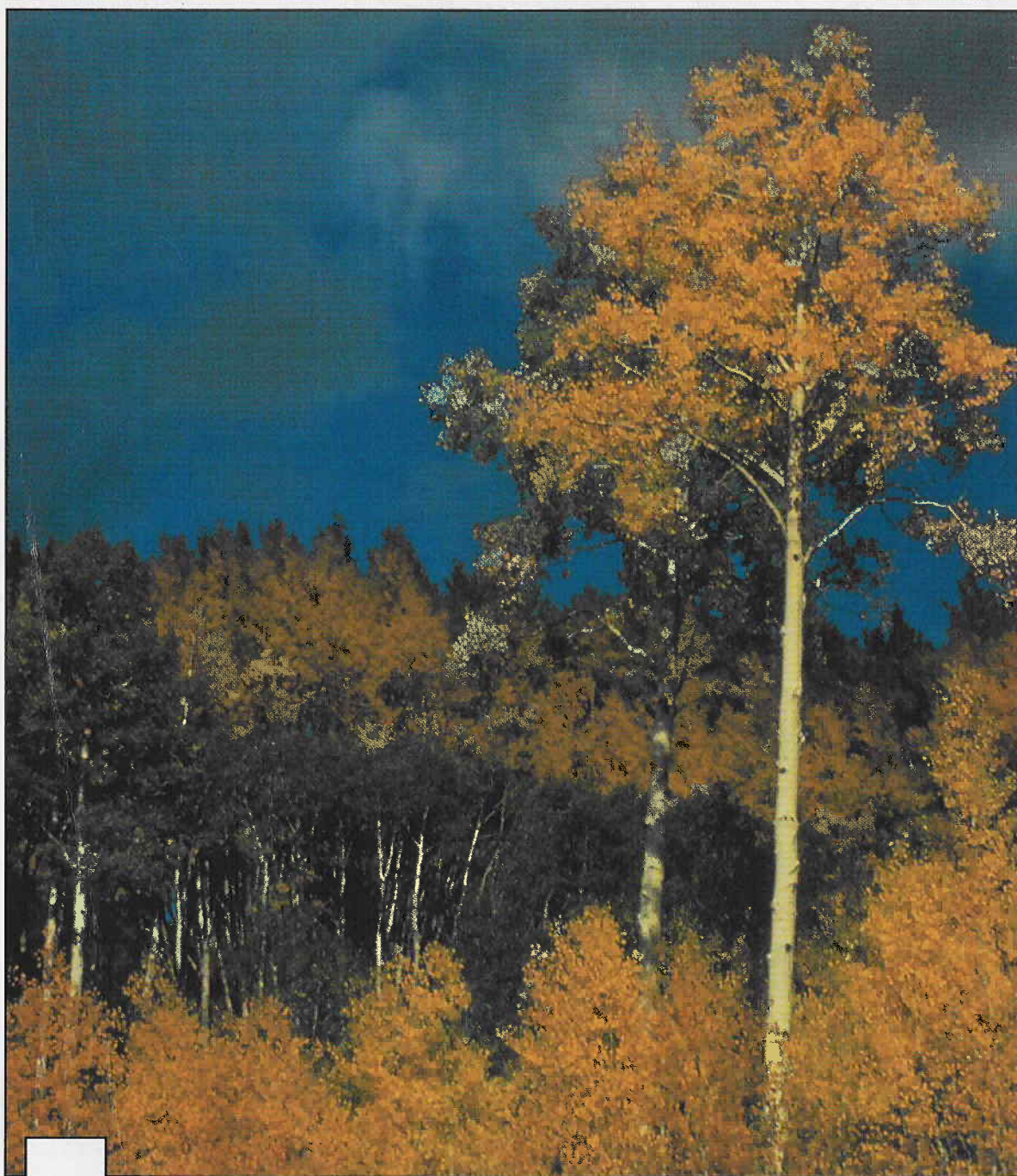


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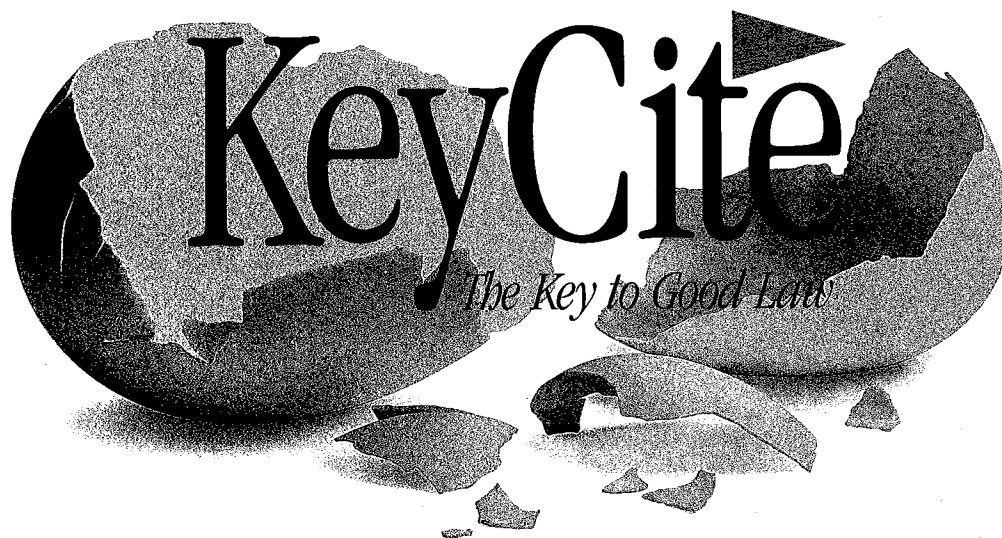
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MISSION OF THE BAR: To represent lawyers in the State of Utah and to serve the public and the legal profession by promoting justice, professional excellence, civility, ethics, respect for and understanding of, the law.

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COVER: Autumn Colors in Logan Canyon, by Bret B. Hicken, Spanish Fork, Utah.

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

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LETTERS

Editor:

I appreciated your September issue highlighting the Crime Summit. However, several aspects of Judge Hutchings' and Professor Smith's article ("The Good, the Bad, and the Ugly: Crime and Punishment in Utah") need correction.

- Under the heading "Illegal Alien Drug Dealers," they write that "[a]ll illegal aliens who commit drug felonies can be subject to federal prosecution, with stiff minimum mandatory punishment imposed." In fact, the overwhelming majority of felony drug arrests do not involve amounts of drugs that would make a defendant eligible for a federal minimum mandatory sentence.
- The authors then write, "However, the policy of the U.S. Attorney's Office is to decline prosecutions on all but a handful of these offenders." In fact, when a drug defendant is eligible for a minimum mandatory sentence and the evidence presents a prosecutable case, the U.S. Attorney's Office rarely if ever declines such a case.
- Next, the authors assert that "[i]n 1996, the U.S. Attorney prosecuted less than 5% of the illegal aliens booked into the Salt Lake County Jail for drug distribution." This compares apples and oranges. The authors cite to information from my office having nothing to do with prosecutions for drug distribution; that information reported aggravated illegal re-entry immigration cases and showed that such federal prosecutions in Utah have increased significantly in

