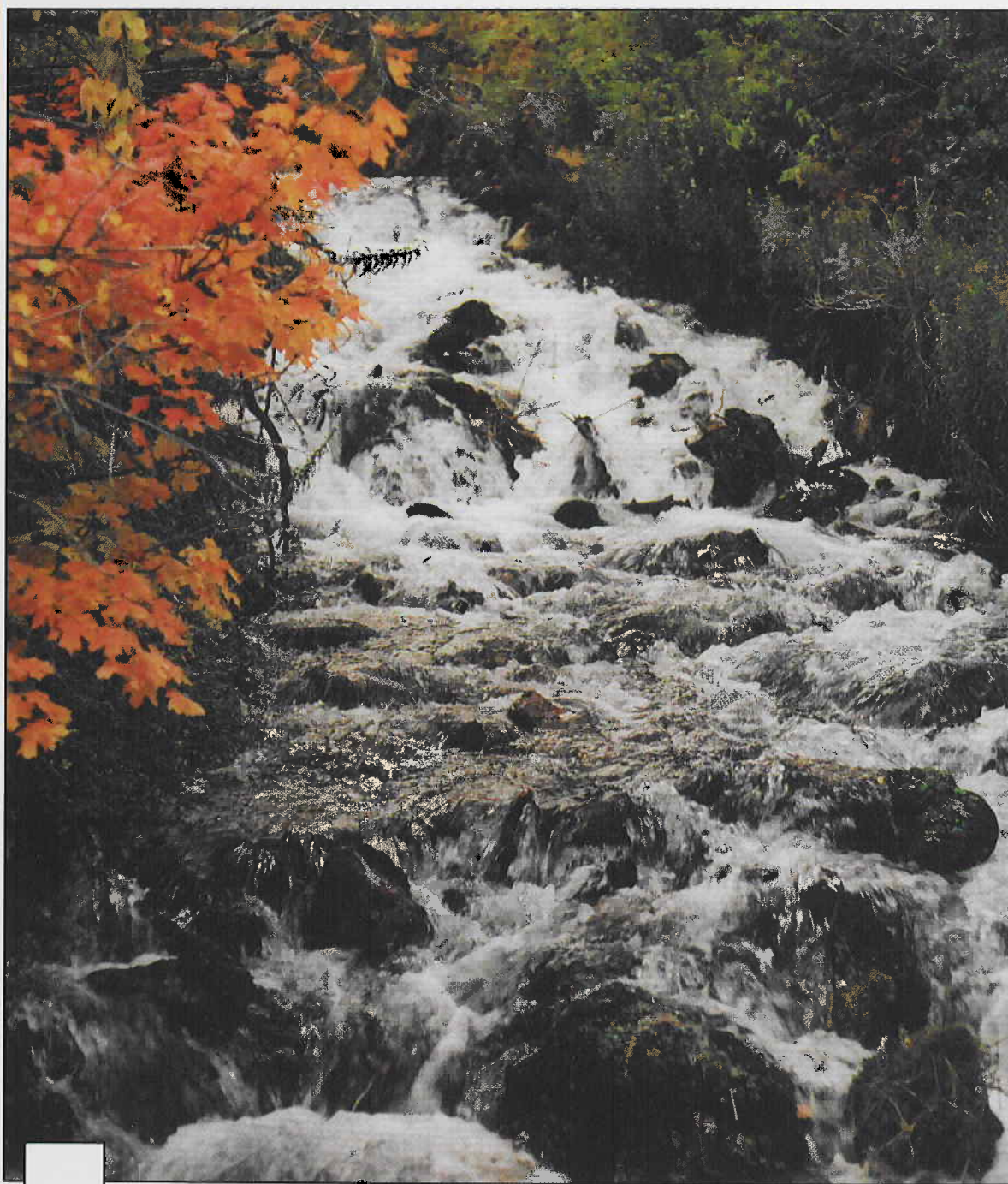


UTAH BAR JOURNAL

Vol. 9 No. 8

October 1996



**Jurisdiction Issues in Child Custody,
Visitation and Support Cases**

10

Preventive Law: A Personal Essay

14

Imaging for Attorneys

18

Report of The Circuit Court

36

West. The most complete CD-ROM library in Utah.

"My experience has shown that West CD-ROM is by far the superior product available for Utah.... With the Key Number searching capacity I have with West CD-ROM, I have many more research options and abilities."

E. Hunt, Salt Lake City, UT

UTAH REPORTER™ AND WEST'S® UTAH CODE™ ON CD-ROM GIVES YOU:

- ▶ Utah case law as reported in *Pacific Reporter*®, 2d from 1945 to date
- ▶ Utah Attorney General Opinions from 1977 to date
- ▶ Utah Administrative Code
- ▶ Slip Opinions
- ▶ Utah Code
- ▶ State Constitution
- ▶ Utah Court Rules
- ▶ Utah Orders
- ▶ Session laws, as necessary due to legislative action

West CD-ROM Libraries™ give you West's exclusive editorial enhancements, including West Topics and Key Numbers, for focused results and faster research.

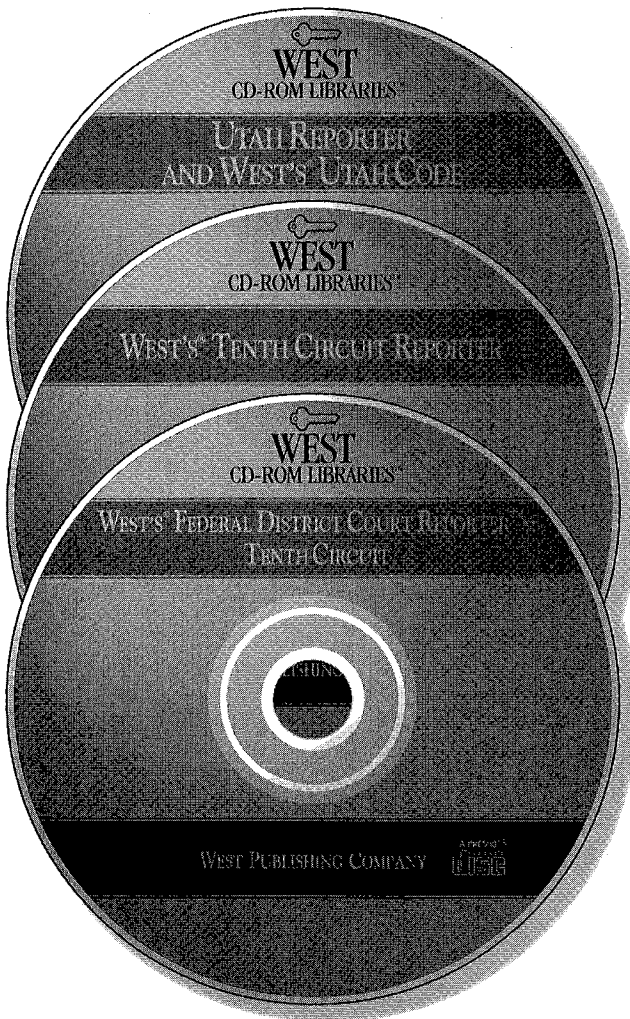
NEW—NATURAL LANGUAGE SEARCHING!

Now searching with PREMISE® Research Software makes West CD-ROM research as easy as typing your issue in plain English.

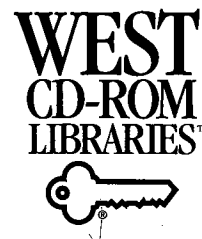
ALSO AVAILABLE ON CD-ROM:

West's Tenth Circuit Reporter™ and West's Federal District Court Reporter™—Tenth Circuit.

**FIND OUT MORE
ABOUT WEST CD-ROM LIBRARIES
FOR UTAH.
CALL 1-800-255-2549 EXT. 746**



For information about other West Publishing products and services, visit us on the Internet at the URL:
<http://www.westpub.com>



Published by The Utah State Bar

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

President

Steven M. Kaufman

President-Elect

Charlotte L. Miller

Executive Director

John C. Baldwin

**Bar Journal Committee
and Editorial Board****Editor**

Calvin E. Thorpe

Associate Editors

M. Karlynn Hinman
William D. Holyoak
Randall L. Romrell

Articles Editors

Christopher Burke
Lee S. McCullough

Letters Editor

Victoria Kidman

Views from the Bench Editors

Judge Michael L. Hutchings
Judge Stephen VanDyke

Legislative Report Editor

Lisa Watts Baskin

Case Summaries Editors

Scott A. Hagen
Clark R. Nielsen

Book Review Editor

Betsy L. Ross

"How to . . ." Editors

Brad Betebenner
David Hartvigsen
Patrick Hendrickson

Judicial Profiles Editors

Marnie Funk
Derek Pullan
Stephen K. Christiansen

ADR Editor

Cherie P. Shanteau

Law and Technology Editor

R. Bruce Findlay

Young Lawyer Representatives

Mark E. Burns
Erik A. Christiansen

Glen Cook

David Brown

David Erickson

Thomas Jepperson

J. Craig Smith

Denver Snuffer

Judge Homer Wilkinson

Committee Liaison

Maud C. Thurman

UTAH BAR JOURNAL

Vol. 9 No. 8

October 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.

Letters to the Editor.....	4
President's Message	5
by <i>Steven M. Kaufman</i>	
Commissioner's Report	7
by <i>James C. Jenkins</i>	
Jurisdiction Issues in Child Custody, Visitation and Support Cases	10
by <i>David S. Dolowitz</i>	
Preventive Law: A Personal Essay	14
by <i>Scott E. Isaacson</i>	
Imaging for Attorneys	18
by <i>David Nuffer</i>	
State Bar News	24
The Barrister.....	33
Views from the Bench	36
by <i>Judge John C. Backlund</i>	
Utah Bar Foundation	37
CLE Calendar	38
Classified Ads.....	39

COVER: Cascade Springs, Wasatch County, Utah, by Professor David A. Thomas, J. Reuben Clark Law School.

Members of the Utah Bar who are interested in having photographs they have taken of Utah scenes published on the cover of the *Utah Bar Journal* should contact Randall L. Romrell, Randle, Deamer, Zarr, Romrell & Lee, P.C., 139 East South Temple, Suite 330, Salt Lake City, UT, 84111-1169, 531-0441. Send a slide, transparency or print of each scene you want to be considered.

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.

Statements or opinions expressed by contributors are not necessarily those of the Utah State Bar, and publication of advertisements is not to be considered an endorsement of the product or service advertised.

Copyright © 1996 by the Utah State Bar. All rights reserved.

LETTERS

Dear Editor:

Our Bar Commissioners frequently beseech and prod us to show some kindness, courtesy, civility and professionalism when dealing with other members of the Bar. The Commissioners are certainly correct that effective advocacy is not inconsistent with courtesy and professionalism.

I recently suffered an adverse jury verdict. The trial was scheduled to last four days but took three weeks. In the aftermath of my three week ordeal, I faced an Order to Show Cause hearing brought against one of my clients by the Utah State Bar for the unauthorized practice of law. Due to the length of the trial, I was unprepared for this hearing. I requested a continuance but the Utah State Bar adamantly objected.

It strikes me as ironic that the Utah State Bar could not manage to show me any courtesy in this situation. Maybe the lawyers for the Utah State Bar should try to practice what the Commissioners preach.

Effervescently yours,
Walter F. Bugden, Jr.



UTAH LAW AND JUSTICE CENTER
645 SOUTH 200 EAST • SALT LAKE CITY, UTAH 84111

QUALITY MEETING SPACE

AVAILABLE FOR PROFESSIONAL, CIVIC AND COMMUNITY ORGANIZATIONS

THIS MODERN FACILITY PROVIDES ANY STYLE OF SEATING
ARRANGEMENT AND FEATURES:

REASONABLE RATES	PERSONAL ATTENTION
CENTRAL DOWNTOWN LOCATION	FREE ADJACENT PARKING
AUDIO - VISUAL EQUIPMENT	REGISTRATION AREA
COMPLETE CATERING	DAY OR NIGHT

FOR INFORMATION AND RESERVATIONS, CONTACT:
THE UTAH LAW AND JUSTICE CENTER COORDINATOR (801) 531-9077



GREAT IDEA!

Advertising in the Utah Bar Journal is a really great idea. Reasonable rates and a circulation of about 6,000! Call for more information.
Shelley Hutchinson • (801) 486-9095



TIRED OF DOING SUPPORT OBLIGATIONS THE HARD WAY?

LEGAL  SOFT
IS THE ANSWER!

THESE FEATURES AND MORE!

- ☒ All** Child Support Obligation Forms Fully Automated!
- ☒ All Printed Forms are "Ready to File"
- ☒ Automatically Returns Values From Child Support Tables!
- ☒ Choose Windows 95 or Windows 3.1!

**Includes: Joint Custody, Sole Custody, Split Custody, Obligation in Present Home

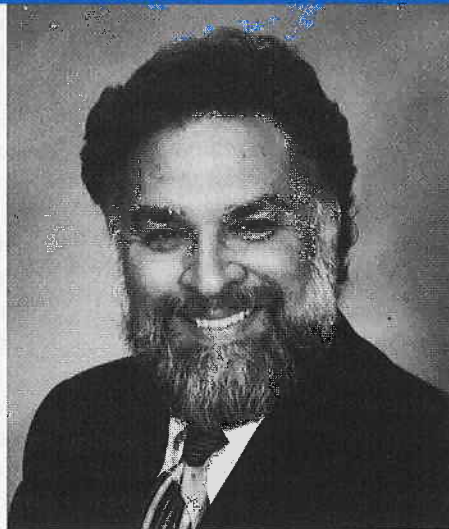
ONLY!
\$59.95*

Call 1-800-215-8049

ORDER YOUR COPY TODAY!

*Add \$6.50 S&H and Utah State sales tax

PRESIDENT'S MESSAGE



The State of Our Bar – (What You Want to Know but Were Too Busy to Ask)

By Steven M. Kaufman

As I sit at my trusty computer on what appears to be the beginnings of a beautiful autumn day, I think about the beginnings of this 1996-1997 term of our Bar calendar, and where we are and where we are going. I have a hundred different ideas and only one year as your President. So I cut, paste, delete, modify, and otherwise focus my thoughts. Every leadership conference I have been to suggests that one should not bite off more than one can realistically chew, so I am in diet mode as it pertains to the agenda for this year. Between your talented Bar Commission and Bar Staff, lawyers from all over with great minds, and my own crazy ideas, I do not worry so much about what needs to be done this year as I do about how to accomplish it.

For those of you with a thirst for statistics, here are a few pieces of information about the present make-up of our Bar. We have 6,321 lawyers licensed by our Bar, of which 4988 are in our state and 1333 are out of our state. Of the 4988 in state, 4397 are actively practicing law and 591 are not. Of all lawyers of our Bar, 36% have been practicing for less than 10 years and 4% have been practicing for more than 40 years. Furthermore, 40% are under the age of 40,

and 2% are over the age of 70. We are 83% male and 17% female, with 97.5% Caucasian and 2.5% Hispanic, Asian, Native American, African American, Polynesian, or other. Of those lawyers practicing 10 years or less, 66% are male and 34% are female. Geographically, 82% of all Utah lawyers work in Salt Lake County, 6% in Weber County, 8% in Utah County, and the remaining percentage are spread throughout our state. There are 41% who are solo or are in law firms of 5 or fewer lawyers. As to choice of practice, 81% are in private practice, 10% in government practice or public service, 6% in corporate practice, and 2% in other types of practice. Within that choice, 58% are involved primarily in litigation, 31% perform transactional work, 19% work in commercial, and 12% are general practitioners. As some of these overlap as a survey we allowed attorneys to pick more than one choice so the total is over 100% (Not due to my addition please note). I am not sure what all of these statistics really mean, other than to give us a yardstick upon which to measure what areas are of particular interest to our Bar, where our Bar may be going for long range planning purposes, and a general focus as we move into a new century. Lawyers' needs

are ever changing, as is the composition of the Bar, and we, as leaders need to be readily cognizant of the vast changes taking place in our profession. Anyway, I thought these numbers were interesting to illustrate the general composition of our Bar.

Although I think the numbers may be misleading, 70% of our Bar believe that our profession should be actively involved in assuring and seeking appropriate reforms and improving the administration of justice. My sense is that the other 30% care about the issue, but are preoccupied elsewhere to believe they should be involved. Maybe, just maybe, this year I can change a few of those minds. In the last couple of months, I have brought a few more over to the "involved" side.

Much to their credit, 22% of the active Bar members have agreed to provide voluntary pro bono services on an assignment basis. It is my thought that there are very few professions that can carry such a lofty flag as it pertains to the willingness to give of themselves in such a charitable manner.

Finally, did you know, and I know you care, that 329 new lawyers were admitted to the Bar last year? Keep this figure in mind as I move forward with some of the

initiatives currently undertaken, or soon to be undertaken, by our Bar.

Last year the Bar initiated a program to place a lawyer in every secondary school in the state to teach in a variety of classroom and assembly situations. Teaching about the law and our justice system is most important, and beginning such an endeavor at this level is appropriate and purposeful. Teaching our children about the Constitution and The Bill of Rights is a good beginning. We successfully placed a lawyer in about one half of the high schools throughout the state and we will continue to focus this program, along with distributing our book entitled, *Rights, Responsibilities, and Relationships*. I suggest you pick one up and read it, along with giving it to your children to read.

Presently, our Bar is putting together a high-profile group of civic, community, and government leaders, as well as prominent lawyers and judges, to develop improved approaches to delivering legal services to the poor and disadvantaged, in the wake of drastic funding restrictions at the Legal Services Corporation. I have travelled to several conferences on this issue, around the nation on behalf of our Bar, as have many other of your Bar leaders, and this is a most worthwhile cause. This endeavor must be pursued with strong leadership, and I am confident that I will be able to report positive things to you from these individuals.

Our Bar is also concluding a study by its Equal Administration of Justice Committee, which has taken hearings throughout the state regarding the way minorities are treated within the legal system, and the Committee shortly will be making suggestions on how justice can be more fairly applied to all.

We are continuing to solicit lawyers to volunteer to provide pro bono services, and we now have on staff a knowledgeable, experienced attorney whose job is to screen cases, assign pro bono lawyers, and assist them in their work. This attorney has a background such that even an attorney with no experience in a proposed assignment, can learn the basic ins and outs about the procedure to help the party in need. This procedure, coupled with our already established pro bono program, should exemplify our desire to put those attorneys who are willing and desirous to help others, in the right place with the right information, to best facilitate this impor-

tant program. If 22% of the active Bar is ready, and if more lawyers will come on board now that we are enabling this program to connect the lawyers with those in need, this can become a milestone worth noting.

We have created a Legal Assistants Division and thereby encouraging paralegals throughout Utah to join this voluntary section of our Bar. Hopefully, this will encourage communications and discourage the unauthorized practice of law. I have signed over one hundred certificates so far, and every time I am at the Bar more appear, so I see a real interest in this endeavor.

Our Bar is techno-ready, as I call it. We now have a homepage on the Internet and our staff is working with various state-wide technology groups in facilitating communications through this medium. We desire to be progressive in this field and provide services to our members which previously were never anticipated. Watch for more information on this as the year progresses.

New this year, but not new in the thinking process, is a mentoring program that I hope to initiate with both Utah law schools. A select number of law students will be chosen by the respective schools to be involved in this pilot program. The Deans have told me they are anxious to put this program into action. This mentoring program will be a little different, in that it will involve students before graduation, and give them an opportunity to learn first-hand about lawyering, civility, professionalism, along with a hands on reality. We intend to put students in the program who might not otherwise have the opportunity through clerking in a firm or receiving help from a lawyer friend. These students will most probably be those who do not anticipate working in a large firm setting upon graduation. The idea is important and I am hopeful that we can match experienced lawyers and resources with students who will gain important insights about lawyering before entering the real world of the law, so we can forge a program that gives us new lawyers with a willingness and knowledge about how to practice law appropriately and with civility. We are hoping to commence the program within the next few months.

