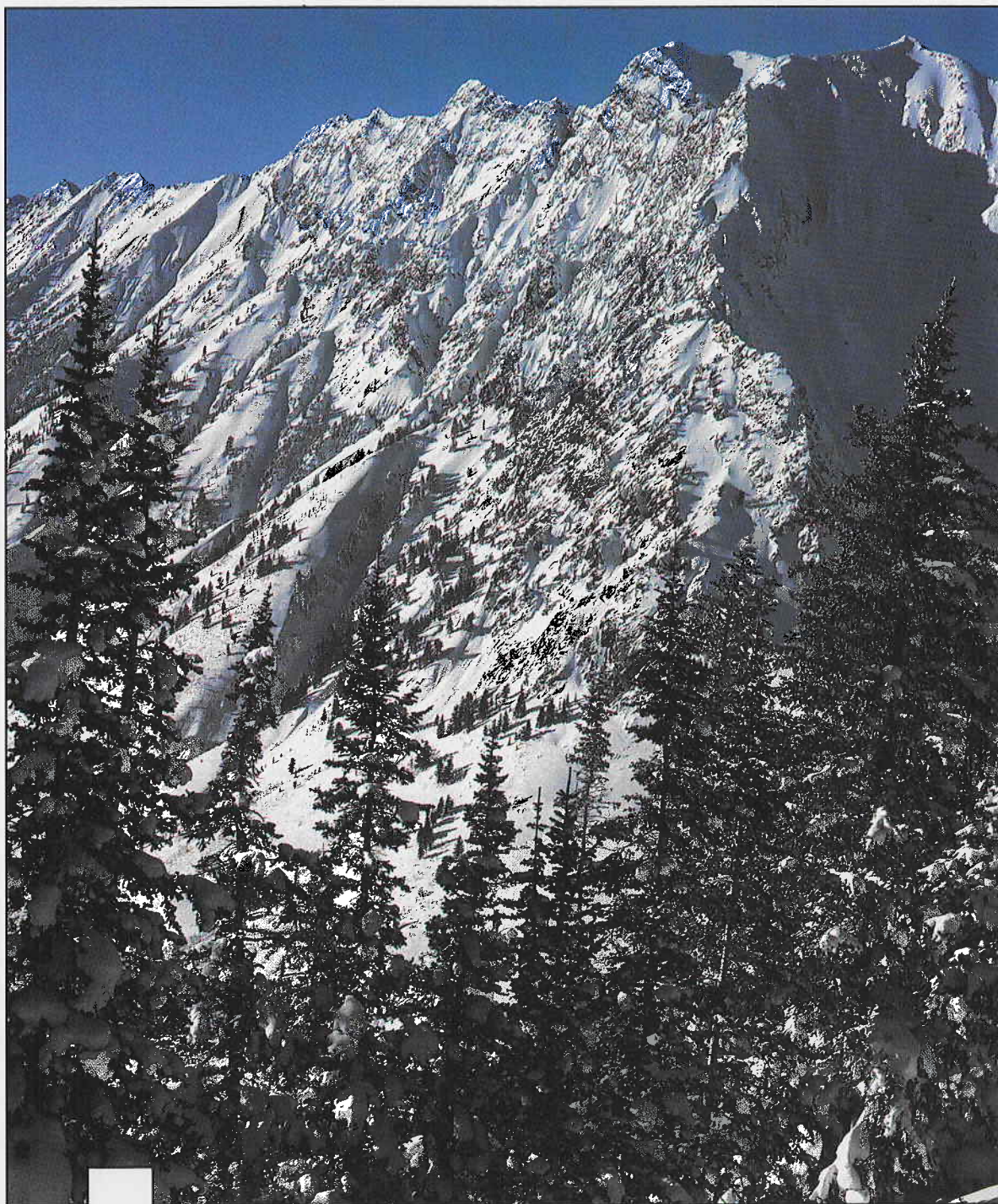


# UTAH BAR JOURNAL

Vol. 8 No. 1

January 1995



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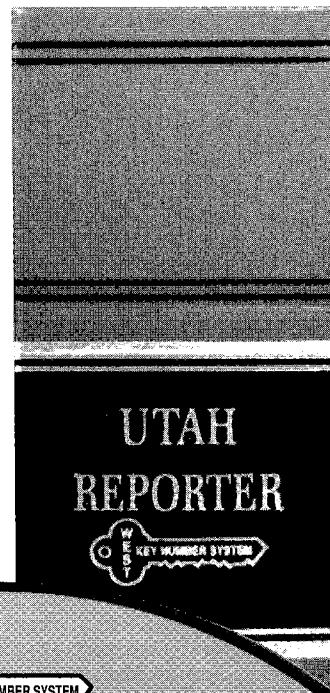
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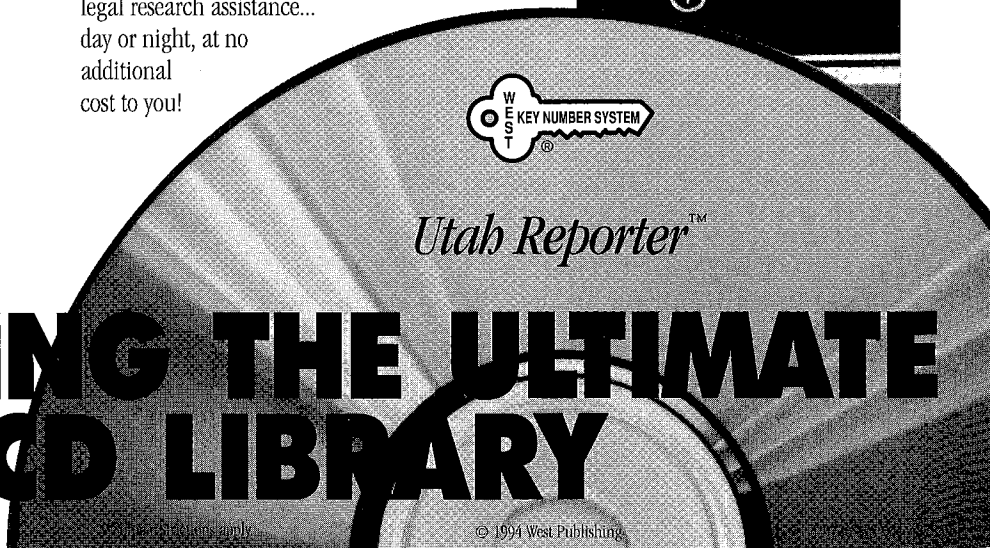
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COVER: Mt. Superior in Little Cottonwood Canyon taken from Alta by Harry Caston of McKay, Burton & Thurman.

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## LETTERS

Dear Editor,

I recently read an article in the *Bar Journal* "Making a Difference in Three Hours – Domestic Violence Victims' Clinic to Assist Pro Se Litigants" by Mary Jane Ciccarello. This article caught my interest because of a program we have up and running in Davis County.

We started our Victim Assistance Program in 1987 and have assisted many victims throughout the years. However, in April of this year we organized a team of volunteers to go to the scene of domestic violence episodes after the area was secured. As a result of having the volunteers take blank Protective Order forms to the scene and assisting the victims in filling out these forms, our Court Commissioner began to see an influx of hearings scheduled.

I was sitting in with a victim during one hearing and realized how unfair this system appeared because the victim was at the table alone. I was in the courtroom trying to provide as much support as I could but it was terribly intimidating to the victim because her husband appeared with an attorney; the victim had no money to hire an attorney. After Court that day I spoke with Commissioner Michael G. Allphin and expressed my concern over such an unfair situation. Commissioner Allphin agreed and suggested that I get a pro bono program going. Utah Legal Services arranged for malpractice coverage for pro bono volunteers. I spoke to a Davis County Bar meeting and after presenting our program 14 attorneys signed up to volunteer their time to represent the victims of domestic violence during Protective Order Hearings.

The Pro Bono Program started the next

week. This Program is working and we are able to provide a great deal of assistance to the victims in Davis County.

We are very grateful to all of the volunteers in Davis County, especially Nelda Bishop who has really gone the extra mile in her efforts to coordinate this program. Lou Ann Blotter, the victim assistance coordinator, does such an outstanding job of working with the victims and making sure they are here in time to speak to an attorney as well as coordinating the cases with Commissioner Allphin and his Clerk, Carol Frazier. We applaud the work of these people and think we have a first class "Pro Bono Program" in Davis County.

Ellen Archibald  
Administrative Assistant

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# PRESIDENT'S MESSAGE



## A Potpourri of Issues!

*By Paul T. Moxley*

**T**he twenty-two members of the Board of Bar Commissioners continue to wrestle with a hodgepodge of issues concerning the practice of law and the role of lawyers in our society. There has been a changing of the guard on the Bar Commission this past six years. Previously, some lawyers suggested that the Board was an "old boy network" composed of lawyers from established law firms. Neither suggestion is accurate. We have two lawyers from large firms, a host of lawyers representing diverse members of our bar, two non-lawyer commissioners, the Deans of our two law schools and other elected and appointed commissioners. During this same period of time the law has become more specialized with special studies of the Bar being conducted by the Task Force and the Supreme Court. A board of twenty-two Commissioners supplies a great deal of perspective but, because of the number and variety of issues together with time demands it becomes necessary to delegate more assignments to subcommittees and then only their recommendations are considered by the full Commission. Much may be lost in this process. However, the mere size of the Board is problematic. Nevertheless, the Board is functioning well, but

policy issues may suffer and the process has been altered from the past.

### INCREASE IN THE NUMBER OF LAWYERS

A chart follows this column which portrays the increase in the number of lawyers from 1991 through the year end of 1994. Lawyers in Utah number 6,016. The numbers are staggering because of the presence of eight hundred and fifteen new lawyers or an approximate 16% increase in four years. Statistics reveal that over 90% of graduating lawyers have found employment. It is impossible to predict what will result from this stunning growth. We believe the quality of graduates remain good both because the raw scores on the admission tests remain high and the quality of their performance. In addition, many lawyers have been admitted from other jurisdictions which is partially responsible for the increase.

### LICENSING OF FOREIGN LEGAL CONSULTANTS

The Board has accepted a proposal from the International Law Section concerning the licensing of foreign legal consultants. A petition has been filed with the Supreme Court concerning this matter. A copy of it may be obtained through the Bar offices.

The gist of it is that lawyers practicing in foreign countries may become licensed in Utah to represent their clients in Utah and our Utah lawyers will receive reciprocal treatment in their country. Our International Law Section believes this will benefit Utah lawyers and business interests. The Board believed this was something which warranted our support. It certainly reflects how the practice is changing.

### MENTAL HEALTH QUESTIONS ON BAR APPLICATIONS

The Character and Fitness Committee has recommended modifications on questions asked law applicants concerning mental illness. Last year the Board removed such questions from the application because of a concern about their wording and also to assure compliance with federal law regarding reporting of disabilities. The issues raised are privacy, relevance of questions and the obligation of the Bar to determine whether an applicant is physically and mentally fit to practice law. The committee research included contacting every jurisdiction, meeting with health care providers and study of the federal and state law on the issues. The modified questions which were approved by the Board have been

approved for use by the New Mexico State Bar and by the Department of Justice.  
Stand by for further litigation.

**CREATION OF A COMMITTEE  
ON PUBLIC RELATIONS AND  
THE ESTABLISHMENT OF  
A SPEAKER'S BUREAU**

The Board approved several items concerning public relations which we believe bear on our mission "to serve the public and the profession by promoting justice, professional excellence and respect for the law." We have established a Public Relations Committee to coordinate efforts to publicize the many good things lawyers do as a matter of routine. Judge James Z. Davis has also agreed to chair a committee to establish and implement a Speaker's Bureau as a public service that will allow lawyers to interact with the public on a positive basis.

**BUSINESS MEETING IN  
SALT LAKE CITY ON  
APRIL 28, 1995 AND AT  
ST. GEORGE MID-YEAR MEETING  
ON MARCH 2, 1995**

Members are invited to attend the above-referenced meetings concerning any Bar issues.

**BAR DUES**

The Board has been discussing Bar dues and examining closely the Reports of the Budget and Finance Committee. The Board will conduct hearings on this topic at its regular meeting on January 27, 1995 at the Law & Justice Center if sufficient members are interested. As of the December 2, 1994 Report (available at Bar offices upon request) actual licensing revenue is now at 102.52% and the projected unreserved cash for the fiscal year will be \$238,439. Furthermore, according to our projections, unless

we petition the Supreme Court for a dues rebate or reduction, no dues increase will be necessary of five more years.

