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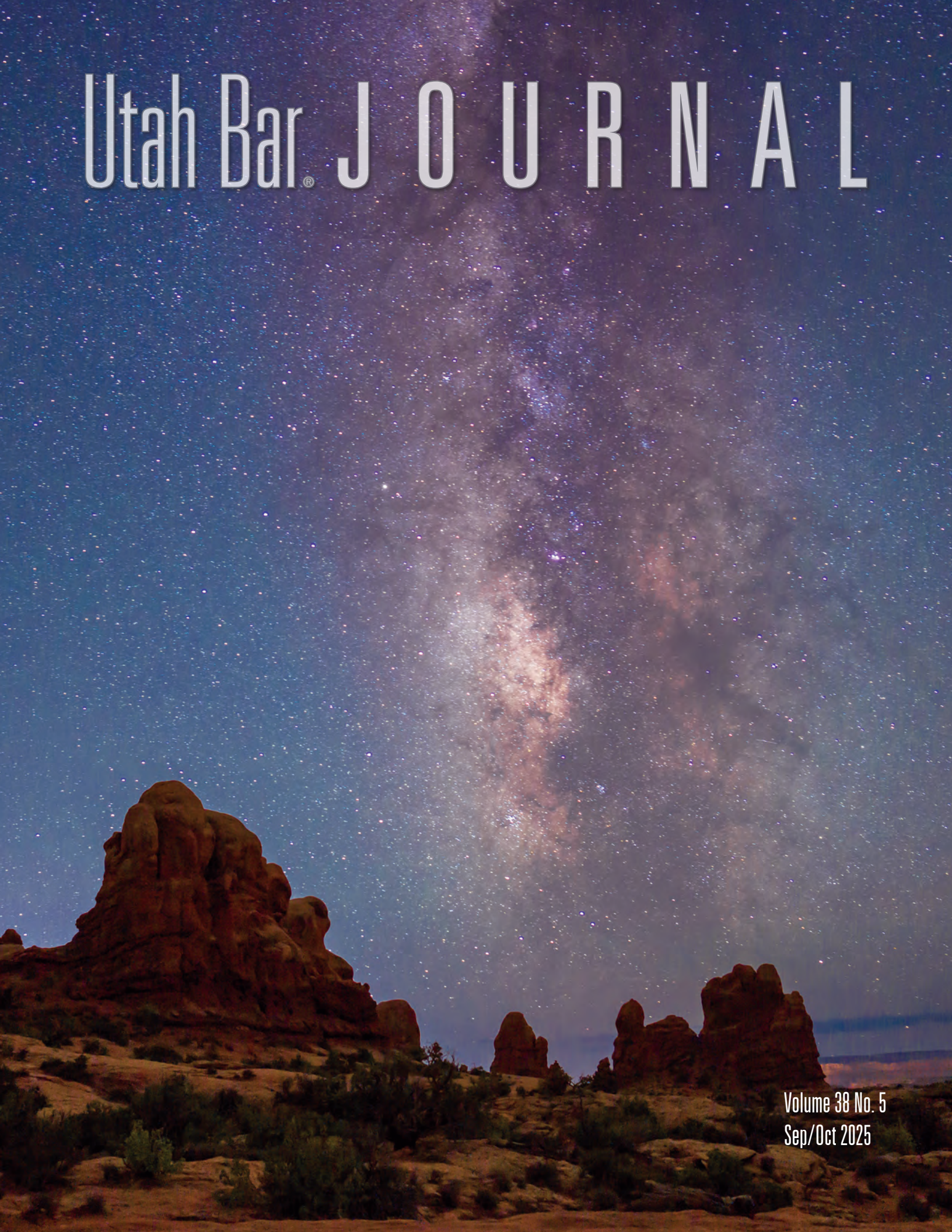

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Cover Photo

Starscape at Arches National Park by Utah State Bar licensee Scott Hansen.

SCOTT HANSEN is a shareholder in the Salt Lake City office of Parsons Behle & Latimer. Scott has worked with clients in commercial and financial services litigation since his return to Salt Lake from the Washington, DC area in 2006. Like everyone along the Wasatch Front, Scott has seen the tremendous population growth in the area. That growth has made recreation less solitary. But it is still possible to find some alone time in the pre-dawn and night hours. Those times have afforded some great views and experiences, like the cover photo at the Windows Section of Arches National Park. This picture was taken with a Sony A7RV, with a 24MM prime (fixed focal length) lens; a 20-second exposure, with an aperture setting of 1.8, and auto-ISO. During an autumn trip (while the sky was in a New Moon phase), the core of the Milky Way was visible in the late-night hours to the southwest. Positioning the camera and tripod to capture an interesting foreground is not hard to do in the Arches area. Here, the foreground combined with the perpendicular star-scape, made for a fun exposure.