We are also excited to introduce a public education campaign which will focus on lawyers who have undertaken individual acts of community service. A series of informational advertisements will be taken out in newspapers throughout the state which will identify individual lawyers and the public

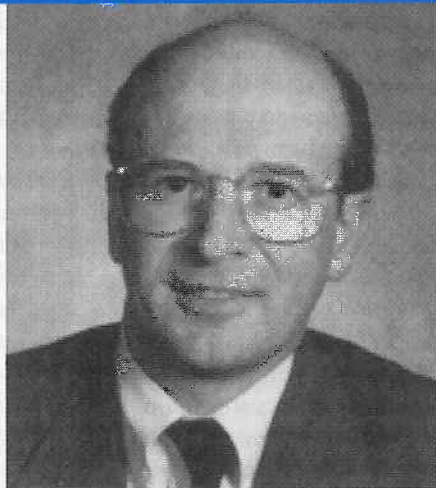
service activities they have been performing. Solicitations for service to these programs will be made also, as they all are worthwhile projects. Hopefully, through this medium, we will provide the public with a sense that the legal profession is, in fact, made up of men and women who are doing public service related to the law, while giving some exposure to these projects and provide them with additional resources. You will have an opportunity to see them in our *Bar Journal* before release, and I am hopeful that you will feel the positive impact we, of the Bar Commission, felt upon first seeing them.

I have appointed the chairs of all the sections and committees of our Bar, and I am confident that we will have some exciting programs this year. I will expect that they will initiate and promote programs of a very worthwhile nature. I am hopeful that members of our Bar involve themselves in these activities as the Bar is only as good as its members and leaders.

The Bar staff and Office of Attorney Discipline are now fully staffed. Both offices are very busy and continue to have a great deal of work to do. The Bar Commission works closely with these offices to ensure high productivity, coupled with a quality work product. Both offices will continue to grow as our Bar grows, and each office is well managed. I am at the Law and Justice Center on a fairly regular basis, and our staff is very busy.

The state of our Bar is positive. We are obviously growing swiftly, with a diverse membership. As I have travelled around the country to national conferences and meetings, and to state Bar functions here in the west, I have done a great deal of networking, trying to get ideas on how we can better serve our members. I have learned that we have one of the most progressive, member-oriented Bars in the nation, and that we are moving in the right direction. As I compare our Bar with others, I continually enjoy the positive feedback I receive about what we do and what we hope to do in the future.

Yes, fall is in the air. It makes me sit (but not for too long) and think about things we can do to make the Bar more member friendly, and lawyers more friendly toward each other. At least now, maybe you, too, can take a moment to reflect on your practice and how it compares to the state of our Bar. I still love my job. Talk to you soon!



What Does the Bar Do for Me?

By James C. Jenkins

One of the most frequently asked questions of Bar Commissioners is, "What is the Bar doing for its members?" This is certainly not an unfair concern within an organization where membership is mandatory and payment of licensing fees is a prerequisite to earning a living. In response members are most often informed of the many beneficial and essential projects and programs which are sponsored by the Bar. The Utah State Bar administers admission into the bar through committees such as the Character and Fitness Committee and Bar Examiners Committee, and regulates a high standard of continued membership through the office of Attorney Discipline, the Ethics Advisory Opinion Committee and Ethics and Discipline Committee. And, the Bar actively protects the integrity of the profession by prosecution of the unauthorized practice of law. The Bar also promotes a program of public education which serves to enhance the public image of our profession. Twenty-five sections and more than thirty committees and subcommittees exist within the Bar to provide special attention to particular interests and issues affecting the administration of justice and the practice of law.

As important and significant as are each of these programs, modesty often precludes

mention of the leadership and service which is provided by a first rate executive staff, section leaders, voluntary committee members and the Board of Commissioners. Space in this report will not permit individual mention of all of these dedicated people who serve the Utah State Bar. A brief profile of the current membership of the Commission exemplifies the high quality of leadership and the level of service we have within our profession.

Steven M. Kaufman, President. Steve is serving his third consecutive term as a Commissioner. He is a founding partner of the Ogden firm of Farr, Kaufman, Sullivan, Gorman, Jensen, Medskar, Nichols & Perkins. He is the past president of the Weber County Bar Association and has served as committee chairman or committee liaison for numerous bar committees and Sections. He is particularly focused on promoting a respected image of the Bar to the public. Without question as president, Steve provides more hours of voluntary service to the Utah State Bar than any other member. He considers this year his premier opportunity to serve the Bar.

Charlotte L. Miller, President-Elect. Charlotte is serving her second term as Commissioner from the third division. Next year she will serve as the second woman president in the Bar's history. Charlotte's service to the Bar started in the Young Lawyers

Section. She was president of young lawyers and ex-officio member of the Commission. She is the recipient of the Utah State Bar Pro Bono Attorney of the Year award and was instrumental in an extensive review of the Bar's disciplinary activities. She is general counsel and senior vice-president of Summit Family Restaurant's, Inc. and provides management expertise to the Bar. She has served the community as a Big Brothers-Big Sisters volunteer, a public speaker and lecturer on employment issues, and as a volunteer for the Law Related Education Mock Trial program.

Charles R. Brown, Third Division. Charles is a partner in the Salt Lake firm of Hunter and Brown, and his practice primarily focuses on tax and corporate law. He was recently recognized as the Practitioner of the Year by the Tax Section. He is a valuable resource to the business operations of the Bar. Charles is serving his second term on the Executive Committee of the Commission and is liaison to the Business Law Section and the committees on Small Firm and Solo Practitioners, and Law Practice Management. He is a former member of the Salt Lake Arts Council, and Board Member of the Salt Lake City School's Volunteers, Inc.

Scott Daniels, Third Division. Scott is a trial attorney with the firm of Snow,

Christensen and Martineau and a former judge for the Third District Court. He is the most recent member of the Bar Commission. He has been an adjunct professor at the University of Utah, presiding judge of the Third District Court, and was recognized as District Court Judge of the Year in 1989 by the Utah State Bar. Scott serves as liaison to the Client Security Fund Committee, CLE Advisory Board Committee, New Lawyers Continuing Legal Education, and the Unauthorized Practice of Law Committee. He is also liaison to the Constitution Law Section, and is a member of the Judicial Performance Evaluation Committee of the Utah Judicial Council. Scott also serves on the Utah Council of Victims.

Denise A. Dragoo, Third Division. It seems she just can't say no. Denise is one of those persons who makes time for almost every cause. She is serving her third term as a Bar Commissioner. She is Bar liaison to the Ethics Advisory Committee, Legislative Affairs Committee, and Law Related Education and Law Day Committee, also the Energy and Natural Resources Section, Intellectual Property Section and Real

Property Section. Denise also serves on the Board of the Legal Aid Society, the Executive Committee of Woman Lawyers of Utah, Inc., the Utah Judicial Conduct Commission, and is a Fellow of the American Bar Foundation. Denise is a partner in the firm of Van Cott, Bagley, Cornwall & McCarthy.

John Flores, Public Representative. John was appointed by the Utah Supreme Court in 1993 to serve as one of two non-lawyers on the Bar Commission. He is now serving his second term. John has an extensive background in government and voluntary service. He was Deputy Assistant Secretary U.S. Department of Labor, Director of the President's Commission on Hispanic Education, a member of the President's Commission on Juvenile Justice, and past Commissioner of the Utah State Industrial Commission. John has served on more than thirty-five state and local volunteer boards, including the Governor's Citizen's Committee on Utah Courts; the Governor's Committee on Law and Citizenship, and the Salt Lake City Judicial Nominating Commission. He has received numerous awards for his work and has published many articles

on community organization and private sector initiatives in resolving urban problems. John serves as Bar liaison to the Delivery of Legal Services, Needs of Children, and Needs of the Elderly committees, and the Education Law Section.

Debra J. Moore, Third Division. Debra is serving her first term as a Commissioner. She is an attorney with the Civil Appeals Section, Litigation Division of the Utah Attorney General's Office. She has been an instructor at the University of Utah College of Law and is a former Chair of the Litigation Section of the Bar and member of the Executive Committee of Women Lawyers of Utah. She is co-Chair of the Committee of Equal Administration of Justice of the Utah Bar Commission. Debra serves as liaison to the Lawyers helping Lawyers Committee, and the Sections on Appellate Practice, Government Law, Labor and Employment Law, and Litigation.

David Nuffer, Fifth Division. David represents the largest geographic area of the Utah Bar, covering all of the eastern and southern Utah. He is a member of the St. George and Salt Lake firm of Snow,

Code•Co's Internet Access to Utah Law

<http://www.code-co.com/utah>

With a computer and a modem, every member of your firm can have unlimited access to



- The Utah Code
- The most recent Utah Advance Reports
- The Utah Administrative Code
- The Utah Legislative Report
and
Code-Co's NEW
- Legislative Tracking Service

- Always current ● No "per minute" charges ● Much lower cost than an "on-line" service ●
- FULL TEXT SEARCHING ●

Preview on the Internet at: <http://www.code-co.com/utah>,
get a **FREE TRIAL PASSWORD** from Code-Co* at

E-mail: admin@code-co.com

SLC: 364-2633 Provo: 226-6876

Elsewhere Toll Free: 1-800-255-5294

**Also ask about customer Special Package Discount*



Nuffer, Engstrom, Drake, Wade & Smart. He also serves as the part-time U.S. Magistrate Judge for Southern Utah. Dave has been an active leader of the Bar for many years and is a frequent CLE presenter. His current focus has been on computer and electronic applications to the practice of law. He is a member of the Executive Committee and Long Range Planning Committee of the Commission, and is liaison to the Committees on ADR, Law & Technology, Lawyer Benefits, and the LAAU Division. Dave is a former president of the St. George Chamber of Commerce, a member of the Fifth District Court Judicial Nominating Commission and has served on numerous other boards and civic committees. Dave's dedication to the Bar is demonstrated by his travel from St. George to Salt Lake for every Bar Commission and committee meeting.

Craig N. Snyder, Fourth Division. Craig is yet another dedicated commissioner who is now serving his third term on the Board of Commissioners. He has been instrumental in making significant changes in the organizations of the Bar and the bench. In 1987 he was recognized as Domestic Relations Lawyer of the Year by the Utah State Bar. He is a member of the Provo firm of Howard, Lewis and Peterson. Craig serves as Bar liaison to the committees on Character and Fitness, Courts and Judges, Fee Arbitration and Legal/Healthcare. He is also liaison to Sections on Collections Law and Family Law.

Ray O. Westergard, Public Representative. Ray is also a public member of the Commission appointed by the Utah Supreme Court. He is a CPA and a partner in the accounting firm of Grant Thornton, LLP. Ray is a member of a number of professional organizations including the American Institute of Certified Public Accountants and the Utah Association of Certified Public Accountants, where he has been a member of the Board of Directors and President of the Central Chapter. Ray served on the Utah State Bar Security Advisory Committee and was instrumental in financially restructuring the Bar. He is Chair of the Bar's Finance Committee, and serves as liaison to the Security Advisory Committee, the Banking and Finance Section, the Bankruptcy Section and the Securities Law Section. In his spare time Ray devotes time to scouting and youth.

Francis M. Wikstrom, Third Division.

Fran is a member of the firm of Parsons, Behle & Latimer. He has also had experience as member of a two-person law firm and the United States Attorney's Office. An active member of the Bar, he is a former president of the Salt Lake County Bar Association, a member of the Utah Supreme Court Advisory Committee on Rules of Civil Procedure, and the Utah Appellate Court's Nominating Commission. He is also a former adjunct professor of the University of Utah Law School. Fran is presently a member of the Utah Judicial Conduct Commission and serves as liaison to the Professional Liability Insurance Committee, the Corporate Counsel Section, Estate Planning Section, and International Law Section. Fran always has the best interests of the Bar at heart.

D. Frank Wilkins, Third Division. Alphabetically the last, but in many respects the first member of the Board of Commissioners, Frank is certainly the most seasoned Commissioner. Frank was admitted to the Utah State Bar in 1951. He is a former District Court Judge, Chairman of the Judicial Council and a Justice of the Utah Supreme Court from 1976 to 1980. He is now serving his second term as a Bar Commissioner. Frank is liaison to the Bar Committees on Bar Examiners, Bar Examiner Review, and Bar Journal, and to the Construction Law Section, Military Law Section and (appropriately) Young Lawyers Division. Unknown to many are the hours of pro bono service he provides to fellow lawyers, judges, and others in counsel and legal assistance. Frank is of counsel to the firm of Berman, Gaufin, Tomsie & Savage.

Eight others serve as ex-officio members of the Board of Bar Commissioners: Daniel D. Anderson, Young Lawyers; James B. Lee, ADA; Steven Lee Paton, Minority Bar; Beatrice M. Peck, Woman Lawyers; Dean Lee E. Teitlbaum, and Dean H. Reese Hansen, law schools; Ronald W. Gibson, Administrative Office of the Courts; and Dennis V. Haslam, past president.

My report can only begin to describe the treasure of service and leadership which these Commissioners are to the Utah State Bar. I consider it an honor to be a lawyer and a privilege to be a member of the Utah State Bar. Every member of the Bar can make a contribution to the strength and integrity of our profession, so when you wonder what the Bar does for you, look at the service provided by these people you have elected. They are among those who make it possible for us to practice law and serve others.

WILL & TRUST SUPPLIES

CORP-KIT NORTHWEST HAS AN ECONOMICAL LINE OF WILL AND TRUST SUPPLIES INCLUDING IMPRINTED POLICY ENVELOPES, COVERS AND COMPLETE KITS WHICH ALSO INCLUDE IMPRINTED FIRST PAGES AND CONTINUATION SHEETS. SEVERAL TITLES TO CHOOSE FROM:

- * LAST WILL and TESTAMENT
- * WILL
- * LIVING WILL
- * TRUST
- * DECLARATION OF TRUST
- * LIVING TRUST

ALL ENVELOPES AND COVERS WILL HAVE YOUR FIRM NAME IMPRINTED (UP TO 4 LINES).

KITS ARE AVAILABLE WITH SUPPLIES TO PREPARE 25, 50 OR 100 WILLS, TRUSTS, ETC. WITH ENVELOPES, COVERS, FIRST SHEETS & 4 CONTINUATION SHEETS. NO. 10 ENVELOPES ARE 24 LB. WHITE WOVE & COVERS ARE 24 LB. LEDGER STOCK.

25 KITS.....\$49.95 Plus S & H

□ □ □

EXHIBIT INDEXES & CLOSING SETS

EXHIBIT INDEXES - ALPHABETICAL
EXHIBIT INDEXES - NUMERICAL
CLOSING SETS - ALPHABETICAL
CLOSING SETS - NUMERICAL
WRITABLE TAB SETS

CORPORATE OUTFITS

WITH BY-LAWS/MIN/RESOLUTIONS PKG.
\$52.95

W/O BY-LAWS/MIN/RESOLUTIONS PKG.
\$49.95

LLC OUTFITS

LTD. PART. OUTFITS

FAM. LTD. PART.

OUTFITS

NON-PROFIT OUTFITS

\$59.95

ALL OUTFITS WITH EMBOSSED SEAL & POUCH

ORDER TOLL FREE !
PHONE 1-800-874-6570
FAX 1-800-874-6568

ORDERS IN BY 2 PM MT SHIPPED SAME DAY
WE WILL BILL YOU WITH YOUR ORDER
SATISFACTION GUARANTEED

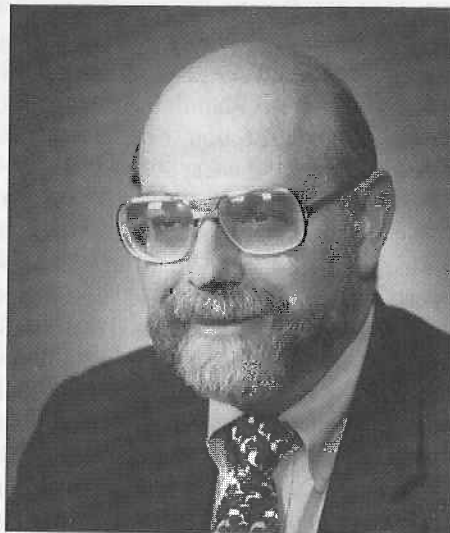
CORP-KIT NORTHWEST, INC.
413 E. SECOND SOUTH
BRIGHAM CITY, UT 84302
SERVING THE NORTHWEST

Jurisdiction Issues in Child Custody, Visitation and Support Cases

By David S. Dolowitz

In today's mobile society we are frequently faced with the problems present when a client has a custody problem, a visitation problem or a support problem involving family members or former family members who reside in more than one state. In order to resolve jurisdictional disputes that arise, the states have adopted the Uniform Child Custody Jurisdiction Act (adopted in some form by all 50 states) and Congress enacted the Parental Kidnapping Prevention Act to set uniform rules governing custody and visitation disputes when the parents or children reside in different states. In addition to govern setting and collecting support, the presently existing Uniform Reciprocal Support Act is being replaced by the Uniform Interstate Family Support Act which was adopted in Utah in 1996. The following article was prepared as a discussion of and source material for working through these problems. First, it examines the issue of determining actual jurisdiction. Second, the article reviews the situation where more than one state has legal jurisdiction to act and the courts of the states involved must decide which state should act.

The Utah Supreme Court has clearly articulated the constitutional rule that before a court take any action, it must have both jurisdiction over the parties and the subject matter, *Rimensburger v. Rimensburger*, 841 P.2d 709 (Utah App. 1992); *Arguello v. Industrial Woodworking Machine Co.*, 838 P.2d 1120 (Utah 1992). Applying those principles to custody, visitation and child support actions involves two types of cases: those that are to be handled in Utah where either a Utah judgment or a foreign judgment is to be enforced, and those cases outside of the State of Utah where a Utah judgment is to be enforced. Each of these two categories of actions presents different problems which must be addressed.



DAVID S. DOLOWITZ is a Fellow of the American Academy of Matrimonial Lawyers, President of the Mountain States Chapter of the American Academy of Matrimonial Lawyers, Fellow of the International Academy of Matrimonial Lawyers and a past President and member of the Executive Committee of the Family Law Section of the Utah State Bar. He was named Lawyer of the Year, 1988-1989 by the Family Law Section. Mr. Dolowitz is Chairman of the Utah Supreme Court Advisory Committee for Juvenile Court Rules of Procedure. He has published numerous articles in The Utah Bar Journal and Fair\$hare.

A UTAH JUDGMENT IN UTAH

Once an action has been instituted in Utah that has resulted in the entry of a decree of divorce adjudicating custody, visitation or child support, absent an agreement to change venue, further actions to modify this judgment must be brought in the original court. *Rimensburger v. Rimensburger*, 841 P.2d 709 (Utah App. 1992.) In *Rimensburger*, the Utah Supreme Court ruled that when the Third District Court heard modification and enforcement proceeding of an

action that had originally been brought to judgment in the Fifth District Court, it was clear error. The Court ruled that the Third District Court had no subject matter jurisdiction absent agreement of the parties to transfer the matter to that court. The decision of the Third District Court was vacated. The rule that emerged is clear; once a district court in Utah enters a decree of divorce, modification proceedings must be instituted in that court unless the parties agree to move the proceedings to another district.

FOREIGN JUDGMENTS IN UTAH

If one wishes to enforce or modify a foreign judgment in the courts of the state of Utah, it can be done in several ways. It must be effected by bringing an action to domesticate the foreign judgment in Utah and/or modify that judgment, by filing in the Utah court pursuant to Section 78-45c-15, the Utah Uniform Child Custody Jurisdiction Act, or by filing under the Foreign Judgments Act, Section 78-22a-1 *et. seq.* The 1996 Legislature enacted domestic violence amendments to the Utah Code, Section 30-6-1(8) which provides for enforcement in Utah courts of foreign protective orders where a protective order has been entered by another state in conformity with due process of law and the procedural requirements of the Utah Domestic Violence Act.