My view is that the Bar is at a cross-roads inasmuch as we have now paid for the building, reduced our expenses through conservative stewardship and now must continue with that approach and develop programs that will improve the environment for lawyers and the community. The policy question that must be addressed is what sort of programs should an integrated bar undertake. A vast array of issues confront lawyers and we need to be part of the solution and perceived as such. The vision of earlier lawyers got us our facility which is something we can be justly proud of. It is my view that we need to go forward and now establish programs that will maximize the use of the building and give opportunity for our energetic lawyers to make a difference.

## Utah State Bar Membership Statistics 1991-1994

	1991	1992	1993	1994	1991-94 Net Gain
<b>TOTAL</b>	5,201	5,424	5,781	6,016	815
Total Active	4,202	4,159	4,377	4,581	379
Total Inactive	999	1,265	1,404	1,435	436
<b>DIVISION 3</b>					
Active	2,871	2,950	3,121	3,223	352
Inactive	259	290	373	370	111
Total	3,130	3,240	3,494	3,593	463
<b>DIVISION 4</b>					
Active	297	309	371	388	91
Inactive	45	53	82	69	24
Total	342	362	453	457	115
<b>DIVISION 2</b>					
Active	290	281	296	333	43
Inactive	36	38	46	50	14
Total	326	319	342	383	57
<b>DIVISION 5</b>					
Active	177	174	183	202	25
Inactive	16	14	15	22	6
Total	193	188	198	224	31
<b>DIVISION 1</b>					
Active	62	72	69	81	19
Inactive	8	8	8	9	1
Total	70	80	77	90	20
<b>RESIDENT</b>	4,061	4,189	4,564	4,747	686
Resident Active	3,697	3,786	4,040	4,227	541
Resident Inactive	364	403	524	520	156
<b>NON-RESIDENT</b>	1,140	1,235	1,217	1,269	129
Non-Resident Active	505	373	337	354	(151)
Non-Resident Inactive	635	862	890	915	280



## Informational Potpourri

By Craig M. Snyder

For many of us who have been practicing law in excess of twenty (20) years, it is often more difficult to accommodate change into the patterns and routines of our daily practice. Often, we are resistant to change either because we don't understand why the change is necessary, or because we believe that changes are being imposed upon us by some special interest that really doesn't understand the problem. Some of these changes will have a direct impact upon the practice of law.

1. In the wake of the Utah Supreme Court's decision in *Salt Lake City v. Ohms*, the "court consolidation train" continues to rumble down the track albeit at a slightly slower speed. The Administrative Office of the Courts and the local and state transition teams continue with their respective plans to implement various forms of court consolidation in Districts 1, 2, 3, and 4. The major change in planning seems to be the eventual elimination of commissioners (quasi judicial officers of the court) in the overall consolidation plan.

I believe that any attempt by the Administrative Office of the Courts to move the effective date of court consolidation up from July 1, 1996, to July 1, 1995, will not be successful in the legislature. Many legislators are concerned enough about the implications of the *Ohms* deci-

sion that they are taking a more careful look at the overall concept of court consolidation.

Similarly, although some lawyers and even a few judges have pronounced court consolidation dead after the *Ohms* decision, I do not see any great impetus in the legislature to repeal the original legislation (House Bill 436) as it applies to Districts 1, 2, 3, and 4 along the Wasatch front.

2. Alternative Dispute Resolution (ADR) is alive and well in Utah and indeed throughout the nation. I would encourage our membership to become informed and to get involved in the various opportunities that present themselves with regard to ADR.

At a recent seminar which I attended, both plaintiffs' lawyers and defense lawyers extolled the benefits of mediation and arbitration in settling small (\$25,000.00 and under) personal injury cases. ADR is rapidly becoming more popular as a tool to facilitate resolution of contract cases, other forms of general civil litigation, and even divorce and custody disputes.

We will all have an opportunity to experience ADR effective January 1, 1995, as the provisions of § 78-31b-1 et seq. of the Utah Code Annotated are implemented on a pilot program basis in the Third and Fifth Districts. Everyone should become acquainted with the rules that are being proposed by the Judicial Council to govern the

implementation of ADR in the third and fifth districts. Those rules have recently been distributed for comment and are available for review at the Administrative Office of the Courts if you have not already seen a copy. I believe the rules will allow either party to "opt out" of participation in ADR.

I would encourage anyone who is interested in learning about how to become a mediator or arbitrator in the Third or Fifth Districts to contact Diane Hamilton at the Administrative Office of the Courts, 578-3800 extension 39484, for information on how to apply.

3. The Utah Family Court Task Force has recently completed its final report to the Utah Judicial Council. That report will be presented to the Judicial Council on December 16, 1994, by Task Force Chair, James B. Lee. The report contains numerous detailed recommendations and discusses the rationale for those recommendations. The major highlights are as follows:

a. The formation of a family court department within the district court.

b. The consolidation to that department of all cases now heard in the juvenile court and all domestic cases including post-divorce modifications, custody, as well as a few probate cases



which are now heard in the district court.

c. The consolidation of juvenile court judges and juvenile court resources into the family law department within the district court.

d. The appointment of additional judges to the family court department or the general department of the district court directly by the Governor without any rotation or reassignment.

e. The goal of the family court department is to provide more and better information to the judges and the parties to enable the parties to negotiate the court system with greater ease and to insure the timely delivery of services to the parties as ordered by the court.

The Family Law Task Force and the Board of Bar Commissioners has also addressed the question of the impact of a family court upon judges being appointed to vacancies that are occurring between now and the effective date of any implementing legislation. The Task Force and the Board of Bar Commissioners has recommended that lawyers applying for judicial vacancies between now and the effective date of implementing legislation, be notified in writing that if a family court department is formed, they will need to be prepared to accept an assignment to that department of the district court.

It is not anticipated that any proposed legislation to implement the family court department will be presented to the legislature until after court consolidation has been completed. It is still uncertain as to how the consolidation of the juvenile court into a family court department within the district court will interface with the concept of court consolidation. Furthermore,

the fiscal impact of hiring additional judges and personnel to staff a family court could be significant. Domestic relations cases constitute 45-55% of all present filings in the district court statewide. If those cases are placed into a family court department, it may be necessary to either transfer existing district court judges to that department or hire upwards of 20 additional family court judges and staff.

While most members of the Family Law Task Force (including myself) felt that there was a need to consolidate services that are available to the juvenile court with services that are available in the district court, many lawyers believe that the consolidation of those services will only hinder the already difficult and time-consuming process of obtaining a divorce and will not help insure timely relief from the emotional stresses and economic strains of the divorce process.

4. I anticipate that there will be legislation offered in the 1995 General Session which will propose adding two new district judges in the Fourth District and an additional juvenile court judge in the Fifth District and an additional judge on the Court of Appeals. These proposed new judicial positions will accommodate existing needs within the system.

It is also being proposed that the 12 present court commissioners slots be reduced to 6 and that the other 6 commissioner positions be converted to district court judge positions. These positions will go through a standard application, nomination, and appointment process in the same fashion as any other district court judge position. The remaining 6 commissioners in the Second and Third Districts will hear only domestic relations matters.

5. There is also a proposal to equalize the salaries of the remaining circuit court judges with the district court judges. The Administrative Office of the Court believes that this will ease some of the pressure to move up the effective date of court consolidation from July of 1996 to July of 1995. Some circuit court judges are presently hearing some district court matters by assignment. The AOC desires to equalize those salary considerations.

6. As one final thought, I believe that we all need to become more informed and more involved in the overall political processes. The number of lawyer members of the Utah State Legislature is nearing an all-time low. Of those legislators who are currently members of the Bar, only two or three of them are actively practicing in the courtroom on a day to day basis. As a Bar Association, we should encourage our membership to become more actively involved in the political processes and to consider running for public office. Many of the issues I have discussed in this article have a direct affect on the practice of law and I have not even touched on matters that relate to tort reform, medical malpractice, sales tax on attorney's fees, and other issues which greatly impact the practice of law. The Bar Commission would strongly encourage any of you who may be interested to become politically informed and to take a more active role in legislative issues that directly impact the practice of law.

## **Fabian & Clendenin is pleased to introduce three new members of our Salt Lake City office.**

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Jenkins, former assistant vice-president in the Legal Department at PacifiCorp (Utah Power), brings an extensive background in environmental, public utility, real estate and general corporate law to the firm.

### **James F. Wood, associate**

Wood works in the areas of employment law, corporate and tax law and commercial litigation.

### **Robert A. Garda Jr., associate**

A recent graduate of Duke University School of Law, Garda will practice in the areas of school law, small business law and general litigation.

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# How to Win Reporters and Influence the Media

By Marnie Funk

In the movie "Sneakers," Ben Kingsley's character, Cosmo, aptly described the '90s, and perhaps the decades beyond, when he said, "There's a war out there. A world war. And it's not about who's got the most bullets. It's about who controls the information. What we see and hear. How we work. What we think. It's all about the information."

Who tells the public what and how quickly it's told — in short, who controls the information — impacts the way all of us do business. It certainly impacts the way lawyers do business. Months before a jury was picked, the O.J. Simpson murder case became a power struggle over public opinion. When each side's team of lawyers weren't reacting to publicity, they were trying to figure out how to control it.

The case itself is an anomaly that won't likely be repeated here. But the massive assault on public opinion by attorneys on both sides underscores a change that has crept through the legal profession for years, so slowly that it takes an O.J. Simpson to make us see it. The change is this: Clients, government bosses and even the public increasingly judge a lawyer by his ability to win in the court of public opinion as well as in a court of law. "In today's world, clients are as concerned about the public's perception of them and their public victories as they are about their courtroom victories," says media attorney Randy Dryer. "A company can win in court but lose in the court of public opinion." "In high profile cases that involve the public interest, you can't ignore the fact that it's a public battleground you are fighting on and public opinion does matter," said media attorney Jeff Hunt.

In a January, 1993 article for "The Champion," the magazine of the *National Association of Criminal Defense Lawyers*, Robert Shapiro put it this way, "The lawyer's role as spokesperson may be equally important to the outcome of a case as the skills of an advocate in the courtroom."



*MARNIE FUNK is a reporter for the Deseret News. She has spent three years covering state and federal courts for the paper. During that time, she has been yelled at by some of the most prominent attorneys and judges in town. This, she figured, qualified her to write this article.*

In short, whether he wants to be or not, a trial lawyer is often judged by his ability to impact — cynics might say "control" or "manipulate" — the information the public gets about a case.

This article is about doing that well. More fundamentally, it is about the relationship between lawyers and reporters. Because you can't do the first without having the second.

When the relationship works well, the reporter gets the information he needs for an accurate, interesting story and the attorney puts his client's cause in the best light, effectively and ethically. Beyond that, word gets out that such attorneys win with the ultimate jury, the public.

When the relationship works badly, attorneys are hostile, reporters are exasperated and stories are rife with "no comment" — a response Shapiro calls "the least appropriate and least productive." No one wins.

A good relationship with the media is really about people skills. Get to know your reporters. Establish a rapport. Lay down your ground rules. Find out what a reporter's rules are. If you decide to speak off record, make sure you are both on the same page about what words like "off the record" and "background only" means to each of you.

"Getting to know reporters is like getting to know judges. You learn which approach will be most effective with that particular person," says Jim Jardine.

"I know who I can trust just from prior dealings," says deputy Salt Lake County Attorney Greg Skordas. "I have a hard time with a reporter the very first time. But if I read my quote the next day and it's what I said, I'll talk to the guy again."

"You have to know who you are dealing with," concurred defense attorney Ed Brass. "I treat a reporter I trust completely differently from a reporter I don't know at all. I don't think I would tell a reporter I don't know anything."

A rapport forestalls problems. Attorneys rarely complain of problems with a reporter they've taken the time to get to know. Usually when they have trouble with reporters they don't know it stems from miscommunication.

Establishing a rapport has a pay-off for the attorneys, too. Reporters sometimes alert an attorney they know to a story they are working a day or two before they actually call for an official comment.

A reporter might touch base with an attorney he knows to see if a tip is as solid as it seems, get leads and input from the attorney on how to pursue the story. A savvy lawyer knows that 9/10s of his power to influence the information lies in those background discussions with reporters he knows.

The rapport business isn't hard. Brass does it as well as anyone. His advice: "It doesn't even have to be something social. It's just making small talk around court."

