mandatory CLE. I extended the offer just made here and after the presentation I was approached by a lawyer who shared with me her willingness to speak with and help others. She explained that she had just very recently lost a family member to suicide. As she explained what happened, she became a bit emotional as one might imagine. As I stepped toward her offering my condolences a second lawyer standing near me also stepped forward. After apologizing for overhearing our conversation and interjecting, she amazingly shared with us that she too had similarly lost a family member to suicide some time ago. The two left together talking about their experiences in common and I'm sure they have spoken since then as well. Be that person; it was a beautiful moment to watch.

Finally, please read the stories and articles in this volume of the *Utah Bar Journal*. These are true stories about Utah lawyers, paralegals, and judges. Some of them have elected to remain anonymous, but that fact does not detract from the powerful messages they provide us. We face significant problems as members of the legal community and we need to be able to recognize them and talk openly with one another about them. Editors and Staff of the *Utah Bar Journal* should be commended for their support and their vision in featuring LHL in this volume.

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Commission Highlights

During its regularly scheduled meeting of June 6, 2003, which was held in Park City, Utah, the Board of Bar Commissioners received the following reports and took the actions indicated.

1. John Adams introduced the new Commissioners-elect: Yvette Diaz (Third Division), Nate Alder (Third Division), and Rob Jeffs (Fourth Division). He welcomed these individuals who will be sworn in at the July Commission Meeting.
2. John Adams presented a plaque to Robert Merrell who will be leaving the Commission. He thanked Bob for his support and valuable contributions as the Utah Supreme Court appointed public member. John reported that the Supreme Court had appointed Mary Kay Griffin to replace Robert Merrell as a public member.
3. An organization called Common Good has filed a petition with the Utah Supreme Court proposing an amendment to the Utah Rules of Professional Conduct (governing the reasonableness of attorney fees in early settlement personal injury cases).
- Steven Densley, an attorney with Strong and Hanni, provided a copy of the petition. John asked the Commissioners if they wanted to provide input either to the Court or to the Court's Advisory Committee on Utah Rules of Professional Conduct or if we should publicize the pending petition to our members. A lengthy discussion followed. A motion was made that the *Bar Journal* contact the Utah Trial Lawyers to determine individuals who were willing to write a "point/counterpoint" article, so that both sides of the issue are presented, and to include distribution of this information as soon as possible. The motion passed unopposed.
4. Utah Legal Services would like the Commission to reappoint the following individuals to their Board as their current terms expire July 1: Lisa Hurtado Armstrong, John A. Beckstead, Jody K. Burnett, Terry L. Cathcart, Carol Clawson, Thom R. Roberts, Lauren I. Scholnick, Erik Strindberg, and Roland R. Uresk. The motion to reappoint these individuals passed unopposed.

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5. David R. Bird will fill the vacancy on the Judicial Council with the departure of Dane Nolan.
6. The 50th anniversary of *Brown v. Board of Education* will be next May 17 and John Adams noted that \$15,000 had been set aside out of the budget for this project. He said that Debra has asked him to supervise the program. John described it as a law-related public outreach project which the ABA is encouraging.
7. Annual awards were selected and the recipients are as follows: Committee of the year is the Needs of the Elderly Committee, Distinguished Lawyer Service Award will be given to Gary Sackett, Fraser Nelson was chosen as the Distinguished Community Member of the Year, Judge Ronald Boyce was chosen as Judge of the Year. Rod Snow and Jay Jensen were designated as co-recipients of Lawyer of the Year, Mark Alveraz was chosen as Pro Bono Lawyer of the Year and the Family Law Section was chosen as Section of the Year.
8. David Hamilton reviewed the Client Security Fund requests and the motion to approve the distribution of funds passed unanimously.
9. Debra Moore reported on the Delivery of Legal Services Task Force which was followed by a lengthy discussion. Debra said consumers want more pertinent information about their legal options, legal services, how to find lawyers, information

relating to methods of alternative dispute resolutions, and other related items. Consumers also want more control over the legal process including more control over escalating or unexpected costs. Debra noted that there is a generalized lack of trust relating to the legal profession. This may be because lawyers typically perform adversarial roles but the Task Force believes this effect can be somewhat ameliorated. The motion to have all changes in the report submitted by July 1, so that the report could be issued passed unopposed.

