

UTAH BAR JOURNAL

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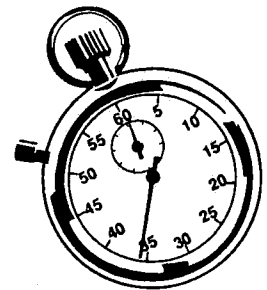
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COVER: Stewart Falls, Mount Timpanogos, Utah County, Utah, Taken by Professor David A. Thomas, J. Reuben Clark Law School, Brigham Young University..

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

Editor,

I read with interest the article by Timothy Lewis, "Should Utah Consider Adoption of Community Property Law?", which appeared in the April, 1992, *Utah Bar Journal*.

Having recently moved to Utah from the State of Washington, where I practiced law for 13 years, it is my opinion that the community property laws as applied in Washington State afford the residents and the legal counsel many benefits. Among those:

1. A truly equitable procedure for division of real and personal property accumulated during marriage and divided at the time of dissolution of marriage. RCW 26.09 *et. seq.*
2. A predictable procedure for the disbursement of the assets in both testate and intestate estates. RCW 11.02.070 and 11.04 *et. seq.*
3. A procedure for avoidance of probate and administration on the first death between husband and wife by use of

a statutory community property agreement. RCW 26.16.120.

4. A statutory right to retain separate property. Separate property being defined as all real and personal property acquired through the efforts of one spouse prior to marriage together with any gifts, inheritance or bequest acquired by one spouse during the marriage together with all rents, issues and profits from any of the foregoing. RCW 26.15. *et. seq.*
5. The right to contractually exclude a spouse from any entitlement to separate property by use of a prenuptial agreement.

Obviously I am biased in favor of adopting community property laws. Having practiced law in a state that followed these principles, I found the laws to be a practical, equitable and predictable method of acquisition of property, division of assets upon dissolution and transfer of assets upon death.

For further information on the community property issue, the reader may wish to

refer to Washington's Revised Code, Chapter 26 *et. seq.*, together with the following:

1. 15A Am. Jur 2d Community Property;
2. *Symposium: The Continuing Evolution of American Community Property Law*. 1990 Wis. L. Rev. 583-879 '90;
3. *Community Property and the Problem of Migration*. 66 Wash U L Q 773-85 '88.
4. *Community Property Law - it's Advantages and Disadvantages*. G. Templar J.B.A. Kan 16:195-202 N '47; and
5. *The Community Property Trend*. W.Q. De Funiak Notre Dame Law 23:293-8 Mr. '48.

Thank you for your informative articles.

Sincerely yours,

Donald A. O'Neill
Attorney at Law

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It Was a Very Good Year

By James Z. Davis

As the Bar's fiscal year draws to a close, it has become customary for the outgoing President to report to members on the accomplishments of the Bar during that year. Some of the matters that we concluded in FY 1992 had their genesis in Hans Chamberlain's and/or Pam Greenwood's administrations. All that we have accomplished would not have occurred but for the foundations built by Hans, Pam and their predecessors. In an effort to make my "final report" to you more readable, I have attempted to categorize our activities into several broad groups.

FINANCE

The Bar's Finance Department has continued its ongoing improvement under the able leadership of Arnold Birrell. The installation of new computer software has enabled us to adopt a new chart of accounts which we have utilized throughout the year. As you are already aware, the budgeting process for FY-93 has begun. That process has been substantially simplified by the new chart of accounts, enabling us to quickly and easily spot trends and make appropriate adjustments. The Finance Department is now capable of providing the Bar Commission virtually "instant" financial information, together with accurate financial projections, putting

the Commission in a position to make more meaningful policy decisions not only on a day to day basis, but for the future. This year, we also established contingent reserve and replacement reserve funds in accordance with generally accepted accounting principles. I am happy to report that, based upon current projections, those funds will be intact as FY-93 begins on July 1, 1992. Finally, the FY-91 audit for the year ending June 30, 1991, was completed August 1991, and published in the Bar Journal.