Reporters will usually do the "getting to know you" business for you if you let them. First, because our need to be liked is second only to our need for attention. Second, because a reporter is told from his first journalism class that he is only as good as his sources. We need lots of them.

Reality check: The acquaintance process is ongoing. Reporters' assignments change often. You may also find that a reporter you got to know in one court doesn't cover another court where your current case is. If you are in court often, you may be getting acquainted with new reporters frequently.

Let's assume you've built the rapport. You get a phone call from a reporter you know. She wants a comment on a lawsuit or criminal charges filed against your client.

For attorneys, those are the toughest calls to get. Reporters will tell you these are the calls attorneys mishandle the most often. Lawyers are often caught by surprise. Unprepared, they pass up their prime opportunity to make a favorable impact on the public for their clients.

First impressions are indeed lasting. Particularly when those "first impressions" run on the front page of the paper or at the first of a newscast.

Reports of lawsuits and arrests often run bigger and longer than reports of jury verdicts and acquittals. Not always. But if you are playing the odds, you should bet on it.

Unlike the prosecutor or the plaintiff's attorney, you can't refer the reporter to the court record, because the only existing court record at this point has nothing good to say about your client.

You could say "no comment," but what's the point? "No comment" is giving away your opportunity to influence the information. It also leaves the public with the perception that you have something to hide.

All six attorneys interviewed for this story discouraged the use of "No comment."

---

*"You could say 'no comment',  
but what's the point?"*

---

"At least explain why it is that you can't make any comment. That goes a long way toward letting the reporter know that you aren't just blowing him off and letting the public know that there is some justification for your refusal to talk," Hunt said.

Many attorneys have discovered, to their dismay, that just because they don't want to talk doesn't mean opposing counsel won't. I've taken several calls from lawyers who declined a comment, opened the paper that afternoon and discovered that opposing counsel had lots to say.

The silent attorney is always calling to say he is unhappy with the story.

The attorneys who handle these moments best, do it this way. They find out when the deadline is. It may be several hours away. It may be 10 minutes. If there is any kind of leeway at all with a deadline, a lot of attorneys ask for a little time.

They take the time to confer with clients and other attorneys, jot down a few ideas, gather their thoughts and take a few deep breaths.

When they call back, they have found one or two things they can say that put their client in a positive light without violating ethics or sensibilities.

Shapiro says he often says only that he has been recently retained, many of the facts are in dispute and the defense is conducting its own intensive investigation. In essence, he doesn't say anything the public couldn't deduce on its own.

That's fine. At least he's seizing the newsprint and the air time to counter the negative implications of a criminal charge or a lawsuit the best way he can.

The attorneys quoted most fully typically speak slowly, clearly and always, always in layman's terms.

"When I talk to a reporter, I don't think of it as talking to the reporter," Jardine said. "I think of it as talking to the people who will be reading the story. It's like talking to the jury: the simpler the message, the better. You need to explain your case as clearly, plainly and directly as possible. Legalisms are often a barrier to those objectives."

It's OK to write out what you want to say, then read the statement, but beware of legalese. Attorneys used to writing court briefs often draft unwieldy statements the reporter is forced to paraphrase. When that happens, you don't have as much impact on the information as if you had been quoted directly. So keep it simple.

"The more a reporter has to edit, the less happy you will be with the story. Keep it short," Dryer advised.

If you are hearing from a reporter for the first time on a case, explain the case to them, Jardine suggested. Giving a reporter a thorough background slashes errors. He takes the time for explanations even when he's under the pressure of an imminent trial, he said.

"I usually give reporters copies of pleadings that will help them understand a case. That saves them the time it takes to go down and get their own copies," Jardine said.

Reporters are always grateful for background and for relevant briefs, especially if a reporter is coming in midway through a complicated case.

When speaking for attribution, speak slowly. The faster you speak, the greater the danger of being misunderstood.

After the interview, ask a reporter to call you back and read you the quotes he has attributed to you in the story, Dryer advised. "Some will say 'no,' some will say 'yes,' but I think it's always a good practice to ask," he said.

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If you are dealing with television, the first media contact may seem more terrifying. It's not a reporter on the phone. It's a camera in your face. But the same rules apply: think before you speak, be clear, get to the point, stay calm.

Paul Murphy, court reporter for KTVX, covers courts consistently and aggressively. He is usually the first TV reporter lawyers get to know.

Lawyers and their clients often look bad on TV because they are afraid of it, he said. "Don't run, duck the camera or cover your face. We'll just end up using the mug shots, which look about as good as a driver's license photo."

In the public's mind, mug shots also carry a presumption of guilt that a dignified court exit doesn't.

"Give the client a chance to briefly explain his innocence or his defense," Murphy said. "Prioritize your thoughts. Be tight and concise."

Talking briefly to reporters humanizes your client. He ceases to be the anonymous monster described in the criminal charges and, instead, a man with his own story to tell.

Never, never lie, Murphy advised. "The lie will be on videotape and it will come back to haunt you."

Brass agreed. His first rule is always tell the truth, even when you can only tell very little of it.

Dryer concurred. "Being honest sometimes means 'I can't tell you and here's why.' It doesn't mean you've got to spill your guts. It just means you tell what you can tell and don't play games."

If you think a story is inaccurate or unfair to your client, tell the reporter. Few things frustrate a reporter more than hearing through the grape vine that someone is unhappy with the story. We aren't fragile. We couldn't stay in this business if we were. We can handle calls from unhappy sources. We welcome them. If we've got a story wrong, we want to know that before we make a similar mistake in the next story.

As a case progresses, you should feel comfortable about alerting reporters to important court dates or telling them when you've filed an important brief. Other attorneys are doing the same. Even if reporters already know of hearing dates, they usually welcome your calls.

When attorneys are consistently frustrated with reporters, it often stems from a

misunderstanding about the different ways the two professions use language.

"Attorneys are taught to be precise. Reporters are taught to be concise," said John Ward, a former reporter who owns his own public relations company and is often called in to fix a media relationship gone afoul.

Lawyers complain because the exacting, lengthy explanation they gave a reporter shows up in the news in a shorter, briefer and less exact form, he said.

"Attorneys sometimes have to remember that an entire news story is often shorter than an introduction to a legal complaint," Ward said. If attorneys can't boil down their core message "they leave it to chance that their point is going to show up the way they want it to."

Because lawyers are more worried about being precise, they don't understand reporters' need to be interesting, Dryer said. "Journalists must write in an interesting, lively style that will grab a reader's interest and hold it," he said. Attorneys who don't understand that sometimes feel like they've been wronged when an intricate, specialized argument is described by a reporter in a more lively style.

Attorneys and reporters can ease much of the tension between the two professions if they understand that their inherent roles and audiences are different," Dryer said. Beyond that, "Communicate!" he said.

Lawyers often feel frustrated by the immediacy of the media, said Rob Rice, who has worked both sides of the fence. He is a former *Deseret News* reporter, a former KTVX reporter and an attorney at Ray, Quinney & Nebeker.

"Lawyers deal in time frames that are months and years long and spend an infinite amount of time crafting an argument or even making a point in a footnote. Reporters, on the other hand, deal with deadlines that come in minutes and hours and don't give a damn about the brilliant point made in the footnote that a lawyer has invested so much time, thought and pride into."

"Lawyers and reporters have different interests. The reporter is interested in what's interesting, newsworthy and compelling from a broad public perspective. Whereas lawyers are interested in narrower points of view that have taken them six months to convey in four different briefs to a court. Points of view that a reporter may try to make into six inches on page B-3."

When a relationship goes awry, fix it, Hunt advised. Not for the reporter's sake. For your client's sake. "Sometimes it's difficult not to lash out at the media if you read some things in the paper that are unfavorable to your client or inaccurate," Hunt said. "Maybe you think the reporter has a grudge. I run into that. But I think the wrong thing to do is to stonewall that reporter or lash out at him. Because the fact of the matter is that the story will be reported whether you talk to the reporter or not. All you are really doing is preventing your side of the story from being told."

His parting thought: "I don't think you serve your clients best interest by fueling with people who buy ink by the barrel."

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# Why We Take an Oath

By Wendell K. Smith

Assistant Disciplinary Counsel, Utah State Bar

Perhaps it is appropriate that each of us consider why we took an oath when we became attorneys, review the oath currently being administered to new members of the Bar, and reaffirm our commitment to abide by its terms and conditions.

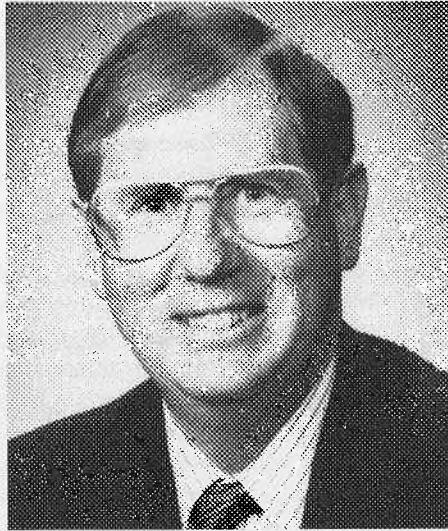
The dictionary defines an oath as a formal declaration or promise to fulfill a pledge. Following is an examination of the Utah attorney's oath and a review of what it was we pledged to do as attorneys when we were admitted to the Bar.

## I DO SOLEMNLY SWEAR

Let's first look at the significance of these words that are the preamble to the substance of the oath. Solemn means deeply earnest, serious, grave, of impressive and serious nature, and sacred. To swear means to make a solemn declaration or promise, invoking a deity, or some person or thing held sacred, in confirmation of the honesty or truth of such a declaration.

## I WILL SUPPORT, OBEY, AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS STATE

Our profession, perhaps more so than any other, is perceived as the foundation that supports the rule of law upon which this country was founded. Lawyers are expected to abide by, support and uphold the laws of the land and, thereby, the State and Federal Constitutions. What is the consequence to society of the guardians of the law and the constitution fail to abide by the principles they have sworn to uphold and defend? Shakespeare, in *Henry VI*, part II, said that if we want anarchy, "the first thing we do, let's kill all the lawyers." Is not the effect the same if lawyers cease to fulfill their proper role in society? Perhaps it is appropriate to examine our conduct and ask ourselves what kind of a message we are sending, and



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whether we are fulfilling our proper role. Will the pattern of conduct in which we now engage enhance the profession and inspire confidence in the law and the judicial system or it is inconsistent with our place and function in society? Will it foster disdain for lawyers, the law, and the legal system, or will it uplift and support the profession and the legal system?

## I WILL DISCHARGE THE DUTIES OF ATTORNEY AND COUNSELOR AT LAW AS AN OFFICER OF THE COURTS OF THIS STATE WITH HONESTY AND FIDELITY

The duties of an attorney are set out in Rule 21 of the Rules for Integration and Management of the Utah State Bar. They include the duty to:

- a. support the constitution and the laws of the United States and of this State;
- b. maintain the respect due the courts of justice and the judicial officers;
- c. counsel or maintain no action, proceeding or defense other than which appears legal and just excepting the defense of a person charged with a public offense;
- d. employ for the purposes of maintaining the causes confided to him or her such means only as are consistent with trust, and never to seek or mislead the judges by any artifice or false statement of fact or law;
- e. abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or a witness, unless required by the justice of the cause with which the attorney is charged;
- f. not to encourage either the commencement or continuance of an action or proceeding from any corrupt motive of passion or interest;
- g. never to reject for any consideration personal to the attorney the cause of the defenseless or the oppressed; and
- h. to comply with the Rules of Professional Conduct of the Utah State Bar.

The duty of an officer of the Court includes the duties of, an attorney. It also includes those duties to the court set forth in Rule 3.3 of the Rules of Professional Conduct. The American Bar Association Annotated Model Rules, and the Utah Supreme Court have cited the case of *In re Integration of Nebraska State Bar Ass'n*, 2785 N.W.2d 265, 268, (1937) in describing the duties of Attorneys in their relationship to the courts. (*In re: Integration and Governance of the Utah State Bar*, 632 P.2d 845 (Utah 1981). The



Nebraska Supreme Court stated:

Attorneys are officers of the court . . . They are in effect an important part of the judicial system of this state. They are, in effect, an important part of the judicial system of this State. It is their duty honestly and ably to aid the courts in securing an efficient administration of justice.