10. Steve Waterman, Judge Jim Davis and Joni Dickson Seko appeared at the meeting to present information relating to raising the Bar Exam passing threshold. A lengthy discussion followed their presentation. The motion to table the discussion and not take action until a subsequent meeting where the Deans could appear passed unanimously. Chief Justice Christine Durham who was in attendance for this portion of the Commission meeting interjected that the Court was extremely interested in this issue and wanted to be made aware of all possible viewpoints. She said that if her schedule permitted, she would like to attend the meeting where the Deans' presentation would occur.

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

2003 Woman Lawyer of the Year

Women Lawyers of Utah has named Louise T. Knauer as the 2003 Christine M. Durham Woman Lawyer of the Year. Ms. Knauer has been a role model for many women in the practice as well as a pioneer in the area of family law.

Ms. Knauer graduated Order of the Coif from the University of Utah College of Law in 1983. She began her career at Watkiss and Campbell and left to create her solo practice, focusing on family law. She has taught at Boston University, Northeastern University, Suffolk University, and the University of Utah, among others. She has served as a member of various Utah State Bar committees, including the Needs of Women and Minorities and the Budget and Finance Committee. She has been on the Board of Directors of the American Civil Liberties Union as well as the Board of Trustees for the Gay and Lesbian Community Center of Utah, serving as its President from 2001-2002. She also serves as a Volunteer Guardian ad Litem and is on the Executive Committee of the Family Law Section of the Utah State Bar.

As one of the people who nominated Knauer said, she is a "delightful, caring person who represents the things that Women Lawyers of Utah stands for: professionalism, collegiality and service to others."

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NOTICE

The Utah Supreme Court has received the report of its Advisory Committee on Professionalism and has given preliminary approval to the recommendations contained in the report. One of the recommendations urges the promulgation of Utah Standards of Professionalism and Civility. The Court has authorized publication of the report and recommendations for a thirty day comment period. Written comments concerning the report or recommendations should be sent by **September 30, 2003**, to:

Matty Branch, Appellate Court Administrator
Utah Supreme Court
P.O. Box 140210
Salt Lake City, UT 84114-0210

or by email to mattyb@email.utcourts.gov.

The report may be viewed on the Utah State Bar's web page. Look for the link at www.utahbar.org.

Thank You

On behalf of the Court, I would like to thank James B. Lee for his excellent service as Chair of the Supreme Court's Ethics and Discipline Committee for the past three years. The contribution that the Committee, and its Chair, make to the disciplinary process is invaluable. The court is most appreciative of the many, many hours of time and effort James has given to his Committee work, and for his clear-thinking and watchful eye as to discipline procedures.

Christine M. Durham, Chief Justice
Supreme Court of Utah

ANNOUNCEMENT



Grants available for nonprofit providers of direct civil legal services to disadvantaged individuals & families in Utah. For further information, contact: "and Justice for all" (801) 924-3182.

Judicial Nominating Commission Applicants Sought

The Bar Commission is seeking applications from Bar members to serve on the trial court judicial nominating commission for the 1st judicial district. Two commissioners on each trial court judicial nominating commission will be appointed by the governor from the list provided by the Bar, with the Bar submitting four nominees from the 1st district.

Commissioners appointed to the trial court nominating commissions shall be residents of the judicial district to be served by the commission to which they are appointed. Not more than four commissioners on each judicial nominating commission may be of the same political party. The trial court nominating commissions nominate judges to the various districts and juvenile courts. Commissioners are appointed for terms of four years.

Mail applications to John C. Baldwin, Executive Director, Utah State Bar, 645 South 200 East, Salt Lake City, UT 84111 or e-mail to john.baldwin@utahbar.org. Applications must include political party affiliation or independence. Applications must be received by September 15, 2003.