HOW TO SUBMIT A POTENTIAL COVER PHOTO

Members of the Utah State Bar or Paralegal Division of the Bar who are interested in having photographs they have taken of Utah scenes published on the cover of the *Utah Bar Journal* should send their photographs by email .jpg attachment to barjournal@utahbar.org, along with a description of where the photographs were taken. Photo prints or photos on compact disk can be sent to Utah Bar Journal, 645 South 200 East, Salt Lake City, Utah 84111. Only the highest quality resolution and clarity (in focus) will be acceptable for the cover. Photos must be a minimum of 300 dpi at the full 8.5" x 11" size, or in other words 2600 pixels wide by 3400 pixels tall.

Utah Bar JOURNAL

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The Editors of the *Utah Bar Journal* want to hear about the topics and issues readers think should be covered in the magazine. If you have an article idea, a particular topic that interests you, or if you would like to review one of the books we have received for review in the *Bar Journal*, please contact us by calling 801-297-7022 or by emailing barjournal@utahbar.org.

GUIDELINES FOR SUBMITTING ARTICLES TO THE UTAH BAR JOURNAL

The *Utah Bar Journal* encourages the submission of articles of practical interest to Utah attorneys, paralegals, and members of the bench for potential publication. Preference will be given to submissions by Utah legal professionals. Articles germane to the goal of improving the quality and availability of legal services in Utah will be included in the *Bar Journal*. Submissions that have previously been presented or published are disfavored, but will be considered on a case-by-case basis. The following are a few guidelines for preparing submissions.

ARTICLE LENGTH: The *Utah Bar Journal* prefers articles of 5,000 words or less. Longer articles may be considered for publication, but if accepted such articles may be divided into parts and published in successive issues.

SUBMISSION FORMAT: Articles must be submitted via email to barjournal@utahbar.org, with the article attached in Microsoft Word or WordPerfect. The subject line of the email must include the title of the submission and the author's last name.

CITATION FORMAT: All citations must follow *The Bluebook* format, and must be included in the body of the article. Authors may choose to use the "cleaned up" or "quotation simplified" device with citations that are otherwise *Bluebook* compliant. Any such use must be consistent with the guidance offered in *State v. Patton*, 2023 UT App 33, ¶10 n.3.

NO FOOTNOTES: Articles may not have footnotes. Endnotes will be permitted on a very limited basis, but the editorial board strongly discourages their use and may reject any submission containing more than five endnotes. The *Utah Bar Journal* is not a law review, and articles that require substantial endnotes to convey the author's intended message may be more suitable for another publication.

ARTICLE CONTENT: Articles should address the *Utah Bar Journal* audience – primarily licensed members of the Utah Bar. Submissions of broad appeal and application are favored. Nevertheless, the editorial board sometimes considers timely articles on narrower topics. If in doubt about the suitability of an article, an author is invited to submit it for consideration.

NEUTRAL LANGUAGE: Modern legal writing has embraced neutral language for many years. *Utah Bar Journal* authors should consider using neutral language where possible, such as plural nouns or articles "they," "them," "lawyers," "clients," "judges," etc. The following is an example of neutral language: "A non-prevailing party who is not satisfied with the court's decision can appeal." Neutral language is not about a particular group or topic. Rather, neutral language acknowledges diversity, conveys respect to all people, is sensitive to differences, and promotes equal opportunity in age, disability, economic status, ethnicity, gender, geographic region, national origin, sexual orientation, practice setting and area, race, or religion. The language and content of a *Utah Bar Journal* article should make no assumptions about the beliefs or commitments of any reader.

EDITING: Any article submitted to the *Utah Bar Journal* may be edited for citation style, length, grammar, and punctuation. While content is the author's responsibility, the editorial board reserves the right to make minor substantive edits to promote clarity, conciseness, and readability. If substantive edits are necessary, the editorial board will strive to consult the author to ensure the integrity of the author's message.

AUTHOR(S): Author(s) must include with all submissions a sentence identifying their place of employment. Unless otherwise expressly stated, the views expressed are understood to be those of the author(s) only. Author(s) are encouraged to submit a headshot to be printed next to their bio. These photographs must be sent via email, must be 300 dpi or greater, and must be submitted in .jpg, .eps, or .tif format.

