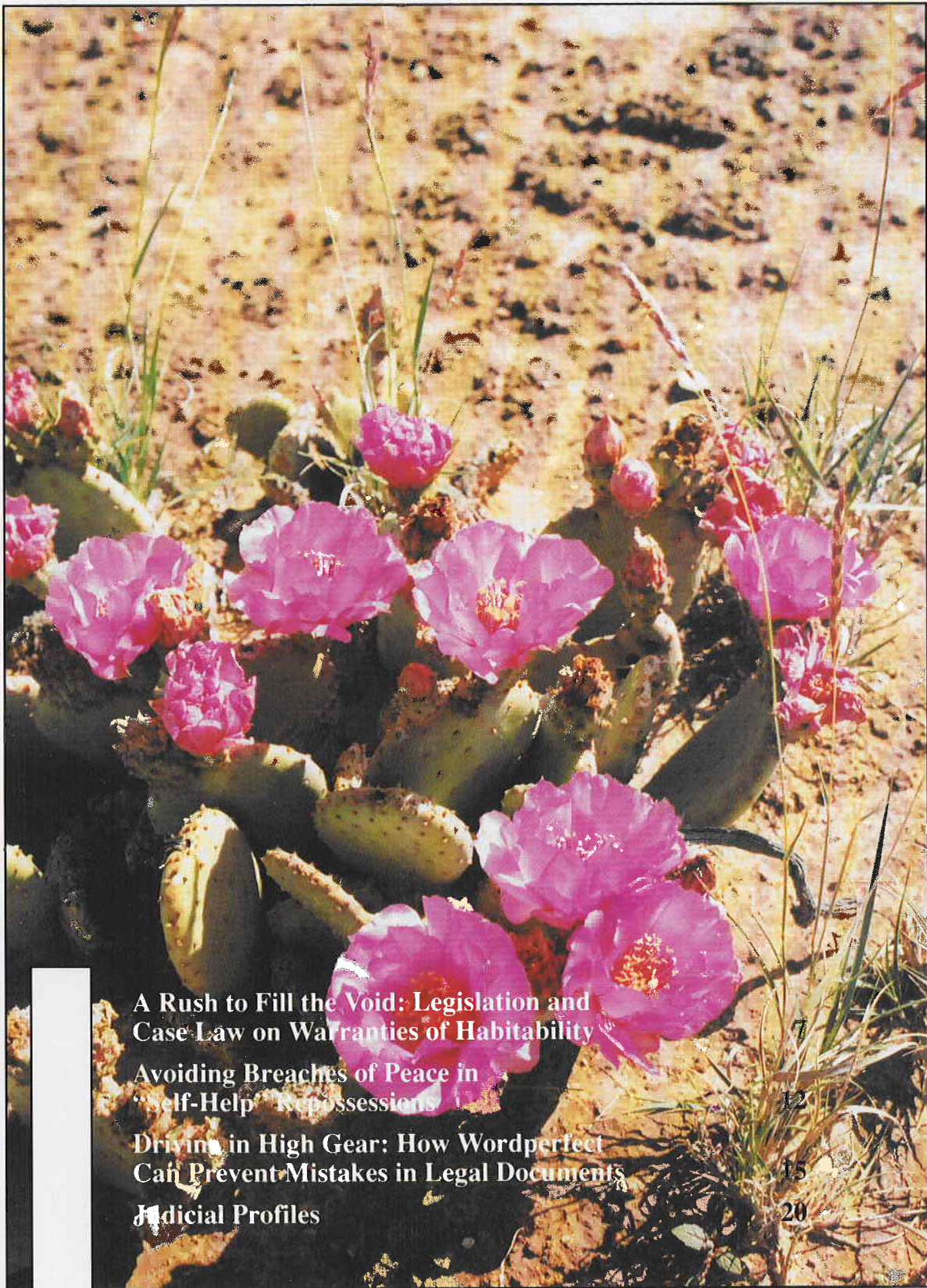


# UTAH BAR JOURNAL

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**A Rush to Fill the Void: Legislation and Case Law on Warranties of Habitability**

**Avoiding Breaches of Peace in "Self-Help" Repossessions**

**Driving in High Gear: How Wordperfect Can Prevent Mistakes in Legal Documents**

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COVER: Cactus in Bloom, San Rafael Swell/Goblin Valley area, taken by Reid Tateoka, Esq., shareholder/director, McKay, Burton & Thurman, P.C.

