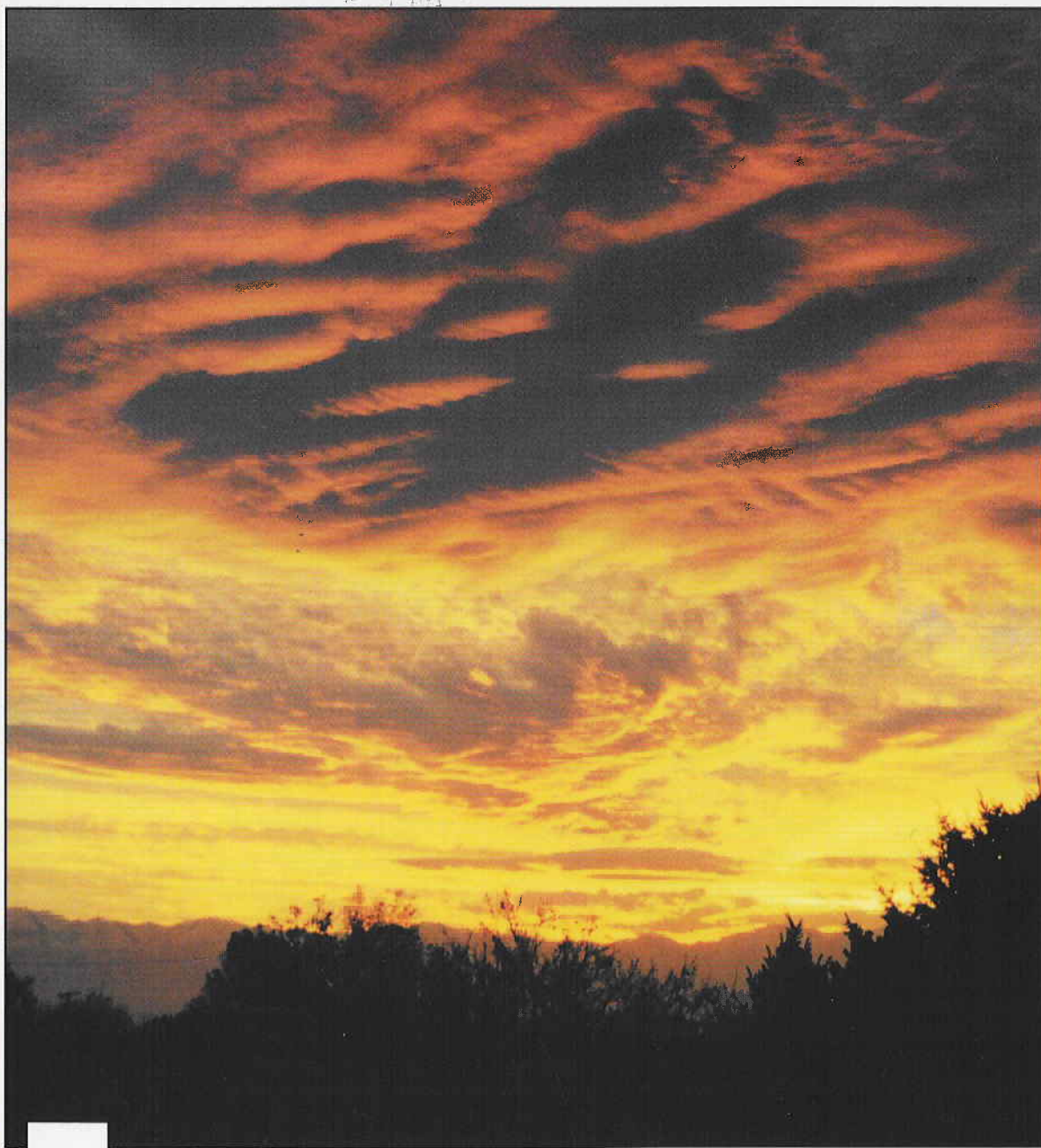


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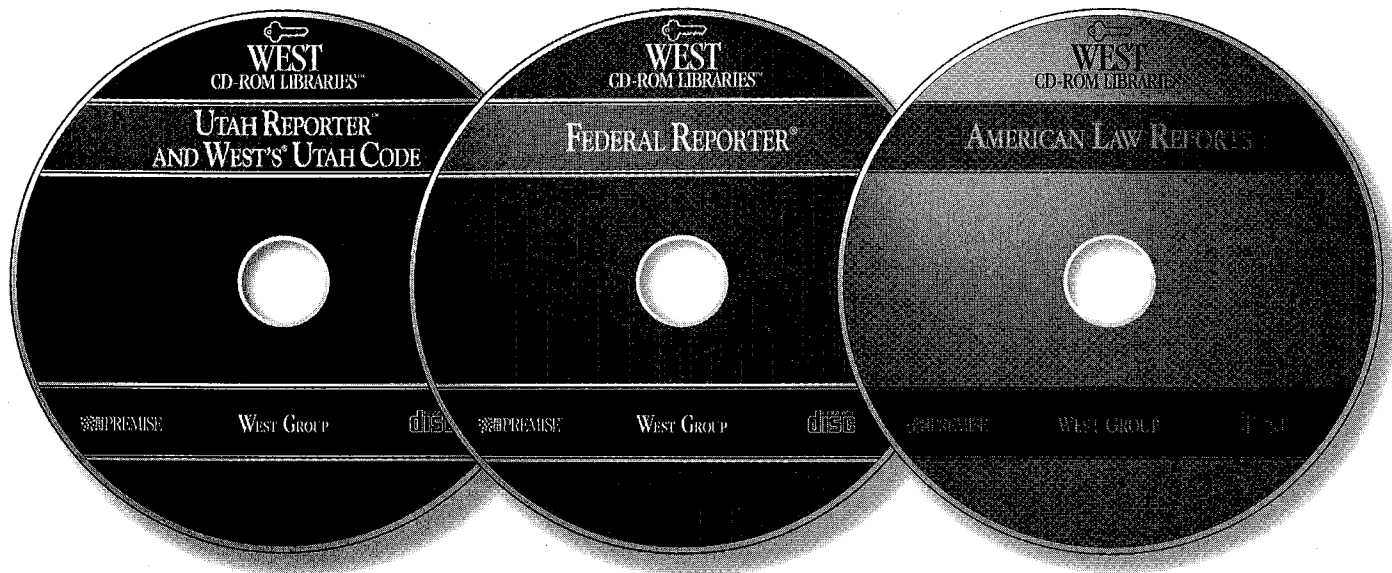
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VISION OF THE BAR: To lead society in the creation of a justice system that is understood, valued, respected and accessible to all.

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.

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COVER: Sunset over Salt Lake Valley, by Glade S. Bigler.

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, Randle, Deamer, Zarr, Romrell & Lee, P.C., 139 East South Temple, Suite 330, Salt Lake City, UT, 84111-1169, 531-0441. Send a slide, transparency or print of each scene you want to be considered.

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LETTERS

Letter to the Editor

I write to express my opposition to the mandatory pro bono reporting proposal now before the Bar.

The proposal is not about pro bono service, but about money. It is not intended to and will not encourage the spirit of pro bono service. Its sole purpose is to tax the Bar to fund a program which Congress has determined should no longer be publicly subsidized.

The mandatory reporting proposal gives us two choices: either make and preserve a continuous and permanent record of your pro bono service, or write the Bar a check for \$350. The reporting requirement is designed to create sufficient hassle and red tape that the average attorney will simply pay the tax.

Like most members of the Bar, I regularly devote time and energy to pro bono service. Mainly I help relatives, neighbors, friends, friends of friends who have pressing legal needs but cannot afford to pay for them. Under the proposal, I will have to keep track of my time in helping these people, so that I can report it to the Bar. I am persuaded, however, that no one at the Bar is interested in reading about my pro bono service. They will open my envelope, shake it out, and after discovering that it does not

contain a check, they will discard it.