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WHY YOUR LEGAL ADMINISTRATOR SHOULD BE IN THIS PICTURE:

The Association of Legal Administrators (ALA) was formed in 1971 to provide support to those professionals involved in the management of law firms, corporate legal departments and government legal agencies. ALA has 9,000 members worldwide, representing 20 countries. The mission of the ALA is to: 1) Improve the quality of management in legal services organizations; and 2) Promote and enhance the competence and professionalism of legal administrators and all members of the management team. The ALA provides education, training, support and many resources for those administrators who direct important areas of law firm management including: finance, technology, marketing, facilities, human resources and the overall management of a law firm or legal department. For more information, call Eric Visser, 323-3401, or visit our website at www.alanet.org.

Law Firms Who Benefit From Supporting The Association of Legal Administrators:

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Discipline Corner

PUBLIC REPRIMAND

On June 23, 2003, Michael R. Loveridge was publicly reprimanded by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.3 (Diligence), 1.4(b) (Communication), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

A judgment was entered against Mr. Loveridge following a lawsuit by his former clients. The causes of action alleged Mr. Loveridge's negligence and breach of fiduciary duty. Mr. Loveridge developed an estate plan for his former clients, incorrectly advising them that there were no adverse tax consequences of implementing the estate plan.

Mitigating factors include: absence of a dishonest or selfish motive, cooperation with disciplinary proceedings, imposition of other sanctions in the form of a substantial monetary judgment against him, remorse, and reliance on the assurance of client's accountant that there would be no adverse consequences in following Mr. Loveridge's recommendation.

Aggravating factors include: prior record of discipline and substantial experience in the practice of law.

PUBLIC REPRIMAND

On June 20, 2003, M. Joy Jelte was publicly reprimanded by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.4(b) (Communication), 1.5(b) (Fees), 8.1(b) (Bar Admission and Disciplinary Matters), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

Ms. Jelte was retained to represent a new client in a divorce and child custody matter. The client understood the matter would cost \$500, but a month after retention Ms. Jelte asked for several thousand dollars. Ms. Jelte had no written fee agreement with the client until the day of trial when she asked the client to sign such an agreement without the opportunity to read the document. Ms. Jelte did not provide the client invoices for her services from July 2000, the point of retention, until after trial in April 2002. The client was unsophisticated and required, but did not receive, a significant effort from Ms. Jelte to explain the client's case to the extent necessary to permit this client to make an informed decision regarding the representation. Ms. Jelte did not timely respond to the Office of Professional Conduct's requests for information.

PUBLIC REPRIMAND

On June 17, 2003, Ted K. Godfrey was publicly reprimanded by the

Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.1 (Competence), 1.3 (Diligence), 1.4(a) and (b) (Communication), 8.4(d) (Misconduct), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

Mr. Godfrey was appointed to represent a client on appeal to the Utah Court of Appeals. The client filed the Notice of Appeal pro se; Mr. Godfrey failed to review it. Mr. Godfrey filed briefs that did not meet the requirements of the Utah Rules of Appellate Procedure. Mr. Godfrey failed to consult with his client regarding the issues to be appealed. Mr. Godfrey failed to keep the client properly informed about the status of the case, and failed to adequately consult with the client.

ADMONITION

On June 18, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.3 (Diligence) and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

An attorney was retained to represent a client in a matter before the Labor Commission. The Administrative Law Judge ordered the client to attend a medical panel examination and to produce for the panel all medical records relating to the workers' compensation claim. The client delivered the medical records to the client's attorney. Approximately three months later, the Administrative Law Judge requested the medical films from the client's attorney. Three months later, the case was dismissed without prejudice for failure to cooperate with discovery. The attorney filed a motion to reinstate the client's claim and provided all medical records. However, since the medical films which were essential to the claim were not included, and one year had passed since the evidentiary hearing, the motion was denied.

