UTAH BAR JOURNAL

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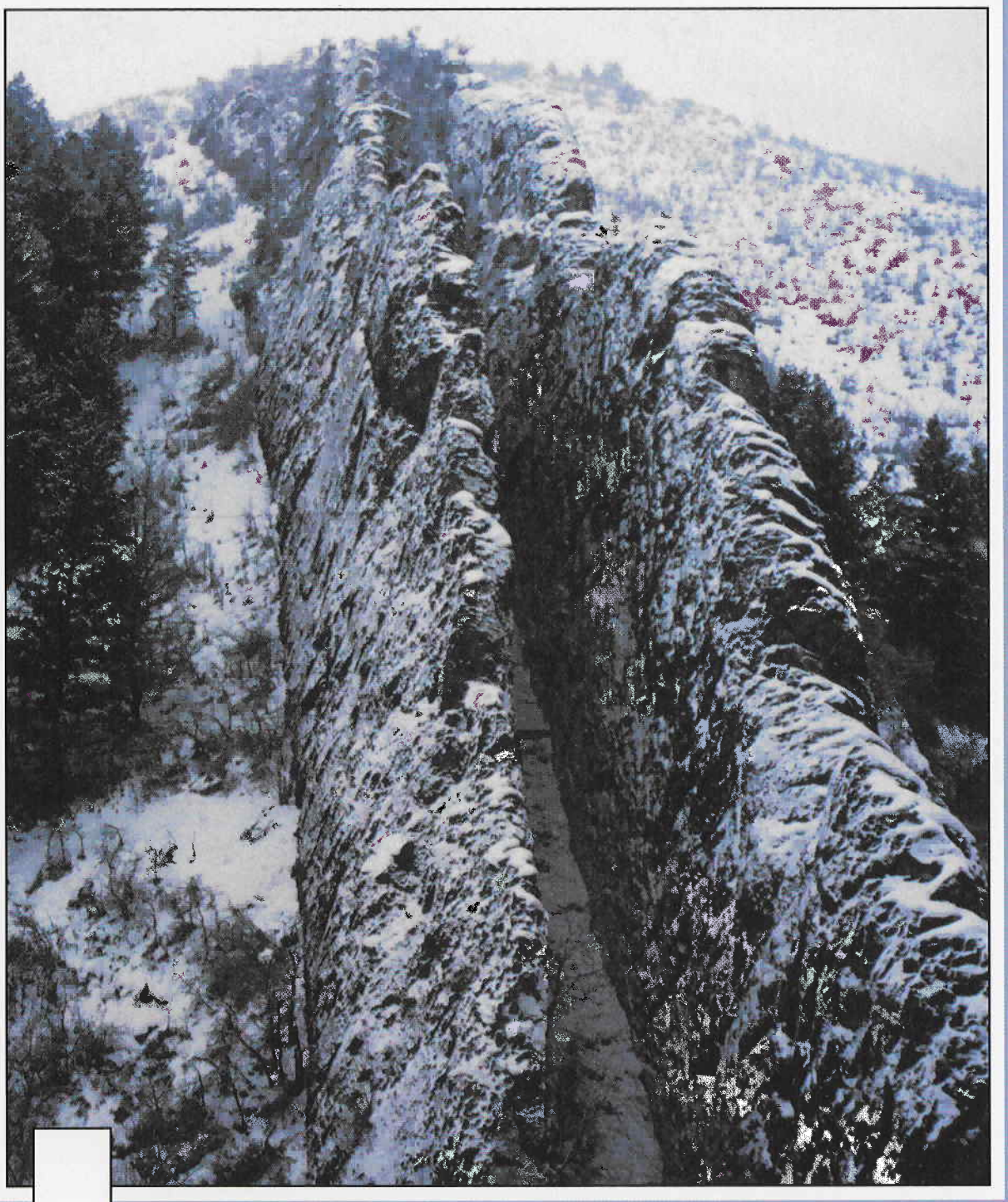


UTAH BAR JOURNAL

Vol. 9 No. 3 March 1996

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

MISSION OF THE BAR: To represent lawyers in the State of Utah and to serve the public and the legal profession by promoting justice, professional excellence, civility, ethics, respect for and understanding of, the law.

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

Members of the Utah Bar who are interested in having photographs they have taken of Utah scenes published on the cover of the *Utah Bar Journal* should contact Randall L. Romrell, Associate General Counsel, Huntsman Chemical Corporation, 2000 Eagle Gate Tower, Salt Lake City, Utah, 84111, 532-5200. Send both the slide, transparency or print of each photograph you want to be considered.

The Utah Bar Journal is published monthly, except July and August, by the Utah State Bar. One copy of each issue is furnished to members as part of their State Bar dues. Subscription price to others, $30; single copies, $4.00. For information on advertising rates and space reservation, call or write Utah State Bar offices.

LETTERS

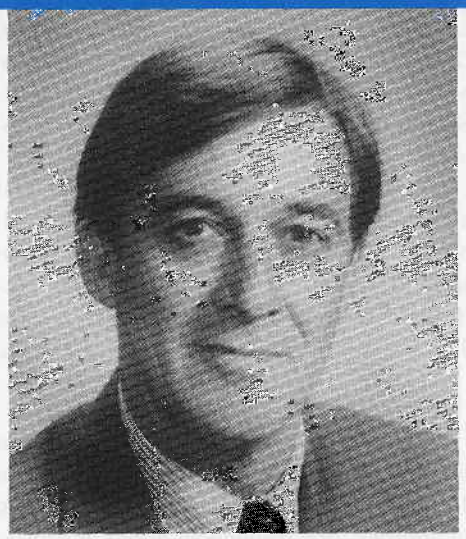
Dear Editor,

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

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

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

George B. Handy, Esq.
Ogden, Utah



A Report on *Consumer Reports*

By Dennis V. Haslam

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

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

WHAT THEY FOUND

Approximately one-third of the 30,000 respondents *were not highly satisfied* with the legal services they received. Conversely, a majority *was* highly satisfied. Clients judged lawyers differently depending upon whether the matter was adversarial or another type of legal transaction. The good news is that, in will preparation, estate planning, tax planning, routine real estate matters and adoptions, approximately 75% of the respondents *were highly satisfied* with their lawyers.

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

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

One of the most common complaints noted in this report is the failure of lawyers to return phone calls. If you were to ask Steve Cochell, Chief Disciplinary Counsel, the reason for most bar complaints, you would learn that it is the failure of lawyers to return phone calls. Of those who complain about failure to return phone calls, more than 40% felt their lawyer could have done a better job of representing them. This sounds like lawyers need to have a better desk-side manner.

DISSATISFIED CLIENTS

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

There was great dissatisfaction with respect to whether the lawyer:

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

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

COMPLAINTS ABOUT LAWYERS

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

mately 15% said that lawyers did not explain how long the process might take and did not accurately predict the outcome. Approximately 10% said that the lawyer did not seek the client's opinion on how to proceed.

WHAT THE LAWYER COULD HAVE DONE BETTER

This is a tough one. Just under 25% of those surveyed said that the lawyer could have reduced the client's aggravation and about 20% said the lawyer could have reduced the time the client spent on the matter. (I'm not sure how we can "reduce aggravation".) About 15% said that the lawyer could have kept legal costs down and could have reduced the amount paid to resolve the matter. About 10% said that the lawyer could have increased the amount the client received.

ATTORNEYS FEES

The survey showed legal fees are also a frequent cause of discord between attorneys and their clients. Consumers are encouraged to discuss fees with attorneys early on in the case. Your Bar Commission encourages you to discuss fees with your clients early on in the case. Do not avoid the subject. Deal with it up front and be clear about when bills will be issued and what will be included, e.g., costs advanced, filing fees, photocopies and the like.

The article, in fairness, points out that asking about fees doesn't mean clients will be happy with what they hear. It notes that, in adversarial cases, an accurate estimate is difficult for attorneys to make and that the cost depends in part upon what the other side does.

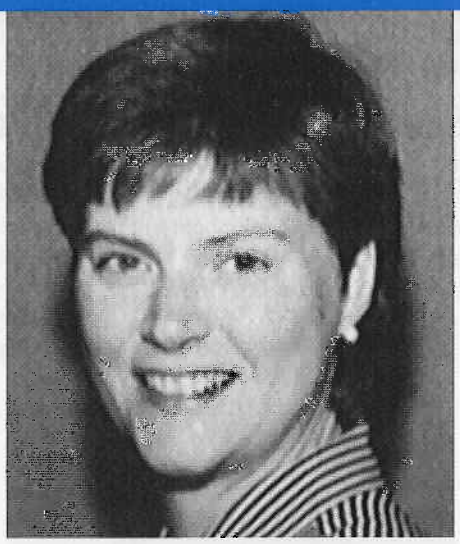
SELECTING A LAWYER

Consumers are encouraged to choose a lawyer whose style matches the job to be done. In a divorce matter, prior to selecting an attorney, one respondent asked this question: "Do I want the meanest, baddest attorney in town, or do I want someone who has more concern about the children and the eventual outcome?" Consumers are encouraged to communicate with attorneys and make it known that clients want to be kept informed of what happens and agree upon ground rules such as sending copies of documents or receiving periodic reports over the telephone.

Consumer Reports encourages consumers to ask questions of lawyers when selecting them:

- What is your experience in this field?
- What are the possible outcomes?
- How long do you expect this matter to take?
- How will you keep me informed?
- Will anyone else be working on my case?
- How do you charge?
- Besides legal fees, what other expenses are involved?
- What's a ball park figure for my total bill?
- Will you put your estimates in writing?
- How often will I be billed and what do we do if there is a disagreement?
- How can I help you help me?
- What are my alternatives?

Can you answer these questions when you meet a client for the first time? Better yet, do you answer these questions up front in each case? If you answer all, or almost all of these questions in your retainer agreement, you've probably done all you can do in writing. However, do not forget your desk-side manner.



Legal Services Cutbacks — Catalyst for Constructive Change

By Debra J. Moore

With the recent and proposed cuts in funding for the Legal Services Corporation, the huge gap between the legal needs of the poor and the delivery of legal services threatens to become an unbridgeable chasm. Recent studies estimate that the American legal system meets only a quarter of the legal needs of the poor and just one third of the legal needs of middle-income citizens. Those dismal numbers may soon represent the "good old days." Locally, Utah Legal Services has already sustained over a one-third reduction in funding for the legal services it provides to the poor for housing, income maintenance, family issues and consumer problems. Further cuts are threatened. From 20.5 lawyers statewide in January 1995, ULS has already cut back to 16.5 lawyers and projects a further reduction to 14.5 lawyers by this spring.

We lawyers should lead the way to resolve this crisis. Although this unmet need clearly reflects the broader social issue of poverty, that reality only reinforces the need for us to scrutinize our own part of the system. Moreover, widespread poverty does not explain the unmet need of those of modest means. Most of us readily admit that we cannot afford to hire ourselves. In addition, lawyers are both uniquely qualified to develop a solution and directly affected by the problem. Our failure to satisfy the public's critical legal needs may result in such unpalatable solutions as mandatory pro bono, a loss of licensing authority, and fee controls. Finally, whatever duty we may acknowledge, the public holds us responsible. Our failure to adequately serve the public will inevitably lead to even further erosion of our already low level of public esteem.

CREATION OF ACCESS TO JUSTICE TASK FORCE

The Bar Commission has resolved to confront the issue of unmet legal needs on two levels. First, with a view toward developing a long-term solution, the Bar Commission plans to implement a blue-ribbon statewide planning task force to examine the delivery of legal services to the poor in Utah and ways in which Utah lawyers can assist in fulfilling the unmet need. To be charged with looking at the system from the ground up, the task force will provide the leadership and creativity necessary to devise a comprehensive and innovative plan for the delivery of legal services to the poor. For example, Commissioner John Flores has advanced a meritorious proposal designed to promote cost-effective delivery of quality legal services to the poor by establishing an administrative agency that would issue vouchers for legal services to be paid only upon satisfactory completion of the services.

ENHANCEMENT OF BAR'S VOLUNTARY PRO BONO PROGRAM

Meanwhile, to address the immediate need heightened by the funding cuts, the Bar Commission has temporarily increased funding of the Bar's voluntary pro bono program to $75,000 for one year. The Bar will hire the necessary personnel, including at least one lawyer, to enable the pro bono program to shift its focus from the recruitment of volunteers to the assignment of cases to the volunteers. Toby Brown, the Bar's pro bono coordinator, has been resoundingly successful in recruiting hundreds of volunteer lawyers to provide pro bono representation. However, the primary providers of legal services to the poor, the Legal Aid Society, ULS and other agencies, have assigned cases to only a small portion of the volunteers. By providing further sup-

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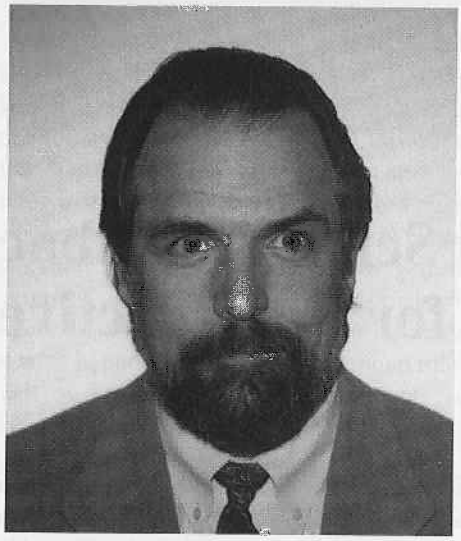
Response To "*State vs. Teuscher,* The 'Exception' Swallows The Rule"

By Robert N. Parrish, Division Chief
Children's Justice Division
Utah Attorney General's Office

This article is intended as a response to Mr. Gary Pendleton's article which appeared in the October, 1995 issue of the *Utah Bar Journal*. I was the lead prosecutor in the *Teuscher* case, and I have briefed the issue of the use of Rule 404(b) in dozens of child abuse cases. It concerns me that despite the fact the Utah appellate courts have made some very logical and reasonable interpretations of the Rule, Mr. Pendleton did not mention any of them in his article. The title of his article, "*State v. Teuscher,* The 'Exception' Swallows The Rule," is not only misleading, it is not news. As early as the case of *State v. Tanner,* 675 P.2d 539 (Utah 1983), the Supreme Court of Utah, interpreting Rule 55 of the old Utah Rules of Evidence said: "The substance of the rule is inclusionary: evidence of other crimes or civil wrongs that is competent and relevant to prove some material fact, *other than to show merely the general disposition of the defendant,* is admissible." 675 P.2d 5469 (emphasis in original). The *Tanner* case involved use of evidence of prior child abuse committed by the defendant against a child who was murdered by one of several possible perpetrators. The Supreme Court focused on the necessity of such evidence and the unique need for it in child abuse prosecutions:

> Where there is child abuse, there will invariably be secrecy. The great disparity of power and control between the abuser and the child assures that there will be little, if any, direct evidence. Even in cases where the victim survives, the child's age and vulnerability make it unlikely that he or she could be expected to testify competently. In these cases, it is probable that evidence of prior abusive conduct by a caretaker may be the only available link between the specific nature of the child's injuries and the caretaker who has offered either no explanation or an inadequate explanation of these injuries.