The Nebraska Supreme Court also said:

An attorney owes his first duty to the court. He assumed his obligations toward it before he ever had a client. His oath requires him to be absolutely honest even though his client's interests may seem to require a contrary course. The [lawyer] cannot serve two masters and the one [he has] undertaken to serve primarily is the court.

Id. at p. 268.

The Utah Supreme Court has also noted the distinction between our duty as an attorney and our duty as an officer of the court. An attorney, as an officer of the court, has a public duty, as opposed to the attorney's private duty when representing a client; see *Clark v. Booth*, 821 P.2d 1146 (Utah 1991). The Supreme Court of Utah noted in *Terry's Sales, Inc. v. Vanver Veur*, 618 P.2d 29 (Utah 1980) that, inasmuch as an attorney is an officer of the court, the court can place special reliance upon the attorney's integrity and responsibility to the same extent as can the client.

Honesty and Fidelity are words we use often in our profession. Have we come to repeat them without pausing to consider their full meaning? Honest or honesty, according to the dictionary, means not lying, cheating, stealing, or taking unfair advantage; honorable, truthful, trustworthy; lack of deception or fraud; respectable, and decent. Fidelity means faithfulness to obligations, duties, loyalty, the unfailing fulfillment of one's duties and obligations and the keeping of one's word or vows.

#### **I WILL STRICTLY OBSERVE THE RULES OF PROFESSIONAL CONDUCT**

Strictly means precise, accurate, exact, enforced or maintained rigorously, stringent, and rigidly conforming. This means you took an oath to abide by these Rules without deviation or compromise. The

Preamble to the Rules of Professional Conduct sets forth not only the duty expected of each attorney regarding adherence to the Rules, but also explains the rationale and consequence to the profession if the Rules are not followed. The Preamble states in part:

The legal profession is largely self governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts. The legal profession's relative autonomy carries with it special responsibilities of self-government. *The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the Bar.* [Emphasis added].

---

*"The Utah Supreme Court has  
[distinguished] our duty as an  
attorney and our duty as an  
officer of the Court."*

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Earlier, I discussed the importance of lawyers understanding their role in the preservation of society. The Preamble speaks to this duty when it states:

Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of the their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.

The Attorney's Oath is the yardstick by which we should measure whether we are properly discharging our duties as attorneys and officers of the court.

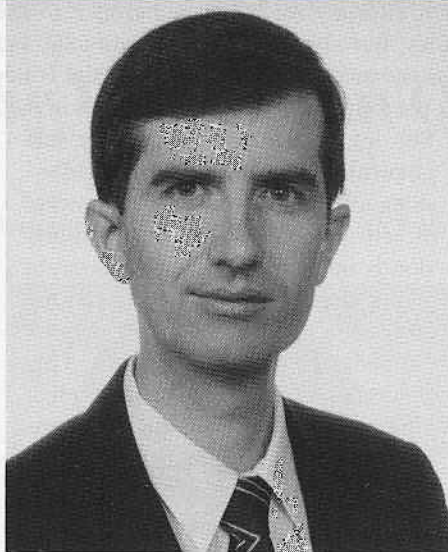
#### **WHY WE TAKE AN OATH**

The Supreme Court of the United States in the case of *Theard v. United States*, 354 U.S. 278, 281 (1956) citing Mr. Justice Cardozo stated that "Membership in the bar is a privilege burdened with conditions . . . The Appellant was received into that ancient fellowship for something more than private gain. He became an officer of the court and, like the court itself, an instrument or agency to advance the ends of justice." It is obvious from the foregoing that the practice of law is not just another service industry, it involves the public trust, the preservation of society, and the administration of justice. That is why we took this oath.

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# How Document Assembly Will Benefit Your Law Practice

By Mark J. Morrise

**D**ocument assembly is a computerized method of streamlining document preparation. It makes document drafting easier and faster by reducing cutting, pasting, editing, and proofreading. It also improves service to clients and increases profitability. Because of these benefits, and because document assembly software has become more affordable, document assembly merits a closer look.

### WHAT DOCUMENT ASSEMBLY DOES

Document assembly is to manual document preparation what word processing is to typing. To understand what it does, think of how you typically draft a contract. You probably start with a similar contract created previously for another client, a model document saved in your form files, or a form from a form book. You delete inapplicable provisions and add new ones, cutting and pasting them from other model documents or forms or drafting them from scratch. You insert the names of the parties and other relevant information and edit the text to be internally consistent. Whether you do this by dictating, marking up drafts, or revising the document on the computer, this process is slow and usually

*MARK J. MORRISSE is a lawyer with Corbridge Baird & Christensen in Salt Lake City. His areas of practice include estate planning and commercial law. He also does document assembly consulting. His experience with document assembly began in 1980, when he worked on the CAPS (Computer Assisted Practice Systems) project at the J. Reuben Clark Law School at Brigham Young University.*

requires several drafts.

Document assembly harnesses the computer in this process. Initially, a standard, fill-in-the-blank version of the contract and the various optional and alternate clauses that might be needed are combined into a document assembly *system* (sometimes called a *template*). The system also contains instructions to the computer regarding the blanks, the optional clauses, and other variable text.

When you use the system, it displays a series of questions. Some questions ask for client information, and others ask for legal decisions regarding the alternate or optional clauses that should be included:

For example, a trust agreement system might ask:

What are names of the grantors and

trustees?

What are the names and ages of the grantors' children?

Is there a common trust fund or a separate trust for each child?

Can the children withdraw principal on reaching a certain age or in installments on reaching different ages?

Will the children have general, special, or no power of appointment at death?

Should you prefer not to use a computer, you can fill out a document questionnaire and have your secretary enter your answers into the system.

Based on your answers and its internal instructions, the system automatically:

- Inserts the appropriate alternate and optional clauses into the document.
- Fills in the blanks.
- Adjusts pronouns, nouns, verbs, and other text. For example, the system chooses the proper pronoun gender and number ("he"/"she"/"they"), adds the plural ("grantor" to "grantors"), and changes verbs to agree with their subjects ("grantor has" to "grantors have").
- Generates or assembles a first draft of the document, which can be revised and fine-tuned using your word processor.

Lawyers are familiar with manual prac-



tice systems, such as the Utah Probate System, which contain fill-in-the-blank forms linked to a master information list.<sup>2</sup> Lawyers also save forms or master documents on their computer disk or network. These approaches are valuable because they improve efficiency and make forms more accessible. The advantage of document assembly over these approaches is its ability to automatically select and organize parts of a document from its store of document clauses. Another advantage is that each piece of information (such as the client's name) is only entered once. The system automatically inserts the information throughout the document or documents to be created.

Many lawyers have automated their forms to some extent using the merge or macro features of their word processor. These features work well for basic document assembly tasks (such as filling in the blanks) but may be difficult or impractical to use for advanced tasks (such as selecting clauses or adjusting pronouns, verbs, etc.).

A more capable, better-suited tool for automating documents is document

assembly software (sometimes called a document *engine*).<sup>3</sup> This software can automate simple documents (such as promissory notes or wills), complex documents (such as commercial loan agreements, stock purchase agreements, or sophisticated trusts), groups of interrelated documents (such as incorporation documents, estate plans, or trust deed foreclosures), or an entire practice area.<sup>4</sup> The engine does not, of course, create the system on its own: the lawyer or someone working under the lawyer's direction must input the forms, identify the blanks, decide what optional or alternate clauses to add, insert the instructions to the computer, etc.

In my practice, I have created and use document assembly systems to prepare promissory notes, warranty deeds, incorporations, mechanics liens, probate filings, estate plans, and other documents. I have also helped other lawyers to develop their own document assembly systems.

An alternative or supplement to creating and maintaining your own document assembly systems is to purchase off-the-shelf (pre-built) systems or templates. These are

available in many practice areas, such as bankruptcy, debt collection, employee benefits, estate planning, family law, personal injury, and real estate.<sup>5</sup> Such systems may or may not allow you to modify the system's standard document text or internal logic.

Although they are aware of document assembly, some lawyers do not see the need for it. They say, "My tried-and-true drafting methods work OK. Why should I change?" (Or, "If it ain't broke, don't fix it.")

Document assembly offers three major benefits that I believe justify changing from traditional methods.

#### **BENEFIT NO. 1: EASIER, FASTER DOCUMENT PREPARATION**

Document assembly quickly generates a first draft that is more complete and accurate than a draft prepared manually. Less editing and proofreading and fewer subsequent drafts are required to put the document into final form.

A document assembly system acts like an automated checklist, prompting the lawyer to think of relevant issues or docu-

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ment provisions that otherwise might be missed in the first draft. This is especially helpful in meeting rush deadlines, when time pressures make it easy to overlook important document provisions. Document assembly also prevents misspelled words, incorrect pronouns, and other document errors because of the way it automatically fills in the blanks, adjusts gender, number, and case of verbs, and handles other routine drafting tasks.

A well-designed document assembly system reduces or eliminates cumbersome cutting and pasting. As mentioned, the system can automatically select and insert appropriate provisions based on the legal decisions and other relevant information the lawyer provides. For example, a will system might automatically include a guardianship provision if the testator has minor children. Or, the system can present optional and alternative provisions in a menu for the lawyer to choose from.

Documents generated by document

assembly can be reviewed much more quickly. If client-specific information, such as the client's name, is correct the first time it appears in the document, it will be correct throughout the document.

*"Many lawyers have automated their forms to some extent . . ."*

The foregoing features dramatically speed up document preparation. Lawyers who use document assembly estimate their document preparation time is reduced by 50% to 90%.<sup>6</sup> By using document assembly, I find that I am able to spend less time checking minor details and more time reviewing document content. Other lawyers have commented that document assembly frees them to think more creatively and to

focus more on critical, substantive tasks.<sup>7</sup>

Document assembly also improves efficiency and quality of document preparation by:

- Guiding the person using the system through the steps needed to create the document. This allows the lawyer to delegate more of the initial drafting to staff or associates. Also, if a secretary is on vacation or takes time off, a substitute secretary can quickly learn to create the document.
- Simplifying maintenance of the lawyer's master documents or forms. With document assembly, there is no need to maintain multiple versions of the same master form.
- Helping younger lawyers to learn a practice area and thus become productive in it much sooner.<sup>8</sup>

#### **BENEFIT NO. 2: IMPROVED CLIENT SERVICE**

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major benefit of document assembly is that it improves service to clients, resulting in greater client satisfaction and loyalty.

Document assembly permits faster document turnaround. Clients often judge the quality of legal service by how responsive it is. The speed with which documents are delivered can sometimes mean the difference between keeping and losing a client.

For example, one law firm that built a real estate conveyancing system was able to cut its document turnaround time from four days to one day. Its banking clients were so impressed that they took most of their conveyancing work away from competing firms and gave it to the automated firm. As a result, the automated firm increased its real estate department operations from a practice sideline to a major source of income.<sup>9</sup>

Another improvement is greater ability to control costs. Because it speeds up document preparation, document assembly reduces a firm's internal cost of preparing a document. This allows the firm to offer higher levels of service without increasing the cost to the client or sacrificing profitability.

One firm that implemented a litigation system was able to handle an increased volume of cases and provide better reporting without increasing its billing rates. As a result of these improvements, the firm was able to retain all the work of an institutional client that had considered distributing its business among several firms. It also succeeded in attracting several new clients. The billings from that department increased six-fold over a four year period.<sup>10</sup>

### **BENEFIT NO. 3: INCREASED PROFITABILITY**

The third major benefit of document assembly is increased profitability. Because document assembly reduces the time spent in document preparation, a lawyer who uses document assembly will obviously make less money by continuing to bill by the hour. The key to profiting from document assembly is to charge a fixed or flat fee that is based on the value of the service provided, not the time spent. Lawyers who have taken this step have doubled or tripled their effective hourly billing rate.<sup>11</sup>

For example, California lawyer F. Bentley Mooney, Jr. used to spend nine

hours to prepare an estate plan: two and a half hours meeting with the client and six and a half hours doing tax calculations and preparing the documents. At that time, he charged \$900 for an estate plan, at \$100 per hour. By implementing an estate planning system, Mr. Mooney reduced his time to do tax calculations and document preparation to one-half hour. By continuing to charge \$900, he tripled his effective hourly rate, from \$100 to \$300.<sup>12</sup>

Document assembly gives lawyers the ability to use fixed fees in practice areas where they previously did not feel they could.<sup>13</sup> The increased profit margin allows them to charge less for document preparation and yet make more profit than lawyers who are not automated.<sup>14</sup>

---

*"Now these software programs  
are more affordable."*

---

Document assembly also increase profitability by:

- Making lawyers and their assistants who use it more productive.<sup>15</sup>
- Helping the firm attract new clients and additional work, and thus increase its gross billings.
- Making it possible to handle increased workload without hiring more staff.