The traditional method of domesticating a foreign judgment is to file an action to enter a foreign judgment as a Utah judgment. This is effected by securing an authenticated copy of the foreign judgment and filing an action for its entry in Utah as a Utah judgment requesting enforcement or modification as would a party in a Utah court (in the district where the defendant resides). *Angel v. Sixth Judicial District Court of Sevier County*, 656 P.2d 405 (Utah 1982).

To utilize the procedure under the Uniform Child Custody Jurisdiction Act, one must comply with the procedure described

in Section 78-45(c)-15 which states:

"(1) A certified copy of another state may be filed in the office of the clerk of any district court of this state. The parties to the action shall be notified of the filing and shall be given an opportunity to be heard on the jurisdiction of the other state's custody decree before enforcement of that decree. If the copy has not been filed, it shall not be considered a valid custody decree. The clerk shall treat the decree in the same manner as a custody decree of the district court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state as provided in Section 78-45c-12.

"(2) A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorney fees, incurred by the party entitled to the custody or his witnesses."

It should be noted that the following requirements of 78-45c-15 of the Utah Code provided enforcement, not modification of a foreign decree. Therefore, an action to modify a foreign decree would have to be pursued after registration and any such action would have to comply with the requirements of both the Uniform Child Custody Jurisdiction Act Section 78-45c-1, *et seq.* and the Parental Kidnaping Prevention Act, 28 U.S. Code Section 1738A. These are discussed *infra*.

In interpreting and applying 78-45c-15, one should keep in mind the definition of a "custody determination" as set forth in Section 78-45c-2(2):

"(2) 'Custody determination' means a court decision and court orders and instruction providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person;" and a custody proceeding as defined in Section 78-45c2(3):

"(3) 'Custody proceeding' includes proceedings in which a custody determination is one of several issues, such as an action for dissolution of marriage, or legal separation, and includes child neglect and depen-

dency proceedings."

What is particularly noteworthy under these definitions is that a custody determination involves custody and visitation under the Uniform Child Custody Jurisdiction Act but not child support.

Turning to the third method, registration of a foreign judgment under the Foreign Judgment Act, Section 78-22a-1 *et. seq.*, one would proceed by filing a judgment pursuant to this act following the procedures set forth in Section 78-22a-3 of the Utah Code which provides:

"Notice of filing.

"(1) The judgment creditor or attorney for the creditor, at the time of filing a foreign judgment, shall file an affidavit with the clerk of the district court stating the last known post office address of the judgment debtor and the judgment creditor.

*"... to enforce a judgment ...
from outside ... Utah, the
judgment must be registered ..."*

"(2) Upon the filing of a foreign judgment and affidavit, the clerk of the district court shall notify the judgment debtor that the judgment has been filed. Notice shall be sent to the address stated in the affidavit. The clerk shall record the date the notice is mailed in the register of actions. The notice shall include the name and post-office address of the judgment creditor and the name and address of the judgment creditor's attorney, if any.

"(3) No execution or other process for the enforcement of a foreign judgment filed under this chapter may issue until 30 days after the judgment is filed."

If one follows a foreign judgment registration procedure (U.C.C.J.A. or Foreign Judgment Act) and anything other than enforcement of the decree is involved, an action must be instituted after the judgment becomes a Utah judgment for modification if a modification is permitted under the terms of the P.K.P.A. as discussed *intra*. The new Section 30-6-12, Full Faith and Credit for Foreign Protective Orders, sets forth its own procedure. It provides:

"(1) A foreign protective order is enforceable in this state as long as it is in effect in the issuing state or political entity.

"(2) (a) A person entitled to protection under a foreign protective order may file the order in any district court by filing with the court a certified copy of the order. A filing fee may not be required.

"(b) The person filing the foreign protective order shall swear under oath in an affidavit, that to the best of the person's knowledge the order is presently in effect as written and the respondent was personally served with a copy of the order.

"(c) The affidavit shall be in the form adopted by the Administrative Office of the Courts, consistent with its responsibilities to develop and adopt forms under Section 30-6-4.

"(d) The court where the order is filed shall transmit a copy of the order to the statewide domestic violence network described in Section 30-6-8.

"(e) Upon inquiry by a law enforcement agency, the clerk of the district court shall make a copy of the foreign protective order available.

(3) Law enforcement personnel may rely:

(a) Upon a certified copy of any foreign protective order which has been provided to the peace officer by any source; and

(b) On the statement of the person protected by the order that the order is in effect and the respondent was personally served with a copy of the order.

(4) A violation in Utah of a foreign protective order is subject to the same penalties as the violation of a protective order issued in Utah."

On the face of this statute, it would appear to create a fourth method by which a custody and/or visitation order can be docketed and then in force in the state of Utah.

ENFORCEMENT IN UTAH

When seeking to enforce a judgment regarding custody or visitation from outside the state of Utah, the judgment must be registered or acted upon in such a way as to give the Utah resident an opportunity to respond before any order is enforced.

See Utah Code section 78-45c-15(1); *Holm v. Smilowitz*, 840 P.2d 157 (Utah App. 1992). In addition, the Utah court and the court of the foreign state must determine which state has jurisdiction if there is any effort to modify or change the existing order. This is governed by the provisions of the Utah Code Section 78-45c-14 which provide:

"(1) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless (a) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this act or has declined to assume jurisdiction to modify the decree and (b) the court of this state has jurisdiction.

"(2) If a court of this state is authorized under Subsection (1) and Section 78-45c-8 to modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all proceedings submitted to it in accordance with Section 78-45c-22."

This section must be read in conjunction with the Parental Kidnaping Prevention Act. Section 1738A in Title 28 of the U.S. Code, which prohibits a Utah court from taking any action except to enforce the foreign order by its terms, 28 U.S.C. Section 1738A(a), unless either the original state no longer has jurisdiction or has declined to exercise jurisdiction, 28 U.S.C. Section 1738A(f). The courts of the original state retain jurisdiction so long as the child or either parent reside in that state, 28 U.S.C. Section 1738A(d).

The key to understanding how these two acts work together is that, if either parent or child reside in the state that issued the original decree, the courts of that state retain exclusive jurisdiction to modify the decree unless the courts of that state surrender or agree to give up jurisdiction. 28 U.S.C. Section 1738A(d) and (f); *Crump v. Crump*, 821 P.2d 1172 (Utah App. 1991). As the Utah Court of Appeals stated:

"This section explicitly limits when a state, which would otherwise have jurisdiction over child custody dispute, must defer to the state which originally issued the custody order."

821 P.2d at 1175.

An example in the Utah Court of Appeals is *Crump v. Crump*, 821 P.2d 1172 (Utah App. 1991). The opinion contains a detailed explanation of how decrees are enforced and how the U.C.C.J.A. and P.K.P.A. must be read together when someone outside of Utah is seeking to enforce a decree in Utah and describes in detail from what has been summarized above as to how the Utah courts can take or are prohibited from taking jurisdiction to modify a decree. The antithesis of that situation, that is, enforcing a Utah decree in another state and prohibiting modification of the decree by reason of the actions to enforce it in another state, is described in *Curtis v. Curtis*, 789 P.2d 717 (Utah App. 1990).

*"... a decree from outside of Utah
may be enforced in Utah . . ."*

It should also be noted that both the U.C.C.J.A. and the P.K.P.A. defined custody as involving both custody and visitation. Section 78-45c2(2) of the Utah Code and Section 1738A(b)(3) of Title 28 U.S.C. However, the Parental Kidnaping Prevention Act does provide that a second state will have jurisdiction to enforce the provisions of the original state's decree. 28 U.S.C. 1738A(a). This means in everyday language that a decree from outside of Utah may be enforced in Utah by registering the decree or bringing an action to make the decree a Utah action, then requesting the court to enforce it. However, the jurisdiction in the Utah court, once such an action is maintained where the original state still retains jurisdiction under the P.K.P.A., is only to enforce the provisions as to custody and visitation. Any change must be initiated in the original state. *Crump*, 821 P.2d at 1176-1178.

In addition to the ordinary enforcement provisions, Section 78-45c-11 provides additional enforcement tools within Utah. In fact, it contains arrest warrant provisions which are unique to the Utah version of the U.C.C.J.A. This section provides:

"The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the

child the court may order that he appear personally with the child. If the party who is ordered to appear with the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against such party to secure his appearance with the child.

"If a party to the proceeding whose presence is desired by the court is outside this state with or without the child the court may order that the notice given under Section 78-45c-5 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

"If a party to the proceeding who is outside this state is directed to appear under Subsection (2) or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances."

The fact that the case might be referred to the Utah Juvenile Courts and a determination of dependency and neglect does not affect the result that the Utah courts do not have the power to modify the other state's decree. *State in the Interest of D.S.K.*, 792 P.2d 118 (Utah App. 1990).

OUT OF THE STATE OF UTAH

Consequently, if a Utah resident seeks to enforce a Utah decree for custody or visitation, the courts of the state in which the other parent resides will not have jurisdiction to take any action except enforce the Utah decree unless the Utah court gives up jurisdiction where parent or child resides in Utah. The enforcement may even go so far as to include the arrest warrant provisions of Section 78-45c-11 of the Utah Code discussed above.

CHILD SUPPORT

The concepts of jurisdiction to deal with child support and alimony described in the U.C.C.J.A. and P.K.P.A. above have been adopted in regard to support. The 1996 Utah legislature adopted the Uniform Interstate Family Support Act, Section 77-31a-100 *et. seq.* Already in existence,

have been enacted in 1994, is the federal statute Full Faith & Credit for Child Support Orders, Section 1738B of Title 28 U.S.C. Reading together the provisions of the federal Section 1738B(a) of Title 28 U.S.C. and the Interstate Family Support Act, the courts of no state will have jurisdiction to change an alimony or child support order issued by the original state having jurisdiction to act in the matter so long as either one parent or the child resides in the original state unless the courts of that state give it up, 28 U.S.C. Section 1738B(f). They do, however, have the power to enforce and collect the support, 28 U.S.C., Section 1738(a).

This system is in the process of replacing the existing ERISA statutes. Examination

of the language of these state and federal support statutes demonstrates the same structure is being created for support as has been created for custody and visitation.

CONCLUSION

The first step in determining whether or not you can help a client requesting assistance in regard to child custody, child visitation or support is determining whether Utah courts have jurisdiction to act. The second step is determining whether or not it is appropriate that the Utah courts exercise that jurisdiction. The guidelines of the Utah Uniform Child Custody Jurisdiction Act exercised in conformity with the Parental Kidnaping Prevention Act provide the guidelines within which we represent our clients regarding

custody and visitation.

All of the states are in the process of adopting the Uniform Interstate Family Support Act which will provide criteria for establishing and enforcing child support and alimony awards.

The structure that is established for determining whether or not jurisdiction exists and should be exercised is the same under the Parental Kidnaping Prevention Act and the Uniform Interstate Family Support Act. By interpretation under the Supremacy Clause of the United States Constitution, the Uniform Child Custody Jurisdiction Act follows the same route. The Utah Appellate decisions have reconciled these acts and set out the pathway by which the Utah courts apply them.



CORP USA INC
CORPORATE KITS & MORE

CORPORATION KITS for UTAH

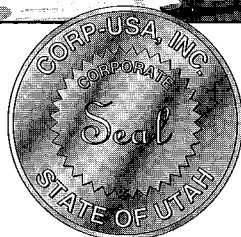
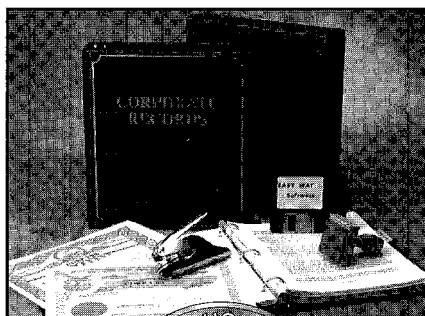
**24-HOUR IN-HOUSE
COMPLETION**
*Quality Guaranteed
Workmanship*

COMPLETE KIT
\$54.95
(Plus \$4.00 S & H)

FREE SOFTWARE!
FOR A LIMITED TIME

Kit Includes:

- Binder in stylish, burgundy, leather-look vinyl; D-shaped rings; with matching slip-case and index tabs
- Corporate engraved seal with pouch
- **FREE** corporate seal stamp
- **FREE EasyWay** corporate kit software
 - Conveniently tailored corporate by-laws
 - Customized minutes
 - Computerized stock transfer ledger sheet
- 25 Custom-printed stock certificates
- Stock transfer ledger
- By-laws and minutes and resolutions pre-printed
- Tax forms – latest requirements for EIS and S Corporations



EasyWay Corporate Kit Software

This disk will enable your corporate client to tailor all of their corporate records by inserting their individual names, dates of incorporation, special minutes and by-laws, etc. (Consulting with an attorney on all changes is recommended.)

Other available products:

- Limited Liability Company outfit: \$57.98
- Limited Partnership outfit: \$57.98
- Seal w/pouch – corporate/notary: \$25.00
- Deluxe Kit with Rawhide maroon leatherette Corporation Record binder: \$97.00

PHONE TOLL FREE FOR ORDERING DETAILS:
Phone 1-800-586-2675 or FAX 1-800-586-2685

CORP-USA, Inc.

1150 W. Riverdale Rd., Suite 7 • Riverdale, UT 84405

Preventive Law: A Personal Essay

By Scott E. Isaacson

One day when I was in law school I was walking across the campus with Professor Doug Parker, a very wise and thoughtful person. One of the walkways had been constructed with metal expansion joints. As we crossed over one of these joints, we noticed that the metal was coming loose, and stuck up several inches about the surface of the walkway. Professor Parker, who sometimes taught torts, pointed out that the University ought to fix that potential hazard, before someone tripped and was injured.

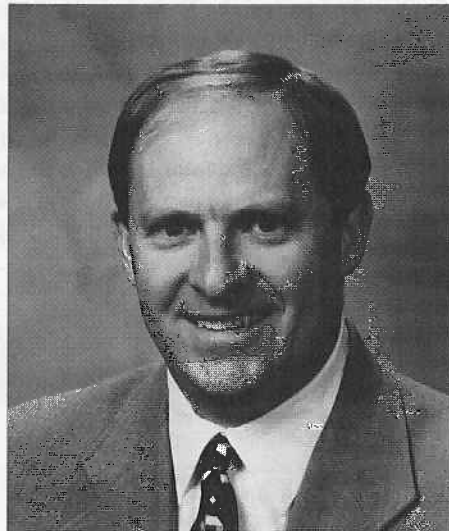
He pointed out that there was such a thing as preventive law. However, it is significant that we both just walked on our way and neither reported the potential hazard to the campus maintenance crew. We recognized a potential problem, but we were content to observe it and did not become involved enough to take action to actually prevent the problem.

We are practicing law in a time of unprecedented attack on the legal system in general and on the legal profession in particular. Although much of this criticism is unjustified and based on incorrect facts and figures, most attorneys would agree that there are definite failings in our legal system. I have been in private practice for fifteen years, most of the time involved with litigation. The most common complaint I experience is that dispute resolution through the courts is too expensive and time-consuming. This is why there is a movement towards alternative dispute resolution ("ADR").

However, ADR is just another method of solving problems after they arise and reach the point of a dispute. I believe that attorneys can and should be more involved at an earlier stage: that of preventing the dispute to begin with.

THE THEORY OF PREVENTIVE LAW

Preventive law is a theory of practicing law that emphasizes using legal counseling to anticipate and prevent legal disputes. Pre-



SCOTT E. ISAACSON is a shareholder of King & Isaacson, P.C. where his practice concentrates on representing business in their planning and transactional work as well as litigation. He is a member of Attorneys for Family-Held Enterprises, which is a national association of attorneys who focus on the legal needs of family-owned businesses. He is also a member of the Utah and American Trial Lawyers Associations, and the Colorado and Utah Bar Associations. He has served as a Member Pro Tem of the Utah State Procurement Appeals Board and is currently serving on the Centerville Planning Commission.

ventive law is not really a new concept. Good attorneys have always practiced preventive law. However, over the last twenty years, the counseling aspect of the practice of law has not been emphasized in the American legal system. Few attorneys view themselves as "attorneys and counselors" anymore. The legal profession has emphasized (and rewarded) winning legal disputes much more than preventing them in the first place.

Preventive law very simply means that attorneys actively anticipate the problems their clients will face in the future and take steps *now* to void those problems. It is a *method* of practicing law. It is an *attitude* toward problem solving. It is an ongoing *process* that

requires lawyers to take care of their clients in the old-fashioned ways – much like physicians practice preventive medicine. When practiced well, it provides clients with insurance – insurance against legal problems and insurance against litigation.

Frederic K. Conover, II (Former Colorado Bar President) Vol. 10 No. 12 *The Colorado Lawyer* at 2417 (1990) (emphasis in original).

Much of our professional culture is derived from the win-lose game of litigation and dispute resolution. The "heroes" of the legal profession are most often the trial attorneys who win the high profile lawsuits. We do not honor the competent counselor who because of his or her knowledge of the law and careful advice, steers a small business through a sticky merger or acquisition. Or the corporate attorney who conducts a thorough audit of his corporation and by his advice prevents or avoids accidents and injuries to employees or customers.

I have heard many so-called "transactional lawyers" say that they do not feel like "real" lawyers, mainly because they do not go to court. That is an unfortunate commentary on our profession. Certainly using our knowledge of the law to assist our clients in avoiding the courtroom should be every bit as valued as trial work.

There are several basic reasons why the concept of preventive law is not prominent in the legal profession. First, the legal education system does not focus on preventive law. Second, our current fee structure does not value and reward counseling to avoid disputes as it does winning lawsuits. Third, many private attorneys are not comfortable with the degree of personal involvement with clients that preventive law entails.

PREVENTIVE LAW IS LARGELY NOT TAUGHT IN LAW SCHOOL

Surveys indicate that for every hour spent in court, lawyers spend seven hours with clients. Yet law-school training still remains focused on litigation,

and the dominant source for law school teaching materials is appellate court opinions. Most law students fail to realize that a consultation may be as crucial as the trial of a lawsuit itself.

L. Teply, "Lou Brown's 'Baby' Goes International to Spread Message of Preventive Law," Vol. 11, No.2 *Preventive Law Reporter* 40 (June 1992).

How much of your legal education dealt with how legal problems can successfully be avoided? The basic text of our law school education is case book containing primarily appellate opinions. These materials are based almost entirely on disputes which were decided by the judicial system. In other words, they are based on failure, from a preventive law standpoint.

Concerning his experience at law school, Louis M. Brown, the "father" of preventive law, wrote:

[I]t seemed to me that we were constantly thrown into the middle of a stream of facts with no indication of the beginning of the client's concerns and no discussion of the ultimate effect on the parties. An appellate case, to be sure, does have its start -- we learned a bit about procedure and how a case gets to the appellate court -- and it does have its conclusion -- affirmed or reversed. But is not an appellate case a manifestation of some earlier beginning -- a trial? But a trial is also an event in the series. And what of the "final" pronouncement? What, if anything, happened after that? Are we never concerned with such earlier, or later, events? These questions never arose in class.

Louis M. Brown, *Lawyering Through Life* 25 (Rothman & Co. 1986).

Most of us would agree with Thomas Shaffer, the former dean of the Notre Dame law school, who points out that "For every property matter that is laid before a judge for decision, there are 10,000 property matters that are worked out -- thought out, negotiated out, planned out -- in the law office." T. Shaffer, "Reports of Litigation are Wreckage From Failed Attempts at Harmony," Vol. 11, No.2 *Preventive Law Reporter* 8 (June 1992).

And yet, what do we principally study in property law? We study case reports -- we focus on the one case in a thousand where the courts have to work out a solution.

There are several ways of reading the case reports. One, is to learn the abstract

rules of law and how to apply those rules to win cases, and another, how to prevent the dispute which underlies the opinion. An analogy that some writers have used is that we should read the case reports like a physician conducts an autopsy:

The idea ["legal autopsy"] derives from the medical autopsy, which is concerned with the cause(s) of death and medical diagnosis prior to death. By comparison we need to learn the causes of legal troubles, their preventives, and the diagnosis (treatment) of legal trouble by lawyers.