675 P.2d. 547. The Court emphasized, though, that if other evidence sufficiently establishes motive, intent, identity, absence of mistake, or opportunity, the prior bad acts would not be necessary and thus might be excluded, even if relevant.



ROBERT N. PARRISH has spent all sixteen years of his legal career in the Utah Attorney General's Office, having handled legal representation of the Department of Public Safety and criminal appeals for three years before moving into prosecution of all kinds of criminal cases. As a prosecutor, he has worked on white-collar crime, public corruption, murder and other cases in both state and federal courts, and since 1990 has spent all his time directing a team of experts who provide assistance to local authorities on child abuse investigation and prosecution. He lectures on child abuse issues throughout Utah and across the country.

In over a decade of prosecuting child abuse cases, I have seen the wisdom of the *Tanner* court's observation in every case where physical abuse or homicide of a child was the issue. Such cases are always based upon circumstantial evidence, and even where the medical evidence makes clear that the child was abused by someone, it is often far from clear *who* that someone is. Where the "whodunit" of the case is clearer, as in the cases of *State v. DeMille,* 756 P.2d 81 (1988) and *State v. Allen,* 839 P.2d 291 (Utah 1992), the issue boils down to whether the child died from an accidental cause or by infliction of an injury. In both of those cases, the defendant was the sole custodian of the child when an injury was inflicted which resulted in the child's death. As with most such custodians, though, DeMille claimed an accidental fall from a toilet caused the victim's seven-inch skull fracture and massive brain injuries, and Allen claimed either the child died from a sudden unexpected seizure or from choking on a piece of candy. In each of those cases, evidence of prior abusive injuries to the child, admitted by the trial court under the authority of Rule 404(b), established that it was not a natural or accidental condition that resulted in the children's deaths, but rather the intentional act of someone.

Mr. Pendleton also fails to point out in his article that the United States Supreme Court has approved the use of prior child abuse to establish such things as identity, mental state, and absence of accident or mistake as to the charged crime. In *Estelle v. McGuire,* 112 S.Ct. 475 (1991), the Supreme Court affirmed the use of evidence of prior abuse of the victim in its review of a state court murder conviction for killing the child. The Court held that admission of evidence of the prior abuse established that the child's death was the

result of someone's intentional act, and excluded the likelihood of accidental cause of death, even if the prosecution could not directly link the prior acts of abuse to the defendant. This concept, called the "doctrine of chances" is one of the uses of 404(b) evidence Mr. Pendleton didn't bother to analyze. He should have read *Uncharged Misconduct Evidence in Child Abuse Litigation,* 1988 Utah L. Rev. 479 (1988), by Professor John E.B. Myers prior to writing his article for the *Bar Journal.* The chance that a child who has been suffering from a long pattern of torture and physical abuse just happened to die from accidental causes is much less likely than that a healthy and non-abused child might.

In *Huddleston v. United States,* 485 U.S. 681, 686 (1988), the United States Supreme Court held that Rule 404(b) of the Federal Rules of Evidence is a rule of inclusion and the only limit upon admitting prior acts of misconduct would be if the evidence is not probative of any other issue besides character of the defendant. Thus, contrary to Mr. Pendleton's conclusion (which we wrests from another case relied upon by the Court of Appeals in *Teuscher* and not from anything explicitly stated in the opinion), the rule is not that character evidence is now admissible to prove action in conformity with character. Rather, the fact that prior misconduct evidence might bear on the defendant's character is not, for that reason alone, inadmissible, as long as it is relevant and probative of issues enumerated in Rule 404(b). Of course, in any circumstance, Rule 403 may operate to exclude even relevant evidence if the probative value is outweighed by the danger of *unfair* prejudice. This is where the weighing of the necessity for the evidence and its probative value against its danger for such unfair prejudice does and should occur.

Although unnecessary, the Court of Appeals in the *Teuscher* case focused on whether the defendant had raised issues in the trial that needed to be refuted by the prosecution, such as identity of the perpetrator, mental state of the perpetrator, or absence of accident or mistake. The *Tanner* court previously made clear that the analysis of admissibility of evidence under Rule 404(b) does not depend on what issues the defense raises, since the State has the burden of proof of all elements of the crime at trial, and that means, necessarily the State must exclude such things as accident in proving that a child's injuries or death resulted from intentional conduct. "We find it unnecessary to base the admissibility of this evidence on whether or not the defendant has raised the defense of accident or mistake, or indeed, on any of the exceptions listed in Rule 55." 675 P.2d, 545. The fact that the defendant in *Teuscher* did raise certain defenses simply made the Court of Appeals' decision easier – virtually every court in the country has allowed the use of prior misconduct evidence to refute contentions raised by the defense.

"In Huddleston v. United States . . . the United States Supreme Court held that Rule 404(b) of the Federal Rules of Evidence is a rule of inclusion and the only limit upon admitting prior acts of misconduct would be if the evidence is not probative of any other issue besides character of the defendant."

What *State v. Teuscher* really stands for is that evidence a suspect in the crime charged has abused other children besides the victim may be admissible if the evidence is relevant and fits one of the enumerated uses in Rule 404(b). The Court of Appeals stated:

> Evidence regarding prior instances of abuse perpetrated against the victim is clearly admissible in Utah to show identity, intent or mental state, and lack of accident or mistake. See e.g., State v. Allen, 839 P.2d 291,297 (Utah 1992); State v. Tanner, 675 P.2d 539, 543-548 (Utah 1983); State v. Morgan, 865 P.2d 1377, 1380 (Utah App. 1993). The admissibility of evidence of prior instances of abuse perpetrated against children other than the victim, however, is a question of first impression in Utah.

883 P.2d, 927. The evidence which was admitted in *Teuscher* was not offered to show there was some unique method of abusing kids which clearly pointed to only one defendant, the commonly-used "signature crime" argument. That is the only argument which Mr. Pendleton bothers to dispute and it wasn't even used in *Teuscher.* Instead, the evidence of prior abuse made less likely the possibility that the child died by accident and that the person who abused the victim was acting unintentionally. Further, the evidence made it more likely that the person who committed the final fatal act was the defendant, not others in the home who were capable of the act. The probative value of such evidence lies not in the similarity between the charged crime and earlier crimes, but in its tendency to establish identity of the perpetrator, absence of accident and the mental state of the actor.

Mr. Pendleton specifically criticizes the Court's acceptance of evidence that Teuscher had previously broken an infant's leg, then told inconsistent and discrepant stories to explain the injury as an accident. "The evidence of Austin's broken leg and Teuscher's apparent prevarication does not, apart from proving bad character, tend to prove that this defendant was the one who held the homicide victim by the head and violently shook him. The same is true of all of the other-offenses evidence in this case," Pendleton writes. Again, he misses the point by focusing on only one possible use of 404(b) evidence. The evidence that Teuscher had not only inflicted an intentional injury upon an infant, but had fabricated a story to convince people it was an accident; coupled with evidence that she did the same thing concerning the victim of the later shaking, made the evidence concerning the previous broken leg and her behavior particularly relevant to the absence of accident and the identity of the perpetrator of the fatal shaking.

Despite Pendleton's warning that the *Teuscher* opinion is a departure from time-honored principles regarding the rules of evidence, it is not. The principles and policies underlying Rule 404(b) are unchanged, and there is nothing to support his contention that the door is now open to introduce evidence of a defendant's character to prove action in conformity with that character. Such misinformed overreactions tend to cause unnecessary and unwanted confusion among members of the bar. *State v. Teuscher* is not the death-knell for the application of rules concerning character evidence. It is a logical extension of a long line of cases which examines the particular necessity for evidence of prior acts of abuse of children where proof of child abuse or child homicide is circumstantial.

A Modest Proposal Concerning "Esquire"

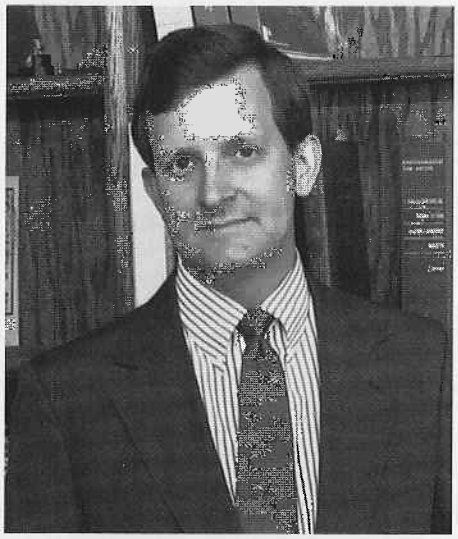
By Rick L. Knuth

My secretary has long been under orders to extirpate "Esq." from my correspondence and pleadings. Knowing my feelings on the subject, she recently showed me a letter to a number of lawyers and law individuals, including a female attorney in our office. The letter was addressed to each lawyer with "Esq." following the names, male and female alike; lay people were addressed as "Mr." or "Ms."

It is bad enough to use "Esq." in professional correspondence, but the writer of this letter, in an apparent effort to not offend, had bestowed this essentially meaningless – but nonetheless male – honorific on someone who is not male. Apparently, a refresher on the proper use of "Esq." might be in order.

"Esquire" is derived from Old French, out of the Latin *scutarius*, meaning "shield-bearer". H.W. Fowler's "Modern English Usage", (Rev. 2d ed., 1965), notes that "esquire" has practically no meaning, save as a term of address to males in general:

> **esquire** was originally a title of function; the esquire was the attendant of the knight and carried his gear. It later became a title of rank, intermediate between *knight* and *gentleman,* the right to which is still defined by law in a way that to modern ideas is in some respects curious. Barristers are esquires (at any rate after they have taken silk; there seems some doubt about the outer bar), but solicitors are never more than mere gentlemen; justices of the peace are esquires but only while they are in the Commission.
>
> * * *
>
> . . . [A] reluctance to draw invidious distinctions, has deprived . . . esquire of all significance, and it looks as though one odd product of the Century of the Common Man might be to promote the whole adult male population to this once select and coveted status.



R. L. KNUTH, a shareholder in the Salt Lake firm of Parsons, Davis, Kinghorn & Peters, is a 1980 graduate of the University of Utah College of Law. He practices chiefly in the areas of commercial law, bankruptcy, real estate and water law. Mr. Knuth is a member of the Utah State Board of Continuing Legal Education and has written on a wide variety of legal topics. This is his fourth article published in the Utah Bar Journal.

Evans & Evans' "Dictionary of Contemporary American Usage", (1957), sees even less justification for any but the most general use of "Esq.":

> **Esquire,** . . . is a title of courtesy widely used in England and Ireland (though its use is beginning to decline under the feeling that the term is snobbish and now devoid of meaning) but not elsewhere even among English-speaking peoples. Originally it referred to a definite social rank and designated one belonging to the order of English gentry just below a knight, but the significance has been lost and it now has the same meaning as *Mr.*

Not a word here about lawyers or the practice of law.

To the best of my information, the Utah Legislature does not confer titles of nobility and would have a problem with the federal constitution if it were so inclined. Use of "esquire" as synonymous with attorneys is, at best, a negligent misnomer. At worst, it is a linguistic distortion made especially lamentable when committed by a well-educated profession whose stock in trade is the precise use of words. "Esquire" has nothing to do with the practice of law in contemporary America, but everything to do with professional arrogance.

"Esquire" still has a correct, old-fashioned usage; as a polite reference to all gentlemen. In my single days I received the odd wedding invitation addressing me as "Esq." The senders certainly did not mean to denote membership in the legal profession, but used the term, correctly, in its general sense. As honorifics go, "Esq." is as exclusive as a rainstorm, but this generality is its correct usage.

Almost all of us would agree that referring to a person with a J.D. degree as "Dr." would be unspeakably haughty, even ostentatious. Yet, lawyers have more right to the title "Doctor" than they do to "Esquire". "Doctor" was first coined at the University of Bologna in the late-Middle Ages to refer to "Learned Doctors of Law." The usage never really attached itself to lawyers in English-speaking countries. Physicians appropriated the term – at a time when they were little more than glorified barbers – to give their own profession a higher "tone". Apparently, a similar motive among certain of the American legal profession gives rise to the misappropriation of "Esq." for our exclusive use. This is probably an extension of the current fashion which re-labels secretaries as "administrative assistants" and undertakers as "funeral directors".

However, the most compelling objection to use of "esquire" as a distinctive title for members of the Bar lies not only in the fact it has nothing to do with lawyers, but that it

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The Law Firm of
KIRTON & McCONKIE
a Professional Corporation

Is Pleased to Announce that

ANTHONY I. BENTLEY, JR.

Has Returned to the Firm After a Three Year
Sabbatical in Argentina

Mr. Bentley Will Continue His Practice In
International, Corporate and Business Law

CHARLES W. DAHLQUIST, II

Has Returned to the Firm After a Three Year
Sabbatical in Germany

Mr. Dahlquist Will Resume His Practice In
the Field of Health Care Law and Litigation

DAVID A. WESTERBY

Has Become a Shareholder

Mr. Westerby Will Continue His Practice In
Employment, Labor and Discrimination Law and Litigation

JILL M. AGGELER

Has Become an Associate

Ms. Aggeler Will Continue Her Practice In Insurance Coverage
and Insurance Defense Litigation, Including Personal Injury,
Product Liability and Environmental Law

60 East South Temple, Suite 1800
Salt Lake City, Utah 84111

Telephone (801) 328-3600 - Facsimile (801) 321-4893

E-Mail for the Office and the World

By David Nuffer

Electronic Mail (or "e-mail") is a tool of increasing utility for Utah's lawyers. With the institution of e-mail in the Bar offices (see sidebar with e-mail addresses) those who have not already implemented inter-office and external e-mail may desire to do so.

OFFICE E-MAIL

E-mail has been a useful tool in offices for over a decade. Office e-mail systems have replaced phone message slips, memos, scrawled notes, and even Post-it notes® as a means for co-workers to communicate. Computers have appeared on worker's desks, and as those computers have been networked to share files and printers, e-mail has been an inexpensive addition.

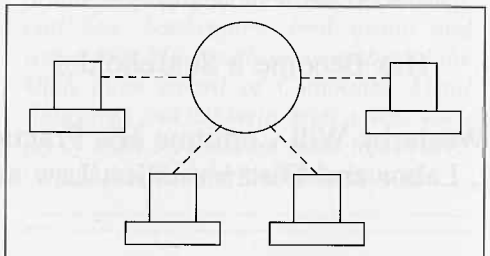
General Features

Each computer user can have an "e-mail box." Messages can be sent or received and may enclose documents which need to be circulated. Messages and their enclosures can be forwarded, printed and saved. The contents of messages may be copied and pasted into other documents for use.