PUBLIC REPRIMAND

On June 17, 2003, Ruth Wagner was publicly reprimanded by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.3 (Diligence), 1.16(d) (Declining or Terminating Representation), 8.1(b) (Bar Admission and Disciplinary Matters), 8.4(d) (Misconduct), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

Ms. Wagner was retained to represent a client in a divorce matter. The parties' settlement stipulation was read into the court record. The court directed Ms. Wagner to prepare findings, conclusions

and a decree of divorce. Opposing counsel filed an objection to the pleadings prepared by Ms. Wagner. The court ordered Ms. Wagner to prepare new documents adding the court's ruling. Ms. Wagner did not prepare the new pleadings. Ms. Wagner's client remarried and later found out the divorce had not been finalized. The opposing party sought and was granted a divorce nunc pro tunc as of a date prior to Ms. Wagner's client's remarriage. Ms. Wagner failed to comply with the Office of Professional Conduct's requests for information.

PUBLIC REPRIMAND

On June 17, 2003, Ruth Wagner was publicly reprimanded by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.3 (Diligence), 1.4 (Communication), 1.16(d) (Declining or Terminating Representation), 8.1(b) (Bar Admission and Disciplinary Matters), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

Ms. Wagner was retained to enforce her client's interest in an automobile purchase and trade-in. Ms. Wagner filed a complaint and requested temporary and permanent injunctive relief. The defendant filed an answer and counterclaim. Ms. Wagner did not reply to the counterclaim and a default judgment was entered against her client. The defendant began to enforce the judgment against Ms. Wagner's client. Ms. Wagner told her client that she was retiring but would complete the representation. Ms. Wagner thereafter failed to respond to her client's letters, e-mails and telephone calls. Only after the client filed an Informal Bar Complaint did Ms. Wagner deliver the file. Ms. Wagner failed to comply with the Office of Professional Conduct's requests for information.

PUBLIC REPRIMAND

On June 12, 2003, Richard G. Cook was publicly reprimanded by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.5(d)(2) (Fees), 1.8(a) (Conflict of Interest: Prohibited Transactions), 1.15(c) (Safe-keeping Property), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

Mr. Cook was retained to represent two clients based on a contingency fee agreement in a bankruptcy matter. Pursuant to the same contingency fee agreement, Mr. Cook agreed to represent one of the clients in a criminal matter as associate local counsel. When the bankruptcy matter concluded Mr. Cook deposited the settlement check into his trust account. Meanwhile, additional issues in the bankruptcy became apparent that required Mr. Cook to continue legal representation of the clients. Eight months later, Mr. Cook prepared for his clients a revocable living trust. Mr.

Cook was named as a second successor trustee. The following year, Mr. Cook's clients deposited their settlement proceeds into money market accounts in the name of their trusts. Mr. Cook did not disclose to his clients how the disbursement and accounting of the trusts would occur or how he would bill for work as trustee in writing in a manner that his clients could reasonably understand. Mr. Cook did not advise his clients to seek the advice of independent counsel regarding the trustee appointment. Mr. Cook's client authorized him to withdraw money from the client's trust to pay attorney fees for himself and another attorney. Mr. Cook did not keep the money separate before he made an accounting and severance of all interests involved.

Mitigating circumstances include: absence of prior record of discipline, absence of dishonest or selfish motive, and good character or reputation.

ADMONITION

On June 11, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 5.5(a) (Unauthorized Practice of Law) and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

The attorney changed the attorney's Utah State Bar's membership status to inactive. The attorney represented a client in mediation and in a Small Claims Court trial. The attorney did not inform the client, opposing counsel, or the court that the attorney was an inactive member of the Utah State Bar.

ADMONITION

On June 5, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.3 (Diligence) and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

An attorney was retained to represent defendants in a quiet title action. The attorney did not file an answer on behalf of the clients. The opposing counsel contacted the attorney's office and was told by the office manager that the attorney was withdrawing as the defendant's counsel. The clients retained a new attorney, but the deadlines had expired and a default judgment had entered. The attorney did not file a notice of withdrawal of counsel until two weeks before trial, and did not provide a copy to opposing counsel until eight days before trial. The court did not sanction the attorney. The attorney refunded attorney fees to the clients and an amount they likely would have recovered had they prevailed in the quiet title action.