### **RECENT ADVANCES IN DOCUMENT ASSEMBLY**

When document assembly engines first became available, they cost several thousand dollars. Now these software programs are more affordable. For example, Utah-based Capsoft Development Corporation (801/763-3900), a document assembly pioneer, recently introduced two document assembly engines priced under \$150: **Caps Personal** for DOS and **HotDocs**, an intuitive program that runs under Windows.

Other affordable document assembly engines, all priced under \$500, include the following:

**FastDraft** by Interactive Professional Software (800/569-2248)

**First Draft** by First Draft Legal Systems (800/323-2991)

**PowerTXT** for Windows by Intercon Associates, Inc. (800/422-3880)

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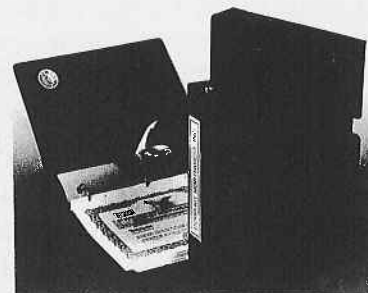
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The availability of reasonably priced document assembly software means that individual lawyers can purchase such software to solve only one problem or to simply experiment with it. The software will pay for itself with just one successful application.

The development of a document assembly system may require a firm to invest a considerable amount of non-billable time. One way to overcome this obstacle is to automate documents in stages: first, filling in the blanks; second, clause selection; third, pronoun, noun, and verb adjustment. At each stage, the automated document is usable and is an improvement over the previous stage. This incremental approach spreads out development time and allows system development to become part of the daily routine of document creation.

The lawyer does not, of course, have to build the entire system alone. Another person, such as a paralegal or a document assembly consultant, can handle much of the system building. But the lawyer must be closely involved in designing and reviewing the system to ensure the system's legal accuracy and sufficiency. When it is completed, the system will embody in electronic form the lawyer's expertise regarding the document or practice area being automated.

Under the right conditions, system development time is recovered through increased profits.<sup>16</sup> Ultimately, a document assembly system should be viewed as a capital investment, and its value measured using a traditional return-on-investment analysis.<sup>17</sup>

### CONCLUSION

The tools for streamlining document preparation, improving client service, and increasing profitability are available and affordable. Lawyers and firms that use these tools and invest in document assembly systems will reap the benefits.

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<sup>1</sup>These questions are taken from D. Evans, "Automated Will and Trust Drafting," *Probate & Property* 34 (January/February 1991).

<sup>2</sup>See generally R. Ramos, *How to Create-A-System for the Law Office* (American Bar Association 1975).

<sup>3</sup>See generally A. Lipson, "Evaluating the Document Assemblers," *Law Office Computing* 61 (Fall 1991); J. Kashi & L. Pattinson, "An Overview of Document Assembly: Part One,"

*Law Office Computing* 66 (April/May 1993); and J. Kashi & L. Pattinson, "An Overview of Document Assembly: Part Two," *Law Office Computing* 58 (June/July 1993).

<sup>4</sup>See C. Pear, Jr., "Who Is Using Document Assembly Today? Your Competitors," *Law Practice Management* 24 (November/December 1993).

<sup>5</sup>A representative list of such systems appears in the ABA Journal's Annual Legal Software Directory (published in the April issue of the ABA Journal) and in the ABA Journal's Annual Buyer's Guide (published separately).

<sup>6</sup>See J. Klemens, "Keening a Competitive Edge," *ABA Journal* 114, 115 (November 1988) (50% reduction); J. Copen, "Assembling with Ease," *ABA Journal* 72 (July 1991) (67% reduction); J. Jackyl, "Pioneers No More," *California Lawyer* 77 (February 1994) (83% reduction); F. Mooney, Jr., "How to Triple Your Effective Hourly Billing Rate," *Legal Economics* 32, 33 (October 1989) (92% reduction). See also C. Jones, "Building and Using Practice Systems," *Law Practice Management* 18, 20 (November/December 1990) (document assembly consultant estimates 75% reduction).

<sup>7</sup>"How to Triple Your Effective Hourly Billing Rate," *supra* note 6, at 36; "Keening a Competitive Edge," *supra* note 6, at 115.

<sup>8</sup>"Keening a Competitive Edge," *supra* note 6, at 115.

<sup>9</sup>C. Pear, Jr., "Document Assembly - An Electronic Profit Center: Two Case Studies," *Law Practice Management* 22, 23-27 (November/December 1993).

<sup>10</sup>"Document Assembly - An Electronic Profit Center: Two Case Studies," *supra* note 9, at 27-30.

<sup>11</sup>"How to Triple Your Effective Hourly Billing Rate," *supra* note 6, at 33; S. Keava, "Automated Management Solutions," *ABA Journal* 62 (July 1992).

<sup>12</sup>"How to Triple Your Effective Hourly Billing Rate," *supra* note 6, at 32-33.

<sup>13</sup>D. Hartweg, R. Turner, and K. Dennis, "Small Firms Can Afford Automatic Document Generation," *Computer Counsel* 1, 10 (May 1992).

<sup>14</sup>"Automated Management Solutions," *supra* note 11, at 63.

<sup>15</sup>"How to Triple Your Effective Hourly Billing Rate," *supra* note 6, at 35.

<sup>16</sup>For example, suppose it presently takes 10 hours to draft a set of documents; that the average charge for creating the documents (based on billable time) is \$1,000; and that these documents are created 24 times a year. The total annual revenue for the documents is \$24,000. Further suppose that document assembly can reduce the drafting time by 75%. If the firm continues to charge \$1,000 for the documents, the increased revenue per year is 75% of \$24,000, or \$18,000. Assuming an initial system development cost of \$15,000, the increased revenue would have paid for that cost in less than a year.

One law firm that developed three major document assembly systems recovered its development costs from just one of the systems in less than two years. "Small Firms Can Afford Automatic Document Generation," *supra* note 13, at 10.

<sup>17</sup>See R. Robbins, "Automation Should Pay for Itself," *National Law Journal* S1 (July 6, 1992).

## 1995 Mid-Year Meeting Awards

The Board of Bar Commissioners is seeking applications for two new Bar awards to be given for the first time at the 1995 Mid-Year Meeting. These awards honor publicly those whose professionalism, public service and personal dedication have significantly furthered the advancement of women and the advancement of minorities in the law profession or judiciary. Your award application must be submitted in writing to Kaesi Johansen, Convention Coordinator, 645 South 200 East, Suite 310, Salt Lake City, Utah 84111, no later than **Tuesday, January 24, 1995.**

## Discipline Corner

### ADMONITION:

On September 30, 1994, an attorney was Admonished for violating Rules 1.2, (competence), Rule 1.2(a), (scope of representation), and Rule 1.3, (diligence) of the Rules of Professional Conduct. The attorney represented the wife in a divorce proceeding. During the proceedings the attorney failed to give the court vital information regarding income of the husband which the complainant had provided to the attorney. This resulted in a reduction of child support and alimony. During settlement negotiations, the attorney permitted \$4,500.00 in past due alimony to be shown in the Decree as a cash settlement rather than alimony even though the attorney knew the husband was contemplating bankruptcy. Subsequently, the husband declared bankruptcy and discharged the debt.

### PUBLIC REPRIMANDS:

On September 28, 1994, a district court judge entered an order reprimanding Don L. Bybee. The complainant retained Mr. Bybee to file a Chapter 7 bankruptcy petition for her in July 1991. Mr. Bybee did not do so in a timely manner. Between July 1991 and January 1992, complainant repeatedly attempted to contact Mr. Bybee without success. In September 1991, Mr. Bybee sent the complainant a packet of

blank bankruptcy forms and schedules. He did not include an explanation as to what she was supposed to do with those documents. Some of the documents and forms were outdated and inappropriate for her case.

The complainant filed her complaint with the Office of Attorney Discipline on January 15, 1992. Thereafter, on January 24, 1992, Mr. Bybee filed the complainant's bankruptcy petition. The bankruptcy case was concluded without incident.

The district court found that Mr. Bybee's conduct violated Rule 1.1 (competence), Rule 1.3 (diligence), Rule 1.4(a) (communication), and Rule 8.4(d) (conduct prejudicial to the administration of justice) of the Rules of Professional Conduct. In mitigation, the Court found that Mr. Bybee performed work for many low-income clients who otherwise might have limited access or no access to the courts, that the complainant suffered no actual loss, and that complainant ultimately received the full value of services for which she retained Mr. Bybee.

In addition to the reprimand, the Court placed Mr. Bybee on one year's supervised probation, and directed Mr. Bybee to attend that Bar's Ethics School at his own expense.

### SUSPENSIONS

On November 7, 1994, James N. Barber was suspended from the practice of law by the Third Judicial District Court, pursuant to a Discipline by Consent, for violating Rule 1.3, (diligence), Rule 1.4(a), (communication), Rule 8.1(b) and Rule 8.4(c), (dishonest misconduct) of the Rules of Professional Conduct.

The Order of Discipline was entered in four consolidated cases and provides that the suspension is to run concurrently with Mr. Barber's Interim Suspension from the practice of law which was entered on September 24, 1993, pending the appeal of a criminal conviction which is now before the 10th Circuit Court of Appeals.

The Order of Discipline also provides that Mr. Barber shall make restitution to the affected clients as a condition precedent to reinstatement to practice law. The substance of the allegations in these complaints is that Mr. Barber neglected client's cases and accepted fees for which no meaningful legal services were provided. He also misrepresented the status of cases to clients. In one

instance he failed to inform his client that judgment had been entered against the client for failure to comply with discovery. In another instance he failed to inform his client that the case had been dismissed for failure to timely file a notice of claim in a medical malpractice suit. The latter case was mitigated by the fact that no expert witness could be found to support the plaintiff's alleged cause of action.

Gary L. Blatter was placed on Interim Suspension from the practice of law by the Fourth Judicial District Court effective October 21, 1994. This suspension was ordered pending final resolution of a disciplinary action based on Mr. Blatter's felony conviction on May 6, 1993, in the U.S. District Court for the District of Nevada of conspiracy to commit securities fraud in violations of 18 U.S.C. 371.

Mr. Blatter plead guilty to the charge, the substance of which alleges that in furtherance of the conspiracy he recruited persons to serve as figurehead officers of a corporation. Mr. Blatter then prepared, and caused to be filed, a registration statement with the Securities and Exchange Commission wherein he failed to disclose the named officers and directors were merely figureheads, failed to disclose the identity of the true promoters, and falsely stated that the figurehead officers had purchased stock in the corporation when in fact the funds for such stock had been obtained by one of the co-conspirators. The effect of this conspiracy was that it created the illusion that the securities had been purchased by public investors.

### DISBARMENT:

On October 31, 1994, David J. Smith, of Cedar City, Utah was Disbarred from the practice of law by a district judge in the Fifth Judicial District Court for violating DR1-102(A) (3), engaging in illegal conduct involving moral turpitude, and DR1-102(A) (6), engaging in conduct that adversely reflects on fitness to practice law. Mr. Smith was convicted on February 22, 1985 in the State of Wisconsin on one felony count of Theft By Fraud and two felony counts of False Swearing. Thereafter, Mr. Smith was confined to a

*continued on page 28*



## Utah State Bar Approves Ethics Opinions

### ETHICS ADVISORY OPINION NO. 151 APPROVED OCTOBER 28, 1994

*Issue:* Do the Rules of Professional Conduct apply to the conduct of a lawyer who has been appointed by an insurance company as an "independent" appraiser of the property of an insured of the company, where the lawyer also provides legal services for the insurance company on unrelated matters?

*Opinion:* The Rules of Professional Conduct apply to the provision of legal services and do not apply to the provision of non-legal services. If the lawyer makes a written disclosure to the insurance company and to the insured (1) that the lawyer represents the insurance company on unrelated matters; (2) that the lawyer's retention by the insurance company as an "independent" appraiser is not a retention to perform legal services; and (3) that the retention does not create a client-lawyer

relationship governed by the Rules of Professional Conduct and is not protected by the attorney-client privilege, the Rules of Professional Conduct do not apply to the engagement as an appraiser unless the lawyer also performs legal services. If the lawyer fails to make this disclosure, the Rules of Professional Conduct will apply to the extent the insurance company client or the insured are reasonably misled into believing that a lawyer-client relationship had been established between the insurance company and the lawyer for the provision of the appraisal services.