Each computer on the network communicates with its peers

Figure 1 – Peer to Peer

There are two alternative architectures for office e-mail systems: peer-peer [figure 1] and server-client [figure 2]. In a peer-peer system, each e-mail station forwards e-mail to other e-mail stations. The disadvantage of this system is that it only works when both the sending *and* receiving stations are operating. If two co-workers happen not to have their systems on at the same time, mail between them will not be transferred. A client-server system uses a server as a central post office for all of the mail in the office. The server receives, forwards, stores and routes mail. This is by far the more common and most efficient architecture but it requires the dedication of at least some part of the server's resources for mail server functions.



Each computer on the network communicates with its peers via a server

Figure 2 – Client-Server

The mail box shown in figure 3 demonstrates the appearance of typical e-mail software. A message (with enclosure) is shown in figure 4. With the advent of graphic interfaces, e-mail systems are almost self-explanatory and people can be self taught.

Work Group Benefits

The benefits of e-mail for a work group are obvious. E-mail facilitates communication between those who are working together. Its speed generally improves information destination and response. It groups formerly disparate types of communication (phone slips, memos, post-its, etc.) into a unified form, so it tends to reduce confusion. Everything can be printed and saved, so records are easier to create. Because everything can be forwarded or replied to, a thread of thought is maintained.

E-mail reduces "office tag." Because messages can be sent in a complete comprehensible form when the sender is able to send and replied to by the recipient at a time which suits her, the frustration and inefficiency of failure to meet can be avoided.

E-mail forces clarification of thought. Because e-mail is required to be put into standard written type form, the result is usually a more comprehensible message.

DAVID NUFFER practices law in St. George and Salt Lake City, and can be reached at david_nuffer@snedws.com

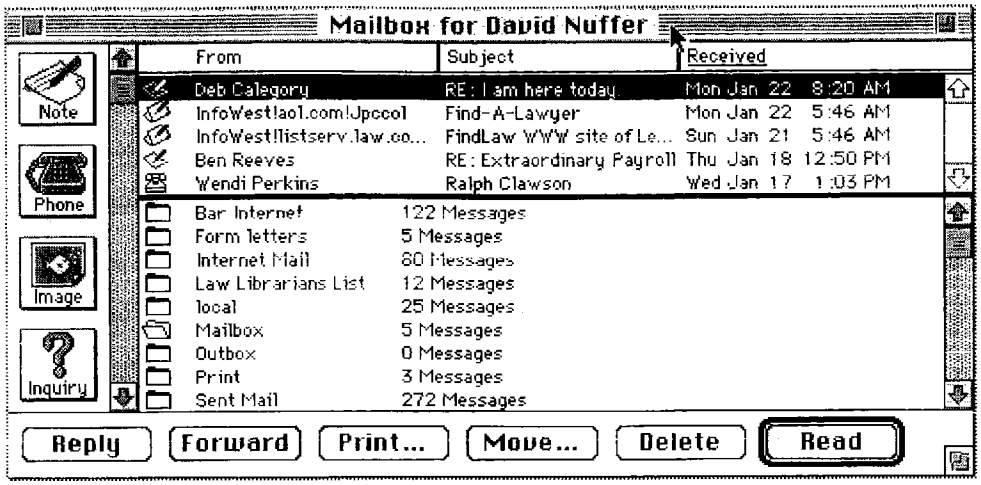


Figure 3 – An e mail box

In a law office, e-mail enables use of various talents in the firm by enabling communication. A litigator can communicate easily with an estate planner on a specific issue.

Another benefit to lawyers is a "layering" by effective communication and delegation to the most appropriate billing and level of expertise. Senior attorneys can communicate easily with secretaries and administrative personnel as well as junior attorneys, paralegals, etc.

E-mail is especially useful because the contents of messages can be copied and pasted and then revised to create file memoranda, letters, or pleadings. In the process of revising documents, components can be e-mailed to a central document assembler. An attorney doing research in a library can mail citation components of a memorandum to a secretary.

E-Mail Frontiers

It is also possible with office e-mail systems to allow remote access. Users with portable computers or with computers offsite can, with the appropriate software, "dial-in" and receive their messages. This greatly facilitates information transmission for attorneys who travel. It is also possible to link branch offices together with e-mail systems, creating a "virtual" office with consistent and open communications.

Newer technology is enabling the integration of other forms of messaging with e-mail. Faxes can be directed to e-mail boxes for viewing and printing. Voice mail can be opened through an e-mail box. In addition, some voice mail systems allow e-mail to be retrieved and "read" by the computer.

Offices without networks usually have not had e-mail but all of the above reasons are compelling. Any multiple person office should seriously consider e-mail, even in a two person office. They need to communicate and they are not always in at the same time. Because of the expansion of e-mail outside the office (discussed below) implementation of e-mail in the smallest office becomes compelling.

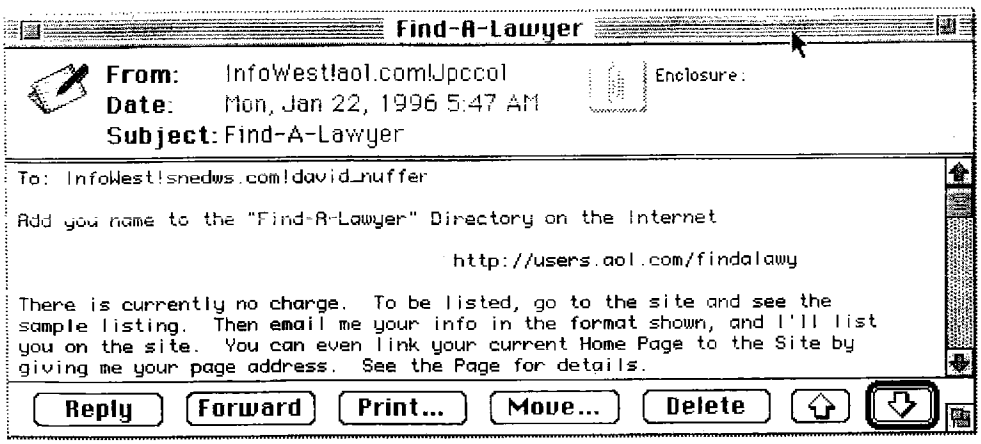


Figure 4 – A typical e mail message

Cleaning Up the Public Domain

The Next Frontier

Denver, Colorado
March 20, 1996

On March 20, the Rocky Mountain Mineral Law Foundation is sponsoring a one-day program on Cleaning Up the Public Domain at the Denver Petroleum Club.

Across the Rocky Mountain West, numerous environmental cleanups under CERCLA, the Clean Water Act, and other statutory regimes are focusing on abandoned mining operations. These sites present a range of difficult issues, many of which involve the allocation of roles and responsibilities between the private sector and various government agencies.

Speakers will examine mining site cleanup programs being established by key federal agencies on federal lands, including legal, technical, and policy issues. Key government officials and others responsible for these evolving programs will explore the interesting and complex concerns raised by these sites.

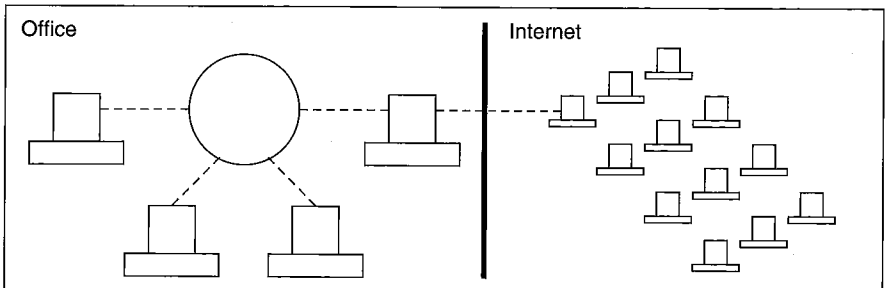
This Special Institute is designed to be practical and informative, aimed at bringing federal, state, and local agencies, the regulated public, and other interested private sector members together to explore methods of accomplishing the cleanup goals of CERCLA and other statutory regimes. A talented and diverse group of speakers will explore these topics and compile written materials containing the latest agency guidance and directives on public lands cleanup initiatives.

Contact the Foundation
at (303) 321-8100
for additional information.

WORLD WIDE E-MAIL

With the advent of the Internet and its greater usability, world wide e-mail has become a very desirable method of communication. The things that internal office e-mail has facilitated can now be facilitated between enterprises, clients and customers, researchers and information sources. The Internet has become an e-mail superhighway, passing e-mail from any location to another location.

There are generally two methods for connection to the Internet for e-mail purposes. A *direct* connection (figure 5) connects the e-mail user through an Internet service provider to the Internet and the World Wide Web universe of e-mail addresses. The simplicity of this system is its advantage. If this method of Internet connection is used with an internal client-server mail system, however, the user has two e-mail boxes, one for outside mail and one for inside mail. Some individuals wind up having many e-mail boxes, one for their home internet connection, one for their office Internet connection and others for commercial services, all separate from the internal office mail box. Checking all of these mailboxes can be difficult and is often neglected. The direct connection requires constant dial-up and mail checking by the individual user, which may not happen.



An individual computer on an office network communicates with its peers via a server but with the internet via a direct personal connection.

Figure 5 – Direct Internet Connection

A *gateway* allows an office e-mail server to communicate with an Internet service provider's Internet mail "post office". See figure 6. The result is that office e-mail and Internet e-mail are routed to the user's single mailbox. It is, after installation, much more simple to use and administer. A gateway connection does not necessarily contemplate a full-time connection between the server and Internet. In fact, a periodic connection rather than a continuous connection creates its own "fire-wall," prohibiting external access to the internal network.

E-MAIL CAUTIONS

E-mail is not without its pitfalls. If an e-mail box is not checked frequently, then it is as useful as a fax machine in an isolated room. (In the early days of fax, many businesses would turn their fax machines off at night!)

Because of technical problems, it is possible that e-mail will not actually be sent or received. While a properly established system should not have this problem, it is always a risk.

E-mail appears casual but actually creates a record. Some workers have been surprised to see their love notes distributed across the network. Confidential information has been routed to the wrong person. At times, a rushed e-mail message not carefully proof-read has omitted an important "not" or given another serious mis-impression. Some e-mail systems do not include spell checkers, creating a bad impression of the sender's competence.

Security is always an issue with e-mail. With internal office e-mail or Internet e-mail, messages must be assumed to be accessible to those who really want them, not just to intended recipients. Internet e-mail should not be used for confidential client communications, unless it is encrypted. Office e-mail may remain on a server and accessible to those who are determined to get the information. One municipality in another state was forced to respond to a GRAMA type request which included backup copies of all e-mail messages sent in the prior year!

Authentication of messages can be difficult. It is possible to send messages across the Internet which give the appearance of having come from an individual but which really did not. Some services pride themselves in providing "anonymous" mail. The authenticity of important messages should be verified. Utah's new digital signature statute (Utah Code Ann. §48-3-101) may provide some security in this area in the future.

CONCLUSION

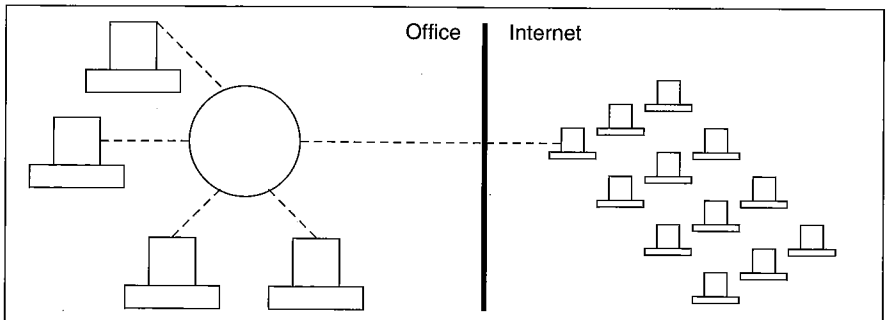
In spite of the significant cautions, e-mail remains a significant tool for effective group coordination. That group may be within a single office, or the communication pathway may be expanded to universality. For lawyers, whose work depends upon team work and cooperation, communication with cooperating and adverse counsel, and exchange of information from outside sources, including clients, e-mail is very valuable.

E-MAIL SYSTEMS

For further information on leading e-mail systems, you may consult these WWW sites:

Office E-Mail (including internet gateways):
http://www.lotus.com/ccmail/ — Lotus cc:Mail
http://wp.novell.com/groupwar/groupwar/gwise/ — Novell Groupwise
http://www.miscrosoft.com/mail/gen.htm — Microsoft Mail
http://www.microsoft.com/exchange/gen.htm — Microsoft Exchange

Internet Mail:
http://www.qualcomm.com/ProdTech/quest/ — Eudora and Eudora Pro
http://home.netscape.com/ — Netscape 2.0



An office network server communicates with the internet via a gateway, giving everyone on the network internet e mail.

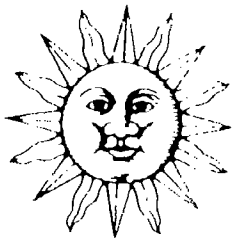
Figure 6 – Internet Gateway Connection

UTAH STATE BAR
E-MAIL ADDRESSES

Department	Name	E-Mail
Executive Director	John Baldwin	john@utahbar.org
Assistant Executive Director	Richard Dibblee	richard@utahbar.org
Chief Financial Officer	Arnold Birrell	arnold@utahbar.org
Admissions	Darla Murphy	darla@utahbar.org
Admissions		adm@utahbar.org
Bar Journal		bj@utahbar.org
CLE	Monica Jergensen	monica@utahbar.org
CLE		cle@utahbar.org
Client Security Fund		csf@utahbar.org
Fee Arbitration		fee@utahbar.org
Information Line		info@utahbar.org
Lawyer Referral		lrs@utahbar.org
Licensing		lic@utahbar.org
Mailing Lists/Labels Member Statistics		labels@utahbar.org
MCLE	Sydnie Khure	sydnie@utahbar.org
MCLE		mcle@utahbar.org
Member Benefits		ben@utahbar.org
Office of Attorney Discipline		oad@utahbar.org
Pro Bono Coordinator	Toby Brown	toby@utahbar.org
Utah Law & Justice Center		ljc@utahbar.org

Rev 1/22/96

Plan to attend the upcoming 1996 Utah State Bar Annual Meeting to be held July 3 – 6 in Sun Valley, Idaho



Sun Valley

Hope to see you there!