ADMONITION

On May 28, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.1 (Competence), 1.4(a) (Communication), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

An attorney was retained to represent a client in a civil rights action. The attorney failed to provide competent representation regarding collection of evidence for the civil rights case. The attorney failed to have all parties sign the retainer agreement. When the attorney withdrew from the representation, the attorney sent the client's file to another attorney who once worked for the attorney. The client assumed that the new attorney still worked with the attorney, but was later informed by the new attorney that this was not the case. The attorney failed to communicate fees in an effective manner.

ADMONITION

On May 28, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court


for violation of Rules 1.1 (Competence), 1.3 (Diligence), 3.3(a) (Candor Toward the Tribunal), 8.1(b) (Bar Admission and Disciplinary Matters), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

An attorney was retained to represent a client in a civil action, seven weeks before trial. The attorney failed to prepare for trial, failed to timely raise an issue concerning an expert witness, failed to timely review the file, failed to locate experts, and failed to talk to witnesses. The attorney made a false statement to the court regarding the date of retention. The attorney made misrepresentations to the Office of Professional Conduct by failing to admit that the attorney had not talked to witnesses.

PUBLIC REPRIMAND

On May 28, 2003, Nathan N. Jardine was publicly reprimanded by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.7(b) (Conflict of Interest: General Rule), 8.4(g) (1) (Misconduct), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.



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In summary:

Mr. Jardine was retained by a married couple for defense against citations for violations of mutual protective orders. One year later, after the parties divorced, one of the parties entered into a contingency fee agreement with Mr. Jardine in a sexual harassment case against the client's former employer. Later, Mr. Jardine also represented the client in connection with a DUI citation. No separate fee agreement exists for the DUI representation. Mr. Jardine's client was vulnerable because of the stressful situations created by the litigation. One month later, Mr. Jardine and his client commenced a romantic relationship. Mr. Jardine had his client sign an affidavit stating the client was aware of the ethical rule prohibiting sexual relations with a client that exploit the attorney-client relationship, but that Mr. Jardine had not exploited the attorney-client relationship in order to have sexual relations with the client. Mr. Jardine's sexual relations with his client had the potential to limit his representation of his client in the sexual harassment case in that the client's emotional condition was at issue and evidence of consensual relationships may have been raised.

ADMONITION

On May 19, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 1.3 (Diligence), 1.4(a) (Communication), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

An attorney was retained to represent a client to file a petition to

modify a decree of divorce. Opposing counsel objected to the petition. The attorneys were unable to reach a settlement and the attorney did nothing on the matter for three years. The attorney did not keep the client reasonably informed of the status of the matter and did not return the client's telephone calls.

ADMONITION

On May 19, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court for violation of Rules 4.1(a) (Truthfulness in Statements to Others), 5.3 (Responsibilities Regarding Nonlawyer Assistants), 8.1 (Bar Admission and Disciplinary Matters), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

An attorney was retained by a collections agency. The attorney served the debtor's employer with garnishment papers. The debtor satisfied the debt and the employer contacted the attorney to release the garnishment. The employer telephoned the attorney, but spoke to the attorney's non-lawyer assistant, who untruthfully stated to the employer that the release had been sent out. The release was sent out two weeks later. The attorney also failed to comply with the Office of Professional Conduct's requests for information.

ADMONITION

On May 13, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court

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for violation of Rules 1.1 (Competence), 1.3 (Diligence), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

An attorney was retained to represent a client concerning the possibility of modifying the client's child support payments. The attorney calculated an amount of child support based on the client's current income. The attorney failed to inform the client that it would be a violation of the court's order if the client did not pay the required amount of child support as stated in the decree of divorce absent a subsequent court order modifying the decree. The attorney left it to the client to decide what amount to pay. The client opted to pay the amount calculated by the attorney before obtaining a modification of the child support amount ordered in the divorce decree. The attorney filed a petition to modify the decree of divorce. The attorney mailed a copy of the petition and a request for a waiver of service to the client's spouse and the spouse's attorney, but the spouse refused to waive service, and the spouse's attorney did not return an acceptance of service. The attorney's staff submitted two default certificates to court without prior review by the attorney. The court refused to sign the default order because of insufficient proof of service. The attorney was provided a new address for the spouse, but failed to timely forward the petition to a constable for service.