PUBLICATION: Author(s) will be required to sign a standard publication agreement prior to, and as a condition of, publication of any submission.

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1. All letters submitted for publication shall be addressed to Editor, *Utah Bar Journal*, and shall be emailed to BarJournal@UtahBar.org at least six weeks prior to publication.

2. Letters shall not exceed 500 words in length.

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

4. Letters shall be published in the order they are received for each publication period, except that priority shall be given to the publication of letters that reflect contrasting or opposing viewpoints on the same subject.

5. No letter shall be published that (a) contains defamatory or obscene material, (b) violates the Rules of Professional Conduct, or (c) otherwise may subject the Utah State Bar, the Board of Bar Commissioners, or any employee of the Utah State Bar to civil or criminal liability.

6. No letter shall be published that advocates or opposes a particular candidacy for a political or judicial office or that 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. If and when a letter is rejected, the author will be promptly notified.

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Public Trust Starts with Us: Modeling Integrity in a Skeptical Climate

by Kim Cordova

In a time when confidence in institutions is fractured, lawyers have an extraordinary responsibility and opportunity to rebuild public faith in the systems that uphold our society. Trust in the judiciary begins with each of us. In our daily conduct outside the courtroom interacting with clients, colleagues, courts, and the public, we show whether the law serves justice or simply power. From early champions of justice to modern-day reforms, history offers a compass. As President of the Utah State Bar, I believe that modeling integrity, transparency, and professionalism is fundamental to our collective credibility.

Going back to the roots of legal integrity, in early 17th century England, **Sir Edward Coke** emerged as a towering figure in defense of the common law. Coke famously challenged King James I when the monarch asserted unfettered authority over legal decisions. In the celebrated *Case of Prohibitions*, he declared that legal judgments were to be guided not by the king's discretion, but by "artificial reason and judgment of law." *Case of Prohibitions*, 12 Coke R. 64 (1607). This landmark judgment reinforced that law, not individual discretion, governs justice. It is a key moment in in the development of constitutional law in that it affirmed judicial independence and laid the groundwork for the modern doctrine of separation of powers.

Coke continued to champion judicial independence in the *Case of Proclamations*, holding that the monarch could not unilaterally create law by proclamation, which is a principle foundational to modern separation of powers. *Case of Proclamations*, 12 Coke R. 74 (1610). These decisions signaled a profession rooted in principle, not power, and upheld the rule of law as a shield against arbitrary authority. These ideas laid the groundwork for legal doctrines such as due process, habeas corpus, and the right to a fair trial, shaping the development of constitutional government and the protection of individual liberties – relying on the rule of law and not arbitrary power.

Across the Atlantic, our founding generation inherited that legacy. **George Wythe**, the first professor of law in America and a signer of the Declaration of Independence, insisted that legal professionalism demanded moral fortitude. His bookplate famously urged readers to be "upright in prosperity and peril," reminding them that advocacy and ethical conduct are inseparable. *George Wythe's Bookplate*, Encyclopedia Virginia, https://encyclopediavirginia.org/11640hpr-d962a33f200817d/ (last visited Aug. 5, 2025). Wythe believed that lawyers should possess strong personal character and a commitment to justice. Legal professionals should be honest, principled, and guided by the public good. He was a dedicated mentor who believed in shaping future generations through ethical teaching and example. His view on mentorship reflects a view of legal professionalism as something cultivated through community and instruction. His life reflected this ideal. His legal mentorship included Thomas Jefferson, and his personal conduct was marked by integrity even under duress and evidenced his belief that lawyers must embody justice beyond doctrine, they must be ethical guardians of justice and democracy.

More than a century later, **Louis D. Brandeis**, before his tenure on the Supreme Court, brought the "Brandeis Brief" in *Muller v. Oregon*. Rather than relying solely on precedent, Brandeis submitted over a hundred pages of social, medical, and economic evidence alongside minimal legal argument to illuminate the case's human impact on women workers. *Muller v. Oregon*, 208 U.S. 412 (1908). Legal historian Noga Morag-Levine explains that although such documents existed earlier, Brandeis crystallized how robust evidence could enrich legal reasoning. Noga Morag-Levine, *Facts, Formalism, and the Brandeis Brief: The Origins of a Myth*, 2013 Univ. Ill. L. Rev. 59, 61 (2013), https://www.illinoislawreview.org/wp-content/ilr-content/articles/2013/1/Morag-Levine.pdf (last visited Aug. 5, 2025). His approach reshaped advocacy, showing that true professionalism demands legal insight grounded in moral and social awareness.