1996 Mid-Year Convention Sponsors

The Mid-Year Meeting Committee extends its gratitude to the following sponsors for their contributions in making this a successful and enjoyable Mid-Year Meeting. Please show your appreciation for their donation by supporting these firms and businesses:

Jones, Waldo, Holbrook & McDonough
Parsons Behle & Latimer
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Fabian & Clendenin
Snow & Jensen
Farr, Kaufman, Sullivan, Gorman, Jensen, Medsker, Nichols & Perkins
Snow, Nuffer, Engstrom, Drake, Wade & Smart
Prince, Yeates & Geldzahler
Litigation Section
Corporate Counsel Section
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Michie Company
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First Interstate Bank Trust & Private Client Service
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Knight Adjustment Bureau
Sedgwick James/CNA Insurance
Software Studios, Inc.
Utah Bar Foundation
Rollins Hudig Hall of Utah, Inc.
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Discipline Corner

ADMONITION

On January 22, 1996, the Chair of the Ethics and Discipline Committee Admonished two attorneys for violating Rule 1.10, Imputed Disqualification: General Rule, of the Rules of Professional Conduct of the Utah State Bar. The Respondents undertook representation of a client in a civil suit against a former client of the law firm, without the knowledge or consent of the former client. The Screening Panel concluded that the Respondent represented a client adverse to a former client of an associate in the law firm in violation of the Imputed Disqualification Rule of the Rules of Professional Conduct. The Panel recommended the Respondents be admonished and placed on one (1) year Probation, attend Ethics School, and submit a written policy/procedure detailing how initial conflicts checks are done in the law practice.

INTERIM SUSPENSION

On January 16, 1996, F. Kim Walpole was placed on Interim Suspension from the practice of law by Judge Michael Lyon of the Second District Court of Weber County. Judge Lyon ordered that Mr. Walpole be immediately suspended until permanent discipline is imposed at a Sanctions Hearing on February 26, 1996. Commencing in September 1990, Respondent began a continuing pattern of misconduct that spanned almost five years in which he misappropriated clients' funds or commingled clients' funds with his personal money. The Court found that during that time, he commingled, misappropriated, or diverted a total of $113,000.00 from his clients or his law firm.

Park City Bar

Yes, there is such a thing as the "Park City Bar," which is not to be confused with one of the many local establishments open for the consumption of alcoholic beverages.

Considering the prolific growth in Park City and the surrounding areas, it is not surprising that there has also been a significant increase in the number of practicing attorneys in the Park City area. (As a matter of fact, rumor has it that there is now one lawyer for every ten realtors in town). With so many lawyers in the vicinity, the Park City Bar Association was formed to address the needs and interests of the expanding number of local law practitioners who do not commute to Salt Lake City every day.

Initially, Park City Bar events were definitely informal and primarily social: it seemed like a good idea to get to know the attorneys in the area, many of whom had recently opened offices in Park City. Although the Park City Bar Association continues to be informal, the Association decided that something more than just socializing was needed. For example, it also seemed like a good idea to provide some continuing legal education on the east side of the Wasatch Front, and to establish a line of communication with judges, and particularly with judges sitting in Summit County. Thus, the purposes of the Park City Bar Association include providing continuing legal education in the Park City area, promoting communication among local lawyers, facilitating communication between lawyers and judges, as well as engaging in law-related or other activities that will serve and benefit the community.

The Park City Bar Association is committed to having its members work on several civic projects. The Association wants to be able to offer support services to the Peace House, which is a shelter in Park City for victims of domestic violence. In addition, the Association is organizing volunteers to spend a day doing (menial) construction tasks for the Habitat for Humanity project. The Association believes that hammering nails on that project will provide a valuable community service, as well as the potential for stress reduction for those who participate.

The Park City Bar Association holds monthly brown-bag CLE programs with both live and video presentations, as well as special CLE programs. To date, the Honorable Frank G. Noel, the Honorable Michael R. Murphy and the Honorable Glenn Iwasaki have spoken to the Park City Bar, and a number of seminars have been provided, including a half-day seminar on alternative dispute resolution and an ethics program featuring Chief Justice Michael D. Zimmerman.

Last year's ethics program (also known as "CLE and Ski") was so well-received, it will now be an annual event. The Second Annual Chief Justice's Ethics Symposium will be held at Deer Valley Resort on March 15, 1996. There will be a keynote address by Lawrence J. Fox, Esq., who is the Chair of the ABA Litigation Section and a member of the ABA Standing Committee on Ethics, followed by a panel discussion moderated by the Chief Justice. The ethics program will be followed by lunch, an afternoon of skiing at Deer Valley, and a reception in the late afternoon. Cost is $100.00 for members, $125.00 for non-members. Three hours of ethics CLE, a continental breakfast, lunch, lift ticket and the reception are included.

Believing that someday the snow will melt, and being committed to the idea that CLE can and should be combined with fun (or vice versa), the Association is currently making plans to organize the first Park City "Wet" Bar: a three day river trip or a Lake Powell house boat adventure and CLE (around a campfire?), tentatively scheduled for late spring or summer. Other similar events will be forthcoming.

Membership in the Park City Bar Association and enrollment in its functions are open to any lawyer, paralegal, law student or other interested individual who wishes to join or to attend. Membership dues are $25 per year for lawyers, $10 per year for non-lawyers. For information on the Park City Bar Association, please call Joe Tesch, President, Park City Bar Association, (801) 649-0077.

United StatesDistrict Court for the District of Utah

Notice to the Bar and Public

Court Action on the December 1993 Amendments to the Federal Rules ofCivil Procedure

On January 9, 1996, the judges of the court unanimously agreed on a permanent basis that the District of Utah, subject to the exceptions listed below, would not opt out of any of the December 1993 amendments to the Federal Rules of Civil Procedure. The court's Advisory Committee on the District Court Rules of Practice is preparing amendments to the local rules to bring them into conformity with the Federal Rules of Civil Procedure, as amended. Until the court officially adopts those amendments to the local rules, however, the current local rules remain in effect. Where there is a conflict between the local rules and the Federal Rules of Civil Procedure, as amended, the latter govern.

BACKGROUND

On December 1, 1993, important new amendments to the Federal Rules of Civil Procedure took effect. Several of those amendments provide the federal trial courts with the alternative of "opting out" of some of the requirements those amendments impose. In effect, a district court could elect, by local rule, to exempt itself from certain of those new requirements.

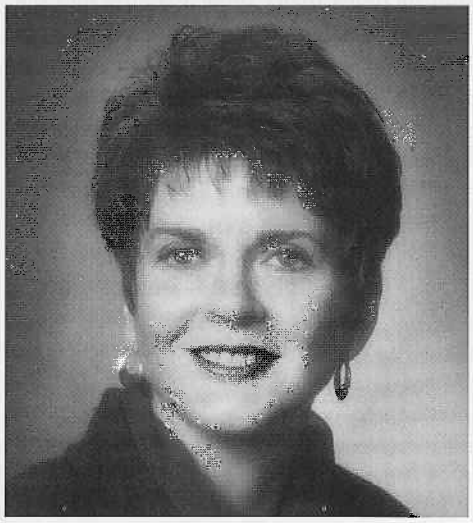
During the past two years, the judges of the District of Utah adopted on an experimental basis the position that the court, except as noted below, would not opt out of any amendments as set forth. The purpose of the experimental period was (i) to assess the impact of these new requirements on the court, the bar, and the civil litigation process, and (ii) following such assessment, to determine whether the District of Utah should exempt itself from any of the amendments that include an opt-out provision.

EXCEPTIONS

1. The disclosure provisions of Fed.R.Civ.P. 26(a) and the attorney meet and confer provisions of 26(f) shall not be deemed to apply to prisoner cases, pro se cases, social security, and Department of Health and Human Services appeals from administrative law judge decisions.

2. The provision of Fed.R.Civ.P. 26(a)(4) requiring the filing with the court of all disclosures made under paragraphs (1) through (3) of Rule 26 shall not be observed. The only exceptions are expert witness reports which must be filed with the clerk of court. Unless otherwise ordered by the court, in place of filing such disclosures, litigants or their counsel are required to file with the clerk a certificate of service of such disclosed materials on opposing counsel. This requirement follows the court's current provisions regarding the filing of discovery materials (see District of Utah Rule 204-3(c)). As with all original discovery materials, the party serving the disclosures shall retain the original and be the custodian of it.

President Clinton Names Jody L. Williams as a Member of the Utah Reclamation Mitigation and Conservation Commission



Effective January 15, 1996, President Clinton appointed Jody L. Williams to the Utah Reclamation Mitigation and Conservation Commission, a Presidential Commission established in July 1994 under the Central Utah Project Completion Act to repair ecological damage caused by federal water projects in Utah. Ms. Williams practices water law with the firm of Kruse, Landa & Maycock. Ms. Williams was nominated by Utah Senators Orrin Hatch and Robert Bennett because of the expertise she has gained as a water lawyer, as well as her extensive experience in fish and wildlife matters in Utah. Her nomination was forwarded to the White House by Senator Robert Dole.

Ms. Williams is the past president of the Utah Wildlife Board, was awarded the 1995 Lawyer of the Year by the Utah State Bar Environmental and Natural Resources Section, and the 1993 Conservationist of the Year by the Utah Wildlife Federation.

Federal Judicial Conference of the Tenth Circuit

Snowmass Village, Colorado • July 17-19, 1996

The Federal Judicial Conference of the Tenth Circuit, which focuses on the topic "Is Litigation Broken?" is scheduled July 17-19, 1996. We have both an exceptional program and an exceptional site in the resort village of Snowmass. We are planning an event that will expand your legal horizons, allow you to earn CLE credit, and present an opportunity for a wonderful respite in the beautiful Rocky Mountains. Snowmass has a full range of summer activities on the ground or take advantage of hot air ballooning!

We will be honored with the presence of two U.S. Supreme Court Justices, Byron R. White and Stephen G. Breyer. There will be a number of breakout sessions with outstanding moderators for you to attend. Subjects will include problems with litigation from costs to access to alternate dispute resolution and settlement.

We will, once again, be featuring an educational program for young people. This program seeks to adapt the themes of the conference to younger audiences. We anticipate offering separate programs for children ages 4-6, 7-9, 10-12, and 13-17. Such diverse approaches as stories, art projects, dance, youth forums, mock trials, skits and the like have been used in the past. We have found that involving the children in the conference themes often leads to interesting family discussions as the young people bring their own unique perspectives to common issues.

Some conference highlights will be a reception called the "Taste of the Tenth" featuring delectable treats indigenous of the six states in our circuit, state luncheons offering the opportunity to hear from judges, an evening barbeque and concert slopeside, a sing-a-long, and an exceptional conference dinner speaker. Plus, the proximity to Aspen provides a multitude of diversions from power shopping to jazz.

Please mark your calendars and join the Federal judges for both a social and learning experience. More detailed information will be mailed in April. You must be a member of the Tenth Circuit Judicial Conference to attend. To join, write or FAX your request to the address or telephone number below, and we will furnish an application promptly.

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
Telephone: (303) 844-2067
FAX: (303) 844-2079

A Call for Spanish Speaking Lawyers

The Governor's Office of Hispanic Affairs and the Tuesday Night Bar Program have come together to provide assistance to Spanish speaking members of our community. Lawyers who speak Spanish are needed to assist in this program so that Spanish speaking Hispanics can benefit from the Tuesday Night Bar Program. This program has been helping our community since March of 1995, and we need your help to continue. If you speak Spanish and are interested in participating in this program, please contact Kim Williams at 531-9077, Utah State Bar, or Lorena Riffo, Governor's Office of Hispanic Affairs at 531-8850.

continued from pg 7

port for those who have so generously volunteered their time – for example, by screening, packaging and referring cases, by providing necessary training in poverty law, and by ensuring the availability of malpractice insurance coverage – the Bar will increase the effectiveness of its voluntary pro bono program.

In a letter to her son John Quincy Adams, Abigail Adams said, "It is not in the still calm of life . . . that great challenges are formed . . . . Great necessities call out great virtues." The great need has clearly been presented to resolve the long-standing plight of inadequate delivery of legal services to the poor. The statewide planning task force and the enhanced voluntary pro bono program are poised to deliver the great virtues of the members of the Utah State Bar.

Litigation Section Announces Part II of the Trial Academy 1996 April 25, 1996 "The Law and the Art of Opening Statements"

Part I of the Litigation Section's Trial Academy 1996 was held on February 22 in Judge Pat Brian's courtroom. The program was by all accounts a roaring success. Judge Brian was joined on the bench by Judge Dee Benson of the United States District Court for the selection of the jury in the mock wrongful death action of *O'Reilly v. Bounder Transportation.*

Plaintiff's counsel was David Jordan (Stoel, Rives, Boley, Jones & Grey) and Gordon Campbell (United States Attorney's Office). Defendant was represented by Richard Burbidge (Burbidge and Mitchell) and Scott Daniels (Snow, Christensen & Martineau). The moderator was Francis Carney (Suitter, Axland & Hanson). All aspects of the selection of a civil jury in Utah were explored in this entertaining two-hour seminar.

Part II of the Trial Academy will be held on Thursday, April 25, at 6:00 p.m. It is not necessary for the registrant to have attended Part I. The faculty and location for this session of the Trial Academy will be announced. Experienced local trial attorneys will demonstrate the art of the opening statement and explore the law and procedure governing it. As with all segments of the Trial Academy, the program is designed to acquaint the novice practitioner with the basic skills of the trial lawyer and familiarize the practitioner with the peculiarities of local practice.

The remaining segments of the Trial Academy 1996 are:

April 25, 1996: Opening Statements
June 27, 1996: Direct Examination
August 29, 1996: Cross Examination
October 24, 1996: Exhibits
December 19, 1996: Summation

The cost is $20 per session for Litigation Section members and $30 for non-members. (Section membership is $35 a year and includes many other benefits and discounts.) Students may also enroll for the remaining five sessions of the Trial Academy at a cost of $80 for Section members and $120 for non-members. Students will receive two hours of CLE credit for each segment attended.

Enrollment for the April 25 session may be limited. Given that the February 22 session was rapidly sold out, interested lawyers should register immediately for Part II calling Monica Jergensen at the Utah State Bar at 531-9077.

JOB ANNOUNCEMENTS

ASSISTANT DISCIPLINARY COUNSEL

The Bar Commission has approved hiring an Assistant Disciplinary Counsel to fill a vacancy in the Office of Attorney Discipline. The Commission has delayed this hiring decision for several months in spite of a need that was perceived almost a year ago. By filling this position, our disciplinary counsel will be better able to process complaints brought to the Office of Attorney Discipline and properly represent the Bar in those matters that are litigated in the District Courts. Responsibilities will include the investigation and prosecution of attorney disciplinary actions in administrative proceedings and in the District Courts on behalf of the Utah State Bar. Trial and litigation experience is preferred. Excellent computer and administrative skills required. Salary from $35,000 to $40,000 with benefits. Equal opportunity employer. Submit resume to Stephen R. Cochell, Chief Disciplinary Counsel by March 22, 1996.

PART-TIME GENERAL COUNSEL

The Commission has also authorized the hiring of a part-time attorney to perform general counsel duties at the Bar. Responsibilities will include supervision of unauthorized practice of law cases; supervision of civil litigation involving the Utah State Bar; representation of the Bar on administrative appeals; appearance before the Utah Supreme Court on petitions and appeals; review of corporate documents; and providing assistance on admissions and employment issues. Salary negotiable. Equal opportunity employer. Submit resume to John C. Baldwin, Executive Director, by March 22, 1996.