The legal analogy to medical death is a decided controversy or a failed transaction. If we could conduct dozens, perhaps hundreds of legal autopsies, we should learn a great deal about their causes and disputes, and lawyering skills. Then we can develop techniques and improvements to benefit clients and the justice system.

Louis M. Brown, "The Concept of Legal Health is Encouraged by Preventive Law," Vol. 11, No. 2 *Preventive Law Reporter* 7 (June 1992). We have not generally treated the raw materials of the law in this fashion.

*"... to practice preventive law,
we must have a good
understanding of the rules of law."*

The cases reported by the judges are the raw materials, which we have categorized and analyzed to learn and articulate what the rules of law are. This step is very important. In order to practice preventive law, we must have a good understanding of the rules of law. Certainly seeing what has gone wrong in the past is one of the best ways to learn how not to go wrong in the future. However, most often in legal education we do not go that last step. We do not take the lessons from the lawsuits and analyze how the problems reported in the case could and should have been avoided to begin with.

To continue the medical analogy, it would be a poor physician who would continue merely to treat the symptoms of a disease if he knew how to cure or prevent it.

Even in the ADR classes and negotiation classes that are now taught in many law

schools, the focus is usually on disputes that have already reached an adversarial posture, and not on how the dispute could have been prevented to begin with.

I feel I received a very good legal education, but I was not prepared with the practical skills and knowledge needed to practice preventive law. When, as a starting attorney, I was asked to draft research memos for litigation, or to draft appellate briefs, I felt at least somewhat confident and comfortable. However, when I was called upon to work on projects where counseling and advice was needed, I felt very unprepared.

I had only been out of law school a few weeks when I was asked to go to a client's office to assist with the preparation of a joint venture agreement. I remember very vividly sitting in the client's office and discussing the contract with both parties and at one point my client asked me for my advice on several legal and business choices he had to make. I hope I stammered out something intelligible. It was something of a shock to me that I was expected to advise the client going into the deal how to structure it. Law school had not prepared me for this.

WHAT ARE THE RAW MATERIALS OF PREVENTIVE LAW?

The place to find preventive law materials is in the private law firm or the in-house corporate attorney's office. Most transactional lawyers who have practiced for any length of time develop files of forms, examples, checklists and other materials that have proven useful in helping clients plan their activities in order to avoid legal problems. These are the raw materials of preventive law.

Law libraries are not geared to the needs of preventive law. Preventive law deals with using correct procedures and forms of agreement in order to avoid disputes. Yet, the typical legal library does not contain this type of information in a systematic way. Again, the focus is on the abstract rules of law and on the case reports.

I believe that the form of files of a good real estate attorney who has practiced successfully for twenty years would teach me much more about how to practice law preventively, than all the property law casebooks in the world. Yet, very little of this "front line" legal learning filters back into the law school curriculum.

The only way in which preventive law will really enter the law school curriculum

will be when someone gathers from the successful practicing law offices the tried and tested legal solutions, organizes them and teaches them.

VALUING PREVENTIVE LAW

I have asked myself why more attorneys do not talk about and advocate preventive law more in their practice. I believe there are several reasons. First, as pointed out above, focusing on preventing disputes is not the way we are taught lawyering in law school. Many of us simply do not have that mind-set.

However, perhaps it is a sign of my cynicism, but I believe a major reason we do not focus more on preventive law, is that preventive law does not generate the kinds of fees that adversary lawyering generates. There is simply not as much money in counseling and advising clients on how to avoid legal problems as there is in litigating disputes.

For example, I am the attorney for a small family corporation that has bought several food franchise restaurants. I reviewed their franchise agreements for them, recommending some contractual changes and I negotiated commercial leases for them. Mostly routine things. Then they brought in a new franchise agreement that they really wanted to enter into. I reviewed it and to make a long story short, came to the conclusion for a variety of reasons that they should not enter into that agreement. It was what I had been trained to call a "business question" and not purely a legal question. There were a few legal reasons why the deal was not good, but the principal reason I was opposed to it was that simply it did not look like the franchise was likely to be successful for my client. I strongly advised my client not to enter into the deal. My client really wanted to – he was convinced that it would be a great money-making opportunity for him.

He left my office and said he would think about it for a few days. In a few weeks he came back to thank me for my advice. He said that he had found out that the franchisor was in litigation with several other franchisees and they would have been buying into an almost certain disaster.

I often thought that I would certainly have made much more in legal fees if my client would have entered into the agreement, as he wanted to. I was paid a few hundred dollars for advice that saved my client thousands and thousands of dollars in costs and who knows how much in

future legal fees. In one sense, therefore, preventive law is sometimes against a lawyer's short-term economic interest.

Sometimes I have jokingly told my clients that I ought to be paid for keeping them out of trouble. It is ironic that attorneys make more money when things go wrong for their clients. We do not have a very good way of valuing and rewarding good legal advice that saves a client money.

"The level of hourly fees most attorneys charge scare off most small-to-medium sized businesses . . ."

However, the most important reason to engage in this type of preventive law is not economic. The best reason is simply to assist in avoiding injuries to human beings. I have rarely seen or heard of litigation involving real people that did not leave both sides shredded, both emotionally and often financially. Certainly there is satisfaction in preventing such injuries to people.

THE CURSE OF THE BILLABLE HOUR

One of the major obstacles to preventive law is that lawyers have priced their services in such a way as to scare away the people who could most benefit from preventive law. How many times have lawyers become involved in a dispute and, after learning the facts, it is apparent that if the parties would have consulted with an attorney sooner the dispute could have been avoided. However, most people and most small businesses do not think they can afford an attorney. I have worked with many small business owners over the years and the main reason why they do not seek legal counseling before they get into trouble is that they are afraid of the costs. And the factor which causes the biggest fear is the hourly rate.

In the last twenty to thirty years, the billable hour has practically become sacrosanct in the legal profession. It is almost as if any other method of billing for service rendered is suspect. It is probably surprising for many attorneys to learn that billing by the hour as the primary billing method is a fairly recent

invention. The emphasis on hourly billing is a side effect of the growth of the large business law firms, which grew in the seventies and eighties.

I practice with a partner who has been practicing law for fifty years. He has had a very successful career as a general attorney, doing trial work and advising several businesses. He has done very little of his work on an hourly basis. That was not the way he was taught to bill when he went to Harvard Law School in the 1940's. Most of his non-litigation work is done on a flat fee basis. He learns the facts and what is needed and he determines a flat fee for drafting the document or negotiating the transaction. All of his litigation is done on a contingency basis. He calls the law firms that stress only billable hours "law factories."

Under the Rules of Professional Conduct, the time spent on a project is only one of numerous factors that attorneys should consider in determining the reasonableness of their fees. The entire list of factors includes:

(1) The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) The fee customarily charged in the locality for similar legal services;

(4) The amount involved and the results obtained;

(5) The time limitations imposed by the client or by the circumstances;

(6) The nature and length of the professional relationship with the client;

(7) The experience, reputation and ability of the lawyer or lawyers performing the services; and

(8) Whether the fee is fixed or contingent. Thus, not only is it proper to consider many other factors than just the time spent on legal services, it could be argued that we are *required* to consider the numerous other factors listed and if we focus only on the amount of time spent we may be violating the rules of professional conduct.

The level of hourly fees most attorneys charge scare off most small-to-medium-sized businesses and almost all individual people. In most communities, almost all attorneys in private practice compete to do legal work only for the large corporations and banks, having priced themselves out of

other markets. Ironically, it is small businesses who have the most to gain and to lose because of their legal choices. Small businesses often need legal advice more than the large corporate clients in the sense that they have much more to lose or gain from a particular decision or transaction. As has been pointed out in national political debates recently, small businesses provide a majority of the jobs in the United States. Thus, the human costs of legal problems for small businesses are probably higher than for big corporations.

The point for preventive law purposes is that attorneys do not need to let hourly rates stand in the way of providing legal services. A stated hourly rate scares away people who most need legal services. Telling them that you instead will bill them a pre-agreed-upon amount for a particular service is much more palatable for the clients. Obviously, the flat fee or commission-based fees do not work for all kinds of legal services, but they do lend themselves to the kinds of things that a preventive lawyer should be doing. Eliminating or greatly reducing the hourly rate as the sole billing method removes one of the major barriers to preventive law.

The "old" concept of being "on retainer" to a client could also be one avenue to provide preventive law services. If small business owners knew that by paying a monthly fee they could call their attorney and obtain legal advice at any time, they would be more likely to place that call before getting into legal problems.

Even with alternative billing methods, it still remains that preventive law services are often not nearly as profitable for an attorney as a juicy lawsuit. The truth is that not nearly enough businesses and individuals at the present time seek legal counseling before disputes arise. Unfortunately, if you were to decide only to practice preventive law, you probably would starve.

Ultimately, I am not sure that preventive law for small businesses or for individual people can be practiced profitably in the traditional private law firm setting. Just as preventive medicine is funded by public funds, perhaps we need to have preventive legal services provided to the public through some analogous method. Just as we have public health doctors who primarily practice preventive medicine, perhaps we need to have public legal health attorneys who focus on preventive law for the

majority of citizens and small businesses which cannot afford traditional private legal services.

There have also been some attempts at pre-paid legal services and even some experiments with legal cost insurance, both of which include aspects of preventive law. However, these concepts have not gained wide acceptance.

*"... we need to erase the image
of the attorney as the hired gun,
the mercenary"*

I do not know exactly how preventive law can be made available to more people and at the same time be profitable for the attorneys providing the services. I do believe that this is an area that should be explored and that much more could be done to incorporate the concepts of preventive law into our system of providing legal services.

Most of the clients that I do practice preventive law with came into my office originally because of an existing dispute. When we got to know each other I tried to educate them that problems like the one that brought them in to see an attorney could probably have been prevented if they would have consulted with me or another attorney earlier. We then establish a relationship where they feel they can come to me for counseling about their business matters at the preventive law stage.

What needs to happen is that attorneys need to be better prepared to provide preventive legal services, and the public at large needs to be much better educated that such services are available. At least we need to erase the image of the attorney as the hired gun, the mercenary who fights the client's legal battles, and instead inculcate the image of the attorney as a counselor and advisor who can assist the client in avoiding costly legal disputes.

PREVENTIVE LAW CAN BE LIFE-AFFIRMING

Perhaps practicing preventive law may not be as profitable as other legal specialties but if you can take real satisfaction from other intangible rewards, preventive law is ultimately life-affirming.

Sometimes, I have established a relationship with clients where I told them that I personally cared about them. If that strikes you as unprofessional, I want to ask you why. Why should we conduct our "business" devoid of human caring feelings and relationships?

The culture of litigation instead of counseling has become predominate. However, the values of litigation, for all the participants, are not often conducive to caring, constructive human relationships.

In war, the only way one side can justify the horrors perpetrated on the other side is to de-humanize or demonize the opposition. We always create the impression that the enemy is not like us. Too often this same thing occurs in litigation. In the heat of battle, terrible injury can be inflicted on the emotional well-being of the opponent. I have seen both clients and attorneys treat people in litigation in a fashion that they would never treat other people in other circumstances.

Litigation, like war, is ultimately justified in certain situations. We should not hesitate to go to court to defend the rights and interests of our clients if they are threatened. We should also develop and refine litigation skills so that we will do our best for our clients in that arena. However, we need to regain the concept that litigation, like war, is a very destructive enterprise and should only be engaged in as a last resort. We should focus much more of our energy, both in learning and in practice, on developing methods and skills of preventing legal disputes through early and appropriate legal counseling.

Unfortunately, we have taken the culture of litigation as the central defining concept of what it means to practice law, and we have largely forgotten that law can be applied preventively to help people and businesses avoid costly disputes.

Moreover, when our focus is on litigation, we often tend to become over-specialized. It is economically efficient to focus on a narrow range of legal issues. However, like the medical specialist who treats one part of the body rather than the person, we end up treating legal problems, rather than the entire client. Preventive law, on the other hand, requires encyclopedic understanding of the law and a sense for human nature. Preventive law offers great opportunities for creativity and originality.

Too often attorneys become merely
continued on pg 34

Imaging for Attorneys

By David Nuffer

Imaging, long used by attorneys only in specialized situations, is emerging as another useful technology for lawyers. Imaging is a term applicable to the capture, storage and handling of images of documents by computer.

Fax or facsimile is an example of imaging technology. The fax machine makes a copy of a document by optical means, converts the optical image to data form, and transmits it over the telephone where another fax machine prints the image, or a receiving computer may store the image and display it on demand rather than printing it on paper.

Imaging differs from e-mail and the usual handling of data by computer. A document image, like a fax, is a picture of a document, not the record the keystrokes and formatting commands by which the document or e-mail message was created. A fax or image does not contain the words of the document stored directly but rather the image that was rendered in the paper copy. A fax or image cannot be directly edited like a word processing document but it may be converted to a word processing document by optical character recognition (OCR) equipment.

Imaging has the benefit that paper copies may be scanned without interpretation and stored on a computer like pages of a fax. There is no need to worry about compatibility of word processors. Though text may be mingled with photographs, drawings and other graphics, a person using an imaging system may record all such material in one image format without difficulty.

A person may use imaging technology to scan, index, store and retrieve large document collections in an orderly manner. In this technology images are stored electronically in a form like a sequence of photographs. Once the images have been collected, the imaging system will index the collection. It may provide multiple users with access, reducing the need for each participant in a team to have a copy of



DAVID NUFFER is a member of Snow, Nuffer, Engstrom, Drake, Wade & Smart, with offices in St. George and Salt Lake City. Mr. Nuffer received his B.A. cum laude in Humanities from Brigham Young University in 1975 and his J.D. cum laude from the J. Reuben Clark Law School in 1978. He has served as a commissioner for the Utah State Bar since 1994.

each important item. All of the users may search the collection at computer speeds. Any user with access by network (whether inside or outside the office) can view all documents in a file or on a subject.

Proponents of this technology make a convincing case that imaging systems can reduce storage and copying costs, and can improve the security and convenience of archives. Users of recently enhanced imaging systems have easier access to documents than in conventional filing systems. Imaging can reduce the need for paper output of standard computer reports, such as client billing records.

Formerly imaging was used only in high production settings because of the expense of the necessary hardware and software. Dramatic increases in desktop computer availability and power, coupled with

decreasing cost of computers and imaging peripherals, such as scanners, printers, large screens, and mass storage, have permitted wider use of imaging.

Two software vendors, Microsoft and IBM, are introducing free imaging software that will increase the average user's familiarity with imaging technology. These vendors have made a decision to use imaging to add value to their offerings of other software with the idea that imaging ought to be included in the basic software installed on every computer sold.

MICROSOFT-WANG

Microsoft and Wang offer "Microsoft Imaging for Windows 95" ("IFW"). IFW will be bundled with Microsoft Windows 95 software in the future, but is already available free on the World Wide Web. IFW lets users scan, fax, compress, decompress, e-mail, view, manipulate and annotate sequences of images.

Users can view the full page of each document image, thumbnails (greatly reduced copies of which many fit on the screen at once) of all the page images within a collection, or use a combined mode of full page and thumbnail. The software supports rotating, scrolling, panning, and zooming, so the view of a document can be optimized. In addition, pages can be inserted, deleted and reordered. Annotation tools allow highlighting of information with colored lines and boxes or by sticky notes.

IBM

IBM has introduced "Personal Imaging Edition" ("PIE"), another free, low-end imaging package. PIE adds a collection of images (whether or not created with the PIE program) to an executable computer file which contains its own viewer. A user can send a spreadsheet or word processing document to someone who does not have the originating software application and the recipient can still see it. The CD ROM version of PIE contains a useful tutorial.

Documents other than images can be stored in PIE. PIE includes an index and database adequate for small group needs.

COMPARISON: PIE vs. IFW

Both PIE and IFW are suitable for a person working alone. Wang has announced that it will create a multi-user version of its software (presumably related to IFW) and a network version of PIE is available now for \$3,000.00. Both will undoubtedly have further network extensions and additions in the future.

PIE runs under Windows 3.1, while IFW requires Windows 95 or Windows NT. IFW does not support higher volume ISIS compatible scanners, but PIE does (ISIS refers to a type of high speed scanner).

For the small office or for working at home either system is a good first step into the technology.

IMAGING IN THE COURTS

Utah's courts are leaders in the implementation of imaging and related technologies. The State-Federal Judicial Observer reported recently on Utah's plans to use imaging for archiving. In addition, Utah's courts are exploring means of filing images of pleadings by electronic means in court documents to paper but rather submit them to the court and to opposing counsel electronically, via e-mail or a similar system. The courts and counsel then hold such documents in on-line document collections in such a way that parties with the right of access can conduct full text searches in the collection.

The courts have projected two phases for the use of imaging and electronic filing

- a. trial basis

- b. concurrent basis in which parties may file conventional paper, images of documents, or electronic data documents.

Eventually imaging will be supplanted by electronic filing (filing of pleadings represented by the keystrokes and formatting information needed to print or display a copy rather than by an image) to some extent, but the need for imaging for documents which do not arrive in electronic form (such as exhibits bearing marks of a graphic rather than textual nature and documents from the electronically challenged, e.g. handwritten petitions from pro se litigants) will continue.

IMAGING IN THE SMALL OFFICE

Imaging in the small office has become quite easy. Due to the advent of the combination scanner/fax/copier/printer for under \$500.00, the hardware for imaging is already widely available. While these small office/home solutions may not support all of the features of imaging systems software, usually they have the necessary features. All that is lacking is the decision to implement imaging.

THE IMAGING PROCESS

There are several phases in the imaging process, capture, indexing, storage, retrieval, and display.

Capture. Capture is the first step in an imaging process. The operator uses a scanner to convert a paper document into a computer readable image. The process creates a photograph or picture of a document.

"Some imaging software can also index standard data files . . ."

The principal attributes by which scanners differ are speed, the ability to scan one or both sides of a page at once, and interface, or the system by which a computer controls an attached scanner ("Twain" and "ISIS" are standard scanner interfaces).

Hewlett Packard's Model 4si departmental scanner can scan a document and direct the image file to a specific user across a network. The scanner operator controls the destination of the image through a panel on the front of the scanner. This can facilitate incoming mail and fax distribution as well as the distribution of images. The Hewlett Packard software also supports sending image files as e-mail.

Some new imaging software that captures images from sources other than a local scanner. For example, a fax is nothing more than a collection of images made remotely and forwarded by telephone. These software packages support handling a fax as an image which may be viewed and manipulated without printing a paper copy.

Computer reports are sometimes printed directly to laser disk or magneto-optical disk as data in a format called COLD (Computer Output to Laser Disk). Reports in COLD

format may be made available to users as images rather than printed or displayed data by the accounting software which reduces the number of licensed copies of the accounting software that a site must acquire.

Some imaging software can also index standard data files, including word processing and spreadsheet documents. This gives general-purpose document management capability to the imaging software.

Indexing. Indexing is usually the step following capture in the image management process. Because images cannot be searched by indexing software, the user must create an index record for each image that provides a means of finding the image later. Usually these indexes contain lists of keywords and subject, date, and file number identifiers. There are indexing systems which include optical character recognition ("OCR") capability to interpret the text portions of images and create interpreted data copies of images which the user may search by means of full text search software. OCR software is not perfect, however, and full-text searching of images is only as good as the OCR can make it.

Storage. After an image is captured and indexed, it must be stored. Usually images are stored in a standard magnetic hard disk when first captured. This stored data may easily be altered. Storage on a traditional hard disk enables the indexing information to be added after capture.

For permanent use, however, because of the large volume of image files, images are usually stored to magneto-optical ("MO") or compact disk ("CD") media. A new format, DVD, or Digital VideoDisk, is in development that will store about ten times as much on a compact disk as the CD format. The transfer of images to CD requires planning and the maintenance of a retrieval capability that can find CD's in an archive or in a multiple disk reader. The software must have the ability to put the indexing information and the images in a location where they will be accessible together at a later time, and must also be able to spread a collection of images over more than one CD without losing information.

