

UTAH BAR JOURNAL

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LETTERS

Dear Editor:

Rule 6 of the Utah Rules of Civil Procedure, subsection (e) provides:

"Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him *by mail*, 3 days shall be added to the prescribed period."

But the conclusion of subsection (a) directs:

"When the period of time prescribed or allowed is *less than seven days*, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

So I puzzled: Was the proviso about 3 days being added to response time when service is by mail affected by the previous stipulation that only working days comprise periods less than 7 days? A letter I sent to the Administrative Office of the Courts got

a response dated 3/15/95 from Senior Staff Attorney Tim Shea stating that my concerns had been forwarded to chair of the Utah Supreme Court's Advisory Committee on Rules of Civil Procedure for their possible clarification.

Well, although this advisory committee of the Supreme Court regularly meets monthly, it wasn't until 6/19/96, more than a year & 3 mos. later, that a letter from them answered, "The advisory committee on rules and civil procedure considered your letter regarding rule 6, and after debating the matter the committee decided there is no need to amend the rule. It is the common experience of all committee members that courts accept without penalty papers filed late."

Too true, too true. If an attorney is a little beyond the statutory period for filing a response to a motion or such, his fellow lawyer on the bench will just reckon that he got tied up with other clients' cases and let it slide.

Clifton W. Panos

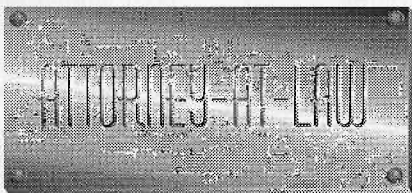
Dear Editor:

In response to Mr. Panos's letter, I have no information as to why it took the committee a year to complete consideration of this request and to respond, although the June, 1996, letter to Mr. Panos from Tim Shea, staff to the committee, speaks of his having tried several times to call Mr. Panos. In any event, after the committee communicated its action to Mr. Panos in June, Mr. Panos asked me to have the Supreme Court address his concerns.

I contacted the rules committee, obtained a written explanation of its reasons for not recommending a change, and put both Mr. Panos's statement of position and that of the committee before the full court. The court considered the matter on July 17, 1996, and unanimously declined to make Mr. Panos's requested change. The court concluded that "insufficient grounds for making and changes in Rule 6 [exist] at the present time." Mr. Panos was informed of this fact by letter dated July 26, 1996. He responded courteously, but said that he wished to write a letter in the *Bar Journal* about his issues.

On behalf of the Supreme Court, I want to say that we welcome suggestions for improvements in the rules from any quarter. The rules process is open to all members of the public, and changes are made regularly. On the other had, an effort is made to group changes together and to make them only when a real need appears. It is our experience that it takes some time for the entire Bar to assimilate changes to the procedural rules. Therefore, changes should not be made lightly, lest they cause more problems than they solve. That being said, I encourage interested persons to continue to submit proposals to the rules committee, but with the understanding that not all suggestions will be deemed to warrant a rule change.

Sincerely yours,
Michael D. Zimmerman



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table without the little red light flashing . It's a great experience and this type of get-together allows for such a positive exchange of ideas. I met new lawyers I had never met before who came up to me and took a moment to let me know how much they appreciated this opportunity to meet other lawyers and judges in a nonadversarial forum. I was gracefully surprised to hear how many people had actually been reading these messages in the *Bar Journal*. The best part about that acknowledgement is that the message appears to be rubbing off. I heard conversations affirming the necessity to promote civility and professionalism, which cannot only promote justice and fair play but also enhances our image to the public and remind it that we are the best of the best.

Sometimes we need to be reminded that these conventions serve many purposes. Of course, the education we receive makes us better lawyers. Because these meetings allow us to provide you with such diverse subject matter, this affords us an unparalleled opportunity to learn something about many things we would otherwise never study. It's fun to sit in on a jury selection even if you may never see the inside of a courtroom. It's energizing to hear a speaker who specializes in communication whether you stand up in a courtroom daily, or the written

word is your only pulpit. It is interesting to hear what is happening on the "hill" with legislation, and how that procedure works. Even if you never represent someone in a divorce situation, it has got to be an eye-opener to see how many resources one has access to and how the entire process works. You cannot get these types of learning experiences if you focus only on those CLE programs you may attend for a few hours once in a while. This type of convention allows the general practitioner to focus on some specialties, and the specialist to focus on general areas. It is a win-win situation for all of us. For many of you, the CLE hours are important and this is an opportunity to fulfill that requirement. For many of the rest of us, we may already have 50 hours and although it's nice to keep adding on, the real purpose of going to the midyear and annual conventions is to enjoy not only learning about the law, but also learning how our friends in the law are doing. We talk families, kids, business, biking, cases, etc. and we get to do it without the stress of our daily practices looming on us. The atmosphere is upbeat and attendance is well worth a few less billable hours. I hope I have wet your whistle so that the next annual convention in Sun Valley is the best attended meeting we have ever had. St. George was. Kudos to the Bar staff. This takes a great deal of effort to allow all

of us to to forget our work, and you did it.