JUDICIAL COMPENSATION COMMISSION

The Bar Commission is soliciting names of lawyers who would be interested in serving on the Utah State Executive and Judicial Compensation Commission. The Commission is charged to made studies and formulate recommendations concerning the wage and salary classification plan for the executive and judicial branches of government. The Bar's representative has specific responsibility to be involved in judicial compensation. If you are interested, please send a letter to John C. Baldwin at the Bar Office by March 22, 1996.

Thursday, March 28	9:00–12:00	Roy	( )	( )	( )
	9:00–12:00	Orem	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	Tooele	( )	( )	( )
Friday, March 29	8:30–11:30	Roy	( )	( )	( )
	9:00–12:00	SLC (3rd C)	( )	( )	( )
	9:00–12:00	Orem	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	Tooele	( )	( )	( )
	1:00–4:00	St. George	( )	( )	( )
Saturday, March 30	9:00–12:00	SLC (3rd C)	( )	( )	( )
	9:00–12:00	SLC (3rd C)	( )	( )	( )
	9:30–12:30	SLC (3rd C)	( )	( )	( )
	9:30–12:30	SLC (3rd C)	( )	( )	( )
	10:00–1:00	SLC (3rd C)	( )	( )	( )
	10:00–1:00	SLC (3rd C)	( )	( )	( )
	10:30–1:30	SLC (3rd C)	( )	( )	( )
	10:30–1:30	SLC (3rd C)	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:30–4:30	SLC (3rd C)	( )	( )	( )
	1:30–4:30	SLC (3rd C)	( )	( )	( )
	2:00–5:00	SLC (3rd C)	( )	( )	( )
	2:00–5:00	SLC (3rd C)	( )	( )	( )
Wednesday, April 3	9:00–12:00	Roy	( )	( )	( )
	9:00–12:00	SLC(PSC)	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	Manti	( )	( )	( )
	1:00–4:00	Orem	( )	( )	( )
	1:00–4:00	SLC (Decker Lake)	( )	( )	( )

1996 Mock Trial Schedule

Name: _____ Firm: _____

Position: _____ Address: _____

Phone: _____ _____ Zip: _____

I have judged before. Yes _____ No _____ I will judge _____ (number) of mock trial(s).

Please indicate the specific date(s) and location(s) that you will commit to judge mock trial(s) during the months of March and April. The dates and locations are *fixed*; you *will* be a judge on the date(s) and time(s) and location(s) you indicate, unless several people sign up to judge the same slot. If that occurs, we will call you to advise you of a change. You will receive confirmation by mail as to the time(s) and place(s) for your trial(s) when we send you a copy of the 1996 Mock Trial Handbook. Please remember — all **trials run approximately 2 1/2 to 3 hours and you will need to be at the trial 15 minutes early.** We will call one or two days before your trial(s) to remind you of your commitment.

Please be aware that Saturday session will be held on March 30th and April 13th. Multiple trials will be conducted. Please give these dates special consideration. Specific addresses for all courtroom will be mailed with the confirmation letter.

Date	Time	Place	Preside	Panel	Comm. Rep.
Monday, March 25	9:00–12:00	Orem	( )	( )	( )
	9:00–12:00	SLC (PSC)	( )	( )	( )
	1:00–4:00	Orem	( )	( )	( )
	1:00–4:00	Coalville	( )	( )	( )
	1:00–4:00	SLC (PSC)	( )	( )	( )
	1:00–4:00	Roosevelt	( )	( )	( )
Tuesday, March 26	9:00–12:00	Orem	( )	( )	( )
	1:00–4:00	Orem	( )	( )	( )
	2:00–5:00	Spanish Fork	( )	( )	( )
Wednesday, March 27	8:30–11:30	Roy	( )	( )	( )
	9:00–12:00	Orem	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	Logan	( )	( )	( )
	1:00–4:00	SLC (Decker Lake)	( )	( )	( )
	1:00–4:00	Orem	( )	( )	( )
	2:00–5:00	Spanish Fork	( )	( )	( )
Thursday, March 28	9:00–12:00	Roy	( )	( )	( )
	9:00–12:00	Orem	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	Tooele	( )	( )	( )
Friday, March 29	8:30–11:30	Roy	( )	( )	( )
	9:00–12:00	SLC (3rd C)	( )	( )	( )
	9:00–12:00	Orem	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	Tooele	( )	( )	( )
	1:00–4:00	St. George	( )	( )	( )
Saturday, March 30	9:00–12:00	SLC (3rd C)	( )	( )	( )
	9:00–12:00	SLC (3rd C)	( )	( )	( )
	9:30–12:30	SLC (3rd C)	( )	( )	( )
	9:30–12:30	SLC (3rd C)	( )	( )	( )
	10:00–1:00	SLC (3rd C)	( )	( )	( )
	10:00–1:00	SLC (3rd C)	( )	( )	( )
	10:30–1:30	SLC (3rd C)	( )	( )	( )
	10:30–1:30	SLC (3rd C)	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:30–4:30	SLC (3rd C)	( )	( )	( )
	1:30–4:30	SLC (3rd C)	( )	( )	( )
	2:00–5:00	SLC (3rd C)	( )	( )	( )
	2:00–5:00	SLC (3rd C)	( )	( )	( )
Wednesday, April 3	9:00–12:00	Roy	( )	( )	( )
	9:00–12:00	SLC(PSC)	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	Manti	( )	( )	( )
	1:00–4:00	Orem	( )	( )	( )
	1:00–4:00	SLC (Decker Lake)	( )	( )	( )

Date	Time	Place	Preside	Panel	Comm. Rep.
Thursday, April 4	9:00–12:00	SLC (PSC)	( )	( )	( )
	1:00–4:00	SLC (PSC)	( )	( )	( )
Friday, April 5	1:00–4:00	Orem	( )	( )	( )
Monday, April 8	5:30–8:30	Logan	( )	( )	( )
	1:00–4:00	Coalville	( )	( )	( )
	1:00–4:00	Coalville	( )	( )	( )
Tuesday, April 9	1:00–4:00	Brigham City	( )	( )	( )
Wednesday, April 10	12:30–3:30	SLC (3rd C)	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:00–4:00	Logan	( )	( )	( )
Thursday, April 11	8:30–11:30	Roy	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
Friday, April 12	8:30–11:30	Roy	( )	( )	( )
	1:00–4:00	Castle Dale	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
Saturday, April 13	9:00–12:00	SLC (3rd C)	( )	( )	( )
	9:00–12:00	SLC (3rd C)	( )	( )	( )
	9:30–12:30	SLC (3rd C)	( )	( )	( )
	9:30–12:30	SLC (3rd C)	( )	( )	( )
	10:00–1:00	SLC (3rd C)	( )	( )	( )
	10:00–1:00	SLC (3rd C)	( )	( )	( )
	10:30–1:30	SLC (3rd C)	( )	( )	( )
	10:30–1:30	SLC (3rd C)	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	12:30–3:30	SLC (3rd C)	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:00–4:00	SLC (3rd C)	( )	( )	( )
	1:30–4:30	SLC (3rd C)	( )	( )	( )
	1:30–4:30	SLC (3rd C)	( )	( )	( )
	2:00–5:00	SLC (3rd C)	( )	( )	( )
	2:00–5:00	SLC (3rd C)	( )	( )	( )
Monday, April 15	1:00–4:00	Delta	( )	( )	( )
Wednesday, April 17	9:00–12:00	Roy	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
	5:30–8:30	Logan	( )	( )	( )
Thursday, April 18	9:00–12:00	Roy	( )	( )	( )
	1:00–4:00	Roy	( )	( )	( )
Semi-Final Rounds (If you will have judged previous mock trial)					
Monday, April 22	9:00–12:00	SLC	( )	( )	( )
	9:00–12:00	SLC	( )	( )	( )
	1:00–4:00	SLC	( )	( )	( )
	1:00–4:00	SLC	( )	( )	( )
	1:00–4:00	Orem	( )	( )	( )
	2:00–5:00	Roy	( )	( )	( )
Tuesday, April 23	9:00–12:00	SLC	( )	( )	( )
	1:30–4:30	Orem	( )	( )	( )
	2:00–5:00	Roy	( )	( )	( )
	5:30–8:30	Logan	( )	( )	( )
Wednesday, April 24	9:00–12:00	SLC	( )	( )	( )
	1:00–4:00	SLC	( )	( )	( )
	1:00–4:00	Orem	( )	( )	( )
	2:00–5:00	Roy	( )	( )	( )
Thursday, April 25	9:00–12:00	SLC	( )	( )	( )
	1:00–4:00	SLC	( )	( )	( )
	1:30–4:30	Roy	( )	( )	( )
	2:00–5:00	Orem	( )	( )	( )

Please mail this form to:

Mock Trial Coordinator
Utah Law-Related Education Project
645 South 200 East, Suite 101
Salt Lake City, Utah 84111

Bar Commission Candidates

First Division Candidate

James C. Jenkins

JAMES C. JENKINS

Before I commenced my first term as Commissioner, I announced the purpose of my candidacy was to provide service to the members of the Bar and First Division. For three years I have sought to increase public awareness of the valuable service provided by the profession and to improve public opinion of lawyers. I have urged the Commission to address public relations each time we are called upon to make decisions.

I have also encouraged improved relationships between the Bar and the bench. Currently among my other responsibilities I serve as Chair-elect of the Utah Judicial Conduct Commission, and as a member of the standing committee of the Judicial Council for the Evaluation of Judicial Performance. With the creation of several new judicial positions and the implementation of court consolidation, the size of the judiciary has grown substantially. I recognize that in order for the system to function properly there must be a cooperative and professional relationship between lawyers and judges.

During the last year the Commission has redefined the vision and mission of the Bar. We have reorganized the Office of Attorney Discipline and we are evaluating proposals for improving the disciplinary system so as to improve the public image of lawyers and insure fair and timely discipline. A new telephone system has been installed at the Bar offices which will provide improved access to staff and officers. And, aggressive prosecution has been authorized to protect lawyers and the public from the unauthorized practice of law.

I look forward to the opportunity of serving a second term. I consider it an honor and a privilege to be a lawyer. I welcome any recommendations which will promote activity and improvement of our Utah State Bar.

Uncontested Elections . . .

According to the Utah State Bar Bylaws "In the event an insufficient number of nominating petitions are filed to require balloting in a division, the person or persons nominated shall be declared elected."

James C. Jenkins is running uncontested in the First Division and will therefore be declared elected.

Third Division Candidates

JOHN A. ADAMS

John Adams has practiced in Salt Lake City since 1982 with the law firm of Ray, Quinney & Nebeker. His practice emphasizes commercial litigation, insurance coverage disputes and environmental litigation. He served as an ex officio member of the State Bar Commission in 1985-86 when he was President of the Young Lawyers' Section. He has served for nearly a decade on the Executive Committee of the Salt Lake County Bar Association and is the immediate past-President. He has served on various bar committees, including at present the Annual Convention planning committee.

Dear Colleagues:

Often times the worthwhile accomplishments and quiet service of our Bar Commissioners go unnoticed and unsung. They probably prefer it that way because they are elected to govern effectively and solve problems, not attract notoriety. We expect our Bar Commission to tackle and find the right solutions to difficult issues that confront our profession. We expect them to make decisions that impact all lawyers fairly,

John A. Adams

regardless of their types of practice or backgrounds.

If elected to represent you, I would strive to serve with the vigor, foresight, fairness and good judgment that you expect and deserve. I would like the opportunity to serve as your representative and would appreciate your vote and support.

REX C. BUSH

Rex Curtis Bush is a 1983 graduate of the U of U law school who has practiced since 1984 in a variety of settings including small firm, corporate and solo. He is a past member of the Utah State Bar CLE Committee, has served as a small claims court judge, and is currently a member of Utah Trial Lawyers Association, the Annual Meeting Committee and Chair of the Solo and Small Firm Committee.

In the past year the committee he chairs has: 1) established a Solo and Small Firm Resource Library at the Law and Justice Center; 2) helped lobby for CLE Board approval of law office management CLE programs; 3) scheduled the first "Going Solo Seminar" for attorneys planning to open their own practice; 4) established the first Utah State Bar Solo and Small Firm Network to foster referrals, mentoring and other networking activities.

Rex C. Bush

Dear Colleagues:

I would like the opportunity to serve you as a member of the Bar Commission. If elected, I will listen to your concerns and work hard to support and strengthen your efforts to serve your clients and the public.

To those ends I would greatly appreciate your vote.

Scott Daniels

SCOTT DANIELS

I promise to make the Bar Commission a high priority in my life and with my time, and to work hard.

PAUL G. MAUGHAN

Paul G. Maughan has been practicing law in Utah since 1974. He has had experience working in private practice with a six-person firm and in the Salt Lake City Attorney's Office. He is currently working in the Salt Lake County Attorney's Office where he practices in the areas of environmental law, real estate law and eminent domain. He is currently a member of the Courts and Judges Committee and the Alternative Dispute Resolution Committee. He is associated with the Court Annexed Alternative Dispute Resolution Program and assists the Law and the Elderly Committee.

Dear Colleagues of the Third District:

I would like the opportunity to serve and represent you as a member of the Bar Commission. There are many challenging and exciting issues now facing the Bar that will impact the way we practice law in the next century, such as court consolidation, ADR programs, and the use of new technology in the courts. I will work hard to improve our sense of pride in the profession and to foster a sense of acceptance and accessibility in each member and segment of the bar.

Paul G. Maughan

I would very much appreciate your vote.

Sincerely,
Paul Maughan

CHARLOTTE L. MILLER

I have served on the Bar Commission for three years during which time some of the accomplishments of the Bar Commission include:

- Paying in full the mortgage on the Law & Justice Center.
- Successful prosecution of the unauthorized practice of law.
- Review of the Office of Attorney Discipline.
- Survey of membership to determine needs.
- Development of long range planning.

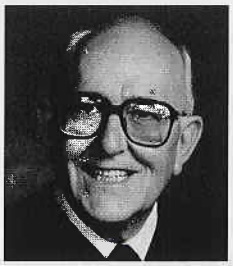
I would like the opportunity to serve a second term as a Bar Commissioner. Responsibilities I believe will be important in the next three years include:

Charlotte L. Miller

- Expanding the methods through which members may attain their required CLE.
- Analyzing the system for providing legal services to the poor and the impact of that system on Bar members.
- Continuing review of the disciplinary process.
- Exploring improvements to the Client Security Fund, without creating a financial burden to Bar members.
- Reviewing each department of the Bar Office regularly to ensure it is serving Bar members, to prepare for the future, and to avoid unnecessary expenditures.
- Continuing efforts to encourage a wide spectrum of Bar members to participate in meaningful roles in the Bar.

Although the Bar is no longer facing financial difficulties, we need to be vigilant to keep it financially sound and effective. To me, this means recognizing that the Bar cannot be everything to everybody, but that the Bar needs to fulfill its obligations to its members and be a leader in planning for the future.