### ETHICS ADVISORY OPINION NO. 125 APPROVED OCTOBER 28, 1994

*Issue:* May an elected county attorney share and rent office space to another attorney who may represent interests adverse to the county?

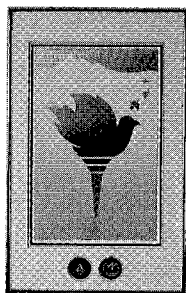
*Opinion:* The Utah Rules of Professional

Conduct do not prohibit one attorney from renting office space to another, provided that the arrangement does not create a conflict of interest prohibited by the Rules, does not jeopardize confidential client information, does not mislead clients about the relationship between the attorneys, and is otherwise consistent with the Rules.

The Board of Bar Commissioners has adopted a policy whereby ethics opinions will be approved, pursuant to the recommendations of the Ethics Advisory Opinion Committee, pending a 60-day comment period following publication in the *Bar Journal*.

The full text of these and other opinions may be obtained from the Utah State Bar, Office of Bar Counsel, 645 South 200 East, Salt Lake City, Utah 84111.

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## Fourth District Court Pilot Project

To Members of the Utah State Bar:

I am pleased to announce that effective Tuesday, January 3, 1995, the Fourth Judicial District will be implementing a pilot project involving an integrated approach to making the record in District Court cases in Provo. Many of you may already be familiar with the various parts of this technology, as they have been in use in other parts of the state, but we will be using an integrated method, which will be new. We welcome your input as this process goes forward.

Using criteria developed by the Court Technology Committee (which included Bench and Bar membership) and adopted by the Fourth District Judges, the case record will be made on either (1) video or audio tape or (2) with a court reporter using computer integrated courtroom (CIC) equipment.

New video tape equipment is now operational in the courtrooms of Judges Boyd Park and Guy Burningham. Audio equipment has been in place in our other courtrooms in Provo for some time. All our courtrooms have been recently wired for CIC capability also. CIC technology, with which you may be familiar, involves

a court reporter utilizing a computer to make a "real-time" record of the case. This record appears instantaneously on computer screens on council tables and the bench. Making the record this way allows attorneys a number of options in marking, reviewing and searching the record.

The adopted plan requires that either an *audio or video* record be made of the following: Criminal arraignments, probate cases, criminal calendars, adoptions, uncontested domestic cases, sentencing, name changes and civil law and motion calendars. There will be a presumption that audio or video equipment will be used in second and third degree felonies and civil cases.

A *CIC* record will be required in all phases of capital murder cases (including habeas proceedings and sentencings) and first degree felonies. Based on the request of the parties, the likelihood of appeal, the judge's discretion and availability of court reporters, CIC equipment may also be used for other matters.

We hope we can count on your cooperation to make this project successful.

Sincerely,  
Boyd L. Park, Presiding Judge

## Alternative Dispute Resolution Videos Available

NOTICE: Effective January 1, 1995, all civil cases not exempted by rule will be referred to the court annexed ADR Program. In order to opt out of this requirement, both counsel and the parties must certify that they have viewed a video prepared by the Judicial Council that explains ADR. Copies of this video will be available in two ways. First, they may be checked out for short periods from the District Court Clerk's Office. Second, they may be purchased from the Administrative Office of the Courts, 230 South 500 East, Suite 300, Salt Lake City, UT 84102, for a cost of \$10 per copy. Questions about the program or the video should be directed to Diane Hamilton, Director of ADR Programs, at the Administrative Office of the Courts, 801-578-3984.

## THE UTAH STATE BAR & THE BANKRUPTCY SECTION OF THE UTAH STATE BAR PRESENT: THE BANKRUPTCY REFORM ACT OF 1994

January 10, 1995

Effective October 24, 1994, The Bankruptcy Reform Act of 1994 makes every bankruptcy filing subject to "new rules." The Utah State Bar and its Bankruptcy Section have scheduled this timely, practical program to bring you up to date on those rules AND recent case law that will have a significant impact on your practice - and its bottom line!

This full-day seminar tells you everything you need to know about the new Act. More importantly, it gives you practical tips on the most effective ways for you and your staff to deal with, and benefit from, the Act and case law decided in 1994.

***Space for this important seminar is limited.*** It has been approved for 7 hours CLE credit, including 1 in ETHICS. **Register TODAY** to ensure that you have the benefit of the best information on this new legislation. For more detailed information on this seminar, please consult the CLE Calendar in the back of this Bar Journal or contact Monica Jergensen, CLE Coordinator, (801) 531-9095.



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## Attorneys Needed to Assist the Elderly Needs of the Elderly Committee Senior Center Legal Clinics

Attorneys are needed to contribute two hours during the next 12 months to assist elderly persons in a legal clinic setting. The clinics provide elderly persons with the opportunity to ask questions about their legal and quasi-legal problems in the familiar and easily accessible surroundings of a Senior Center. Attorneys direct the person to appropriate legal or other services.

The Needs of the Elderly Committee supports the participating attorneys, by among other things, providing information on the various legal and other services available to the elderly. Since the attorney serves primarily a referral function, the attorney need not have a background in elder law. Participating attorneys are not expected to provide continuing legal representation to the elderly persons with whom they meet and are being asked to provide only two hours of time during the next 12 months.

The Needs of the Elderly committee instituted the Senior Center Legal Clinics program to address the elderly's acute need for attorney help in locating available resources for resolving their legal or quasi-legal problems. Without this assistance, the elderly often unnecessarily endure confusion and anxiety over problems which an

attorney could quickly address by simply directing the elderly person to the proper governmental agency or pro bono/ low cost provider of legal services. Attorneys participating in the clinics are able to provide substantial comfort to the elderly, with only a two hour time commitment.

The Committee has conducted a number of these legal clinics during the last several months. Through these clinics, the Committee has obtained the experience to support participating attorneys in helping the elderly. Attorneys participating in these clinics have not needed specialized knowledge in elder law to provide real assistance.

To make these clinics a permanent service of the Bar, participation from individual Bar members is essential. Any attorney interested in participating in this rewarding, yet truly worthwhile, program are encouraged to contact: John J. Borsos or Lisa Christensen, 370 East South Temple, Suite 500, Salt Lake City, Utah 84111, (801) 533-8883; or Joseph T. Dunbeck, Jr., Parsons, Davies, Kinghorn & Peters, 310 South Main Street, Suite 1100, Salt Lake City, Utah 84101, (801) 363-4300.

## Paper Competition

The Utah State Archives announces a paper competition celebrating 100 years of Utah's Constitution. The contest theme is "Utah's Constitution and Your Rights." It is open to Utah students who are currently studying or have studied Utah history. A \$100 United States Savings Bond will be awarded to the best paper at the elementary, middle, high school, and university levels. Winners will also present their papers as part of the Constitution Centennial Symposium to be held Monday, May 8, 1995, at the Salt Lake City and County Building. Co-sponsors of the symposium are the Division of State History and the Special Collection departments of the libraries at the University of Utah and Weber State University. The symposium is made possible by a grant from the Utah

Humanities Council.

There are no minimum or maximum length limits but the paper should adequately cover the student's chosen topic. The submission deadline is Tuesday, February 22, 1995. An entry form must accompany each submission. Entry forms have been sent to each school in the state. Entries must be postmarked by February 22, 1995. Winners will be notified by April 15, 1995.

Additional entry forms or further information may be requested from Wanda Mae Robinson, Chair, Education Subcommittee, Centennial Symposium, Utah State Archives, (801) 538-3012.

## Notice of Election of Bar Commissioners Second and Third Divisions

Pursuant to the Rules of Integration and Management of the Utah State Bar, nominations to the office of Bar Commission are hereby solicited for two members from the Third Division and one member from the Second Division, each to serve a three-year term. To be eligible for the office of Commissioner from a division, the nominee's mailing address must be in that division as shown by the records of the Bar.

Applicants must be nominated by written petition of 10 or more members of the State Bar in good standing and residing in their respective Division. Nominating petitions may be obtained from the Bar office on or after January 2, and completed petitions must be **received no later than**

**February 1.** Ballots will be mailed on or about March 1 with balloting to be completed and ballots received by the Bar office by 5:00 p.m. on March 31.

In order to reduce out-of-pocket costs and encourage candidates, the Bar will provide the following services at no cost:

1) Space for up to a 200-word campaign message plus a photograph in the March issue of the *Bar Journal*. The space may be used for biographical information, platform or other election promotion. Campaign messages for March *Bar Journal* publication are due along with completed petitions, a photograph and short bio sketch **no later than February 1.**

2) A set of mailing labels for candidates who wish to send a personalized letter to the

lawyers in their district.

3) The Bar will insert a one-page letter from the candidates into the ballot mailer. Candidates would be responsible for delivering to the Bar **no later than February 15** enough copies of letters for all attorneys in their district. (Call Bar office for count in your respective district)

If you have any questions concerning this procedure, please contact John C. Baldwin at the Bar Office, 531-9095.

**NOTE:** According to the Rules of Integration and Management, residence is interpreted to be the mailing address according to the Bar's records.

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*For the next several months the BARRISTER will highlight various YLD Attorneys who have contributed significantly to the YLD or who use their legal degree in a unique manner. . .*

## PATRICIA JUDGE-STONE

*By Gretchen C. Lee*

Since moving to Utah in 1990, Patricia Judge-Stone has been an active member of the Young Lawyers Division. As the Ogden Area Representative to the Executive Council of the YLD, she ensures that the attorneys in the Ogden area are adequately represented in the YLD. Patricia also coordinates the Thursday Night Bar

in the Ogden area. As coordinator of the Thursday Night Bar, she recruits attorneys to provide free legal advice to the community. Patricia recognizes a need to expand legal services to the community and hopes to establish programs to assist the elderly as well as the children in the community.

A 1986 law graduate of Loyola Univer-

sity, Chicago, Illinois, Patricia is currently a solo practitioner in Ogden. She is married to Randy Stone and has a fourteen year old son, Kent. Her interests include reading, traveling and spends time with her dog.

## Young Lawyers to Restore Salt Lake County Children's Shelter

*By Marty Olsen*

The Young Lawyers Division of the Utah State Bar, in conjunction with the Office of the Guardian Ad Litem and the Needs of Children Committee of the general bar, are undertaking the restoration of the Salt Lake County Children's Shelter located at 3522 South 700 West. Not only has the shelter fallen into a state of disrepair, but as a result of recent overcrowding at the shelter, the facility is also in desperate need of cribs, beds, bedding, grooming items, and other personal articles for the

children.

The restoration project is scheduled for January 14, 15, and 16, 1995. In order to meet the goals set out for the project, the Young Lawyers Division is soliciting monetary and in-kind donations for the shelter. Further, persons with particular skills in the areas of carpentry, floor covering, wall covering, and painting are needed for the restoration. Most importantly, the success of the project is dependent upon your help on the designated dates.

If you or your firm are interested in donating to or participating in this worthwhile project for children, please contact Marty Olsen at 255-7176.



## One New Year's Resolution You Can Actually Keep

**THE SCENE:** Okay, so it's January and, this year, you've decided you will make — and keep — at least one resolution for the new year. Granted, last year's didn't work out, but what the heck, giving up sugar (or was it alcohol?) was asking a bit too much. You are mortal, after all. But, hey, it's 1995 now. You can give it another go.

**THIS AUTHOR'S PROMISE:** You can keep this resolution. Even better, you can feel good about it. And it's easy.

**THE RESOLUTION** (Repeat after me): I will give the interest on any appropriate trust accounts I maintain to the Utah Bar Foundation, so that they, in turn, can invest it and distribute funds to such groups as Utah Legal Services, Legal Aid, Law-Related Education, Catholic Community Services Immigration Project, Legal Center for People with Disabilities, and

DNA People's Legal Services.

HUH? The money we're talking about here is being held for clients for only a short time period, or it's just a nominal amount to begin with. Either way, your client is not being deprived of any practicable income opportunity. And you certainly can't touch the interest. Of course, you could always put it in a non-interest bearing account, but that's a bit of a waste. Kind of like refusing to have your bagel card punched. Keeping track of that card is a pain, and who needs the extra dozen, anyway? Well, it turns out a lot of folks could benefit from the interest money, money that your account can rightfully earn but which otherwise doesn't do anyone any good.