One more thing: why does the proposal exempt judges and government attorneys from its requirements?

I hope the members of the Bar, and the Supreme Court, will reject the proposal being made by Justice Zimmerman and his committee.

Sincerely,
Chris L. Schmutz

Dear Judge Hutchings:

I'm writing to thank you for running Judge Christean's article on the Child Welfare Reform Act of 1994. It was an unusually long article, and quite opinionated, and I'm sure there are some who wish the article had not been published. However, as a juvenile prosecutor I'm always glad to see the juvenile court system get some serious attention. In this case, I'm particularly delighted to see a real problem get a serious airing. Although I don't deal with neglect and dependency cases myself, I see and hear about some of what goes on in such proceedings, and there are problems. It's good that they've been aired. Keep up that kind of good work!

Sincerely,
Paul Wake

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 566-6633 or write, *Utah Bar Journal*, 645 South 200 East, Salt Lake City, Utah 84111.

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 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 Code of Professional Conduct, (c) is deemed execrable, calumnious, oblique or lacking in good taste, or (d) otherwise may subject the Utah State Bar, the Board of 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 or each letter if and when a letter is rejected.



Evaluating the Court System

By Charlotte L. Miller

I. JUDICIAL EVALUATIONS

This month many attorneys will receive survey forms from Valley Research, Inc., on behalf of the Utah Judicial Council. The surveys request opinions about judges in front of whom the attorneys have appeared. These surveys are part of a judicial performance evaluation program overseen by the Judicial Performance Evaluation Committee (JPE Committee), which consists of three community members, two practicing attorneys, a Bar Commissioner, five judges, and a court commissioner. I encourage Bar members to participate in the evaluation process.