recent years. Indeed, as reported at the Crime Summit, more of these cases are being charged in Utah than in Nevada, Idaho, Wyoming, and Colorado combined.

- The authors did not ask my office about federal drug prosecutions. Rather, one of Judge Hutchings' law clerks asked about immigration law and aggravated illegal re-entry prosecutions. As is the case throughout the United States, most drug offenses are prosecuted in state rather than federal court because they often involve small amounts of narcotics. Federal resources are appropriately focused on the large amount, complex drug cases that produce "stiff minimum mandatory punishment."

For example my office recently prosecuted an international drug smuggler for the importation of thousands of pounds of marijuana to the United States. He was sentenced to 20 years imprisonment. This complex investigation and prosecution also produced about \$1.5 million in forfeited assets connected to the illegal drug activity.

Finally, I would like to comment on the report that my office will receive three new prosecutors. We welcome this additional resource and will put these attorneys to work prosecuting immigration, drug, and violent crime offenses. Naturally, we will focus these resources on criminal conduct that can best be prosecuted in federal court. We also will continue to do our best to help address the crime problem in Utah to the full extent that our jurisdiction and resources allow.

Sincerely,
Scott M. Matheson, Jr.
United States Attorney

Interested in Writing an Article for the *Bar Journal*?

The editor of the *Utah Bar Journal* wants to hear about the topics and issues readers think should be covered in the magazine.

If you have an article idea or would be interested in writing on a particular topic, contact the editor at 566-6633 or write, *Utah Bar Journal*, 645 South 200 East, Salt Lake City, Utah 84111.