Network Issues. As the user captures documents, network issues emerge. Transferring image files over a network strains the capacity of the network because of the volume of data involved in images. Imaging may load a network heavily enough to justify either changing network attributes

(such as from Ethernet at 10 million bits per second to Fast Ethernet at 100 million bits per second), segmenting your network (so that all network traffic need not be carried to all network users) or taking other steps to increase the carrying power of the network. These steps may require changing the wiring over which the network runs and installing new network interface cards and hubs.

Retrieval. Retrieval software enables access to imaged documents by means similar to the search method used in a computerized research system. Rather than going to a file folder and looking inside it (which is still possible in most imaging systems) users will have to adapt to searching indexes for documents.

Indexing may lead to added convenience. For example, a search for all billings and all copies of checks on a particular file within certain date range can result in simultaneous retrieval of documents which would be spread in an actual physical filing system.

Display. Usually the retrieve command is executed from viewer software. Current imaging systems locate several important functions in the document viewer. The viewer may display documents at any size, and rotate, or invert the image to make up for errors in operating the scanner. Some software can 'de-speckle' or clean-up flaws from the image.

A large, high-resolution screen is required for viewing images. A 21 inch screen displays two letter-size images side-by-side. A 17 inch screen would facilitate moderate use of an imaging system.

Use. The user should be able to print, mail or route the image, embed it in other documents, and use the image from the viewer in all the ways the organization deems necessary.

A good imaging systems supports mailing image documents to others with accompanying instructions, comments, and text files. This may be implemented efficiently when document images actually reside on a network host and the receiver of a reference to the image need only obtain information of where the image may be found, rather than an actual copy. (Multiple copies of megabyte-sized image documents can quickly fill up a storage system.)

It is a convenience if other software, such as word processors or the like, have

the capability to embed image files in documents so that a person viewing a reference to the image may summon the image by clicking on a link of some sort (either for example by Microsoft's object linking and embedding ("OLE"), or by a link like those of the World Wide Web).

Most viewing software allows annotations – referred to as sticky notes, for example – to be attached to images. The annotation is actually kept in a separate data file stored and transmitted separately from the image, yet the software makes the annotation available to persons using the imaging system.

*"Good management and hard work
will continue to be necessary."*

BENEFITS OF IMAGING

Imaging can appear to be a ponderous process, because on the front end more work is required than with conventional paper files. A person performs filing in an imaging system by capturing and indexing images prior to any handling of them, rather than after the process of handling the documents as with paper documents. With imaging, a different discipline is necessary where the capture and indexing should occur earlier. The overall process may be quicker with imaging, especially where documents are routinely distributed to several users, because extra time spent for capture and storage may be offset by quicker retrieval and transmission.

Integrated tools for imaging documents will facilitate the process. Paper documents involve sticky notes that fall off, paper clips that pick up more or fewer pages than intended, papers filed in the wrong folder, and other familiar problems. Imaging represents the possibility for new kinds of difficulties (images associated with the wrong index entry of subject and date, misplaced memory media, members of the team using incompatible keywords, and so forth. Good management and hard work will continue to be necessary.

One important benefit of imaging is the better accessibility of archives. Once a document is captured as an image and placed in a well-designed archive, documents are easier to find and reproduce. A copy of an archive

on CD may be made for court or for storage offsite in a facility protected against fire and other environmental risks. Images may be encrypted to protect against the possibility that the disk falls into unfriendly hands. (A person cannot view an encrypted image without access to the coding information under which it was encrypted.

Experience with imaging shows that the use of imaging software can lead to a reduction in the use of paper copies, if adequate screen displays are available for viewing the images. When people can see a document at their desk on demand, they feel less inclined to make a copy.

THE LAW OF IMAGING.

You may not implement imaging in your office, but you may still need to understand the process because it will come up in your practice. Legal issues will arise from imaging. One such issue is whether an image can be an original for purposes of the Best Evidence Rule. The authentication of an imaged document poses difficulties. Signatures and notarial certificates may be displayed as part of an image and may be reproduced on a paper copy. But persons interested in deception can modify images, by adding indicia of authenticity in ways that are difficult to trace. This problem is similar to the Business Records problem, where some credit is given to a document simply because it is found in a location where documents are usually trustworthy. Repositories of images will develop which are known to be certifiable and trustworthy, like the file of images of surveys which are maintained on microfilm by certain land offices. Such collections will likely one day be duly certified by government custodians.

Computer images do not contain non-content evidence such as inks, holes, paper chemistry, staples, white-out marks, and wear that paper originals provide for the inquiry into authenticity. The law of evidence will have to proceed with caution in this area.

As lawyers and others make more general use of imaging technology, simple economics of mass marketing will bring down the price of the hardware and software, increasing the use of imaging in commerce and law offices. With foresight, attorneys can integrate imaging into the equipment of the law office without great

expense and without serious interruption of the routine of law practice. Powerful computers, large monitors, mass storage systems, fast networks, and large-capacity scanners and printers all are becoming available at reasonable prices, and as lawyers acquire these systems for other purposes as well as imaging, the implementation of imaging will proceed easily.

FOR FURTHER INFORMATION

IBM's Personal Imaging Edition is available on the World Wide Web at <http://www.software.ibm.com> or <http://www.tdf-corp.com>. For a diskette version or a CD ROM which contains a tutorial call 800-848-4TDF. The cost is \$9.95.

Microsoft Imaging for Windows is available on the World Wide Web <http://www.microsoft.com/windows> or <http://www.wang.com>. For more information on Imaging for Windows, review the document "Work Management in a Microsoft Environment" at <http://www.rheinner.com>.

The **Association for Information and Image Management** is the leading

resource for imaging information. It can be found at <http://www.aiim.org>.

A series of **technical guides on imaging** subjects is available at <http://www.techguide.com/pocking.html>

Developing an Imaging and

Workflow System Specification

Production Imaging

Work Management in a Microsoft Environment

Scanning in a Production Environment

Imaging Display Subsystems

COLD

RAID Storage

Document Imaging Glossary

Software Packages for comprehensive imaging solutions include Paperclip, Watermark and FileMagic:

Watermark Software

15 Third Avenue

Burlington, MA 01803

(617) 229-2600

(617) 229-2989 (fax)

PaperClip Imaging Software

One University Plaza

Hackensack, New Jersey 07601

(201) 487-3503

(201) 487-0613 (fax)

Executive Systems Design

119 West Main Street

Belleville, Illinois 62220-1560

(618) 233-7444

(618) 233-1611 (fax)

<http://www.esdi.com/FileMagic/Master.htm>

Multifunction Products (Scanner, Printer, Fax, Printer)

Hewlett Packard

<http://www.dmo.hp.com/peripherals/multi/main.html>

Brother

<http://www.brother.com/E-printer/pdinfo.html>

*Attorneys' Advantage
is pleased to announce
ARS of Utah
has been named exclusive
Administrator for
the State of Utah*

We can help you develop the professional liability insurance coverage which best fits your needs. For further information, please contact:

Aon Risk Services of Utah
(Formerly Rollins Hudig Hall)

1-801-488-2550

Fax: 1-801-488-2559

Attorneys' Advantage lawyers professional liability insurance is underwritten by TIG Insurance Company, rated A (Excellent) XI by A.M. Best

Aon Risk Services

**Attorneys'
Advantage**

TIG INSURANCE.

©1996 Attorneys' Advantage Insurance Agency, Inc.



THE SALT LAKE ESTATE PLANNING COUNCIL *presents its* **9TH ANNUAL FALL INSTITUTE**

co-sponsored by

Utah State Bar Estate Planning Section

- **Featured Speaker - Stacy Eastland, Esq.** •
**Nationally Recognized Expert - Discussing
Limited Partnerships • LLC's
Business and Discount Valuations**

Additional Topics:

**Charitable Giving • Hot Issues
Practical Uses of Business Entities in Utah**

Friday, October 25, 1996

Salt Lake Hilton

Up to 8 Hours of CLE Credit

For Registration Information Contact:
Diane Buma • 278-4016 or Tom Christensen • 531-8900

Bar Inagurates Public Service Program

This Fall, the Bar will produce a series of newspaper messages presenting pro bono projects and public service performed by lawyers. Among them are a number of very important programs which reach out to the public who are in need but unable to afford legal services. Many lawyers currently participate in pro bono activities, some organized and highly visible, and all are worthy of mention.

The Bar has selected eight programs in which Utah attorneys participate. They present an interesting and positive narrative about contributions lawyers make to our society, and they are indicative of the many unheralded voluntary efforts by members of the Bar.

The Bar's message in this first series focuses on on-going voluntary projects. Six of the messages

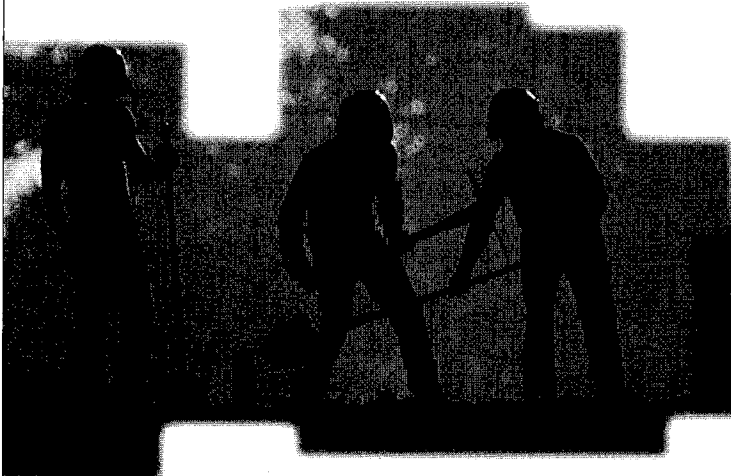
appear in this *Bar Journal*, and two messages were in stages of completion at the time of publication. At the bottom of each message, readers are invited to make their own contribution to a charitable organization. The series will run in the state's daily newspapers in October and November.

The Bar's messages focus on the on-going voluntary efforts of Herm Olsen, who helps on the Navajo Reservation, Leonard Burningham and his food and clothing drive, Jensie Anderson, who helps the homeless each week, Mike Martinez and his assistance to migrant workers, Nelda Bishop, who helps provide representation for abuse cases, and Carolyn McHugh for her work in the Guardian ad Litem program.

A public service message from the Utah State Bar.

Language is only one of the barriers migrant

workers face in Utah. Getting medical care, enrolling kids in schools, and finding food and shelter is a never ending job for Centro de la Familia.



Their success depends on volunteers like Mike Martinez who travels around the state, wherever migrants need help -- farms, orchards, restaurants, hotels -- from Brigham City to Ephraim. You'll see him meeting with migrant workers in fields and kitchens, helping people with everything from getting driver's licenses to health care. He's done it for years, without charge, because the need is critical, and he cares.

Did you hear the one about the lawyer?

Maybe it was about Mike and his voluntary service to migrant workers.

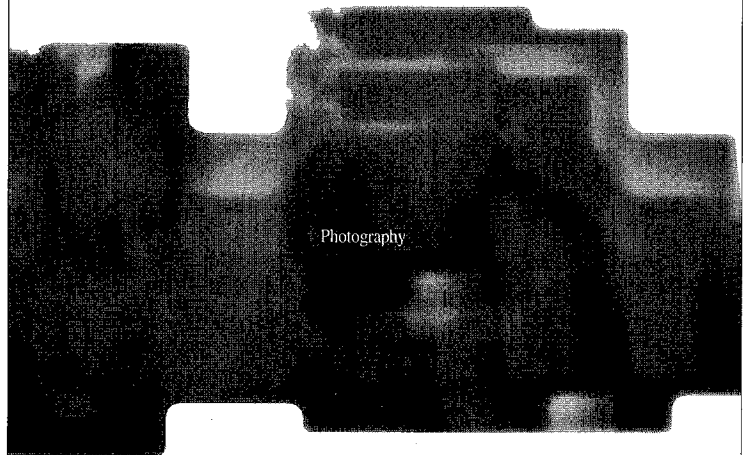
Mike Martinez

If you'd like to help, too, send a contribution to Centro de la Familia, 205 West 200 South, Salt Lake City, Utah 84101

A public service message from the Utah State Bar.

Generosity seems to peak around the holidays when

there is an overwhelming need to help people who are down and out. Fortunately, there are many charitable people and programs which help those in poverty.



One holiday drive you seldom hear about is organized by Leonard Burningham. For the last six years, he has asked Utah lawyers for everything from clothing to baby food, from fresh fruit to toothpaste - items which are desperately needed at shelters for homeless and for abused and battered people. Again this year on the Friday before Christmas, you'll find Leonard at the Law and Justice Center, filling his truck with contributions from legal secretaries, paralegals and attorneys to take to shelters.

Did you hear the one about the lawyer?

Maybe it was about Leonard and his food and clothing drive.

Leonard Burningham

If you'd like to help, too, send a contribution to Jennie Dudley's Eagle Ranch Ministry, P.O. Box 552, Magna, Utah 84044.

Homeless

people gather every Sunday morning under the Fourth South viaduct for breakfast prepared and served by Eagle Ranch volunteers. Many citizens come to assist in this effort which feeds five to six hundred people weekly. For the homeless, this is probably their only hot meal of the day. It is also an opportunity to seek free legal service.

Photography

For two hours every week, Jensie Anderson sits at a small table providing on-the-spot legal information to whomever asks. She never knows how many will need her help, but usually up to twenty people are waiting to talk to her about everything from immigration to eviction issues. Jansie has been a volunteer since she graduated from law school. For many of the homeless, she is their only link to the justice system or to other community services.

Did you hear the one about the lawyer?

Maybe it was about Jansie and her free legal service for the homeless.

Jensie Anderson

If you'd like to help, too, send a contribution to Utah Legal Services, 254 West 400 South, #200, Salt Lake City, Utah 84102

Victims

of abuse were often too intimidated by their abusers to tell the judge why they needed protection until a Davis County program was created two and a half years ago. But they don't stand alone any more.

Photography

Nelda Bishop sees to that. From her home where she tends her grandchildren, Nelda schedules volunteer attorneys to provide free legal representation approximately 15 abuse cases every week. Although retired from the practice of law, Nelda often represents victims herself, without charge. She credits the success of the protective order program to a cooperative effort among the Davis County Attorney's office, courts, law enforcement, and 35 volunteer attorneys.

Did you hear the one about the lawyer?

Maybe it was about Nelda and her free legal service for victims of abuse.

Nelda Bishop

If you'd like to help build the Davis County battered women's shelter, send a tax-deductible contribution to the Davis Citizen's Coalition Against Violence, P.O. Box 772, Kaysville, Utah 84037

Isolation

and poverty are a way of life for many Navajo people who live on the expansive Reservation spread over the Four Corners Area. But remoteness doesn't distance them from domestic abuse, crime and predatory consumer practices. The single resource to solve personal legal problems on the Reservation is Diné Nahíílné Bée Agahí Dítí Ahíí - DNA People's Legal Service.

Photography

DNA depends on volunteers like Herm Olsen who drives twelve hours across Utah from Logan to Chinle - or other outlying places - to provide free legal help to Navajos. At least four times each year, Herm puts his knowledge of the Navajo language and the law to use on behalf of the Indians. For many people on the reservation, he is their only connection to legal justice.

Did you hear the one about the lawyer?

Maybe it was about Herm and his free legal service for Navajo Indians.

Herm Olsen

If you'd like to help, too, send a contribution to DNA People's Legal Service, P.O. Box 458, Mexican Hat, Utah 84531.

Divorce

is not just between two parties of a failed marriage. It's often about children whose rights as individuals may be trampled. To assure that children who may have been abused, neglected or abandoned are represented in court, the Guardian ad Litem program was established 2 years ago. It's a program that depends on a dedicated staff and the voluntary legal services of many attorneys like Carolyn McHugh.

Photography

At any one time, more than 50 children have their own lawyer, free of charge, to represent their rights in divorce cases. The judge makes the determination of need. As you might expect, these aren't easy cases. But many volunteer attorneys represent two or three children on a pro bono basis in addition to their regular work load. The program also relies on non-lawyer volunteers to help.

Did you hear the one about the lawyer?

Maybe it was about Carolyn's advocacy in the best interest of a child.

Carolyn B. McHugh

If you'd like to volunteer, contact the Statewide Guardian ad Litem Office, 230 South 500 East, #300, Salt Lake City, Utah 84102

Commission Highlights

During its regularly scheduled meeting of March 31, 1996, held in Logan, Utah, the Board of Bar Commissioners received the following reports and took the actions indicated.

1. The Board voted to approve the minutes of the April 6, 1996 meeting.
2. The Board voted to nominate Charlotte L. Miller as president-elect for the 1996-97 year to stand for retention election.
3. Dennis Haslam announced that the Supreme Court had reappointed Ray O. Westergard to another three year term on the Bar Commission as a public member.
4. The Board voted not to co-sponsor a commercial book endeavor.
5. Jim Jenkins reported on the Jury Reform Conference.
6. Haslam reported on the recent meeting held with Coregis Risk Manager, Scott Williams, Don Rooney, Randon Wilson, Steve Kaufman and John Baldwin.
7. Haslam reported that at the last Executive Committee meeting Din Whitney presented a proposal to run the Utah Dispute Resolution program. The Board voted to invite Din Whitney to make a presentation to the full Bar Commission on how he intends to run the UDR program.
8. Steve Morrisett of the Attorney General's Office appeared to comment on Ethics Advisory Opinion No. 95-05 and Rule 4.2 as it relates to the AG's Office.
9. The Board voted that proposed ethics advisory opinions come to the Commission for formal adoption after the publication comment period.
10. The Board voted to accept the recommendations of the Awards Committee for the 1996 award recipients.
11. Baldwin reported that letters have been mailed to legal assistants inviting them to join the Legal Assistants Affiliate Division of the Utah State Bar.
12. Baldwin reported that the petition to allow inactive attorneys provide pro bono legal services has been filed with the Supreme Court.
13. Baldwin reported that a letter was sent to the Trustees of the Law & Justice Center Board reported on Center

activities and statistics for the past year.

14. Baldwin confirm that the Bar would be endorsing both IHC and Blue Cross/Blue Shield health insurance for Bar members.
15. Baldwin reported that Katherine A. Fox is now on board as Associate General Counsel for the Utah State Bar.
16. The Board voted to reappoint: William G. Fowler, Roland R. Ursk, John A. Beckstead, Martin W. Custen; and to appoint Carol Clawson, Thom R. Roberts, Erik Stringberg and Terry L. Cathcart to the Utah Legal Services Board.
17. Chief Disciplinary Counsel Steve Cochell reviewed a statistical report showing dispositions of cases from January through April, 1996.
18. Budget & Finance Committee Chair Ray Westergard reviewed the April financial reports and answered questions.
19. The Board voted to make the 1997 proposed budget available for review and comment by Bar members.
20. Bea Peck reported that the Women Lawyers of Utah are putting together a proposal for voluntary pro bono reporting and will direct service through the Young Lawyers in a project this coming year.

During its Annual Meeting on July 3, 1996, held in Sun Valley, Idaho, the Board of Bar Commissioners received the following reports and took the actions indicated.

1. The Board voted to endorse the concept of jury reform and to support the creation of a task force to study and make recommendations to the Utah Supreme Court.
2. Budget & Finance Committee Chair Ray Westergard reviewed the June financial reports.
3. The Board voted to fund the Utah Dispute Resolution program in the 1996-97 budget for \$20,000 upon their meeting certain specific conditions.
4. The Board voted to adopt the entire 1996-97 budget as presented.
5. Debra Moore reviewed the Equal Administration of Justice committee's preliminary report.
6. The Board voted to approve Ethics Advisory Opinion No. 96-04 which indicates that "recording conversations to which an attorney is a party without prior disclosure to the other parties is not unethical when the act, considered

within the context of the circumstances, does not involve dishonesty, fraud, deceit, or misrepresentation."

