

UTAH BAR JOURNAL

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March 1996



Response to "*State vs. Teuscher*, the
'Exception' Swallows the Rule"

8

A Modest Proposal Concerning "Esquire"

10

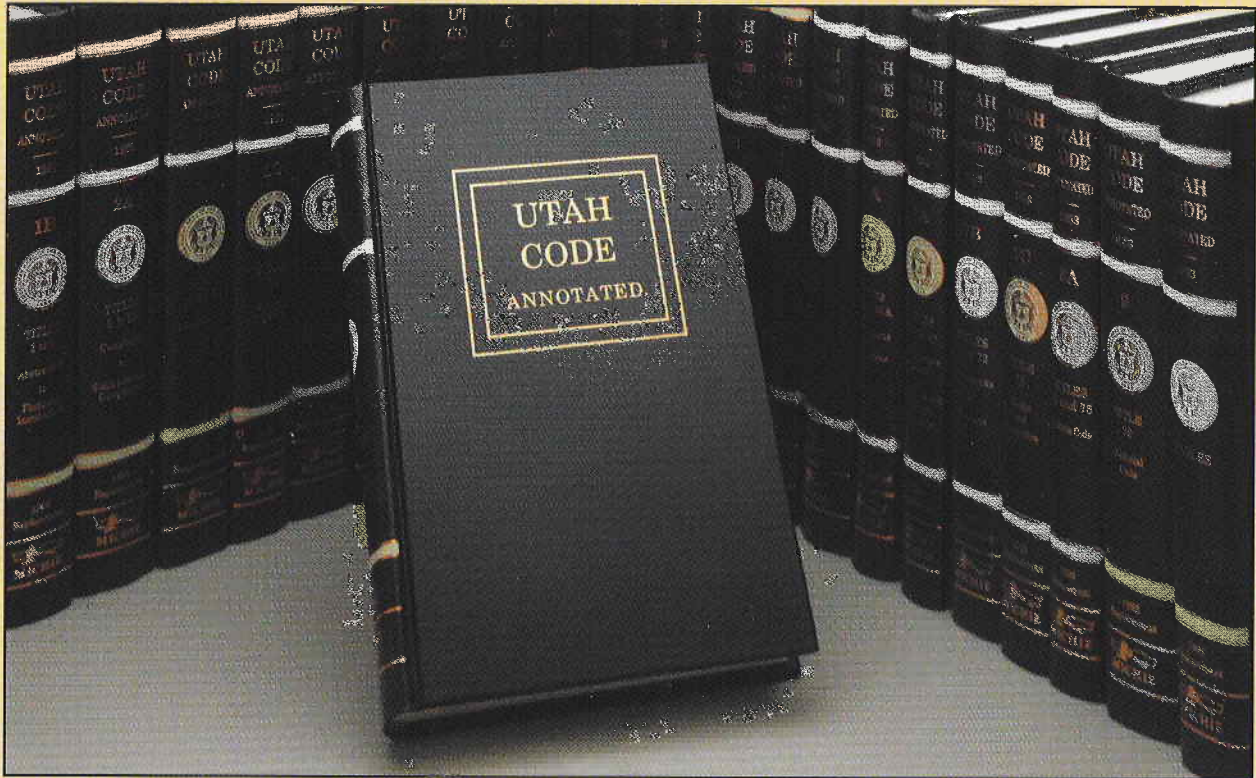
E-Mail for the Office and the World

12

The State of the Judiciary

27

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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.

Letters to the Editor.....	4
President's Message	5
<i>by Dennis V. Haslam</i>	
Commissioner's Report	7
<i>by Debra J. Moore</i>	
Response to "State vs. Teuscher, the 'Exception' Swallows the Rule"	8
<i>by Robert N. Parrish</i>	
A Modest Proposal Concerning "Esquire"	10
<i>by Rick L. Knuth</i>	
Law and Technology	12
<i>by David Nuffer</i>	
State Bar News	17
The Barrister.....	25
Views from the Bench	27
<i>by Chief Justice Michael D. Zimmerman</i>	
Book Review	31
Utah Bar Foundation	33
CLE Calendar	34
Classified Ads	35

COVER: Spring Snowstorm at Devil's Slide near Morgan, Utah, by Steven L. Staker, Esq., Bountiful, Utah.

Members of the Utah Bar who are interested in having photographs they have taken of Utah scenes 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, transparency or print of each photograph you want to be considered.

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LETTERS

Dear Editor,

I have been a member of the Utah State Bar Association since 1949. I have seen lawyers change from professionals, who felt an obligation to serve their fellow citizen regardless of expectation of compensation or the popularity of the cause to being businessmen only. I have seen unbelievable charges of thousands of dollars made for drafting simple motions that are written, rewritten and reviewed by two or three other lawyers in the same firm, when a single competent lawyer could have turned out the same work in an hour or two at a modest charge. The practice of billable hours,

involving double and triple billing, has caused the legal profession to be the most despised of all, instead of the most honored and respected.