Members of the Utah Bar who are interested in having their photographs published on the cover of the *Utah Bar Journal* should contact Randall L. Romrell, Associate General Counsel, Huntsman Chemical Corporation, 2000 Eagle Gate Tower, Salt Lake City, Utah, 84111, 532-5200. Send both the slide (or the transparency) and a print of each photograph you want to be considered. Artists who are interested in doing illustrations are also invited to make themselves known.

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# LETTERS

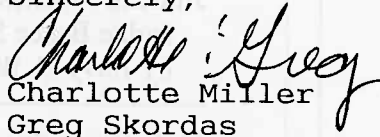
Dear Utah Bar Journal Readers:

At the Annual Meeting in Sun Valley we attended a session on the public perception of attorneys - whether they have hearts, etc. We recently had an experience that has shown that lawyers are truly warm, caring and concerned individuals.

As many of you know, our daughter Anne was seriously injured at Sun Valley and was life-flighted to Primary Children's Hospital. The support and kindness expressed by members of the legal profession - judges, secretaries, court reporters, clerks, lawyers, etc. - was unending. Thank you for the notes, calls, visits and gifts. The thoughtfulness and caring helped us through a horrible time. If we have not had the opportunity to thank you personally, please accept this letter as an expression of our gratitude.

Simply saying thank you seems so minimal when many of you helped so much during our crisis. It is impossible to repay you. The best we can offer is our hope that there is never an opportunity to repay the kindness you showed to us.

Sincerely,

  
Charlotte Miller  
Greg Skordas

Dear Editor,

John Baldwin recently advised me that several members had urged the bar to drop the requirement for malpractice insurance in order to be on the bar referral program.

I have practiced in both Virginia and Texas, where the bar referral service served the purpose of letting new attorneys get a few referrals, a little office traffic, and a little business to help start their practice. It is obvious that a new attorney just starting out without a bankroll, cannot afford malpractice insurance.

Having been on the referral list for sev-

eral years I can vouch for the fact that not one in two hundred referral calls involved anything substantial enough to present risk of malpractice damages.

What accounts then, for the unrealistic rule requiring malpractice insurance in order to be on the referral list? Are the established firms in the bar merely controlling this referral service to be available only for their young associates to cut their teeth on client relations, and a few small cases?

Since my move to Utah, I have been quite disappointed at how often the Utah Bar is controlled and manipulated for the sole

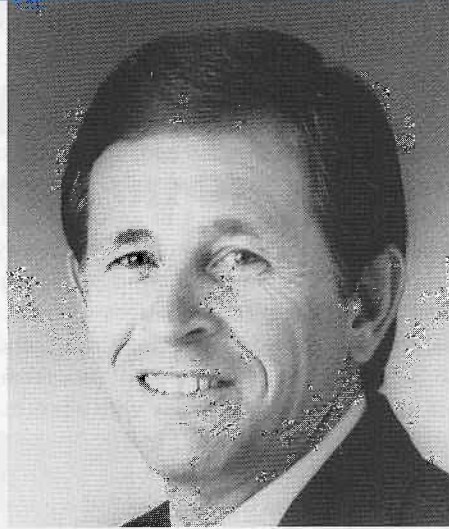
benefit of the large firm's practices. Your current officers of the bar need to consider whom you intend to serve by bar referral.

As for the stated determination to make bar referral self-supporting, isn't that an example of the haves being unwilling to help the have nots and the bar being unwilling to subsidize a program to make legal services more available to the public?

Sincerely yours,

Edwin H. Beus  
Attorney at Law





## Ruminations on Challenges Past, Present and Future Facing the Utah Bar

By Randy L. Dryer

I am convinced that five years from now, we will look back and mark 1992 as the beginning of a new era in the history of the Utah Bar. An era marked by financial stability, significantly greater participation in the organized bar by previously disaffected members and a return to the bar's historical commitment to public service through volunteerism. Although my term as President is purely coincidental with its new beginning, I am excited about the prospect of being on the front end.