I would appreciate your vote so that I may continue the projects I have begun, and work on new projects that will support Bar members and help the public understand the value of lawyers and the legal system.



D. Frank Wilkins

D. FRANK WILKINS

D. Frank Wilkins has served the Bar and people of Utah as a Supreme Court Justice, District Judge, Chief Judge of the District Courts of Utah, Chairman of the Judicial Council, and has received both the Outstanding Judge of the Year and Amicus Curiae Awards.

He is presently a Bar Commissioner for the Third Division, and he is of counsel to the firm of Berman, Gaufin, Tomsic & Savage.

I would be honored, if allowed, to continue to serve as one of your bar commissioners for a second term.

The Bar Commission triggers, or is involved in, an ever expanding portfolio of projects and programs. Most get high marks, I think. But, are we in overload at times? Yes. Why? Too many demands, though most are praiseworthy, on available resources and capabilities. But enough on overload.

The Bar Commission does, and should, perform many functions, hopefully with continuing improvement. None is more important than education through our *Utah Bar Journal;* other publications (such as the recently published *Voir Dire* quarterly magazine by our Litigation Section); and our CLE conferences and seminars at *less expensive* tuition costs than are usually charged. Also we are just aboard on the computer internet – a universe, including education, may be unfolding here.

I must end. Thank you.

Respectfully,
Frank

Young Attorney Profile — Dave Doty

By Mark E. Burns

After graduating from Brigham Young University's J. Reuben Clark law school in 1993, Dave Doty practiced worker's compensation insurance defense with the Salt Lake City law firm of Hanson, Epperson & Smith. A unique opportunity presented itself in October of 1994. The Davis County School District needed someone to help develop and implement policies and procedures required by the Americans With Disabilities Act (ADA).

This was no small project.

Among other things, this person would have to coordinate the remodeling of facilities in seventy different schools within one of the largest school districts in the nation. This year, the facilities renovation budget alone is expected to exceed $300,000. "The title of my job is Compliance Officer/Equal Education & Employment Opportunity (EEO) Coordinator, but the position actually encompasses quite a few different things beyond that," Dave explains. "I'm also sort of an ombudsman."

As briefly mentioned above, Doty's primary responsibility is to monitor and help facilitate the Davis County School District's compliance with Americans With Disabilities Act. The Act requires that schools evaluate policies, procedures, facilities, services and programs to determine whether persons with disabilities are treated fairly. Consequently, Doty has prepared cost estimates and developed a transition plan for changes to physical structures within the District. "Basically," Dave asserts, "I need to determine where the barriers to access are and figure out what is needed to remove those barriers." Conservative estimates for implementing changes to the seventy schools throughout the District exceed $1.5 million dollars.

Doty is also the primary contact person for managing employee and student requests for reasonable accommodations under the ADA. Davis County has published Doty's name and phone number throughout the 60,000 student school district. Complainants call him if they are unable to reach a resolution with a particular school. This can be quite a challenge when you consider the fact that the Davis County School District is the 60th largest school district in the country (there are approximately 15,000 school districts nationwide). The average school district in America has about five schools and 2,618 students.

In addition to his ADA projects, Doty is responsible for managing a variety of other civil rights issues, including sexual harassment awareness and investigation, race discrimination and complaint resolution. The District sent him through formal mediation training so he could serve as a due process hearing officer and dispute mediator. "In terms of the investigation and complaint process," Doty asserts, "I am a fact finder, a mediator and a neutral party. I just try to make sure the complaint is resolved equitably for everyone involved."

Indeed, Doty's negotiation and mediation skills have become such an asset that he has participated on the management team in collective bargaining negotiations and other Districts have started to use him to resolve some of their disputes, particularly in the special education arena.

Doty's interest in education law dates back to his days as a graduate student at Stanford University, where he received a Master's degree in Education and taught high school. "It was only after I took some public policy classes that I realized I was interested in going to law school. We studied the Constitution and how the courts have been shaping what happens in schools

and I just became fascinated with that. So I applied to law school with the intention that hopefully I'd be able to use the training in an educational position someday. I've been really fortunate. Things have worked out well for me."

One of the things Doty enjoys about the eclectic nature of his position is the fact that he has the opportunity to work with many different kinds of people. Recently, he has been working with the Davis County Attorney's Office, local law enforcement, school administrators, parents and community groups to help prevent crime in school. As part of that effort, the committee has developed a "safe schools" policy which addresses issues such as student searches, weapons and truancy.

Doty's experience in the workers compensation area has served him well. "My work with Ted Kanell, Robert Wallace and the other attorneys at Hanson, Epperson has really been helpful with these ADA requests. For one thing, requests for accommodation necessarily involve mental and/or physical disabilities. Doing workers compensation and insurance defense helped me understand impairment ratings and ask both physicians and employees the right kinds of questions."

Since part of Doty's primary responsibility is to monitor and audit each school's compliance with the ADA and other federal civil rights laws, the District felt it was important to minimize external pressures on his position. Doty's office is an independent entity and he is one of only a handful of people who report directly to the Superintendent.

Coordinating large scale modifications to facilities and District-wide policies requires that Doty work closely with the District's seventy principals. As a result, Doty is frequently on their agenda to discuss policy changes, legal issues or upcoming training sessions on civil rights matters such as sexual harassment awareness. Yes, he teaches those training sessions as well.

Prioritizing renovation projects on this scale can be tricky. For now, Doty has recommended that the District focus on improving access for the disabled to its seven high schools. Davis County's high schools serve the largest number of students and are frequently used by the public for extracurricular activities such as sporting events, Boy Scout meetings, community education and town meetings. Improvements will start from the outside – wider parking spaces, wheelchair curb cuts and removing physical barriers to common areas are a few of the improvements currently being implemented.

One of the most interesting things about Doty's position is the fact that he must coordinate his efforts with other agencies and departments. For example, in reviewing a site to determine whether it meets the ADA's accessibility requirements, Doty will often do his "walk-throughs" with the person responsible for monitoring compliance with safety and environmental regulations. "One of the things I like about working with the school district is that I am not only encouraged but *required* to work in a team environment. To be successful I must work with people to build consensus. I really enjoy that. Besides that, the people I work with are interesting. Depending on the day, I may work with a student, parents, teachers or other professionals."

The other part of his job which Doty finds interesting is the intellectual challenge. "Often, we are dealing with cutting-edge legal issues like sexual harassment or First Amendment law. The issues receive a great deal of publicity and are always changing."

On a personal level, Doty is married and has two children. He enjoys skiing, mountain biking and running on weekends. He is currently working on a Ph.D. in Educational Leadership. With the course work behind him, all that remains are the remaining chapters of his dissertation (which he expects will take a year to complete). His topic is the use of mediation to resolve civil rights disputes in public schools.

In closing, Doty took a moment to reflect on his recent career change. "In law school, there was so much focus on working for a firm. This position has made me realize there are other options. A law degree opens up so many doors. Right now, I can't think of anywhere else I would rather be."

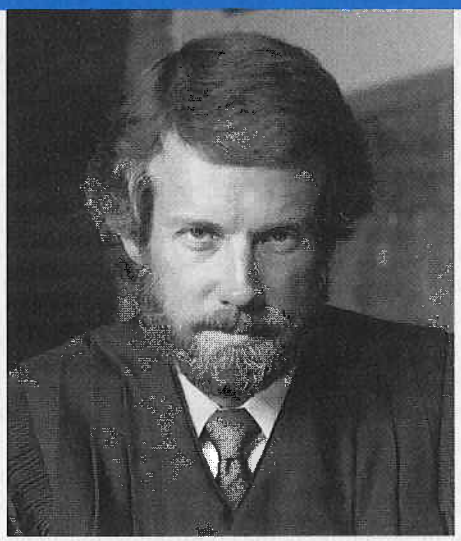
Volunteers Needed for YLD Service Project and Law Day

By Michael O. Zabriskie

The Young Lawyers Division needs help (both skilled and unskilled) for their Spring Service Project. This year we are renovating the Battered Women Shelter, a section of the Y.W.C.A. Last year this section housed 1000 children and 600 battered women. The area can house 55 women and children at a time. Because of the high demand and use of this facility it drastically needs immediate attention. Volunteers will help paint, refurbish, drywall, replace carpet, clean, move furniture, and basically everything else that needs to be done.

The Shelter staff is enthusiastic and supportive about this refurbishment. Because of the ongoing function it is difficult to arrange such an overhaul and still accommodate those individuals staying at the shelter. We will have April 13th and 14th to complete this project and then the section will shelter numerous women and children. We are also looking for any in kind donations to improve this section. Any interested persons can contact Gary Winger at 521-5800 or Brad Helesten at 363-7611.

Fox 13 television and AT&T are sponsoring Call A Lawyer again this year. Law Day, May 1st 1996, from 7:00 p.m. to 10:00 p.m. Viewers can call a toll free number and get some direction to their legal problems. This event was highly successful last year and we need even more volunteers to man the phones. For more information or to sign up to help call Steven Shapiro at 532-5444.



The State of the Judiciary

Delivered by Chief Justice Michael D. Zimmerman
January 15, 1996

Governor Leavitt, President Beattie, Speaker Brown, legislators, and fellow citizens. On behalf of the Utah Judicial Council, the elected body of judges that sets policies for the administration of the courts, the Utah Supreme Court, and the entire Utah judiciary, I thank you for this opportunity to report on the state of the Utah judiciary. On this celebration of Utah's centennial as a state, I would like to touch only briefly on issues confronting the judiciary that we will present to you this session. Instead, I want to take a broader view, to celebrate our past while assessing the challenges of our future.

Much has changed in the hundred years since Utah assumed its position as a full partner in the Union. The original Utah constitution has been amended many times in the past century, but the basic structure has remained unchanged. We are still divided into three separate branches – the legislative, executive, and judicial. And each branch is still charged with responsibilities unique to it. While each may have a unique role, together we compose one government with one overarching mission – to serve the people efficiently and with vision. To accomplish that, all of government must work collaboratively on issues of common concern. This has not changed in one hundred years, and for good reason: it has worked well.

MICHAEL D. ZIMMERMAN has served on the Utah Supreme Court since 1984, and has served as Chief Justice since 1993. He received his Juris Doctorate from the University of Utah in 1969, graduating first in his class. Additionally, he served as Note Editor of the Utah Law Review and was elected to the Order of the Coif. After graduation, he served as law clerk to Justice Warren E. Burger of the United States Supreme Court. Thereafter, Chief Justice Zimmerman worked in Los Angeles, California for the law firm of O'Melveny and Myers.

In 1976, he returned to Utah and became an associate professor of law at the University of Utah. In 1978, Chief Justice Zimmerman returned to private law practice in Salt Lake City with the law firm of Krause, Landa, Zimmerman, and Maycock, and later, with Watkiss and Campbell. During this time, he also served as a part-time member of the staff of Governor Scott M. Matheson.

Chief Justice Zimmerman has served on numerous boards and committees including the Utah Judicial Council, the Federal Rules Advisory Committee, the Task Force on Gender and Justice, the Alternative Dispute Resolution Task Force, the Utah Legal Services Corporation, the Snowbird Institute of Arts and Humanities, the American Law Institute and the Utah Future/Project 2000. In 1988, he was named as "Appellate Court Judge of the Year" by the Utah Bar Association.

Chief Justice Zimmerman is the father of three daughters and was married to the former Lynne Mariani, who died in 1994.

The necessity for a collaborative effort among all the branches of government, including the judicial, on issues not specifically allocated to one branch, was part of the vision of the drafters of the original constitution. Unlike many state constitutions, the 1896 document expressly alludes to this fact. In article VIII, it directed the courts to work with the other branches on matters of law reform. It stated in part, that "[d]istrict judges may, at any time, report defects and omissions in the law to the supreme court, and the supreme court, on or before the first day of December of each year, shall report in writing to the Governor any seeming defect or omission in the law."

The particular provision requiring a report from the Supreme Court to the Governor was removed in the 1985 revision of the judicial article as surplusage, but the tradition continues of the judiciary frequently consulting and working with the other branches on matters affecting the administration of justice. This is a responsibility we take seriously.

Fortunately, our interaction is not limited to the one annual message mentioned in the old constitutional provision. If it were, this speech would be far longer than I would like to give and you would like to hear.

But during the year there are many other occasions, formal and informal, for the judicial branch to make detailed presentations on budget and programmatic needs, and to discuss matters relating to the administration of the law. I meet regularly with the Governor and with legislative

leadership on matters of mutual concern. Judges and administrative staff participate on and report to legislative and executive branch study and oversight committees. Legislative and executive branch staff attend meetings of the Judicial Council and its subcommittees, as well as the various rules committees of the Supreme Court. And the Supreme Court, in its constitutional rulemaking capacity, routinely seeks comment from legislative staff and your Judicial Rules Review Committee so that our rules process operates with full awareness of your concerns. Last, but not least, during the session, the judiciary participates in the legislative process on matters of concern to the justice system.

This active collaboration among the three branches of government is one of the success stories of the first century of Utah's statehood. It is a tradition we commit to continue through the next century.

The fruit of this collaboration is a judiciary that serves all Utahns. The structure of the court system as it has evolved over the past century is sound and progressive. We have good machinery in place for selecting and retaining judges based on their individual merit, machinery that has produced a quality judiciary without a hint of the scandal or partisanship that taints too many systems across the country.

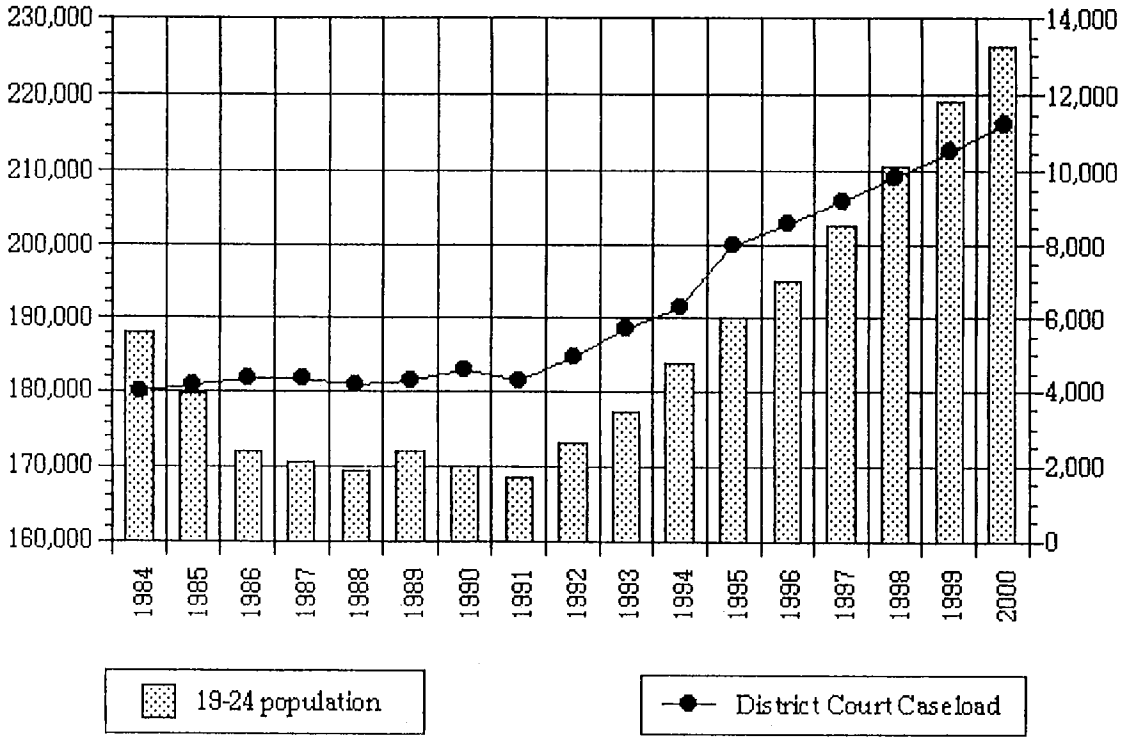
Similarly, the administrative arm of the judicial branch is well structured, due in large part to the 1985 amendment of the judicial article which you proposed. It is strong and flexible, able to address the needs of the present and plan for the future. It functions smoothly, under the leadership of the Judicial Council and our new state court administrator, Daniel Becker. It is generally considered one of the nation's best judicial administrations.