ADMONITION

On June 26, 2003, an attorney was admonished by the Chair of the Ethics and Discipline Committee of the Utah Supreme Court

for violation of Rules 1.3 (Diligence), 1.4(a) (Communication), 1.16(d) (Declining or Terminating Representation), and 8.4(a) (Misconduct) of the Rules of Professional Conduct.

In summary:

An attorney was retained to represent a client in a personal injury case. The attorney's services were terminated by the client for the attorney's failure to communicate with the client. The client's new attorney contacted the attorney and requested a copy of the client's file. The new attorney received a file, but believed it was incomplete and contacted the attorney. The attorney did not respond to any of the new attorney's telephone calls or letters. The new attorney contacted opposing counsel who stated that the client's case had been dismissed because of the attorney's failure to prosecute the case. The attorney did not make any attempts to oppose the dismissal and did not provide any dismissal documents to the new attorney. The statute of limitations expired two months after the dismissal. The new attorney filed a motion to set aside the dismissal and the attorney appeared at the hearing and was open and honest with the court with regard to events that led to the dismissal. The attorney's presence at the trial was integral to the client's success in having the dismissal set aside.

Mitigating factors include: absence of prior record of discipline, absence of a dishonest or selfish motive, timely good faith effort to rectify consequences of misconduct, cooperative attitude toward disciplinary proceedings.

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DATES	EVENTS (Seminar location: Law & Justice Center, unless otherwise indicated.)	CLE HRS.
09/18/03	Practicing Family Law in Utah – 5:30–8:30 pm, \$50 Young Lawyers, \$60 others.	3 CLE/NLCLE
09/26/03	2003 Fall Forum: “Will September 11 Change the American Constitution?” Featuring special guest Professor Arthur Miller and distinguished panel. “Effective Law Practice Management” with Jay Foonberg. “Challenging Times – Challenging Issues” with Forrest “Woody” Mosten. 8:00 am – 6:00 pm. \$75 before September 12, 2003, \$100 thereafter. University Park Marriott, Salt Lake City, Utah.	6.5 CLE including 1 hr. Ethics 2 hrs. NLCLE
10/07-08/03	Private Property for Public Good: A citizens guide to land use. Day 1 – 3 hrs. CLE. Day 2 – 8 hrs. CLE. Salt Palace. Agenda available online by September 1.	Up to 11
10/15/03	Ethics School: “What They Didn’t Teach You in Law School” 9:00 am – 4:00 pm. \$125 before 10/08/03, \$150 thereafter.	7 hrs. Ethics
10/17/03	Theater Techniques for the Courtroom with David Ball. 9:00 am – 4:00 pm. \$125 Litigation Section member, \$175 others.	7 (NLCLE pending)
10/23/03	Real Property Law Practice in Utah: “Mechanics Liens” 5:30 – 8:30 pm. \$50 Young Lawyers, \$60 others.	3 CLE/NLCLE
10/30/03	What You Need to Know to Practice Securities Law in Utah. 5:30 – 8:30 pm. \$50 Young Lawyers, \$60 others.	3 CLE/NLCLE
11/06/03	Fall Corporate Counsel: Agenda pending.	
11/14/03	New Lawyer Mandatory: 8:30 am – 12:00 pm. \$45.	Satisfies New Lawyer Requirement
11/19/03	Evening with the Third District Court: Agenda pending – p.m. seminar.	

To register for any of these seminars: Call 297-7033, 297-7032 or 257-5515, OR Fax to 531-0660, OR email cle@utahbar.org, OR on-line at www.utahbar.org/cle. Include your name, bar number and seminar title.

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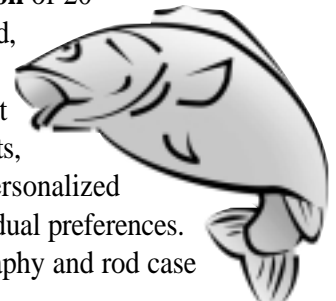
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