**YOU SAID IT WAS EASY.** Easier than easy. Right now, call Zoe Brown at the Bar Foundation. 531-9077. Ask her to send you the appropriate form. If you're slow, the

paperwork should take about 35 seconds (the only special information you need is your trust account number). Then just mail it to your bank. Resolution completed.

**WHO ARE YOU, ANYWAY?** The Bar Foundation (no, not the folks who raised your dues). Seven trustees and a director. The whole reason the Bar Foundation exists is to figure out, of the many applications we receive each year, which organizations should benefit from your interest money. (Individually, it's not much, but cumulatively, it's a pile). This is one organization that has no down side. All we do is invest your interest contributions and then distribute the money to worthy organizations. That's it.

**YES!** A guilt free year ahead. What a gift.



*Here is a great example of the Utah Bar Foundation distributing funds to the Utah Community. Stephen Nebeker, Board Trustee, is presenting the final payment of the 1994 grant award to Anne Milne, Executive Director, Utah Legal Services.*

*Photo credit: Robert L. Schmid*



# CLE CALENDAR

## THE BANKRUPTCY REFORM ACT OF 1994

Date: Tuesday, January 10, 1995  
 Place: Utah Law & Justice Center  
 Time: 9:00 a.m. to 4:45 p.m.  
*(Registration at 8:30 a.m.)*  
 Fee: \$135.00 for Bankruptcy section members  
 \$150.00 for non-section members  
 CLE Credit: 7 HOURS, including 1 in ETHICS

## UTAH LEGISLATIVE PREVIEW

Date: Friday, January 13, 1995  
*Please watch your mail for more detailed information on location, time and CLE credit for this seminar.*

## NLCLE WORKSHOP — DOMESTIC RELATIONS

Date: Thursday, January 19, 1995  
 Place: Utah Law & Justice Center  
 Time: 5:30 p.m. to 8:30 p.m.  
 Fee: \$20.00 for members of Young Lawyer Division  
 \$30.00 for all others  
 CLE Credit: 3 HOURS

## ALI-ABA SATELLITE SEMINAR: NEW DEVELOPMENTS IN FEDERAL CIVIL PRACTICE, PROCEDURE & EVIDENCE

Date: Tuesday, January 31, 1995  
 Place: Utah Law & Justice Center  
 Time: 10:00 a.m. to 2:00 p.m.  
 Fee: \$155.00 *(To register call 1-800-CLE-NEWS)*  
 CLE Credit: 4 HOURS

## ALI-ABA SATELLITE SEMINAR: CHOICE OF BUSINESS ENTITY FOR NEW AND OPERATING BUSINESSES

Date: Thursday, February 9, 1995  
 Place: Utah Law & Justice Center  
 Time: 10:00 a.m. to 2:00 p.m.  
 Fee: \$155.00 *(To register call 1-800-CLE-NEWS)*  
 CLE Credit: 4 hours

## NLCLE WORKSHOP — ESTATE PLANNING AND PROBATE

Date: Thursday, February 16, 1995  
 Place: Utah Law & Justice Center

Time: 5:30 p.m. to 8:30 p.m.  
 Fee: \$20.00 for members of Young Lawyer Division  
 \$30.00 for all others  
 CLE Credit: 3 hours

## ALI-ABA SATELLITE SEMINAR: 1995 UPDATE-IMPLEMENTING THE CLEAR AIR ACT

Date: Thursday, February 16, 1995  
 Place: Utah Law & Justice Center  
 Time: 10:00 a.m. to 2:00 p.m.  
 Fee: \$155.00 *(To register call 1-800-CLE-NEWS)*  
 CLE Credit: 4 HOURS

## NLCLE WORKSHOP — REAL PROPERTY AND LANDLORD TENANT LAW

Date: Thursday, March 16, 1995  
 Place: Utah Law & Justice Center  
 Time: 5:30 p.m. to 8:30 p.m.  
 Fee: \$20.00 for members of Young Lawyers Division  
 \$30.00 for all others  
 CLE Credit: 3 HOURS

## ALI-ABA SATELLITE SEMINAR: COPYRIGHTS & TRADEMARKS LAW FOR THE NON-SPECIALIST

Date: Thursday, March 23, 1995  
 Place: Utah Law & Justice Center  
 Time: 9:00 a.m. to 4:00 p.m.  
 Fee: \$249.00 *(To register call 1-800-CLE-NEWS)*  
 CLE Credit: 7 HOURS

*Watch your mail for brochures and mailings on these and other upcoming seminars. Questions regarding any Utah State Bar CLE seminar should be directed to Monica Jergensen, CLE Coordinator, at (801) 531-9095.*

## CLE REGISTRATION FORM

TITLE OF PROGRAM

FEE

1. \_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

Make all checks payable to the Utah State Bar/CLE

Total Due

Name \_\_\_\_\_

Phone \_\_\_\_\_

Address \_\_\_\_\_

City, State, ZIP \_\_\_\_\_

Bar Number \_\_\_\_\_

American Express/MasterCard/VISA

Exp. Date \_\_\_\_\_

Signature \_\_\_\_\_

Please send in your registration with payment to: **Utah State Bar, CLE Dept., 645 S. 200 E., S.L.C., Utah 84111.** The Bar and the Continuing Legal Education Department are working with Sections to provide a full complement of live seminars. Please watch for brochure mailings on these.

**Registration Policy:** Please register in advance as registrations are taken on a space available basis. Those who register at the door are welcome but cannot always be guaranteed entrance or materials on the seminar day.

**Cancellation Policy:** Cancellations must be confirmed by letter at least 48 hours prior to the seminar date. Registration fees, minus a \$20 nonrefundable fee, will be returned to those registrants who cancel at least 48 hours prior to the seminar date. No refunds will be given for cancellations made after that time.

**NOTE:** It is the responsibility of each attorney to maintain records of his or her attendance at seminars for purposes of the 2 year CLE reporting period required by the Utah Mandatory CLE Board.

## CLASSIFIED ADS

For information regarding classified advertising, please contact (801) 531-9077. Rates for advertising are as follows: 1-50 words — \$10.00; 51-100 words — \$20.00; confidential box numbers for positions available \$10.00 in addition to advertisement.

**CAVEAT** — The deadline for classified advertisements is the first day of each month prior to the month of publication. (Example: May 1 deadline for June publication). If advertisements are received later than the first, they will be published in the next available issue. In addition, payment must be received with the advertisement.

### BOOKS FOR SALE

**Law Books for Sale:** Complete set of Bankruptcy Reporter, Bankruptcy Digest and ALRs. Updated through October 1994. Please call Matt or DeNece at (801) 531-1555.

### USED LAW BOOKS FOR SALE:

American Jurisprudence 2d with General Index, American Jurisprudence Desk Book and American Jurisprudence New Topic Service. These books are complete and up to date through January, 1994. Please call Jeanine at (801) 378-3089.

**Library for sale.** The following sets are current as of November 1, 1994: **Pacific Reporter, 2d series**, vols 1-873 (plus paperback volumes 874-897 and vol. 880 part 1). **Shepards** Utah and Pacific Reporter Citations. West's **Pacific Digest** (all three sets since 1850). **American Jurisprudence 2d** (full set of 83 volumes). **Moore's Federal Practice** (2d ed) full set. **United States Code Service** (full set). **Utah Code Annotated** (full set). Contact Michael J. Wilkins, (801) 578-3900. All or part — no reasonable offer refused.

### BOOKS WANTED

Our office is interested in a used set of **"WORDS AND PHRASES"** by West Publishing Company. Please contact Ken Chamberlain, of Olsen, McIff & Chamberlain, @ 225 North 100 East, Richfield, Utah 84701. (801) 896-4461

### POSITIONS AVAILABLE

**Position Title:** Central Staff Attorney  
**Location:** Utah Court of Appeals,  
Salt Lake City

**Number of**

**Positions:** 3 Full-Time

**Closing Date:** January 31, 1995

**Applications should be directed to:**

Human Resources

Administrative Office of the Courts

230 South 500 East #300

Salt Lake City, UT 84102

(801) 578-3800

**Summary of Duties:** The Utah Court of Appeals is seeking an attorney to join its central staff. The applicant will work with other staff attorneys, under the general guidance and direction of the Court of Appeals judges. Responsibilities include the performance of complex legal work, including review and classification of appellate cases and assistance in the preparation of per curiam opinions, memorandum decisions, and orders.

**Minimum Qualifications:** Graduation from an accredited law school. (Four years general legal experience or in-depth background in appellate practice is preferred. The applicant should have strong legal research and writing skills, and must be a member of the Utah State Bar at the time of appointment.)

**Starting Salary:** \$40,000, approximately, with benefits.

**Application Procedure:** Application must include a court application form, resume, law school transcripts, and a recent writing sample that has not been edited by others.

Application forms are available at the Court Administrator's Office: 230 South 500 East, Suite 300; Salt Lake City, UT 84102. Phone: 578-3800.

The Utah State Courts is an Equal Opportunity Employer. Appointments are made without regard to gender, age, race, creed, religion, national origin, ancestry, handicap or other non-job related criteria.

Utah based international company has immediate need for an attorney with a minimum of 3-7 years exp. Exp in litigation, transactional and business/corporate law preferred. Salary is negotiable based on exp. Please send resume to Human Resources,

Reference II Attorney, P.O. Box 801, Provo, Utah 84601.

Assistant City Attorney, Provo, Utah: 3-5 years experience preferred; will consider exceptional candidates with less experience. Utah Bar member. Apply Personnel Department, Provo City, 351 West Center St., Provo, Utah by January 16th.

Attorney with excellent writing skills and academic credentials sought as associate general counsel for Utah Legislature. Experience required. Send resume and sole writing sample to M. Gay Taylor, Legislative General Counsel, 436 State Capitol, Salt Lake City, Utah, 84114. Applications accepted through March 1, 1995.

Attorney needed: Mid-sized law firm looking for LLM tax attorney with excellent research and writing skills and strong academic credentials; no practice experience necessary. Competitive salary with full benefits. Send resume to P.O. Box 2465, Salt Lake City, Utah 84110-2465.

### POSITIONS SOUGHT

Attorney seeks contract work in Salt Lake. Strong writing, computer skills. Reasonable rates. Box 681993, Park City, Utah. 84068 (801) 355-0616.

Experienced attorney with exceptional writing skills in civil and criminal litigation seeks 15 to 30 hours/week position or short-term assignments. Academic honors: Order of the Coif, Phi Kappa Phi, Moot Court, assistant law review editor. Experience: Tort and commercial litigation; civil and criminal appellate writing as COA clerk and staff attorney. Previous areas of research and practice: probate, wills and trusts, contracts, personal injury, civil procedure, product liability, and UCC. Licensed in Colorado; passed Utah Bar and license anticipated 12/94. Initial rate is \$30/hour; no benefits required. Call M. Boudreau at (801) 466-6531.

### OFFICE SPACE/SHARING

**ATTRACTIVE OFFICE SPACE** is available at prime downtown location, in



the McIntyre Building at 68 South Main Street. Single offices complete with reception service, secretary space, conference room, telephone, parking, fax machine, copier, library and word processing available. For more information please call (801) 531-8300.

**New professional office space** for two or three attorneys adjacent to Sports Mall. Share space and expenses with four other attorneys. Complete facilities, including large private office, secretarial services, reception area, conference room, library, fax, copier, telephones. Room for own secretary if desired. Call Geri at (801) 263-0569.

**DELUXE OFFICE SHARING SPACE** in class A office building. Downtown location, close to courts. Single or multiple office suites, with or without secretary space. Complete facilities available including: receptionist, conference rooms, library, Westlaw, telephone, fax, copier and parking. Please call: Ronald Mangone at (801) 524-1000.

## SERVICES

**CERTIFIED PERSONAL PROPERTY APPRAISALS:** Estate work, Fine furniture, Divorce, Antiques, Expert Witness National Instructor for the Certified Appraisers Guild of America. Sixteen years experience. Immediate service available. Robert Olson C.A.G.A. (801) 580-0418.

**UTAH VALLEY LEGAL ASSISTANT JOB BANK:** Resumes of legal assistants for full, part time, or intern work from our graduating classes are available upon request. Contact: Kathryn Bybee, UVSC Legal Assistant Department, 800 West 1200 South, Orem, Utah 84058 or call (801) 222-8489 / fax (801) 225-1229.