At the end of our first century, the judicial branch's performance matches the promise of its structure. In the courtrooms, our judges and staff are handling ever increasing caseloads ever more efficiently. Their efforts have made Utah's case processing times among the quickest in the nation.

In the area of judicial administration, we can be flattered by the number of times that our programs have been replicated by others. We have instituted the first statewide mandatory divorce education program. We offer civil litigants court annexed alternative dispute resolution mechanisms for those who would prefer to use means other than a trial to resolve their disputes. Utah is a leader in taking advantage of technology to streamline the courts' handling of information. We already have instituted electronic filing of court documents on a pilot basis. We have recently begun placing Quickcourt kiosks around the state, making us one of only three states to use such technology. Through use of these touchscreen computer terminals, citizens without lawyers and without legal knowledge can prepare documents needed to institute simple court actions. This gives meaningful access to the courts for a broader segment of the population. We are a leader in judicial branch education, not only for judges, but for court support personnel, who play a critical role in handling the needs of the public. And we were recently cited by the Wall Street Journal as having one of the most comprehensive and effective juvenile court work restitution programs in the country.

As we stand at the close of Utah's first

District Court Felony Caseload Comparison with At-Risk Adult Population



century, we can be pleased about how we have met its challenges. It is now incumbent upon us to prepare to confront the next century and its unique demands.

To that end, the Judicial Council is engaged in an ongoing comprehensive planning process. That process sometimes leads to proposals for changes in court organization so that we can better respond to a dynamic environment. This year, we will finish the final phase of consolidation of the district and circuit courts. Consolidation will permit more efficient and more flexible use of our limited judicial resources.

Looking ahead, after consolidation is completed, the Judicial Council will take up the question of whether or not a family court should be instituted. Such a court's docket would bring together family issues in one forum. It would include the domestic work of the District Court and all matters currently heard by the Juvenile Court. No conclusions have been reached as to the wisdom of such a change, but together, we need to carefully study all proposals that may result in greater flexibility and more effective service to the public.

Beyond the question of the system's structure, the Judicial Council's planning efforts have yielded other information as to the resources we will need to meet the challenges of the next century. I will not burden this speech with details of resource requests we are making for the current year. But I do want to give you some idea of the rather disturbing trends we see.

"This active collaboration among the three branches of government is one of the success stories of the first century of Utah's statehood."

Over the past few years, the courts have experienced increases in filings that are to be expected in a rapidly growing state. But of particular concern has been the unprecedented rate of increase in criminal filings, increases that far outstrip our rate of population growth. Since 1993, misdemeanor filings are up 21%, and felony filings are up 31%. Statistics suggest that these are not temporary aberrations. They correspond closely to the sharp increase in the proportion of the population consisting of nineteen to twenty-four year old young adults. This group is the most crime prone segment of the adult population.

If these trends in criminal filings continue – and, based on the demographics, we fully expect them to do so – the consequences will be serious indeed for the entire court system. Because statute and constitutional law require that criminal cases be handled before civil, ballooning criminal filings will occupy more of our judges' time, with consequent greatly increased delays in civil case processing times. We are already seeing a lengthening of the time it takes to dispose of civil cases. (I have attached to the printed version of this speech several charts which depict these trends graphically. I think you will agree that these figures raise cause for concern.)

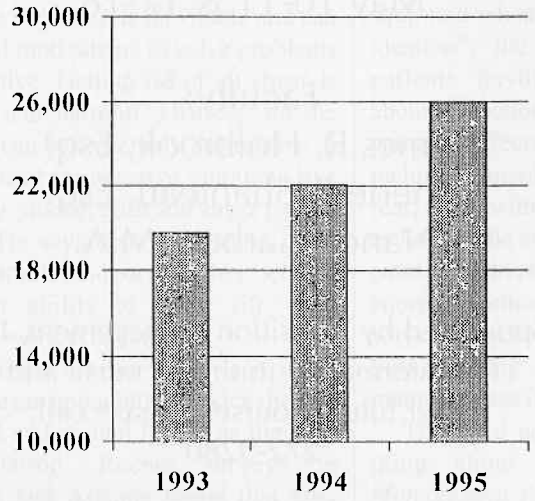
To date, we are coping with these trends. But it is important to recognize that if they continue, a significant infusion of resources will be needed to keep the judicial system performing as the public and the business community have come to rightly expect.

In concluding, I would like to take the opportunity presented by this historic occa-

State Court Growth in Criminal Filings

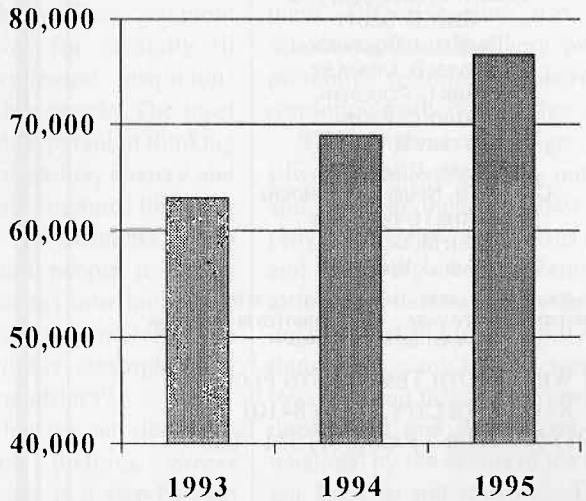
❖ Felonies

❖ 31% Increase Since '93



❖ Misdemeanors

❖ 21% Increase Since '93



sion to thank those who have helped make our justice system one of which we can all be proud. I include all of you serving in this chamber, as well as those who served before you. I include not only Governor Leavitt, but prior governors who have led with vision and courage.

I also applaud present and past members of our judicial family. I am speaking not only of my colleagues on the Supreme Court, or even judges as a whole. I, and all members of the judiciary, recognize the backbone of this system that is made up of the clerks, probation officers, and administrative staff who are "the courts" to most citizens. All I have mentioned are responsible for the excellence of our judicial system at the close of its first one hundred years, and its bright prospects for the next.

I look forward to working closely with you in the coming session and beyond to provide the people of the state with the justice system they deserve.

Thank you.

Stress Management for Lawyers

By Amiram Elwork, Ph.D.

Reviewed by Cherie P. Shanteau

Stress is a way of life for lawyers. Many of us pride ourselves in our ability to endure frightening amounts of stress on a daily basis. Unfortunately, the consequences of chronic stress can be devastating. The author, Amiram Elwork (A Ph.D. clinical psychologist in Philadelphia who specializes in serving the legal community), wrote *Stress Management for Lawyers* as a manual to help us learn some practical stress management skills. It is a quick read, and if used as a reference guide, can help us understand how stress and distress impact us.

Stress, he indicates, is inevitable and can energize and motivate us to solve problems and be creative. Getting rid of all stress is both naive and harmful. Distress, on the other hand, can be extremely destructive. It is characterized by negative emotions like fear, anxiety, shame, guilt and anger (sound familiar?). He says that when these emotions are chronic and strong, they tend to destroy our ability to enjoy life, stay healthy and work productively.

The statistics are not pretty and not a surprise. We are apparently at twice the risk for physical and mental illness as the general population. Recent surveys in Washington and Arizona found that one-third of all lawyers show symptoms of clinical depression and substance abuse (14% of depression, 13% problem drinking, 5% both). Heart disease and physical illness are also strongly linked to occupational stress among lawyers. Very few of us can deny our familiarity with the ravages of distress.

Environmental stressors like time pressures, work overload, competition, the economy and office politics all interact with our peculiar personalities. Paranoia reigns supreme. Aggression, selfishness, hostility and cynicism are the norm. Justifiable paranoia and workaholism are a way of life. I personally squirmed when Elwork described "paranoid ideation", the diagnosis for mentally ill patients having unwarranted suspicions about the actions of other people. The most common effects of clinical paranoid thinking include "generalized irritability, anxiety and fear, along with physical symptoms like 'butterflies in the stomach' and insomnia. These emotions drive paranoid people to invest enormous amounts of energy into thinking of ways to avoid anticipated harm." Are we busy creating a day-to-day atmosphere of mental illness in our law offices?

The good news is that we can do something about all that distress. *Stress Management for Lawyers* is a step-by-step manual providing techniques to help us more effectively deal with "distress". Taking the time to use the various techniques is the challenge. The relaxation techniques are the easiest. You can do them in your office and it doesn't take much time. Elwork also suggests improving your work environment. He endorses improving work environments by establishing alternative work schedules, lower billable hour requirements, improved communication with associates and clients. He also suggests encouraging support for lawyers seeking psychological counseling and treatment. Effective time use, streamlining scheduling and discovery procedures and promoting reforms like alternative dispute resolution methods are other suggestions.

The toughest challenge presented by Elwork is unlearning old, unhealthy habits and replacing them with new ones. Elwork provides a series of exercises for evaluating and improving what he deems dysfunctional thinking habits. I think they're probably great, but when I tried to follow the instructions and log my full reaction to daily distress, I found that I was consistent the first three times and then found myself overwhelmed by the events of the day and never got back to my charting. This happened

time and time again until I decided that I would put that part off until my life settled down (fat chance).

I doubt anyone will disagree with the author's premise that we need to improve the way we look at life, to pay more attention to our emotional framework, and ultimately to our physical responses to emotions. Even if you only use a small portion of the techniques provided in this manual, the pay-off will be substantial. Elwork is right – for our health and well-being, we all need to implement a plan for self-evaluation and reflection about improving the quality of our lives.

Where Can We Turn? A Parent's Guide to Evaluating Treatment Programs for Troubled Youth

By Jacki Allred and Claudia Olsen
The Jeffersen Resource Institute, Inc.

Where Can We Turn? is a manual for parents with troubled children. It was written to help parents evaluate treatment facilities, the level of care their child needs and even financial arrangements and insurance coverage. The authors provide parents with a series of questions to ask treatment facilities. Fortunately, I have not had to become an expert on treatment programs (knock on wood), so I had my husband, the psychiatrist, review this manual. He reports that it is very thorough and gives it an "A". *Where Can We Turn?* he says, is a concise, thorough outline of issues you need to understand and questions you need to ask before entering your child into a treatment program. If a facility responds well on all of the issues, it will be a well thought out, well developed program. Parents who ask these questions will be well-educated about the essentials of treatment for troubled kids.

continued from pg 10

has nothing to do with *women;* it applies only to males. In a day and age when almost half of law school graduates are female, does it make sense to adopt a term of address whose only apparent defining limitation is its exclusion of women? It is the female of the legal species who should chafe most at the law's misappropriation of "Esquire". Addressing lawyers as esquires is the exact equivalent of referring to all members of a mixed audience as "gentlemen" and ignoring the "ladies", or of addressing a woman as "Mr."

If the legal community cannot get along without a distinctive honorific, what's wrong with "Attorney at Law"? Or "Lawyer"? Or even "Counselor"? These terms are honest, historically accurate, and gender-neutral.

We should exile this odious pretension as we have horsehair wigs and gold collar buttons. Our Ancient and Honorable Profession deserves better than to be identified with assistants to an extinct class of English horse soldier.

UTAH BAR FOUNDATION

1995 IOLTA Grants Application Process

In June 1996, the Board of Trustees of the Utah Bar Foundation will award its annual grants to Utah organizations that (1) promote legal education and increase knowledge and awareness of the law in the community, (2) assist in providing legal services to the disadvantaged, (3) improve the administration of justice, and (4) serve other worthwhile law-related public purposes.

The Trustees occasionally consider grant requests that are not made as part of the yearly grant cycle, but only in very unusual circumstances. The Board prefers to consider grant applications together in June of each year so that the funds available may be equitably allocated among the many deserving organizations.

The funds available for grants are generated by interest on trust accounts of lawyers who participate in the IOLTA Program. Attorneys who are not currently enrolled in the program may obtain an authorization form from the Bar Foundation office.

Organizations seeking grants may obtain an application form from the Bar Foundation office in the Utah Law & Justice Center, 645 S. 200 East, Salt Lake City, Utah 84111 (531-9077). The application consists of a financial report and a narrative proposal not to exceed eight pages. The Trustees prefer proposals that are specific about the purpose of the request and how the funds would be used.

The deadline for submitting applications for 1996 grants to the Bar Foundation office is **MAY 31, 1996.**

Notice of Election

NOTICE IS HEREBY GIVEN, in accordance with the Bylaws of the Utah Bar Foundation, that an election of three trustees to the Board of Trustees of the Utah Bar Foundation will be finalized at the annual meeting of the Foundation held in conjunction with the 1996 Annual Meeting of the Utah State Bar in Sun Valley, Idaho. The three trustee positions are currently held by James B. Lee, Joanne C. Slotnik, and Stewart M. Hanson, Jr. The term of office is three years.

Nominations may be made by any member of the Foundation. (Every attorney licensed to practice law in the State of Utah is also a member of the Foundation.) Submission of a nominating petition identifying the nominee (who must be an active attorney duly licensed to practice law in Utah and signed by not less than 25 attorneys who are also duly licensed to practice law in Utah) should be mailed to the Utah Bar Foundation, 645 South 200 East, Salt Lake City, UT 84111 so as to be received on or before **APRIL 30, 1996.**

Nomination petitions can be obtained at the Foundation office or requested by telephone — 531-9077. The election will be conducted by secret ballot which will be mailed to all active members of the Foundation on or before May 31, 1996.

Annual Community Service Scholarships

At its April 1996 meeting, the Utah Bar Foundation will review applications and award a $3,000 scholarship to a Brigham Young University Law School student and to a University of Utah College of Law student.