7. The Board voted to approve Opinion No. 96-05 which indicates that because the Utah Supreme Court's approval of the Utah State Bar's "interest on lawyers' trust accounts" (IOLTA) program is specifically limited to the Bar's original proposal to dedicate small-interest amounts to the Utah Bar Foundation, a lawyer who remits to a different charitable institution would violate Rule 1.15 of the Utah Rules of Professional Conduct unless the Court specifically authorizes another recipient.
8. The Board voted to approve Opinion No. 96-06. No. 96-06 addresses the ethical obligations if an attorney undertakes representation of a client when the attorney is not able to communicate directly with the client in a language clearly understood by the at client. The opinion states that "an attorney need not have any personal knowledge of language skills relating to the language ability of the client," but it is necessary, however, for an attorney to be able to communicate adequately with the client. The opinion also notes that language impediments need to be considered and the method of communicating will depend upon each situation.
9. The Board voted to give permission to Gary Sackett to add the Bar's opinions to the Westlaw database.
10. The Board approved all applicants to take the July 1996 exam including those who are waiting to pass Character & Fitness.
11. The Board approved the payout of \$5,598 on a Client Security matter.
12. Chief Disciplinary Counsel Steve Cochell reported that the caseload in the Office of Attorney Discipline remains constant at 60-70 new cases a month with about 40 dismissed.
13. Dennis Haslam reported that Charlotte Miller has been retained as president-elect following the recent retention election.
14. Haslam welcomed Third Division Commissioner Scott Daniels to the Bar Commission.
15. The Board voted to approve the

appointment of the following representatives as ex officio members of the Bar Commission of the 1996-97 year: The ABA Delegate, the State Bar Delegate to the ABA, the Dean of the University of Utah College of Law, the Dean of the J. Reuben Clark Law School at BYU, the president of the Young Lawyers Division, the Minority Bar Association representative, the Women Lawyers of Utah representative, the Judicial Council Liaison, and the Legal Assistants Division representative.

16. The Board appointed Jim Jenkins as the new Judicial Council Liaison.
17. The Board voted to expand the Executive Committee to its maximum of five members, which will include President Steven M. Kaufman, President-Elect Charlotte L. Miller, and Commissioners, Charles R. Brown, James C. Jenkins, and David O. Nuffer.

A full text of the minutes of these and other meetings of the Bar Commission is available for inspection at the office of the Executive Director.

MISSING

The CLE Department is missing several tapes from our video collection. Please check the dark corners of your offices and homes for these video numbers. Should you find them, please bring them in or mail them to **Utah State Bar, Attn: Holly Hinckley, 645 South 200 East, SLC, UT 84111**. We will welcome these long lost videos back into our collection, where all may benefit from them! Questions? Call Holly Hinckley at 531-9095. Thank you for your help!

4	167	269	339
35	170	277	341
38	180	282	345
40	183	288	355
53	184	291	363
64	193	294	366
74	195	295	381
78	196	297	401
89	227	299	402
90	232	312	405
122	249	313	415
137	250	315	456
145	251	321	458
150	255	328	466
159	268	329	469



QUESTION: How do Utah attorneys save time, save money and stay current with the latest case law?

ANSWER: They read *Stare Decisis*.

For a FREE one month subscription, call toll free 888-484-9741.

Discipline Corner

ADMONITION

On July 17, 1996, the Chair of the Ethics and Discipline Committee issued an Admonition to an attorney upon the recommendation of a Screening Panel for violating Rule 1.3, Diligence; Rule 1.4(a), Communication; Rule 8.1(b), Bar Disciplinary Matters; and Rule 8.4(c) and (d), Misconduct of the Rules of Professional Conduct. The Panel found the attorney was retained on or about March 1, 1993, to represent a client in a divorce and was paid a fee of \$250.00. Subsequently, the attorney failed to provide any meaningful legal services. Additionally, the attorney failed to respond to requests from the Bar for information regarding the complaint filed by the client.

ADMONITION

On July 22, 1996, the Chair of the Ethics and Discipline Committee issued an Admonition to an attorney upon the recommendation of a Screening Panel for violating Rule 1.2(d), Scope of Representation; Rule 1.14(a) (1), Declining or Terminating Representation; Rule 4.4, Respect for Rights of Third Persons; and Rule 8.4(c), Misconduct of the Rules of Professional Conduct. The attorney was retained in 1991 to represent clients in the distribution and transfer of assets from the estate of a deceased person. In April, 1991, the Court issued a Restraining Order directing the parties not to dispose of any co-owned assets pending the outcome of the litigation. The attorney was to promptly draft the Order and submit it for the Court's signature, but did not do so. Consequently, the client was forced to draft and submit the Order. Subsequently, the attorney violated the Court's order by advising clients to alter the ownership of a piece of property included in the Restraining Order.

ADMONITION

On August 5, 1996, an attorney was Admonished for violating Rule 1.3, Diligence; Rule 1.4(a), Communication; and Rule 1.4(b), Communication of the Rules of Professional Conduct of the Utah State Bar. The attorney was consulted on a medical malpractice matter, and the client was under the impression that the attorney and the attorney's firm would represent her in the matter. The attorney failed to timely notify the client that the attorney had determined there was no merit to the case and the matter would not be pursued by the attorney. The attorney failed to notify the client that the attorney and the attorney's firm would not take her case and act on her behalf until more than one year had elapsed and the statute of limitations applicable to the matter apparently had run out.

REINSTATEMENT TO FULL ACTIVE STATUS

On August 23, 1996 the Hon. David L. Mower, Sixth District Court Judge, entered an order reinstating D. Michael Jorgensen ("Jorgensen") to full active status without restriction as to type or manner of practice, retroactive to October 1, 1995.

Jorgensen had been placed on suspension from the private practice of law effective April 1, 1995, pursuant to a March 28, 1995 Court Order for violations of Rule 8.1 of the Rules of Professional Conduct. Respondent remains on stayed suspension and probation until April 1, 1997.

Trial Academy 1996 Continues: Session V. Set for October 24th "Exhibits in Trial"

Part V of the Litigation Section's Trial Academy 1996 will be held on Thursday, October 24th at 6:00 p.m. in the courtroom of United States District Judge Dee V. Benson. It is not necessary for the registrant to have attended any of the preceding sessions in order to benefit from the program.

The faculty for Part IV consisted of Judge Dee Benson, Judge Pat Brian, Gordon Roberts (Parsons, Behle & Latimer), David Jordan (Stoel, Rives), David K. Watkiss (Watkiss, Dunning & Watkiss), Ellen Maycock (Kruse, Landa & Maycock), Dick Burbidge (Burbidge & Mitchell), and Tom Karrenberg (Anderson & Karrenberg).

For Part V, the faculty will demonstrate and lecture upon the art and the law of using exhibits in trial. Among the topics to be covered are:

- Marking and premarking exhibits
- Foundations for exhibits
- Federal and state rules governing exhibits

- Use of overheads, blowups, and computer-generated displays
- Demonstrative evidence as exhibits
- Effective use of exhibits in argument
- Pretrial stipulations on exhibits

As with all sessions of the Trial Academy, the program is designed to acquaint the new practitioner with the basic skills of the trial lawyer and provide insight into the peculiarities of our local practice.

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 will receive two hours of CLE credit and the program is approved for new-lawyer mandatory CLE credit.

Enrollment is limited. Interested lawyers may register by calling Monica Jergensen at the Utah State Bar at 531-9077. Questions on the seminar should be addressed to Francis Carney at 532-7300.

Utah State Bar Ethics Advisory Opinion Committee

Opinion No. 96-07

(Approved August 30, 1996)

Issue: What are the ethical implications of federal funding reductions and practice restrictions to Utah Legal Services lawyers?

Opinion: A Utah Legal Services lawyer must give all clients adequate notice of legislative changes and the effect they will have on a client's representation. Funding reductions and practice restrictions may necessitate withdrawal from pending matters and intake restrictions on new matters. The attorney must make reasonable efforts to arrange for substitution of lawyers to handle pending matters, such as referring them to the Utah State Bar's statewide pro bono coordinator.

Rex E. Lee American Inn of Court

The Rex E. Lee American Inn of Court has been established. This Inn, as with all others, is chartered by the American Inns of Court which were originally founded in 1980 by the United States Supreme Court Chief Justice, Warren E. Burger. The Inns are dedicated to improving ethics, civility and professionalism within the legal profession. They help lawyers sharpen their ethical awareness and improve their skills by enabling them to learn, side-by-side, with experienced judges and attorneys.

The new Inn was named after Rex E. Lee, the former U.S. Solicitor General, President of Brigham Young University and Dean of the J. Reuben Clark Law School. Founding officers elected to serve the new Inn are: Honorable Michael D. Lyon, District Court Judge, President; Honorable Glen A. Dawson, Counselor; Attorney Scott Marriott Hadley of the law firm Van Cott, Bagley, Cornwall & McCarthy, Secretary/Treasurer. In addition, the Honorable Ben H. Hadfield, District Court Judge, was elected to chair the Membership Committee and Attorney Michael T. Roberts, also with the law firm of Van Cott, Bagley, Cornwall & McCarthy, was elected to Chair the Programming Committee.

Ethics Opinions Available

The Ethics Advisory Opinion Committee of the Utah State Bar has compiled a compendium of Utah ethics opinions that are now available to members of the Bar for the cost of \$5.00. Forty six opinions were approved by the Board of Bar Commissioners between January 1, 1988 and August 30, 1996. For an additional \$2.00 (\$7.00 total) members will be placed on a subscription list to receive new opinions as they become available during 1996.

ETHICS OPINIONS ORDER FORM

Quantity		Amount Remitted
_____	Utah State Bar Ethics Opinions	_____
		(\$5.00 each set)
_____	Ethics Opinions/ Subscription list	_____
		(\$7.00)

Please make all checks payable to the Utah State Bar
Mail to: Utah State Bar Ethics Opinions, ATTN: Maud Thurman
645 South 200 East #310, Salt Lake City, Utah 84111.

Name _____

Address _____

City _____ State _____ Zip _____

Please allow 2-3 weeks for delivery.

New Pro Bono Bar Status

The Bar is proud to announce a new program designed to utilize the skills and talents of inactive practitioners in service for our communities. The Bar now has a new status whereby inactive practitioners can provide pro bono services through certified legal service type agencies.

In the past, the expense of paying active Bar dues was prohibitive for inactive attorneys who wished to perform pro bono work. Now you can pay inactive fees and still be able to contribute your legal skills. It is a simple process to be approved to participate. An interested attorney merely contacts a certified agency or may contact the Bar to proceed.

One big advantage to participating through certified agencies is that these agencies provide malpractice coverage for their pro bono attorneys. This adds a level of protection for the pro bono volunteers.

Many agencies are in the process of certifying and we hope to have more apply. If you are an inactive practitioner interested in participating, please contact your favorite agency, or contact Toby Brown at the Bar offices, 297-7027.

DO THE PUBLIC GOOD!

Thank You!

I would like to thank all the members of the Bar Examiners Committee, Bar Examiners Review Committee and Character and Fitness Committee for a successful July Bar Examination that was given July 30th and 31st. Your voluntary time for the bar examination was very much appreciated.

Thank you again,

Darla C. Murphy,
Admissions Administrator

Ethics Advisory Opinion Committee Seeks to Fill Two Positions

The Utah State Bar is currently accepting applications to fill two recent vacant vacancies on the 14-member Ethics Advisory Opinion Committee of the Utah State Bar. Lawyers who have an interest in the Bar's ongoing efforts to resolve ethical issues are encouraged to apply.

The charge of the Committee is to prepare formal written opinions concerning the ethical aspects of anticipated professional or personal conduct and to forward these opinions to the Board of Bar Commissioners for its approval.

Because the written opinions of the Committee have major and enduring significance to the Bar and the general public, the Board solicits the participation of lawyers who can make a significant commitment to the goals of the Committee and the Bar.

If you are interested in serving on the Ethics Advisory Opinion Committee, please submit an application with the following information, either in resume or narrative form:

- Basic information, such as years and location of practice, type of practice (large firm, solo, corporate, government, etc.), and substantive areas of practice.
- A brief description of your interest in the Committee, including relevant experience and commitment to contribute to well-written, well-researched opinions.

Appointments will be made to maintain a Committee that:

- Is dedicated to carrying out its responsibilities to consider ethical questions and issue timely, well-reasoned, articulate opinions.
- Incorporates the diverse views and backgrounds of members of the practicing bar.

If you would like to contribute to this important function of the Bar, please submit an application indicating your interest to:

Ethics Advisory Opinion Committee

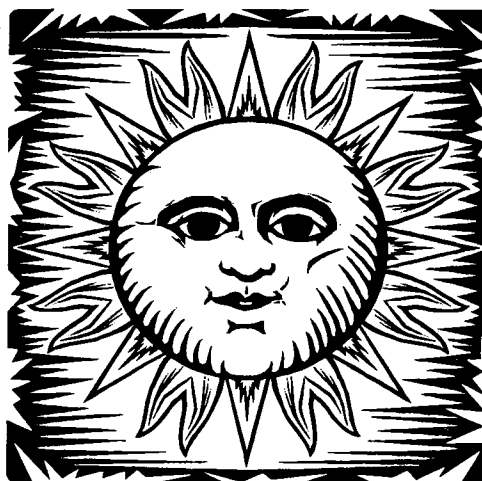
Gary G. Sackett, Chair

180 East First South Street

P.O. Box 45433

Salt Lake City, Utah 84145

Mark your calendars now . . .



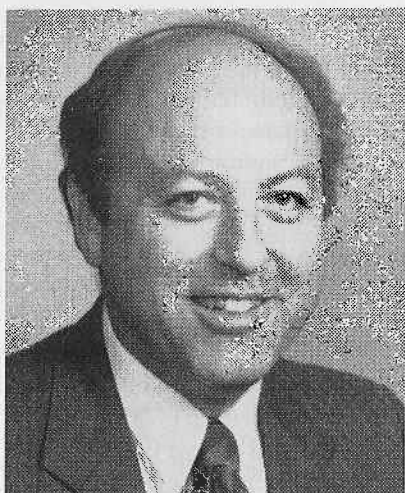
for the 1997 Utah State Bar
Annual Meeting!

July 2 - July 5, 1997

Sun Valley, Idaho

We hope to see you next summer!

Lawyer Legislators and Legislative Candidates



Lyle W. Hillyard
Senate District 25

"An opportunity to make a difference," "provide greater political balance in the legislature," "interest in advocating positions and arguing the issues in a forum where it would have meaning," "desire to be involved at the policy level of law-making," and "felt it was my time" are some of the reasons given by lawyer-candidates for the legislature for initially deciding to run for elective office.

With such seemingly salutary and appealing reasons, why is it that more lawyers do not run for legislative elective office in Utah? In the current Utah Senate, four of the twenty-nine senators are lawyers, one of whom is running for reelection this year and another of whom is retiring when his term expires this year (the terms of the other two lawyer-senators expire in subsequent years). The incumbent running for reelection is unopposed and so the number of senators in the next legislature will only be reduced to three. In the House of Representatives, only three of seventy-five are lawyers. One of these three is retiring at the end of the year, another was defeated in the primary election, and the remaining one is running for reelection. In addition, seven other lawyers are in the run-off for House seats and so, discounting unusual circumstances in these



Jean Welch Hill
House District 20

districts, there may be better than even odds that the number of lawyer-representatives will increase in the next legislature.

Are lawyer-legislators becoming an "endangered species," as one lawyer-candidate suggested, and if so why? Some mention the financial sacrifice which must be made since time away from the practice of law or other full-time job is inevitable when the legislature is in ses-

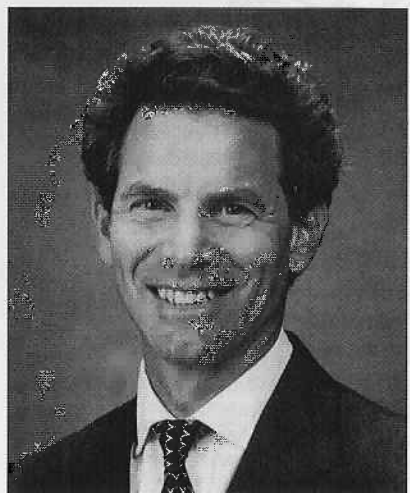
sion. Nearly all mention the extraordinary time commitment required and the consequent time away from family as deterrents to running. "I don't like Daddy doing this new job. . . I don't see him," was heard by one lawyer-legislator shortly after beginning his first term in office.

In spite of these obvious and not insignificant drawbacks, most lawyer-legislators find great satisfaction in serving in the legislature and are resourceful in finding ways to accommodate the demands of their full-time jobs. "Legislator by day, lawyer by night" characterizes how at least one lawyer-legislator balances the two jobs. Employers and partners are generally supportive as are the courts in scheduling trial dates for lawyer-legislators involved in litigation, so that the legislative sessions may be attended. One lawyer-legislator indicated that the courts in his district will attempt to schedule trials in which he is involved either before or after a legislative session.

Of course, lawyers are peculiarly equipped to serve in legislatures, given their academic background in studying the law and how it is made, and their practical experience in interpreting and applying the law. Lawyer-legislators oftentimes are sought out by other legislators for their views on pending legislation, the validity of such



David L. Gladwell
House District 7

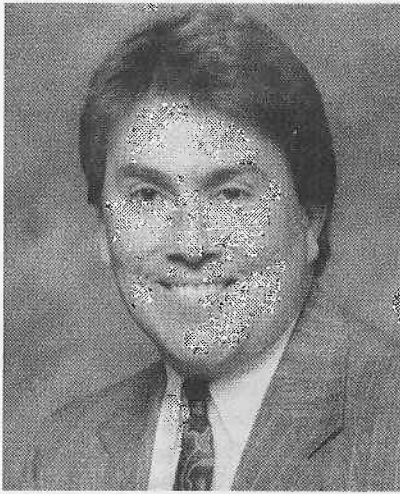


Ralph Becker
House District 24

legislation, and what the "repercussions" will be if a bill is passed. Lawyers at least have a rudimentary understanding of the legislative process and so can "hit the ground running" when they start their service. Lawyers also "understand the importance of the specific wording of each proposed statute and constitutional change" and can bring their experience to bear in making sure the cor-



Patrice Arent
House District 41



Greg J. Curtis
House District 49

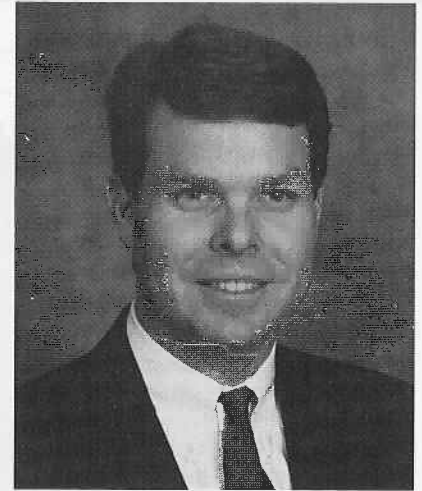
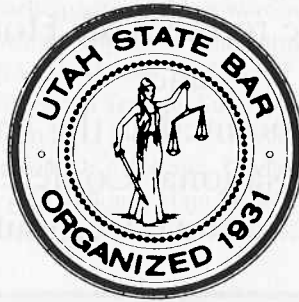


Ruth Wagner
House District 53

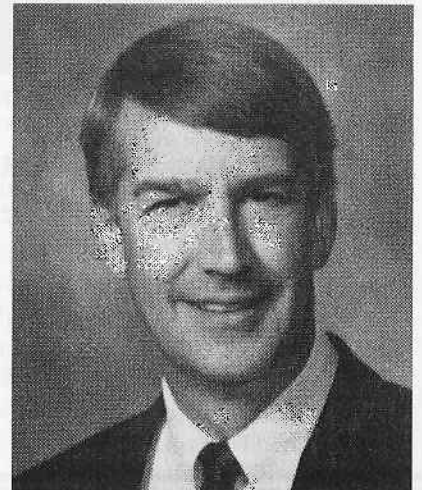
rect language is adopted.