The information gathered in the attorney survey is used for three general purposes: self-improvement of the judge; certification of the judge; and providing public information in the voter information pamphlet. The Judicial Council is required to certify whether each judge on the ballot has satisfied all the standards established for the judicial performance evaluation program. These standards include satisfactory performance on the attorney survey.

Each use of the survey information is crucial. Feedback from attorneys can give judges valuable insights for improvement of their performance. The judges and commissioners on the JPE Committee state that the information that they receive through

the process has been very valuable. The retention election process is the main avenue for public input into the composition of the judiciary. Both the Judicial Council and the voters rely on the attorney survey to be their observers of the performance of Utah judges. The information gathered in the attorney survey allows the Council and the electorate to fulfill their respective roles in the retention election process.

As community members who regularly come in contact with judges, attorneys have a special opportunity to exercise a civic responsibility by participating in the attorney survey process. Attorneys are well-positioned to evaluate the judges' performance, and attorneys should take the time to give the judge, the Judicial Council, and the voters their opinions.

Recently, the JPE Committee has become concerned about the drop in the response rate to the surveys. Consequently, it is looking at ways to improve the process. The Committee will consider changes to address what it perceives as the following three attitudes that impede attorney participation.

1. survey is too burdensome on attorneys who receive a large number of surveys;
2. concerns about confidentiality; and
3. information provided to the public is too limited.

To lessen the burden of numerous sur-

veys, the Committee is considering reducing the number of times a judge is subject to the survey process from the current three times per term to only twice per term. This change would decrease the number of surveys by about one-third. The Committee is also considering decreasing the number of questions on the survey questionnaire to make each form less time consuming to complete.

To address concerns about the confidentiality of responses, the Committee reviews the experience of the survey consultant. Each prospective survey consultant is required to document the steps it will take to ensure confidentiality. None of the attorney responses come through any court office. They are delivered either directly to the survey consultant or directly to the judge. The value of the survey is based on Bar members giving thoughtful and honest responses and the Committee is committed to a process that ensures the confidentiality of those responses.

Some lawyers have expressed dissatisfaction with the information made available to the public. The information provided in the voter information pamphlet is prescribed by a statute. At the Judicial Council's urging, the information reported in the 1998 voter information pamphlet will be more detailed than in prior years.

Additionally, the Committee has recommended the Council seek legislation to report exact survey scores on certification questions.

To help identify any other perceived problems with the process, the judicial performance evaluation program will be discussed at a meeting this month of the Chairs of Bar Sections, Bar Committees, and local Bars. Also, Bar members should contact me or other JPE Committee members with suggestions. Information about the work of the JPE Committee can be obtained by contacting Peggy Gentles or Tim Shea at the Administrative Office of the Courts.

Because voters' exposure to judges is minimal, the information provided in the voter information pamphlet potentially has significant influence. The integrity of that information is critical. The process depends upon thoughtful and complete information from the attorneys who have appeared in front of each judge. I encourage Bar members to take the opportunity to participate seriously.

II. COURT PERSONNEL

Although we often focus on evaluating judges, there are far more employees in the court system who are not judges. Those employees provide a valuable service to the justice system. Recently, I attended a Judicial Council meeting in which the members of the Judicial Council indicated that they recognize the court system is an employer and needs to hear from attorneys about their experiences with court employees. The Judicial Council and the Administrative Office of the Courts encourage court personnel to view themselves as public servants, and to view the public and lawyers as customers. Since the judiciary has made this step toward recognizing attorneys as customers, attorneys should take the opportunity to encourage this recognition by providing input with regard to court employees.

There are a variety of individuals who may be contacted with regard to experiences with court personnel including the appropriate judge, presiding judge, clerk of the court, trial court executive, and the state court administrator's office. Our input will let the

courts know if changes, additional training, or other actions are needed. Since the Judicial Council has invited lawyers to participate in the process in this manner, I encourage all lawyers to take advantage of this opportunity, and provide information about both positive and negative experiences with court personnel. (Praising employees for good performance can often be more effective than criticizing for poor performance.)

Most lawyers work hard to please judges in the court system, and we need to make sure that the court system understands the needs of lawyers. I believe the organized Bar can be helpful in providing information about lawyers' needs in the court system, but I also encourage each individual lawyer to take the opportunity to provide information about his or her experiences with court personnel. If the court system is willing to attempt to serve lawyers as one of its customers, let's be willing to be customers who let the court system know what is best for lawyers, the justice system and the public.

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