### PAST CHALLENGES

The preceding era – a period encompassing the last five years or so – was a period of dissatisfaction for many members and a period where the Bar engaged in an introspective self evaluation where the very relevancy and necessity of an integrated Bar was questioned. It was a period where the Bar struggled with a myriad of issues surrounding mandatory CLE and the building of the Law & Justice Center, endured a controversial dues increase, witnessed a growing number of disciplinary complaints and felt the sting of a new national pastime – lawyer bashing. The challenges thrust upon the

profession the past five years have come in such an intense, staccato fashion that the members, the Bar Commission and the Supreme Court had little time to react to one issue before another surfaced and demanded attention. Crisis management, rather than long term planning, became the operative norm.

### PRESENT CHALLENGES

While the issues and problems of the past five years have not been completely resolved, I believe it fair to say that most have been thoroughly addressed either by the Bar Commission, the Utah Supreme Court's Special Task Force on the Management and Regulation of the Practice of Law, or by one or more of the myriad of task forces and commissions created by the Commission, the Supreme Court or the Judicial Council. Much of next year will be spent implementing the recommendations of these study groups. Many of the problems studied, however, have already been addressed by the Commission. For example, the Commission has recently approved the hiring of an additional lawyer in the Office of Bar Counsel to deal with the increased disciplinary case load. A new supervising

attorneys panel of the Ethics & Discipline Committee has been established which will provide needed supervision and mentoring to attorneys on probation. The Commission has implemented a new system of accounts, has established the position of financial controller and has significantly upgraded the Bar's financial systems and controls. The indebtedness on the Law & Justice Center has been significantly reduced to the point where the mortgage is now below one million dollars. If current plans are followed the mortgage will be completely retired by 1997.

A representative of the Minority Bar Association has been made an ex-officio member of the Commission in an effort to address the needs of our minority members and increased effort to involve greater numbers of members in Bar committees has met with astonishing success. This year, over 620 members requested appointment to a bar committee, 65% of whom indicated they had never before served on a committee. By increasing committee size, I am pleased to report that we were able to accommodate the first and second choices of 85% of the requests.

## THE CHALLENGES OF THE FUTURE

Although the past five years have seen the rise of many difficult and challenging issues, the next five years promise continued challenges, albeit of a different nature. During the next few years I expect the following issues to be paramount in the minds of the Bar Commission and the general membership:

1. Implementing and fine tuning court consolidation;

2. Adopting and implementing a modified lawyer disciplinary system;

3. Dealing with increasing hostility toward lawyers by members of the public and the legislature;

4. Coping with the changing economics of the legal profession and its concomitant impact on professionalism and collegiality;

5. Defining the relationship between the Bar Commission and the Utah Supreme Court; and

6. Struggling with how to make the organized Bar more relevant to those lawyers who historically have not been in the mainstream of the Bar - minority

lawyers, solo and small firm practitioners, and government/public service lawyers.

All of these issues pose great challenges to the Bar Commission, the Supreme Court and each and every lawyer in the state. I am pleased to report that the Commission is cognizant of these issues and, for the first time in many years, has had the opportunity to deal with future issues in an organized, proactive manner. The Commission recently completed a day long planning workshop where future goals and initiatives were discussed and defined. The Commission and the Supreme Court, in a historic occasion, met together for an entire day with a professional facilitator to begin the task of defining the role and relationship of the Commission as the Court's agent in regulating the profession.

Some of the specific actions the Commission intends to take to address the issues of the future include the following:

1. Creation of a blue ribbon solo/small law firm practice task force to identify the unique needs of the solo practitioner and to make recommendations for programs or other services that the organized Bar should provide to satisfy these needs.

2. Creation of a "Futures Commission," the purpose of which will be to describe the composition of the bar and predict the market for legal services in Utah in the year 2002.

3. Increased emphasis on communications between the Bar Commission and the membership in general through mailings to members on current issues, holding monthly Commission meetings throughout the state, scheduling meetings between the Commission and local Bar Associations and publishing and distributing to all members a Bar Resources Directory identifying the various services available to members through the Bar office.

Immediate past presidents Jim Davis and Pam Greenwood have struggled mightily to restore financial health to the Bar. They have successfully done so, and in so doing, they have laid the necessary groundwork for restoring confidence in the organized bar and renewing the profession's commitment to public service. I am appreciative of their efforts and look forward to the coming year.

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