**LEGAL ASSISTANTS — SAVING TIME, MAKING MONEY:** Reap the benefits of legal assistant profitability. LAAU Job Bank, P.O. Box 112001, Salt Lake City, Utah 84111. (801) 531-0331. Resumes of legal assistants seeking full or part-time temporary or permanent employment on file with LAAU Job Bank are available on request.

**CHILD SEXUAL ABUSE — EVIDENCE EVALUATION:** Statement Validity Assessment (SVA), An objective method for determining the validity of child statements and interviewer quality — time saving and concise — advanced graduate training. Bruce M. Giffen, M.S. Investigative Specialist — 1270 East Sherman Ave., Salt Lake City, Utah 84105, (801) 485-4011.

## MISCELLANEOUS

**WANTED:** Attorneys to judge student competitors in ATLA's regional trial advocacy competitions. Great opportunity to help law students prepare to be trial lawyers while serving on scoring panels composed of local lawyers and judges. The competition is scheduled for February 24-26, 1995. Please call C. Richard Henriksen, Jr. or Stephen J. Buhler for further information at (801) 521-4145.

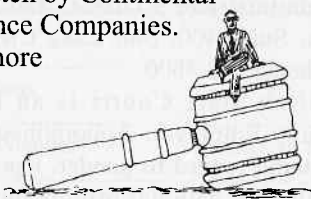
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Wisconsin state penitentiary. Accordingly, on October 6, 1986, the Utah Supreme Court entered an order of interim suspension rejecting Mr. Smith's attempt to collaterally attack the Wisconsin convictions. Mr. Smith appealed his conviction to the Wisconsin Court of Appeals, the Wisconsin Supreme Court filed various habeas proceedings. Each appellate court affirmed his conviction. Thereafter the district court granted summary judgment for the Bar and a Sanctions Hearing was held on June 20, 1994 and August 15, 1994. The order of disbarment that followed entered the order effective as of the date of his Interim Suspension.

## PETITION FOR REINSTATEMENT:

Elizabeth Joseph of Big Water, Utah has filed a Petition for Reinstatement in the Sixth District Court, Kane County, pursuant to Rule 25, Rules of Lawyer Discipline and Disability. Any interested individuals may file a notice of their opposition or concurrence with the district court within 30 days of the date of this publication and provide a copy for the Office of Attorney Discipline.



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645 South 200 East  
Salt Lake City, Utah 84111-3834  
Telephone (801) 531-9077 FAX 9801) 531-0660

**CERTIFICATE OF COMPLIANCE**  
For Years 19 \_\_\_\_\_ and 19 \_\_\_\_\_

NAME: \_\_\_\_\_ UTAH STATE BAR NO. \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

**Professional Responsibility and Ethics\***

**(Required: 3 hours)**

1. \_\_\_\_\_  
Program name \_\_\_\_\_  
Provider/Sponsor \_\_\_\_\_ Date of Activity \_\_\_\_\_ CLE Credit Hours \_\_\_\_\_ Type\*\* \_\_\_\_\_
2. \_\_\_\_\_  
Program name \_\_\_\_\_  
Provider/Sponsor \_\_\_\_\_ Date of Activity \_\_\_\_\_ CLE Credit Hours \_\_\_\_\_ Type\*\* \_\_\_\_\_
3. \_\_\_\_\_  
Program name \_\_\_\_\_  
Provider/Sponsor \_\_\_\_\_ Date of Activity \_\_\_\_\_ CLE Credit Hours \_\_\_\_\_ Type\*\* \_\_\_\_\_

**Continuing Legal Education\***

**(Required 24 hours) (See Reverse)**

1. \_\_\_\_\_  
Program name \_\_\_\_\_  
Provider/Sponsor \_\_\_\_\_ Date of Activity \_\_\_\_\_ CLE Credit Hours \_\_\_\_\_ Type\*\* \_\_\_\_\_
2. \_\_\_\_\_  
Program name \_\_\_\_\_  
Provider/Sponsor \_\_\_\_\_ Date of Activity \_\_\_\_\_ CLE Credit Hours \_\_\_\_\_ Type\*\* \_\_\_\_\_
3. \_\_\_\_\_  
Program name \_\_\_\_\_  
Provider/Sponsor \_\_\_\_\_ Date of Activity \_\_\_\_\_ CLE Credit Hours \_\_\_\_\_ Type\*\* \_\_\_\_\_
4. \_\_\_\_\_  
Program name \_\_\_\_\_  
Provider/Sponsor \_\_\_\_\_ Date of Activity \_\_\_\_\_ CLE Credit Hours \_\_\_\_\_ Type\*\* \_\_\_\_\_

\* Attach additional sheets if needed.

\*\* (A) audio/video tapes; (B) writing and publishing an article; (C) lecturing; (D) law school faculty teaching or lecturing outside your school at an approved CLE program; (E) CLE program – list each course, workshop or seminar separately. NOTE: No credit is allowed for self-study programs.

I hereby certify that the information contained herein is complete and accurate. I further certify that I am familiar with the Rules and Regulations governing Mandatory Continuing Legal Education for the State of Utah including Regulation 5-103 (1) and the other information set forth on the reverse.

Date: \_\_\_\_\_

\_\_\_\_\_  
(signature)

Regulation 5-103(1) Each attorney shall keep and maintain proof to substantiate the claims made on any statement of compliance filed with the board. The proof may contain, but is not limited to, certificates of completion or attendance from sponsors, certificates from course leaders or materials claimed to provide credit. This proof shall be retained by the attorney for a period of four years from the end of the period for which the statement of compliance is filed, and shall be submitted to the board upon written request.

#### EXPLANATION OF TYPE OF ACTIVITY

A. Audio/Video Tapes. No more than one-half of the credit hour requirement may be obtained through study with audio and video tapes. See Regulation 4(d)-101(a)

B. Writing and Publishing an Article. Three credit hours are allowed for each 3,000 words in a Board approved article published in a legal periodical. An application for accreditation of the article must be submitted at least sixty days prior to reporting the activity for credit. No more than one-half of the credit hour requirement may be obtained through the writing and publication of an article or articles. See Regulation 4(d)-101(b)

C. Lecturing. Lecturers in an accredited continuing legal education program and part-time teachers who are practitioners in an ABA approved law school may receive 3 hours of credit for each hour spent in lecturing or teaching. No more than one-half of the credit hour requirement may be obtained through lecturing and part-time teaching. No lecturing or teaching credit is available for participation in a panel discussion. See Regulation 4(d)-101(c)

D. CLE Program. There is no restriction on the percentage of the credit hour requirement which may be obtained through attendance at an accredited legal education program. However, a minimum of one-third of the credit hour requirement must be obtained through attendance at live continuing legal education programs.

THE ABOVE IS ONLY A SUMMARY. FOR A FULL EXPLANATION SEE REGULATION 4(d)-101 OF THE RULES GOVERNING MANDATORY CONTINUING LEGAL EDUCATION FOR THE STATE OF UTAH.

Regulation 8-101 — Each attorney required to file a statement of compliance pursuant to these regulations shall pay a filing fee of \$5 at the time of filing the statement with the Board.



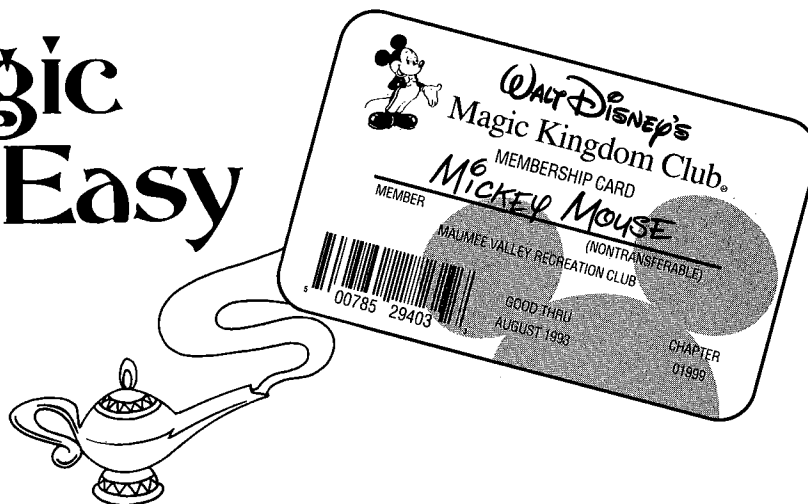
# Mid-Year Meeting

## March 2 - 4, 1995

## St. George, Utah

*Hope to see you there!*

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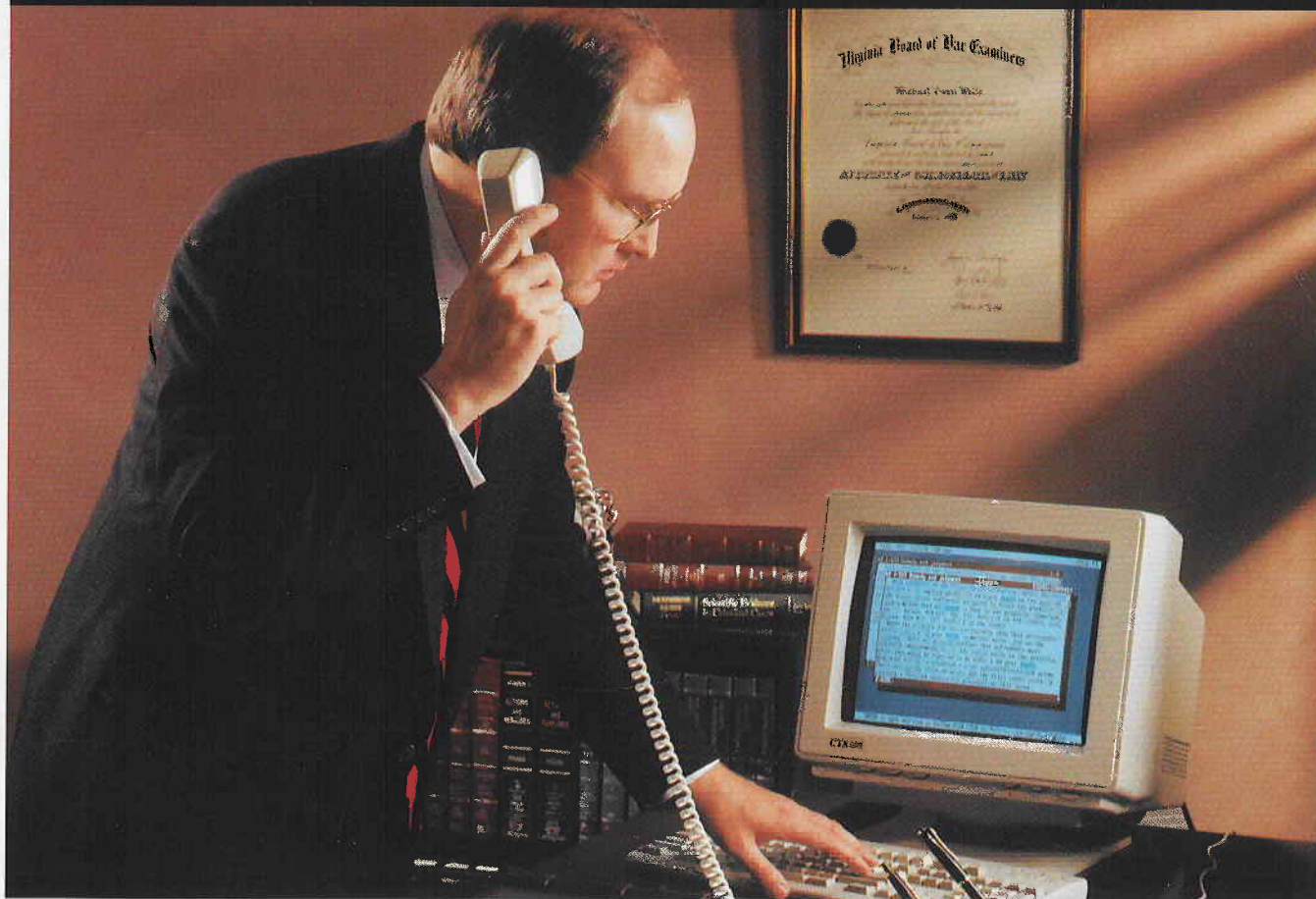
Utah State Bar

For more information contact  
Lynette Limb  
at the  
Utah State Bar  
at

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