These important moments all show the same thing: doing what's right, not just what's easy or quick, makes the legal profession more respected. Whether it was Coke challenging the king, Wythe insisting on strong morals, or Brandeis fighting for workers' rights with compassion, they all proved that lawyers serve not just their clients, but also the greater good of society.

Yet trust doesn't build itself. Today, our profession faces new challenges. High-stakes political cases, cynical attacks on expert witnesses, and episodes where attorneys participated in meritless lawsuits have frayed public confidence. Past missteps continue to echo, provoking deeper skepticism about whom lawyers serve. *See* Deborah L. Rhode, *Defining the Challenges of Professionalism: Access to Law and Accountability of Lawyers*, 54 S. C. L. Rev. 889, 895 (2003), https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=3738&context=sclr) (last visited Aug. 5, 2025).

In response to these issues, in 2002 the American Bar Association strengthened **Model Rule 3.3** (https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_3_3_candor_toward_the_tribunal/), mandating candor toward tribunals – lawyers must not offer false evidence and must correct misleading statements, even at the cost of client satisfaction. Similarly, **Utah Rules of Professional Conduct, Rule 3.3** (https://legacy.utcourts.gov/utc/rules-approved/category/rules-of-professional-conduct/) mirrors this duty, emphasizing that attorneys must refrain from knowing or reckless falsity and must take remedial action promptly. These reforms are not punitive; they signal a profession ready to hold itself to its highest standards.

However, rule following is just the baseline. In a world marked by rapid change, social tension, and often justified skepticism of institutions, trust has become a rare and valuable commodity. For lawyers, building and maintaining trust with the public is not simply a matter of professional reputation – it is a fundamental responsibility tied to the health of the justice system itself. Lawyers earn public trust when our conduct reflects professional ethics at every turn.

The legal system rests on public confidence. If people do not believe the system is fair, accessible, and just, they are less likely to trust outcomes, to participate fully, to comply with court orders, or even seek legal remedies when wronged. Lawyers, as both representatives and stewards of the system, are integral to bridging the gap between the law and the communities it serves.

Public trust cannot be demanded, it must be earned. And it is earned not just in courtrooms, but in everyday interactions with clients, with opposing counsel, and with the broader community. It shines when we disclose conflicts, explain potential outcomes candidly to clients, and communicate promptly. It resonates when we admit errors, treat opposing counsel respectfully, and honor judicial decorum. These daily choices affirm that our loyalty is to justice, not manipulative tactics. When lawyers act with integrity, treat each other with dignity, and explain the processes in a way that people can understand, they help build a culture of respect around the law.

Our integrity also has a civic dimension. Utah attorneys who serve on nonprofit boards, mentor students from underserved backgrounds, or provide pro bono legal aid do more than volunteer. They manifest law as a tool of societal empowerment. Such efforts reinforce the principle that law is not an abstract power, but a means for public good. At its best, the legal profession is rooted in service. Lawyers are entrusted with power but also with profound duty: to be worthy of the public's confidence.

Conversely, speech or conduct that contradicts the oath – *including on social media or community forums* – can erode decades of public trust. Every public appearance by a lawyer implicitly reflects on our entire profession. It is not enough to be ethical in court; we must also model it in life.

So how do we foster a culture of trust in today's skeptical climate?

Invest in Lifelong Ethics Education

CLEs should engage with challenges from artificial intelligence (AI) to social media, emphasizing ethical reasoning alongside technical updates.

Champion Transparency

Provide clients with clear terms, candid case evaluations, AI use, and fee disclosures. Support open government initiatives, encourage legal reforms that make institutions more responsive and fair.

Highlight Service

Contribute to the *Utah Bar Journal* and the Bar's website to showcase your legal contributions, such as mentorship and community outreach.

Support Accountability

Lawyers who engage in behavior subject to discipline do harm. Embracing transparent and fair enforcement fortifies collective credibility.

Encourage Public Legal Leadership

Lawyers on boards, in civic roles, or community organizations lend the profession credibility but also bear responsibility to embody its highest ideals.

Serve the Public Good

Public interest law, pro bono work, and advocacy for marginalized groups. Defend rights of the underserved, volunteer for legal aid or reform work, support systemic change.

Mentor Others

Mentor young lawyers. Experienced lawyers help shape a legal culture that values trust and service.