UTAH LAW & JUSTICE CENTER

Thanks in no small part to the efforts of Kaesi Johansen and now, Richard Dibblee, use of the Utah Law & Justice Center is at an all time high. A new marketing strategy (complete with brochure) has been adopted, and aggressive marketing of the facility is proceeding. As of this writing, there has been no need for Bar financial support to the Law & Justice Center. Most of you know that the Utah Law & Justice Center is a non-profit corporation; and during the year, bylaws were adopted and a new Board of Trustees was selected. Pam Greenwood is the chair, and Stewart Hinckley, Hans Chamberlain, Brian Florence and Norm Johnson are members of the board.

Perhaps the best news relating to the Utah Law & Justice Center is the fact that

the principal indebtedness on the Law & Justice Center was reduced by \$381,967 leaving a principal balance secured by the facility as of June 30, 1992, of \$1,049,497. In addition to the aforesaid principal reduction, all accrued interest through June 30, 1992, will have been paid.

SUPREME COURT ORDER AUGUST 10, 1990

On August 10, 1990, the Utah Supreme Court ordered the Bar to take certain steps to address financial concerns of the Bar and appointed the Grant Thornton company to conduct periodic reviews. All of the directives in the Supreme Court order have been accomplished, and Grant Thornton filed its final report last fall. In that report, Grant Thornton gave the Bar high marks for what it had accomplished and recommended no structural changes.

THE TASK FORCE

The Supreme Court Task Force on the Management and Regulation of the Practice of Law in Utah completed its study and deliberations in October 1991, and filed its report with the Supreme Court in November 1991. In November 1992, the members of the Task Force met with the Supreme Court to discuss the report and answer any questions the Court might

have. All of you should have received a copy of the Task Force report directly from the Court. Prior to the end of the comment period established by the Court, the Bar Commission prepared its response to the report. That response was published in the April 1992 edition of the *Utah Bar Journal*. On April 3, 1992, the Bar Commission met with the Supreme Court to discuss the report and respond to any questions the Court might have. The Court recently reached certain conclusions regarding the recommendations and its final decision should be published soon.

Although participation in the Task Force was generally a positive experience, the herculean effort put forth by Bar leadership and staff, especially during Pam's administration, must be credited in no small way for the quality of the outcome.

RELATIONSHIP WITH THE SUPREME COURT

Regular communication on administrative matters has been established between the Bar and the Supreme Court. In addition, the Court has requested that the Bar

work closely with it and the Judicial Council to assist the Court in implementing court consolidation. The Bar has appointed a committee consisting of Dennis Haslam, Bill Bohling, Debra Moore, Helen Christian and Gil Athay to spearhead that effort.

DISCIPLINE

Notwithstanding the fact that the Utah State Bar has an impeccable record of carrying out its delegated discipline function, perceptions persist that self-regulation is somehow inappropriate. Various schemes for dealing with the perception abound, and include, but are not limited to such things as setting up an entire new bureaucracy thereby moving the perception of incest from the Bar to the Supreme Court. In an effort to address the perceptions, however, last fall the Commission requested that Steve Trost, Bar Counsel, study further the possibility of utilizing the District Courts for public discipline matters. The screening panels, including both attorney and lay members, would continue their function, and the Bar Commission would have no further role in the procedure. This approach

has been recommended to the Supreme Court by the Bar Commission and is currently under study by the Supreme Court's own committee on discipline. Perhaps the most significant impact of utilizing the District Courts for public discipline is procedural, in that it will allow Bar Counsel to much more expeditiously dispose of cases since it will no longer be necessary to coordinate and convene hearing panels.

In recognition of the importance of the performance of the discipline function, together with the enhanced role of Bar Counsel's office in matters relating to the unauthorized practice of law, admissions and other areas, Bar Counsel's office has been substantially beefed up during the last year. By the time you read this, a new computer system for Bar Counsel's office will have been installed and a new attorney hired.

The Bar has also been working closely with the leadership of the Legal Assistants Association of Utah to address the complex issues relating to the status of paralegals in Utah.

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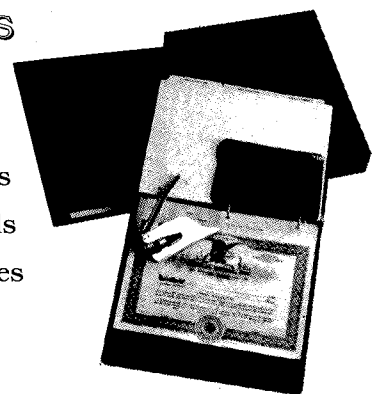
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