Letters Submission Guidelines:

1. Letters shall be typewritten, double spaced, signed by the author and shall not exceed 300 words in length.

2. No one person shall have more than one letter to the editor published every six months.

3. All letters submitted for publication shall be addressed to Editor, *Utah Bar Journal* and shall be delivered to the office of the Utah State Bar at least six weeks prior to publication.

4. Letters shall be published in the order in which they are received for each publication period, except that priority shall be

given to the publication of letters which reflect contrasting or opposing viewpoints on the same subject.

5. No letter shall be published which (a) contains defamatory or obscene material, (b) violates the Code of Professional Conduct, (c) is deemed execrable, calumnious, oblique or lacking in good taste, or (d) otherwise may subject the Utah State Bar, the Board of Commissioners or any employee of the Utah State Bar to civil or criminal liability.

6. No letter shall be published which advocates or opposes a particular candidacy

for a political or judicial office or which contains a solicitation or advertisement for a commercial or business purpose.

7. Except as otherwise expressly set forth herein, the acceptance for publication of letters to the editor shall be made without regard to the identity of the author. Letters accepted for publication shall not be edited or condensed by the Utah State Bar, other than as may be necessary to meet these guidelines.

8. The Editor, or his or her designee, shall promptly notify the author of each letter if and when a letter is rejected.



Will the Real Lawyer Please Stand Up

By Charlotte L. Miller

Litigator, tax lawyer, personal injury lawyer, criminal defense lawyer, merger and acquisition lawyer, divorce lawyer, insurance defense lawyer, environmental lawyer. As you read each of these lawyer types, certain images, preconceived ideas, and generalizations come to mind. Think about government lawyer, big firm lawyer, solo practitioner, in-house lawyer. Which of these are “real” lawyers? Public defense lawyers can tell you about their clients who wished they had a “real” lawyer from a big law firm. (Ironically, these clients do not realize the outstanding representation they receive from the Salt Lake Legal Defender’s Office). And, I’ve heard associates in big law firms who don’t feel they are getting enough litigation experience refer longingly to a prosecutor who goes to court everyday as a “real” lawyer. Since I work in corporation, I’m not even close to being a “real” lawyer.

Some of us lawyers are concerned about the public image of lawyers, lawyer bashing and lawyer jokes. However, we may spend as much time bashing one another as any member of the public who is not a lawyer. I have heard solo practitioners complain how much easier big firm lawyers have it than solo practitioners, or business lawyers complain that litigators have no business or management acumen,

or ability to negotiate. Or, I hear how business lawyers have no personality, or criminal defense lawyers have no morals, or collections lawyers are greedy. I don’t usually have to go outside of talking to members of the Bar to hear these comments.

Sometimes these over-generalization are meant as humor (and I’m not opposed to fun) but occasionally we should consider what drives us to be so critical of those in our own profession. Next time you or some lawyer with you starts down the path of criticism, remember that big firm lawyers have to pay for their copy machines the same way as solo practitioners (and I’ve been in more than one meeting where the answer to raising money was “ask the big law firms”), that government lawyers have the stress of a demanding client the same as divorce lawyers, and that a good litigator knows how to manage a case and the people involved in it.

A few years ago I wrote an article in the *Bar Journal* outlining what I believe is good customer service by lawyers. One of the points I raised is that as a client I never like for attorneys in a firm to criticize other attorneys in the firm. A litigator’s client may need a tax lawyer, and the litigator’s criticism may result in the client finding a tax lawyer in another firm. Or, your real estate client’s daughter may get arrested one night and you’ll need the help of one of those

criminal defense lawyers that you’ve told your client are flaky and unstable. We often say that the public hates lawyers until they need one. Maybe that applies to a lot of lawyers too.

Law is a profession. As professionals, we should be appreciative of one another’s talents, strengths, and successes, without the need to also be demeaning. The securities lawyer who understands the value of a good litigator, and the divorce lawyer who appreciates a good estate planning lawyer can provide much better customer service to a client. I encourage all of us to not only be more tolerant, but to have pride in our colleagues.

As a consumer of legal services, I have used solo practitioners, big firm lawyers, business lawyers, and I have worked with government and in-house lawyers. None are inherently bad, and I have found all of those areas to contain bright, hard-working individuals. (I apologize for never having hired a criminal defense lawyer, but I have other connections to them that allow me to aver that they are not inherently evil either). I propose we are all “real” lawyers – whatever that means – and that the best way to improve the public image of lawyers is to start with looking at the image we project of ourselves and our colleagues.