From Sir Edward Coke to Justice Brandeis, and from our Rule 3.3 to our daily service, one truth stands firm: **public trust begins with us**. We uphold it through our everyday ethics, clear conduct, and dedication that reach beyond the courtroom. Our oath isn't just a hopeful statement; it's a guide. By honoring it, we honor the public's trust and strengthen the institutions that serve every Utahn.


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Not Your Grandparents' Small Claims

by The Hon. Paul C. Farr

A neighbor's dog got out and killed some chickens. A handyman failed to complete a small project after being paid. These are the types of claims people may think of when they think of small claims. However, those cases are becoming more rare. With the increase of the small claims limit in 2025 to $20,000, more complex cases are now being heard in small claims court. In this author's experience, these have included auto accident personal injury claims involving expert witnesses, fraudulent transfers under the Electronic Fund Transfer Act, and claims between architects and contractors for failing to comply with complex construction contracts, just to name a few. These are not your grandparents' small claims cases. Additionally, the bulk of small claims work throughout the state continues to be dispensing default judgments in first-party debt collection cases.

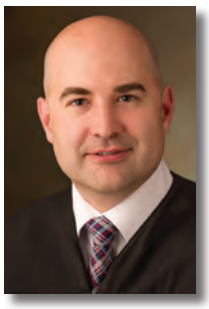
Both Section 78A-8-104 of the Utah Code and Rule 1(a) of the Utah Rules of Small Claims Procedure state that the purpose of small claims actions is to dispense "speedy justice between the parties." This is accomplished through "simplified rules of procedure and evidence" promulgated specifically to effectuate this purpose. This article will provide more understanding for those that may be unfamiliar with small claims processes and also will explore the balance between the goals of speedy justice and the requirements of due process.

Small Claims Limit

In the 2022 General Legislative Session, H.B. 107 was passed, which amended Utah Code Section 78A-8-102 and increased the small claims limit in steps from $11,000 in 2022 to $25,000 in 2030. Currently that limit is at $20,000. The following table has the history of small claims limits since 1953, including citations to the legislation that made the changes:

Year Changed	New Small Claims $ Limit	Legislation Making the Change
2030	$25,000	H.B.107, 2022 Leg., Gen. Sess. (Utah 2022)
2025	$20,000	*Id.*
2022	$15,000	*Id.*
2017	$11,000	H.B. 170, 2017 Leg., Gen. Sess. (Utah 2017)
2009	$10,000	H.B. 176, 2009 Leg., Gen. Sess. (Utah 2009)
2004	$7,500	2004 Utah Laws ch. 204, § 1 (H.B. 124)
1993	$5,000	1993 Utah Laws ch. 177, § 1 (H.B. 12)
1991	$2,000	1991 Utah Laws ch. 268, § 42 (H.B. 436)
1986	$1,000	1986 Utah Laws ch. 187, § 2 (H.B. 24)
1983	$600	1983 Utah Laws ch. 77, § 1 (H.B. 93)
1977	$400	1977 Utah Laws ch. 78, § 28 (S.B. 23)
1969	$200	1969 Utah Laws ch. 256, § 1 (S.B. 106)
1953	$100*	$100, up from the prior limit of $50. 1953 Utah Laws ch. 55 (H.B. 193)

JUDGE PAUL C. FARR was first appointed to the justice court bench in 2010. He currently serves in Sandy and Alta.



Over the seventy-three-year period from 1953 to 2025, the cumulative inflation rate in the United States was 1,097.75% based on Consumer Price Index data, for an average of 3.51% (as calculated by my Google "assistant"). Based on this inflation data, $50 in 1953 would be the equivalent of $599 in 2025. In contrast, the small claims limit going from $50 to $20,000 is a 39,900% increase.

This increase in small claims limits is not the product of inflation. Rather, it is the result of policy decisions made over time regarding what types and values of cases should be handled in small claims court pursuant to simplified rules. Certainly, some of this may be reactionary to the complexity and length of time it takes to litigate in the district court. Whatever the reason, these decisions have pushed a large number of cases into small claims court that may not have initially been contemplated as being "small."