To qualify to receive one of these scholarships, one must have participated in and made a significant contribution to the community by performing community service.

Applicants should send resumes to the Utah Bar Foundation listing the organizations or beneficiaries receiving their service, describing the service performed, and naming individuals who can be contacted regarding that service. The deadline for submission of resumes is **APRIL 1, 1996.**

CLE CALENDAR

ADVANCED ADVOCACY & PROFESSIONAL RESPONSIBILITY: KEITH EVANS

Date: Friday, March 1, 1996
Time: 9:00 a.m. to 5:00 p.m.
Place: Utah Law & Justice Center
Fee: $150.00 before February 23, 1996; $175.00 after February 23, 1996
CLE Credit: 6 hours, which includes 3 in ETHICS

1996 MID-YEAR CONVENTION

Date: Thursday, March 7 - Saturday, March 9, 1996
Place: Holiday Inn, St. George, Utah
CLE Credit: 7.5 hours which includes up to 2.5 in ETHICS (An additional 2.5 hours is available through the Salt Lake County Bar)

****Watch your mail for a more detailed brochure.****

ALI-ABA SATELLITE SEMINAR: BROWNFIELDS REDEVELOPMENT: CLEANING UP THE URBAN ENVIRONMENT

Date: Thursday, March 7, 1996
Time: 10:00 a.m. to 2:00 p.m.
Place: Utah Law & Justice Center
Fee: $160.00 *(To register, please call 1-800-CLE-NEWS)*
CLE Credit: 4 hours

MANAGING YOUR FIRM FOR SUCCESS

Date: Thursday, March 14, 1996
Time: 4:00 p.m. to 7:00 p.m.
Place: Utah Law & Justice Center
Fee $60.00
CLE Credit: 3 hours

ALI-ABA SATELLITE SEMINAR: HOW TO HANDLE BASIC COPY-RIGHT & TRADEMARK PROBLEMS

Date: Thursday, March 14, 1996
Time: 9:00 a.m. to 4:00 p.m.
Place: Utah Law & Justice Center
Fee: $249.00 *(To register, please call 1-800-CLE-NEWS)*
CLE Credit: 6 hours

NLCLE WORKSHOP: LANDLORD/TENANT LAW

Date: Thursday, March 21, 1996
Time: 5:30 p.m. to 8:30 p.m.
Place: Utah Law & Justice Center
Fee: $30.00 for Young Lawyers Division Members; $60.00 for all others
CLE Credit: 3 hours

ALI-ABA SATELLITE SEMINAR: PLANNING & USING LIMITED LIABILITY VEHICLES

Date: Thursday, March 21, 1996
Time: 10:00 a.m. to 2:00 p.m.
Place: Utah Law & Justice Center
Fee: $160.00 *(To register, please call 1-800-CLE-NEWS)*
CLE Credit: 4 hours

ALI-ABA SATELLITE SEMINAR: ESTATE PLANNING PRACTICE UPDATE

Date: Thursday, March 28, 1996
Time: 10:00 a.m. to 2:00 p.m.
Place: Utah Law & Justice Center
Fee: $160.00 *(To register, please call 1-800-CLE-NEWS)*
CLE Credit: 4 hours

NLCLE WORKSHOP: FAMILY LAW BASICS

Date: Thursday, April 18, 1996
Time: 5:30 p.m. to 8:30 p.m.
Place: Utah Law & Justice Center
Fee: $30.00 for Young Lawyers Division Members; $60.00 for all others
CLE Credit: 3 hours

NLCLE WORKSHOP; LAW OFFICE MANAGEMENT

Date: Thursday, May 16, 1996
Time: 5:30 p.m. to 8:30 p.m.
Place: Utah Law & Justice Center
Fee: $30.00 for Young Lawyers Division Members; $60.00 for all others

Seminar fees and times are subject to change. Please watch your mail for brochures and mailings on these and other upcoming seminars for final information. Questions regarding any Utah State Bar CLE seminar should be directed to Monica Jergensen, CLE Administrator, 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

Credit Card Billing 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

RATES & DEADLINES

Utah Bar Member Rates: 1-50 words — $20.00 / 51-100 words — $35.00. Confidential box is $10.00 extra. Cancellations must be in writing. For information regarding classified advertising, please contact (801) 531-9077.

Classified Advertising Policy: No commercial advertising is allowed in the classified advertising section of the Journal. For display advertising rates and information, please call (801) 532-4949. It shall be the policy of the Utah State Bar that no advertisement should indicate any preference, limitation, specification or discrimination based on color, handicap, religion, sex, national origin or age.

Utah Bar Journal and the Utah State Bar Association do not assume any responsibility for an ad, including errors or omissions, beyond the cost of the ad itself. Claims for error adjustment must be made within a reasonable time after the ad is published.

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

BOOKS FOR SALE: FEDERAL REPORTER, VOLUMES 98Z F .zd through G5f3d, mint condition, cost $2,700, will sacrifice for $1,000. Contact Robert Heineman @ (801) 532-5444.

For sale – complete set of Utah Code Annotated in new condition. $650 new, will sell for $500. Call Sykes & Vilos @ (801) 533-0222.

POSITIONS AVAILABLE

Large Salt Lake City law firm is seeking one or more experienced patent/intellectual property attorneys to head its section in firm. At least five years experience necessary with good academic credentials. Competitive salary and benefits. Please send resume to: Maud C. Thurman, Utah State Bar – Box 15, 645 South 200 East, Salt Lake City, UT 84111.

Small established firm (AV rating) considering potential for economies of scale through expansion. Seeking persons or firms who might consider joining us as shareholder(s), or through merger. Candidate's practice must be self-sustaining. Inquiries kept confidential. Please respond with letter and resume(s) to: Maud C. Thurman, Utah State Bar – Box #18, 645 South 200 East, Salt Lake City, Utah 84111.

Dynamic downtown Salt Lake City litigation firm seeks energetic, talented associate with 1-4 years of good legal training. Excellent salary and benefits. All resumes received in confidence. Send resume to: Maud C. Thurman, Utah State Bar, Box #17, 645 South 200 East, Salt Lake City, UT 84111.

Jardine, Linebaugh & Dunn, AP.C., a mid-sized downtown law firm, seeks an associate with 1-4 years of litigation experience, good academic credentials, and strong writing skills. All inquiries will be kept strictly confidential. Please send your resume to Judy A. Wilcox, Jardine, Linebaugh & Dunn, 370 East South Temple, Suite 400, Salt Lake City, Utah 84111.

Logan firm needs an attorney with excellent credentials and several years experience in estate planning, pension/profit sharing, and corporate work. Send resume to: Hillyard, Anderson & Olsen, 175 East 100 North, Logan, Utah 84321.

Senior City Attorney (Pay Level 613, $3872 - $4996) or Assistant City Attorney ll (Pay Level 609, $3081 - $3975) Depending on Qualifications and Experience: The Salt Lake City Attorney's Office, which provides legal services to the City Council and Salt Lake City Government Administration, is seeking an individual to provide responsible and complex legal work including representing the City in civil proceedings in Federal and Utah State Courts and administrative proceedings. Supervises and performs difficult legal research and prepares ordinances, resolutions, contracts, leases and memoranda for study and consideration by the City Attorney and/or other City Officials. Prepares and reviews legal opinions and advises Department Heads, and employees on legal questions. The Senior level, requires a JD or LL.B. degree and six years full time paid employment in the practice of law including litigation experience. The Attorney ll level requires a JD or LL.B. degree and four years of full time paid employment in the practice of law, including litigation experience. Must be a member in good standing with the Utah State Bar. Preference will be given to candidates that have extensive litigation, land-use, construction law, or employment law experience. Total compensation includes extensive benefits package including paid leave (sick, vacation, holidays, etc.) and a variety of insurance plans (medical, dental, life, etc.). EOE Apply at Salt Lake City office of Employee Services, 451 South State, Suite 115 or FAX resume to (801) 535-6614 by **March 22, 1996 at 5:00 p.m.**

POSITIONS SOUGHT

I am admitted to both CALIFORNIA and UTAH, and based in Sacramento. I will make appearances anywhere in California, or help in any other way I can. $60. per hour + travel expenses. Contact John Palley @ (916) 455-6785 or Palleyj@aol.com.

Part-time or contract work in writing/ research sough by attorney with excellent credentials (Moot Court, law review Coif, Phi Kappa Phi) and background in civil litigation and civil/criminal appellate work. Licensed in Utah and Colorado. For discovery, motions, briefs, research, call M. Boudreau, @ (801) 466-6531.

ATTORNEY: Former Assistant Bar Counsel. Experienced in attorney discipline matters. Familiar with the disciplinary proceedings of the Utah State Bar. Reasonable rates. Call Nayer H. Honarvar. **LAHERTY & ASSOCIATES,** 9 Exchange Place, Suite #400, Salt Lake City, UT 84111, Call (801) 583-0206 or (801) 359-8003.

Contract/project work sought by former law review editor and judicial clerk. 13 years of practice. Significant experience in criminal defense and environmental, securities, commercial, and other civil litigation. Skilled in pretrial, post-conviction, and appellate advocacy in both State and Federal courts. References from satisfied, repeat attorney clientele. Call (801) 467-3125.

Keller Legal Assistant Service: Contract work assistance with all aspects of civil litigation (specialty - family law). Organization, discovery, trial preparation. Dee Ann Keller: (801) 531-0435 or (801) 466-8205.

Solo practitioner admitted to UT seeks **contract or project work** in the areas of: corporate and partnership taxation, partnership or corporation to LLC conversions, trusts, estate planning (including gift, estate and GST taxation), planned giving or qualified plans. **$25.00 per hour** or flat rate. Call Ken @ (801) 355-1345.

OFFICE SPACE/SHARING

OFFICE SPACE FOR RENT: Choice office space for rent in beautiful, historic building in Ogden, Utah. Several offices available. For information, please contact (801) 621-1384.

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LAW FIRM IN HISTORICAL SALT LAKE STOCK AND MINING EXCHANGE BUILDING at 39 Exchange Place. Has one office space available with large secretarial area. Receptionist, conference room, fax, copier, large law library, parking, kitchen. Also available is 844 square ft. suite, includes small conference room and reception area. Contact Joanne Brooks @ (801) 534-0909.

OFFICE SHARING SPACE AVAILABLE in downtown law office. Excellent view and location. Near state and federal courts and imminent court complex. Covered parking terrace. Facilities include 2 offices, conference room, reception area and full kitchen. Office equipment sharing, limited assistant services and rent negotiable. Call Flanders & Associates, (801) 355-3839.

Professional office space located at 7321 So. State, Midvale. Space for two (2) attorneys and staff (could be leased singly). Includes two spacious offices, large reception area, conference room, sink/wet bar, file storage, large private parking lot. Downstairs offices also available. Call (801) 255-3591 or (801) 562-5050.

PRIME PROFESSIONAL SPACE FOR LEASE. 2500 - 4000 square feet. Large Offices with windows, conference room, kitchen, work station, & storage at I-80 State Street Exit. Call (801) 483-6463.

SERVICES

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EXPERT WITNESS-TRUST & BANK INVESTMENTS: 19 years Trust Investment experience. Formerly Vice President & Portfolio Manager Chase Manhattan, Sun Bank, United Jersey Bank. Chartered Financial Analyst (1979). Cum Laude Graduate-Wharton School, University of Pennsylvania, B.S. Economics with dual major in Finance & Economics, S.E.C. registered Investment Advisor. Four years stand-up performer in Philadelphia, PA. Experienced in facing tough rooms. **Steven D. Stern, CFA,** 161 Crandon Blvd. Suite 325, Key Biscayne, FL 33149, (305) 361-9772.

APPRAISALS CERTIFIED PERSONAL PROPERTY APPRAISALS – Estate Work, fine furniture, Divorce, antiques, Expert Witness, National Instructor for the Certified Appraisers Guild of America. Eighteen years experience. Immediate service available. Robert Olson C.A.G.A. (801) 580-0418.

Salt Lake Legal Defender Association is currently updating its trial and appellate attorney roster. If you are interested in submitting an application, please contact F. John Hill, Director, for an appointment @ (801) 532-5444.

TAX PROFESSORS WANTED: Adjunct part-time tax instructors, to teach LL.M. Taxation degree in a N.A.P.N.S.C. accredited post-graduate educational program in Salt Lake City. Next part-time two year program begins Sept., 1996. LL.M. Taxation degree (or M. S. Tax degree or M. Acct. Degree) and a strong tax background is preferred. Classes are held in the evening one night per week, 6 to 10 P.M. with flexibility for the instructor's schedule. Washington School of Law, Washington Institute for Graduate Studies. Contact Dean Joslin, Tel. (801) 943-2440 or Fax resume to (801) 944-8586.

CHILD SEXUAL ABUSE / DEFENSE: FORENSIC STATEMENT & INTERVIEWER ANALYSIS/CHILD CREDIBILITY – Identify interviewer contamination / Understand specific statement evidence in child's initial statement / Know what to demand from the prosecution. Bibliography supporting each case. Defense specialist. Bruce M. Giffen, M.S. American College Forensic Examiners, 1270 East Sherman Avenue, Ste. 1, SLC, Utah 84105, (801) 485-4011.

Authentic oak Globe-Wernicke sectional bookcases, antique oak secretarial desk, other fine antique law office furnishings — excellent condition. Call (801) 272-1013.

CERTIFICATE OF COMPLIANCE

For Years 19_____ and 19_____

Utah State Board of
Continuing Legal Education
Utah Law and Justice Center
645 South 200 East
Salt Lake City, Utah 84111-3834
Telephone (801) 531-9077 FAX (801) 531-0660

Name:_____ Utah State Bar Number:_____

Address:_____ Telephone Number:_____

Professional Responsibility and Ethics — **Required: a minimum of three (3) hours**

1. _____
   Provider/Sponsor
   _____
   Program Title
   _____
   Date of Activity CLE Hours Type of Activity**

2. _____
   Provider/Sponsor
   _____
   Program Title
   _____
   Date of Activity CLE Hours Type of Activity**

Continuing Legal Education — **Required: a minimum of twenty-four (24) hours**

1. _____
   Provider/Sponsor
   _____
   Program Title
   _____
   Date of Activity CLE Hours Type of Activity**

2. _____
   Provider/Sponsor
   _____
   Program Title
   _____
   Date of Activity CLE Hours Type of Activity**

3. _____
   Provider/Sponsor
   _____
   Program Title
   _____
   Date of Activity CLE Hours Type of Activity**

4. _____
   Provider/Sponsor
   _____
   Program Title
   _____
   Date of Activity CLE Hours Type of Activity**

IF YOU HAVE MORE PROGRAM ENTRIES, COPY THIS FORM AND ATTACH AN EXTRA PAGE

**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 three 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 $5.00 at the time of filing the statement with the Board.

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 Regulations 5-103(1).

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 of which the statement of compliance is filed, and shall be submitted to the board upon written request.

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