Some of the worst aspects of running for and serving in the legislature, according to the lawyers interviewed, were "the inability to make everyone happy," "cynicism of the press," and, as might be expected, "fund raising." These negative aspects appear to be far outweighed by the positive aspects such as "feeling you can make a difference," "the positive attitude and encouragement received from supporters," "meeting the people and hearing their concerns," "working with other elected and appointed officials," "going door-to-door," and "having a feeling of accomplishment when putting experience to work."

It is obvious that most if not all of the lawyer-legislators interviewed were halcyon if not ebullient about serving, but for many lawyers it is simply not possible to run for office or give the time necessary. For those, one legislator urged, "if you don't run for office, know your state representative and senator by their first name."



John E. Swallow
House District 51



John L. Valentine
House District 58

Notice of Intent to Dispose of Exhibits

Notice is hereby given that the Eighth District Court, Uintah County, State of Utah, will dispose of all exhibits received in cases concluded prior to January 1, 1987, pursuant to code of Judicial Administration Rule 4-206, 30 days from the date of this notice. Interested persons have thirty days to withdraw their exhibits or file a written objection with the court.

Job Announcement Legal Counsel, Public Service Commission

The Utah Public Service Commission is seeking qualified candidates for the position of Commission Legal Counsel. This position is located in Salt Lake City, Utah, and has a salary range of \$46,375 – \$69,634, depending on experience.

Legal Counsel reports to the Chairman of the Public Service Commission. Primary responsibilities include advising the Commission on all legal matters, drafting orders that convey decisions of the Commission, writing legal briefs, defending Commission orders before the Utah Supreme Court, and conducting legal research. The Legal Counsel is also responsible for mediating, and arbitrating on behalf of the Commission.

To qualify, an applicant must have a Juris

Doctorate plus two years of full-time paid professional employment and must either be or become an active Utah State Bar member. An applicant must be able to communicate effectively orally and in writing. As a senior position at the Commission, the successful applicant must be capable of independent legal analysis.

To obtain an application, please contact Julie Orchard, Commission Secretary, by mail at Utah Public Service Commission, Heber M. Wells Building, 160 East 300 South, 4th Floor, Salt Lake City, Utah 84111, or by phone at (801) 530-6716. A writing sample will be required with the application.

Applications will be accepted until October 20, 1996 or until the position is filled.

Congratulations!



James B. Lee



Paul T. Moxley

The Utah State Bar congratulates James B. Lee as the newly elected Utah Representative to the ABA House of Delegates and Paul T. Moxley, who was appointed as the Bar's Delegate to the ABA and also selected by the National Conference of Bar Presidents to its Executive Committee

MEMBERSHIP CORNER

CHANGE OF ADDRESS FORM

Please change my name, address, and/or telephone and fax number on the membership records:

Name (please print) _____

Firm _____

Address _____

City/State/Zip _____

Phone _____ Fax _____

All changes of address must be made in writing and NAME changes *must* be verified by a legal document. Please return to: UTAH STATE BAR, 645 South 200 East Salt Lake City, Utah 84111-3834; Attention: Arnold Birrell.

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

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

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

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

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

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

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

NOTICE OF PETITION FOR REINSTATEMENT

Harold R. Stephens has filed a Petition for Reinstatement to Practice Law with the Third Judicial District Court, Civil No. 960004883. Mr. Stephens was suspended from the practice of law on November 2, 1992 for violating Rules 1.4(a) (Communication), former Rule 1.13(b) (Safekeeping Property), and 8.1(b) (Failing to Respond to Disciplinary Authority), of the Rules of Professional Conduct in one matter; Rules 1.3 (Diligence), 1.4(b) (Communication) and 8.1(b) (Failing to Respond to Disciplinary Authority) of the Rules of Professional Conduct in a second matter; and 1.1 (Competence), 1.4(a) (Communication) and 3.4(d) (Fairness to Opposing Party and Counsel) in a third matter.

In accordance with Rule 25 of the Rules of Lawyer Discipline and Disability, individuals desiring to support or oppose this Petition may do so within thirty (30) days of the date of the publication of this edition of the Utah Bar Journal by filing a Notice of Support or Opposition with the Third District Court. It is also requested that a copy of such support or opposition be sent to Carol A. Stewart, Deputy Chief Disciplinary Counsel, Office of Attorney Discipline, 645 South 200 East, Salt Lake City, Utah 84111.

**Utah State
Bar**

Continuing Legal Education

UAAU

1996 Co-Sponsored Education Seminar

Friday, November 8, 1996
8:00 a.m. - 4:30 p.m.

Utah Law & Justice Center
645 South 200 East
Salt Lake City, Utah

CLE CREDITS AVAILABLE

Advertising Committee Seeks Members

The Advertising Committee of the Utah State Bar is seeking new members to serve on this committee. Interested Bar Member should send a letter of interest to: Maud C. Thurman, @ Utah State Bar, 645 South 200 East, Salt Lake City, Utah 84111-3834. No phone calls please.

Native American Law Committee to Hold Organizational Meeting

The Native American Law Committee of the Utah State Bar's Energy, Natural Resources and Environmental Law Section is holding an organizational meeting to plan the committee's activities for the 1996/1997 year. The meeting will be at 12:00 noon on October 16, 1996 at the Legal Center for People with Disabilities, 455 East 400 South Suite 410. All members of the Bar and the public are invited and encouraged to attend. Want more info? Call Linda Priebe at 363-1347.

First Annual Pro Bono Recognition Dinner

The first annual Pro Bono recognition dinner was held on September 10, 1996. The dinner was jointly sponsored by the Utah Supreme Court, The Utah Court of Appeals and The Utah State Bar to provide recognition to the hundreds of Utah Lawyers who have contributed services to the many pro bono projects throughout the state.

Steve Kaufman, President of the Utah State Bar presented the Pro Bono Lawyer of the Year Award to Peggy Hunt in recognition of her pro bono service both as a volunteer advocate for various programs as well as her efforts to create new services and programs. Ms. Hunt helped establish the Domestic Violence Clinic in the Third District Court and regularly serves as a client advocate in that program. In the area of Bankruptcy she was instrumental in the development of the *in forma pauperis* Pro-

ject to help indigent debtors in bankruptcy proceedings. She currently chairs a Bankruptcy Section Committee which is developing joint project with Consumer Credit Counseling, The United States Bankruptcy Court and Utah Legal Services to provide a video clinic to assist pro se bankruptcy litigants. She has served as the Pro Bono Coordinator for the office of LeBouf, Lamb, Green & MacRae in addition to serving as a member of the Pro Bono Committee of the Women Lawyers of Utah and the Pro Bono Committee of the Litigation Section of the ABA. In accepting the award Ms. Hunt said that pro bono service was "the heart of the profession and more critically needed now than ever before."

Keith A. Kelly, on behalf of the Delivery of Legal Services Committee presented the Legal Assistant Pro Bono Award to Robyn

Elmer for her work with the Utah County Tuesday Night Bar. Ms. Elmer served as the coordinator for the program for the first two years of operation and continues to be active in management of the program.

The key note speech was presented by President James E. Faust, Church of Jesus Christ of Latter Day Saints. President Faust noted that our community has the benefit of an honest judiciary, but without access to the courts, justice is not available to all citizens. He encouraged lawyers to improve the public image of the profession by "doing their job and making the practice of law more of a profession than a business." Further, public access to the courts is a long standing tradition and the "curse of billable hours is the main threat to access to justice."

Governor's Office of Hispanic Affairs Honors the Utah State Bar and Volunteer Attorneys

By Lorena P. Riffo, J.D.

At a special luncheon, September 6, 1996, the Governor's Office of Hispanic Affairs honored the Utah State Bar and eight volunteer attorneys for the legal expertise and commitment to the Spanish-speaking Tuesday Night bar Program. State Bar president, Steve Kaufman, received the award on behalf of the Utah State Bar, and the volunteer attorneys included Alan Barber, Charlie Freedman, David Doty, John Diaz, Marti Jones, Peter Corroon, and Randy Birch.

Photo not available

Alan Barber



David Doty

gram. Now, Latino and Anglo attorneys meet on the fourth Tuesday of each month to assist Spanish-speaking Utahns who are in the process of learning English and understanding the legal system.

During the awards luncheon, the attorneys expressed their support of the program and shared personal stories about their learning Spanish. Alan Barber said, "I know what it's like to reside in a country and not speak the lan-

Photo not available

John Diaz



Marti Jones

guage; however, I still found kind people who were willing to help me." Barber wants to repay this kindness by helping new immigrants with their legal problems and comprehension of the system.



Peter Corroon

Other special guests included Anacelia Perez de Mayer, Consul of Mexico; Elizabeth Paz, Consul of Guatemala; Lorena Riffo, Director, Governor's Office of Hispanic Affairs; Annalie Harris and Aimee Martinez, Project Coordinators, Governor's Office of Hispanic Affairs.

All attorneys who are fluent in the Spanish language are invited to participate in this program. The Utah State Bar and Governor's Office of Hispanic Affairs look forward to a continuation of this highly-successful partnership in serving those who greatly benefit from the Spanish-speaking Tuesday Night Bar Program.



Randy Birch

Since partnering with the Utah State Bar on and one-half years ago, 100 Hispanic citizens have received legal information and referral - all in Spanish - which represents 32 hours of work on a pro bono basis. Prior to this partnership, the Spanish-speaking members of the community where not able to participate in the Tuesday Night Bar Pro-



Charlie Freedman



Young Attorney Profile: Valerie Longmire

By Erik A. Christiansen

If there is one word that could be used to describe Valerie Longmire, it is the word "adaptable". Ms. Longmire, a 1991 graduate of New York University Law School and an associate at Ray, Quinney & Nebeker, was born in Paris, France, and raised in Germany, France and Layton, Utah. Along the way, Ms. Longmire also has lived in Chicago, Manhattan, Los Angeles and for a brief period of time, in Saudi Arabia.

Fluent in French, Valerie considers Paris to be her home town, having lived there for much of the first fifteen years of her life, as well as during her senior year at the University of Chicago, which she spent in Paris doing research.

While growing up in France, Ms. Longmire attended mostly English-speaking military schools, while her father was in the Air Force, and learned French in some French schools she attended, as well as from her mother, who is French. Although her family while she was growing up lived in France and Ramstein, Germany, her parents now maintain a residence in Layton, Utah, where Valerie eventually wound up attending and graduating from Layton High School in 1982.

After graduation, Ms. Longmire attended the University of Chicago, where she majored in International Relations and Public Policy. During college, Valerie spent one summer with her parents in Saudi Arabia,

where her parents eventually wound up living for thirteen years. Ms. Longmire describes Saudi Arabia as an extremely geologically diverse country with deserts, green mountains and national parks. She also found the traditional Islamic culture fascinating, particularly since Islamic women were not permitted out in many of the public places that she was permitted to visit. "You really stand out and people remark on your presence because you're female," she said. Ms. Longmire also found Saudi Arabia "incredibly safe". The government, she explained, vigorously enforces Islamic law, including by announcing executions nightly on the news.

Following her graduation from the University of Chicago, Valerie attended law school at New York University School of Law and lived in "the Village". While she loved NYU, she found life in New York stressful. "You always had to fight for everything," she said. Exploring alternatives, Valerie spent her first summer at Sidley & Austin in Los Angeles and then her second summer at Milbank, Tweed, Hadley & McCloy in New York City. Having worked on both coasts, Valerie eventually decided to begin her legal career in Milbank's Los Angeles office.

As a young lawyer in Los Angeles, Ms. Longmire practiced bankruptcy law, where she spent most of her time doing Chapter 11 work for a variety of banks and other credi-

tors. When asked what she enjoyed about the bankruptcy practice at Milbank, Ms. Longmire said she enjoyed the opportunity to work on unique legal issues and to help to create new law. "Bankruptcy law," she explained, "involves developing legal issues and interpretation of a code that is constantly being changed, so as a result we were able to do a lot of creative thinking about issues and push the envelope on the interpretation of the Bankruptcy Code."

While she enjoyed the intellectual challenge of the fast-paced Wall Street practice, after three years, Valerie eventually decided she wanted to have time in her life for other things. As she explained, "big firms are a good training ground, but they are also a very high stress environment and I think you sacrifice a great deal by working there." Ms. Longmire also decided that she wanted to diversify her practice, and expand her skills as a lawyer.

After considering and rejecting other types of firms in Los Angeles, Valerie decided that she wanted a different environment. "I've always loved the West," she said. "I love the outdoors, backpacking, hiking, and in particular, horseback riding." Attracted by the lifestyle in Utah and the "general attitude of the people," Ms. Longmire joined Ray, Quinney & Nebeker in January 1995.

Since moving to Salt Lake City, Ms.

Longmire has found that she has more time to devote to her individual pursuits, including to riding Dressage. Dressage, as Valerie explained, is a form of English riding that focuses on specialized and technical maneuvers as opposed to jumping over fixed objects such as fences. "Dressage requires a great deal of communication between the horse and the rider, and requires the horse to obey very subtle commands," she said. While Ms. Longmire now only rides for pleasure, she said that someday she would like to own her own horse and perhaps even compete in the sport. For now, however, she is having too much fun doing other things to devote all of her time to Dressage.

When asked what kind of practice she would like to develop in Salt Lake, Ms. Longmire explained that she likes doing creditor work, and wants to develop a practice representing small business and individuals in Chapter 13 and Chapter 11 matters. "I find Chapter 13 and Chapter 11 matters interesting and challenging," she said.

Ms. Longmire also would like to be involved in international bankruptcy work, which she characterizes as an evolving area. "What if, she explains, "you have a

United States client that has to contend with a bankruptcy filed in Canada, or you have a client with a security interest in a ship sitting in Hong Kong when the debtor declares bankruptcy?" As the U.S. economy becomes increasingly international, she explained, these sorts of issues will arise with greater frequency.

When asked what the differences are between practice in Utah and in Los Angeles, Valerie said that a key difference is that in Utah you are permitted "to step up to the plate as a young lawyer and take on more responsibility." She also said that although the dollar amounts involved may be smaller in Utah, the quality of work is no different in Utah than it is in Los Angeles. "I think the practice is just as rigorous," she said.

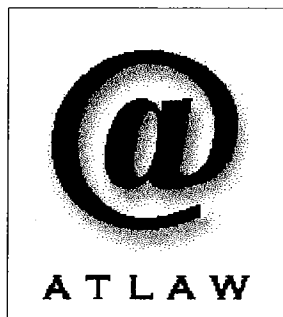
Finally, asked to explain how living all over the world has affected her, Valerie said that she's "learned to adapt to a lot of different situations, to different people, different environments, very quickly. I enjoy doing that. I like trying new things, new places, to see whether or not I can fit in. For me that has been the greatest benefit of my international experiences."

continued from pg 17

technicians, dealing with legal abstracts, and do not become involved in the lives of our clients. This is unfortunately true even of many "transactional lawyers," whose practice involves more counseling and less litigation. Many transactional lawyers become experts at certain specific types of transactions, and do not have the opportunity to advise their clients in the broader, preventive law sense. By focusing only on specific transactions, we may miss many opportunities to provide valuable legal counseling to our clients. Thus, even among many non-litigators, the concepts of preventive law need re-emphasis.

In general, the legal profession honors cleverness more than caring. However, private practice does not have to be that way. Abraham Lincoln said that "As a peacemaker, the lawyer has a superior opportunity of being a good man." Being a peacemaker is an image quite removed from the mercenary, hired-gun image that often characterizes our profession. However, by implementing the concepts of preventive law into our legal education and into our practice we can at least aim toward that ideal.

atlaw internet



INTERNET CONSULTING FOR LAWYERS

WEB SITE DESIGN • LAW OFFICE INTRANET SYSTEMS

INTERNET LEGAL RESEARCH

E-MAIL SOLUTIONS • TRAINING AND SUPPORT

CALL FOR A FREE CONSULTATION (801) 272-7690

e-mail: info@atlaw.com website: <http://www.atlaw.com>

3945 WASATCH BLVD SUITE 294 SALT LAKE CITY, UT 84124 (801) 272-7690 FAX (801) 277-9309



- **Credible Experts**
All physicians are board-certified medical school faculty members or caliber.
- **Objective Case Evaluations**
Our specialists will provide timely, honest and objective case evaluations.
- **Selection of Experts**
Within 90 minutes of talking with Dr. Lerner we will fax the proposed specialist's curriculum vitae and retainer agreement for review.
- **Plaintiff or Defense**
Since 1975 our MD's, DDS's, DPM's, OD's, PharmD's, PhD's, RN's and RPT's have provided services to legal professionals.

DR. STEVEN E. LERNER
& ASSOCIATES

1-800-952-7563

Visit our web site at
<http://www.drlerner.com>

ANNOUNCEMENT . . .

THE UTAH STATE BAR
HAS DESIGNATED

Continental Insurance Agency

AS THE APPOINTED
ADMINISTRATOR FOR THE
BAR-ENDORSED

COREGIS
PROFESSIONAL LIABILITY
INSURANCE PROGRAM
FOR LAWYERS



FOR MORE INFORMATION CONTACT

C O N T I N E N T A L
I N S U R A N C E A G E N C Y , L L C .



1111 East Brickyard Road • Suite 202
Salt Lake City, Utah 84106
(801) 466-0805 • Fax (801) 466-2633

*Providing the members of the
Utah State Bar with Excellent
Service and Quality Coverage
at a Competitive Price.*





Report of the Circuit Court

By Judge John Backlund

As Chair of the Circuit Court Board, I respectfully submit this Report to the readers of the *Utah Bar Journal*. With the passage of S.B. 165, the Circuit Court merged into the District Court on July 1, 1996, bringing to a close almost nineteen years of dedicated service to the citizens of Utah by Circuit Judges and court staff. The Circuit Court Act of 1977 was enacted to "... create a statewide court of record of limited jurisdiction to provide full-time professional judicial service to every county in the state ..." (U.C.A. 78-4-2). Sitting judges of the city courts became judges of the newly created circuit court system. Additional judges were added to the court through the appointment process. Currently, eighteen motivated women and men serve the public as circuit judges. I pay tribute to each of my sixty-four colleagues who have sat on the circuit bench during the past nineteen years.

The jurisdiction of the court has been modified by legislative amendment over the years. Circuit courts conduct de novo criminal trials on matters appealed from the justice court. Judges also hold de novo hearings on appeal of the judgment of the small claims department of the circuit court by a judge pro tempore and small claims on appeal from the justice court. Circuit courts exercise

JUDGE JOHN BACKLUND was appointed to the Fourth Circuit Court on July 1, 1983, by Governor Scott M. Matheson. He serves Millard, Juab, Utah and Wasatch Counties. He was a partner in the law firm of YOUNG, BACKLUND, HARRIS & CARTER prior to his appointment to the bench. He is currently serving as Chair of the Board of Circuit Judges.

jurisdiction over all misdemeanors and infractions with adult defendants. Circuit judges conduct bail hearings and first appearances on felonies and preliminary hearings. Civil jurisdiction of the court extends to all matters where the sum claimed is less than \$20,000, subject to the exclusions set forth in Section 78-4-7, U.C.A. The court also handles most traffic cases involving juveniles. The district court will continue to hear most of these cases, except for city misdemeanor cases and small claims matters filed in a justice court established in a city that was previously a circuit court site.

The circuit court system has provided the public with a group of law-trained judges, selected through the appointment process and subject to retention elections, with oversight by the Utah Supreme Court and the Judicial Conduct Commission. Recognition is given to the commitment of circuit judges to a high standard of the quality of justice on

each case, notwithstanding a heavy caseload. Moreover, circuit judges comply with mandatory education requirements and contribute countless hours of service on bar and judicial committees and task forces designed to improve the administration of justice, in addition to filling positions on the Judicial Council and the Circuit Court Board.