We have an obligation to discourage litigation that we know has little or no chance of succeeding, or that results in only causing trouble. In those cases there is an obligation to be the peacemaker, even though otherwise you may anticipate many billable hours that may make the monthly balance sheet look good.

Should there be lawyer reform? Of course there should be if you expect the profession to survive the many deserved onslaughts upon it and the contempt that we are held in.

Do I expect the Bar Association to take a role in such reform? Of course, I do not. If reform comes, it will be only if each person who calls himself or herself a lawyer reviews the oath taken when you were sworn in and becomes or remains the public servant who sees to it that at all times justice is being done, both for the system and the client and that if the cause is just we represent our client for a *fair* fee or none at all, if the situation warrants it.

George B. Handy, Esq.
Ogden, Utah

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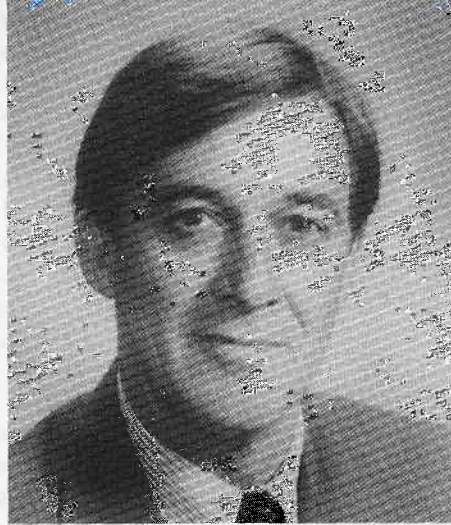
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A Report on *Consumer Reports*

By Dennis V. Haslam

It is sometimes difficult to take a step back and look at ourselves as lawyers and counselors in America. We have different views of ourselves, even among ourselves. Last month, *Consumer Reports* did a piece entitled "When You Need a Lawyer." This magazine has a long history of performing consumer oriented testing or information gathering and reporting the results to its membership, which is described by the magazine as tending to be better educated and better off financially than the U.S. population as a whole. The report points out that the information is based upon the client's perception of lawyers, "which may well be affected by the outcome of the case or by the emotional stress involved in a particularly difficult situation."

I bring this report to your attention because it is a snap shot of the public's view of what we do and how we treat our clients. Each of us has a responsibility to the profession, and thus to ourselves, to act professionally and to improve our image. When a case is over, you may want to ask your client for a report card to see how you're doing.

WHAT THEY FOUND

Approximately one-third of the 30,000 respondents were not highly satisfied with the legal services they received. Conversely, a majority was highly satisfied. Clients

judged lawyers differently depending upon whether the matter was adversarial or another type of legal transaction. The good news is that, in will preparation, estate planning, tax planning, routine real estate matters and adoptions, approximately 75% of the respondents were highly satisfied with their lawyers.

The numbers begin to drop significantly in contested matters. Just over 50% of clients were highly satisfied with their lawyers in cases involving insurance (health and homeowners) claims. The numbers decrease in declining order with cases involving malpractice, negligence, products liability, real estate litigation, workers compensation, personal injury, criminal and, of course, the last and worst, divorce and child custody. Clients in domestic cases were highly satisfied with their attorneys just less than 50% of the time.

Overall, 20% of the people who hired lawyers were dissatisfied with the work done. *Consumer Reports* commented that, of all the services it has surveyed over the years, only diet programs received a worse score.

One of the most common complaints noted in this report is the failure of lawyers to return phone calls. If you were to ask Steve Cochell, Chief Disciplinary Counsel, the reason for most bar complaints, you would learn that it is the failure of lawyers to return phone calls. Of those who complain about failure to return phone calls, more than 40% felt their

lawyer could have done a better job of representing them. This sounds like lawyers need to have a better desk-side manner.

DISSATISFIED CLIENTS

More than one-fourth of the respondents in adversarial cases were somewhat, very or completely dissatisfied with key concerns: the speed with which cases were handled, how well the lawyer kept them informed, or legal fees. Most people, regardless of the type of case, felt lawyers were polite.

There was great dissatisfaction with respect to whether the lawyer:

- Expedited the resolution of the matter.
- Kept clients informed.
- Charged fair fees.
- Protected clients' rights and financial interests.
- Informed them up front about costs.

If a major manufacturer or service provider received this kind of report card, it is likely that changes in the product or service would be made.

COMPLAINTS ABOUT LAWYERS

Clients complained most often about being ignored. The percentages, however, were not that high. In adversarial cases, just under 25% said their lawyers did not promptly return phone calls or didn't pay adequate attention to their cases. Approxi-