I still have a few more of these President's messages to write. I waited to write this one until I returned from St. George. I was feeling a little overwhelmed. I spent about half of February out of town on Bar business, albeit important business. I needed to be re-energized and I was. Being Bar President is really a wonderful experience. My good friend and Bar Commissioner, Craig Snyder, recently wrote an article entitled "Swan Song" since his tenure as a commissioner was winding down. That made me think about my many years doing Bar work, which really started about 15 years ago when I was Weber County Bar President and then started getting involved in sections and committees, and sort of, unintentionally worked my way up the Bar ladder. I am still excited about what I am doing. So this is not my swan song. It is my duck song. Craig is a wonderful commissioner, as are all of our commissioners. They all care so much. It is amazing to me how much time and energy each of them puts into this job. I, though, will not focus on swans, as I still have much to do. It may take awhile for this duck to become a swan. Thanks for allowing me to keep swimming. Talk to you soon!

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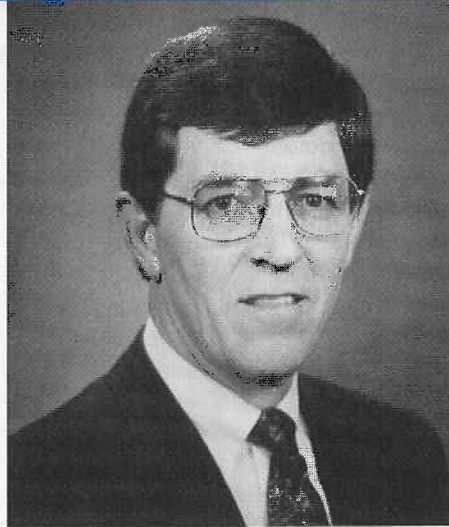
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Observations

By Ray O. Westergard

During the last few months, as I have read the local newspapers my attention has turned for short review of the pages containing the obituaries. I suppose my interest in these columns has been heightened by my father's death in January of this year and also, by the recent passing of others I have known, loved and respected, including some in the legal profession. Some who have given of themselves have now passed on. These columns have caused me to reflect some about life. Vince Lombardi once said, "The quality of a person's life is in direct proportion to their commitment to excellence."

In my last Commissioner's Report I pointed out that, "you cannot tell where a person stands on an issue until you know where they sit." It is my intent in this article to point out three observations about the Utah State Bar from where I sit. As one of two non-lawyer Supreme Court appointments to the Bar Commission, it has been interesting, challenging and also somewhat of an eye opener for me to serve as a Commissioner for the last three and a half years (I was reappointed to a second three year term in July 1996).

My first observation relates to the financial condition of the Bar (I serve as the chairman of the Bar's Finance Committee).

Revenues from all sources have increased approximately nineteen percent over the past five years (1992-1996). Expenditures during this same five year period have grown approximately forty-two percent. Despite the fact these changes show the costs of providing programs, services, administration and attorney discipline are increasing faster than revenues the Bar has been able to provide required funds for needed capital expenditures and maintain a reasonable amount of contingency and replacement reserves. The Commission is currently reviewing projections for the next ten years to determine what actions or changes, including a possible increase in dues, need to be made to ensure that the Bar continues to be financially sound. Any and all comments and suggestions are appreciated.

My second observation is that most people, including members of the Bar, seem to have heard about the negative issues relating to the legal profession and/or its members nationally, statewide or at the local level. Pointing out bad lawyers seems to be the "in thing" with the media. Lawyers seem to be an easy and favorite target if the information being reported is negative. Of the approximately 6,450 lawyers in Utah (4,950 active, 1,500 inactive) only a very small number are the subjects of the negative press. By far the

overwhelming majority are never mentioned. Not because these lawyers are not doing things out in public, but rather the good things they do, and the thousands of hours of pro bono service they give monthly go unreported. During 1996 the Bar produced and ran several public service announcements to increase the public's awareness of certain worthy legal projects and service. The Bar needs to continue its efforts to have these positive matters reported.

My last observation relates to involvement by State Bar members. The Bar currently has twenty five sections plus Young Lawyers and Legal Assistants and approximately thirty three committees. These range in membership from a few to several hundred. Some are very active and involved, others are not depending a lot on the leadership of the group. The Bar Commission encourages active participation by all members of the Bar in these sections and committees. Funds are collected and allocated to provide support. Unfortunately, many of the members are not "actively" involved, except on paper. They are listed as belonging but do not attend or if they attend, no input is provided. I am reminded of the following verse I read not long ago.