Many important changes in law, procedure, court rules and court administration resulted from the input of our circuit judges and staff. The use of technology and access to information by the Bar and the public has been enhanced, in large measure, due to the efforts of involved judges. The circuit court has worked effectively with the Bar in a joint effort to educate the public about the Law and its procedures, including youth courts, mock trials, the D.A.R.E. program, Law Day events and other activities.

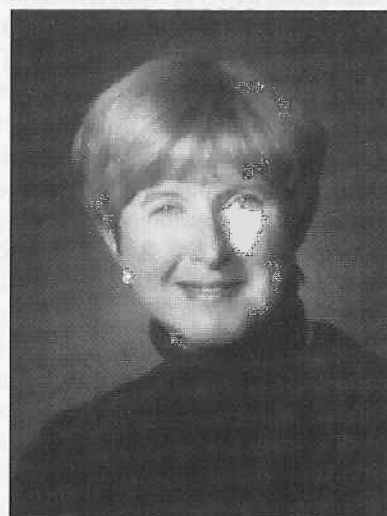
The judges and staff pledge continued excellence in serving the Bar and public as part of the consolidated district court. Cases, large and small, will still receive the same thoughtful consideration. Judges have devoted many hours to be qualified to hear matters formerly handled by both courts. We extend sincere appreciation to Utah lawyers for your patience and cooperation in making the transition as the merger of the trial courts becomes a reality.



Jane A. Marquardt



Stewart M. Hanson



Hon. Pamela T. Greenwood



Hon. James Z. Davis



Joanne C. Slotnik

Utah Bar Foundation Elects Officers and Trustees

Jane A. Marquardt, shareholder in the law firm of Marquardt, Hasenyager & Custen, has been elected President of the Utah Bar Foundation Board of Trustees. Hon. James Z. Davis, Judge on the Utah Court of Appeals, was elected to a three-year term on the Foundation Board. Stewart M. Hanson, Jr. and Joanne C. Slotnik were re-elected to second terms.

Mr. Hanson is of counsel with the Salt Lake City firm of Suitter, Axland & Hanson, and Ms. Slotnik is Assistant Attorney General (Criminal Appeals Division).

The Foundation Board elected Mr. Hanson as Vice-President and Hon. Pamela T. Greenwood was elected Secretary/Treasurer. Other Foundation Trustees are Carman E. Kipp and H. James Clegg.

Ms. Marquardt said there is a growing demand for support for free and low cost legal services. "In these times of drastic federal cutbacks, each lawyer needs to step forward to assist in providing all people with equal access to justice," she said. Ms. Marquardt said by contributing to the Bar Foundation's Interest On Lawyer's Trust Accounts (IOLTA) program, lawyers can do a great deal to assist those in need of legal services.

The non-profit organization of Utah lawyers has contributed nearly \$2 million to projects and causes which provide free or low cost legal aid, legal education or other law-related services. Ms. Marquardt said the Foundation endeavors to provide funding to organizations which promote legal education and to those which provide access to the legal system to disadvantaged people.

CLE CALENDAR

ALI-ABA SATELLITE SEMINAR: ERISA BASICS, PARTS ONE & TWO

Date: Thursday, October 3, 1996 &
Thursday, October 10, 1996
Time: 10:00 a.m. to 2:00 p.m.
Place: Utah Law & Justice Center
Fee: \$295.00 for both; \$160.00 for
just one session (*To register,
please call 1-800-CLE-NEWS*)
CLE Credit: 4 HOURS FOR EACH
SESSION

NEGOTIATIONS: REACHING AGREEMENT ON YOUR TERMS

Date: Friday, October 11, 1996
Time: 9:00 a.m. to 4:30 p.m. (*Regis-
tration begins at 8:30 a.m.*)
Place: Utah Law & Justice Center
Fee: \$160.00 before October 1,
1996; \$175.00 after October
1, 1996
CLE Credit: 7 HOURS (Real Estate Credit
pending)

NLCLE: EMPLOYMENT LAW II

Date: Thursday, October 17, 1996
Time: 5:30 p.m. to 8:30 p.m.
Place: Utah Law & Justice Center
Fee: \$30.00 for Young Lawyer
Division Members; \$60.00
for all others
CLE Credit: 3 HOURS

TRIAL ACADEMY PART V: EXHIBITS

Date: Thursday, October 24, 1996
Time: 6:00 p.m. to 8:00 p.m. (*Reg-
istration begins at 5:30 p.m.*)
Place: Hon. Dee Benson's Courtroom
(Federal Courthouse)
Fee: \$20.00 for Litigation Section
Members; \$30.00 for Non-
Section Members
CLE Credit: 2 HOURS (Also counts for
NLCLE credit)

SECOND ANNUAL NATIVE AMERI- CAN LAW SYMPOSIUM: ARCHEO- LOGICAL, RELIGIOUS, AND REPA- TRIATION IMPLICATION FOR LAND USE AND OWNERSHIP

Date: Friday, October 25, 1996
Time: 9:00 a.m. to 5:00 p.m.
Place: University of Utah College
of Law
Fee: \$100.00 before October 15,
1996; \$125.00 after October
15, 1996; \$100.00 for all gov-

ernment employees (includes
tribal governments)

CLE Credit: 8.5 HOURS, WHICH
INCLUDES 1 IN ETHICS

ALI-ABA SATELLITE SEMINAR: ACCOUNTING FOR LAWYERS

Date: Thursday, November 7, 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

ALI-ABA SATELLITE SEMINAR: ANNUAL FALL EMPLOYEE BENE- FITS LAW & PRACTICE UPDATE

Date: Thursday, November 14, 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

JAMES MCELHANEY'S MASTER ADVOCATE SERIES: EXPERT WITNESSES & THE ART OF CROSS EXAMINATION

Date: Friday, November 15, 1996
Time: 9:00 a.m. to 5:00 p.m. (*Regis-
tration begins at 8:30 a.m.*)
Place: To be determined
Fee: \$160.00 before November 1,
1996; \$175.00 after
November 1, 1996
CLE Credit: 6 HOURS

NLCLE: ESTATE PLANNING

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

Those attorneys who need to comply with the New Lawyer CLE requirements, and who live outside the Wasatch Front, may satisfy their NLCLE requirements by videotape. Please contact the CLE Department (801) 531-9095, for further details.

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) 487-6072. 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

Complete and up to date set of Utah Code. \$400.00 For more information contact Kim W. @ (801) 533-0222.

LAW LIBRARY FOR SALE (UPDATED & COMPLETE)

UCC Digest (31 vol. \$2,100 new) \$1,000
UCC Reporting Service (67 vol. \$2,850 new) \$1,500
UCC Hawland (10 vol. \$1,000 new) \$750.00

ALL THREE: \$3,000

Utah Code (\$720 new) \$500
Remedies/International Sellers of Goods (2 Vol. \$1,000 new) \$750

MUST SELL IMMEDIATELY — ALL REASONABLE OFFERS CONSIDERED
Contact Eileen Fuessel, EIMCO, (801) 526-2370

POSITIONS AVAILABLE

The Salt Lake Legal Defender Association is currently accepting applications for several trial and appellate **conflict of interest contracts** to be awarded for the fiscal year 1997. To qualify each application must consist of two or more individuals. Should you and your associate have extensive experience in criminal law and wish to submit an application, please contact **F.**

JOHN HILL, Director of Salt Lake Legal Defender Association, (801) 532-5444.

ICON Health & Fitness, Inc., has an immediate opening for associate general counsel with two to five years legal experience in general corporate law, transactional work and employment issues. Salary commensurate with experience. Excellent benefits. Qualified applicants should send resumes to Olson & Hoggan, P.C., Attn: Thomas L. Willmore, P.O. Box 525, Logan, Utah 84323-0525. No telephone calls please.

ATTORNEY: Multi-Billion Dollar Financial Service Company is expanding its sales and marketing operations in Utah due to explosive growth. Join a team of dynamic highly respected professionals. Salary + commission + benefits. Minimum requirements include law degree, 3-5 years successful business/consulting experience. Excellent interpersonal communication skills, commitment to professionalism and high ethical standards are key to our continued success. Resumes only with salary history to: **Dan Murdock FAX: (801) 531-8862 E.O.E.**

DIRECTOR OF DEVELOPMENT: Utah Legal Services is seeking a permanent, full-time director of development. Four years fund raising, public relations and/or equivalent experience. Bachelor's or law degree is preferred. Sal. \$25,000-\$35,000 + Benefits. Close 10/25/96: Call (801) 328-8891 ext. 8481.

EXECUTIVE DIRECTOR. DNA-People's Legal Services, Inc. is seeking an Executive Director in Window Rock, Arizona. DNA is the largest Native American legal services program in the country, providing free legal services to over 200,000 low-income members of seven Native American Tribes and other low income people from nine offices in Arizona, New Mexico, and Utah. DNA has a thirty year record of effective advocacy in Indian and poverty law.

Qualifications: Eight or more years legal, administrative and management experience; demonstrable commitment to providing legal services to low income people, especially Native Americans; good communication skills; and excellent references.

Prefer: State licensed attorney with five or more years of experience in the practice of

Indian or poverty law; familiarity with Native American culture and communities; fluency in relevant language; experience with federal program administration. Non-attorneys will be considered.

Responsibilities: Overall administration and management of DNA, raise funds and maintain relationship with funding sources, particularly the Legal Services Corporation, and ensure compliance with grant restrictions; assist Board of Directors in planning and policy-making, and develop administrative, reporting, and evaluation procedures; hire and supervise central administrative and management staff; oversee hiring and training of all other staff; provide effective leadership and work closely with staff, client communities, and other legal services providers to deliver the highest quality legal services; some litigation and litigation oversight.

Salary/Benefits: \$50,000, D.O.E.; excellent benefits.

Closing Date: November 15, 1996.

Applications: Send resume, writing sample and three references to:

Randolph Barnhouse, Exec. Dir.
DNA-People's Legal Services, Inc.
P.O. Box 306
Window Rock, Arizona 86515

The **U.S. ATTORNEY'S OFFICE** in Salt Lake City is seeking an attorney to accept a two-year term appointment in an affirmative civil enforcement position. The attorney would work with federal agencies in developing and litigating cases to recover civil penalties and other funds owed to the United States and to pursue recover for damages based on fraud, tort, and breach of contract. An applicant must be an active member of the bar in good standing (in any jurisdiction) and have at least one year of post-JD experience. At least two years of commercial litigation experience is preferred. Please send a resume to Linda Pearson, U.S. Attorney's Office, 350 South Main Street, #B-36, Salt Lake City, Utah 84101. Resumes must be received by October 31, 1996. The United States Attorney's Office is an Equal Opportunity/Reasonable Accommodation employer.

POSITIONS SOUGHT

CALIFORNIA LAWYER. I am also

admitted in Utah! 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.

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, 39 Exchange Place, Suite #100, Salt Lake City, UT 84111. Call (801) 583-0206 or (801) 534-0909.

OFFICE SPACE/SHARING

BEAUTIFUL OFFICE SPACE AVAILABLE for one attorney to share with four established attorneys at Brickyard Tower in Salt Lake City. Covered parking, fully equipped, low cost. Secretarial and overflow available. Call Gary @ (801) 484-2111.

TAKE OVER – “STARTER”/“RETIRER” SEPARATE LAW OFFICE SPACE: 8 East Broadway, Judge Building, Salt Lake City, Utah: 12' x 25' area; 6' x 3' Stowe-Davis desk; 9' hardwood credenza; 2 hardwood-naugahyde client chairs; naugahyde highback desk chair; 6' x 3' walnut bookcase; metal vertical 5-compartment filing cabinet 7' x 3'. Reasonable, possible terms. (801) 531-9611.

Professional office space located at 7321 So. State Street, Midvale. Space for two (2) attorneys and two (2) secretary spaces (could be leased singly). Includes two spacious offices, large reception area, conference room, sink/wet bar, file storage, large private parking lot. Call @ (801) 255-3591 or (801) 262-5050.

Downtown – Kearns Building. Large office for one attorney. Beautiful, furnished

conference room, reception area. Fax, printer, copier, telephones, postage meter, computer network provided. Library: Westlaw, Federal/State Reporters, USCA/Regs, franchise, tax/estate. Three attorneys presently in suite. Pleasant professional atmosphere. Parking next to building. Secretarial services available. (801) 364-5600.

SERVICES

LIBRA Accounting Software with payroll, accounts payable, general ledger and bank book capabilities. \$3,150 o.b.o. For more information contact Kim W. @ (801) 533-0222.

MEDICAL MALPRACTICE EXPERTS: Medical Opinions Assoc. Inc. Board certified physicians in all specialties. Guaranteed continued participation including trial testimony. No contingency fees. **1-800-874-7677**

BERGEN, BERGEN & KOCH LLC: Forgery Detection & Questioned Document Examination: We educate attorneys on forgery detection as well as providing expert testimony on forgery cases. Our company offers services in forgery detection to include letters of opinion, depositions & affidavits. We can also assist in selecting the type of personality wanted in a perspective juror. We can be reached on the internet under keyadvgtg@ix.netcom.com or @ 1-800-773-5423.

APPRAISALS: CERTIFIED PERSONAL PROPERTY APPRAISALS / COURT RECOGNIZED – 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.

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

TAX PROFESSORS WANTED: Adjunct part-time tax instructors, to teach LL.M. Taxation degree in a N.A.P.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.

SEXUAL ABUSE / DEFENSE: Child statements are often manipulated. Current research supports STATEMENT ANALYSIS not child credibility. Scientific/Objective B. Giffen, M.Sc. Evidence specialist / Expert Witness. American College Forensic Examiners, 1270 East Sherman Avenue, Ste. 1, Salt Lake City, Utah 84105. (801) 485-4011.

Paralegal: Legal Transcription, wp 6.1 for Windows: All types of legal typing, filings, appeals: Pick up & delivery. 28 years of experience. Call Rick @ (801) 265-1443 or cell phone @ (801) 597-9841.

STRUCTURED SETTLEMENTS A BURDEN? (Lighten your burdens and better serve your clients.) We pay cash for structured settlements! Full or partial: Call: HMC International INC. TOLL FREE @ 1-800-426-8367.

On November 4, 1996 a continuing education course on the Uniform Prudent Investors Act (UPIA) will be conducted. UPIA sets the standards of conduct in managing and administering private trusts and foundations.

Five hours CLE credit, which includes 1 hour of ethics.

For more information please call Jon McKee at 534-0088 or 1-800-662-3733.

ATTORNEY SUPPORT SERVICES

Full Service Accounting & Secretarial Services

- Transcription
- Word Processing
- Client Statements
- Accounts Receivable
- Accounts Payable
- Payroll & Tax Reporting
- Financial Statements
- Benefit Administration

P.O. Box 22312
Salt Lake City, UT 84122-0312
(801) 231-8082

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.

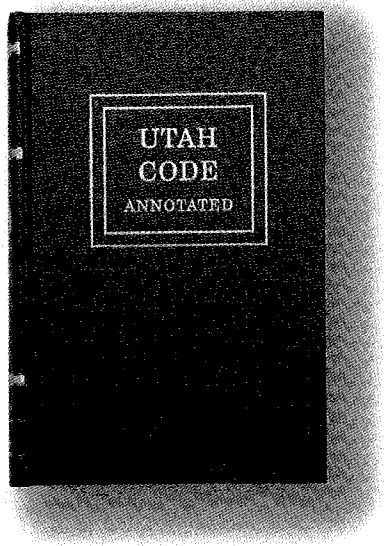
Regulation 8-101 — Each attorney required to file a statement of compliance pursuant to these regulations shall pay a filing fee of \$5.00 at the time of filing the statement with the Board.

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).

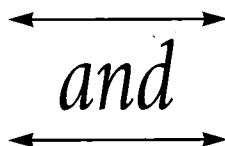
DATE: _____ **SIGNATURE:** _____

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.

We provide the information, *YOU* choose the format!



Print —
Utah Code
Annotated



CD-ROM —
Michie's™
Utah Law on Disc™

**Get all the Utah primary law you need,
in the format that delivers the best results for you!**

Utah Code Annotated

- Authoritative statutory text
- Complete annotations to all cases applying or construing the statutes
- Logically organized, comprehensive index — replaced annually
- Fully annotated updates within 90 days of receipt of all revisions from the legislature
- Includes separate softbound rules volume, fully annotated

Michie's Utah Law on Disc

A complete library of state law featuring the speed and comprehensiveness of CD-ROM!

- Utah Code Annotated
- Utah Court Rules Annotated
- Utah Supreme Court Decisions since January 1945
- Utah Court of Appeals Decisions since April 1987
- Selected federal court decisions since 1865
- Utah Administrative Code
- Opinions of the Attorney General
- Utah Executive Documents
- Utah Tax Commission Decisions
- Utah Session Laws

If you're serious about finding the best electronic research system for your firm, you'll want Michie's Utah Law on Disc:

- Powered by the industry-standard FOLIO™ search engine
- Quarterly CD updates
- Direct linking between referenced materials
- Optional Online Connection™ to the LEXIS® service generates electronic advance sheets for a fixed monthly fee
- Complimentary training, unlimited toll-free support
- Try it free for 30 days — guaranteed no obligation



To order or find out more about Utah Code Annotated or Michie's Utah Law on Disc, call your Michie Sales Representative Wendell Wagstaff toll-free at 800/772-9151, or visit us on the World Wide Web at <http://www.michie.com>. Please use code MH8 when ordering.

©1996, Michie, a division of Reed Elsevier Inc.

Utah State Bar
645 South 200 East
Salt Lake City, Utah 84111

REG CR: 16 ETHICS CR: 4
Mr. William Holyoak
201 South Main Street
P. O. Box 45898
Salt Lake City UT 84145

BULK RATE
U.S. POSTAGE
PAID
SALT LAKE CITY, UT
PERMIT NO. 844

LEXIS®-NEXIS®

ADVANTAGE

For Small Law Firms

The most affordable online legal
research service for small law firms,
offering case law, statutes, law reviews,
the LEXSEE®/LEXSTAT® features and more —
Flexible Choices for your practice.

LEXIS® MVP is now LEXIS-NEXIS ADVANTAGE For Small Law Firms —
with more features, more flexibility and more *affordability* for solo practitioners
and small law firms on a budget. Consider the ADVANTAGE:

- **LOW, FLAT MONTHLY RATES** ... affordable, predictable pricing, for as little as \$110 per month*.
- **UNLIMITED ACCESS** ... search as much as you want and as often as you need — at home or in the office.
- **THE LEXSEE®/LEXSTAT® FEATURES** ... an easy and convenient way to retrieve individual cases or statute sections from virtually any jurisdiction simply by using the citation.
- **COMPREHENSIVE** ... state and specialty libraries, statutes, administrative materials, law reviews and more.
- **FLEXIBLE CHOICES** ... select any combination of Flat-Rate libraries to meet the individual information needs of every attorney in your firm.
- **CURRENT** ... case law always up-to-date.
- **ONLINE EXPERTISE** ... allows you to compete with even the largest firms.

Give yourself the ADVANTAGE you need to compete — and win!

For more information, call
1-800-356-6548

LEXIS®-NEXIS®
ADVANTAGE
FOR SMALL LAW FIRMS



Utah State Bar



LEXIS®-NEXIS®
A member of the Reed Elsevier plc group

*All pricing includes applicable subscription fee. Prices in California, Michigan, New Jersey, New York and Ohio begin at \$150 per month. Price quoted is for one attorney. Additional charge applies for each attorney in the firm. Note: state and local taxes not included. Some restrictions apply. Prices subject to change. LEXIS, NEXIS, LEXSEE and LEXSTAT are registered trademarks of Reed Elsevier Properties Inc., used under license. The INFORMATION ARRAY logo is a trademark of Reed Elsevier Properties Inc., used under license. ©1996 LEXIS-NEXIS, a division of Reed Elsevier Inc. All rights reserved.

UT0114