Utah Rules of Small Claims Procedure

In *Kawamoto v. Fratto*, 2000 UT 6, 994 P.2d 187, the Utah Supreme Court heard a case involving a constitutional challenge to various aspects of small claims jurisdiction and procedure. The court noted that an earlier version of Utah Code Section 78A-8-102 provided that "'[s]mall claims matters shall be managed in accordance with simplified rules of procedure and evidence promulgated by the Supreme Court.'" *Id*. ¶ 12 (alteration in original) (quoting Utah Code Ann. § 78-6-1 (1999)); *see also* H.B. 78, 2008 Leg., Gen. Sess. (Utah 2008) (recodifying Title 78 of the Utah Code and renumbering section 78-6-1 to section 78A-8-102). In 1999, courts were still utilizing instructions contained on the small claims affidavit to provide guidance to the parties to small claims cases. However, in footnote 3 of the *Kawamoto* decision the court stated,

> Although this court did approve the form on the front side of the small claims affidavit, we have not authorized any simplified rules of procedure and evidence. This case has brought the oversight to our attention and the matter will be promptly referred to our Advisory Committee on the Rules of Civil Procedure for study and recommendations.

Kawamoto, 2000 UT 6, ¶ 12 n.3. The Advisory Committee on the Rules of Civil Procedure went to work, and at its July 18, 2001 meeting the members voted to submit their proposed rules to the Utah Supreme Court for consideration. *See* Utah Sup. Ct. Advisory Comm. on the Rules of Civ. Proc., Minutes (July 18, 2001), https://legacy.utcourts.gov/utc/civproc/wp-content/uploads/sites/10/2019/01/2001-07-18.pdf. The Utah Rules of Small Claims Procedure were ultimately adopted by the Utah Supreme Court and became effective on November 1, 2001. Amendments and new rules have been adopted over the subsequent years.

The Utah Rules of Small Claims Procedure in their current form include thirteen rules that consist of, at least according to my Google assistant, 2,311 words not including titles or comments. In contrast, the Utah Rules of Civil Procedure contain an estimated 50,000 to 70,000 words. (My "assistant" refused to make an actual count!) The small claims rules are intended to be simple and easy for a non-lawyer to understand. The following are some of the procedures that are unique to small claims:

No Answer Required

Rule 5 states, "No answer is required to an Affidavit or Counter Affidavit. All allegations are deemed denied." Utah R. Sm. Cl. P. 5. The typical practice (outside of courts that utilize the Online Dispute Resolution program) is that once the affidavit is served, a court date is set and both parties show up to the hearing prepared to argue their case. No entry of appearance or answer is required. If a plaintiff fails to appear, the case is dismissed without prejudice. If a defendant fails to appear, a default judgment may be entered.

No Discovery is Allowed

Rule 6 states, "No discovery may be conducted but the parties are urged to exchange information prior to the trial." *Id*. R. 6(a). While subpoenas for trial may be sent, no other discovery is permitted by the rules. This certainly simplifies and speeds up the litigation process. However, parties to more complex disputes can often be disadvantaged by the lack of any discovery.

Pretrial Motions are Not Heard Prior to Trial

Rule 6(b) states, "Written motions and responses may be filed prior to trial. Motions may be made orally or in writing at the beginning of the trial. No motions will be heard prior to trial." *Id*. R. 6(b). To be candid, this is a rule that this author has not always enforced, especially with the increasing complexity of small claims cases. For example, what happens when an out-of-state defendant files a motion to dismiss for lack of jurisdiction when the affidavit on its face clearly shows that the court does not have jurisdiction? I have been unwilling to require a party to bear the cost of travel to Utah to attend trial when it is clear on the face of the filings that the court does not have jurisdiction.

As with the lack of discovery, the lack of pretrial motion practice also simplifies and speeds up the litigation process. However, in complex and larger disputes, some motion practice may be advantageous or even necessary.

De Novo Appeals

Pursuant to both Rule 12 of the Utah Rules of Small Claims Procedure and Section 78A-8-106 of the Utah Code, appeals from small claims cases are heard *de novo* in the district court. A party must file a notice of appeal within twenty-eight calendar days from the date of the judgment at which time the case will be transferred to the district court and a new trial will be scheduled.

Rule 1(b) states, "These rules apply to the initial trial and any appeal under Rule 12." Utah R. Sm. Cl. P. 1(b). As a result, even on appeal at the district court, discovery and pretrial motion practice is not permitted.

Auto Injury Cases

While this issue is statutory rather than rules based, it does involve a right unique to small claims. In 2013, the legislature amended Utah Code Section 78A-8-102 to add paragraph (5), allowing a small claims action to recover property damage in an automobile accident without limiting the ability to pursue a separate bodily injury claim in the district court. *See* H.B. 331, 2013 Leg., Gen. Sess. (Utah 2013). Splitting a claim like this would have previously been precluded under the doctrine of *res judicata*.

Transfer of Cases to and from the District Court

In 2011, the legislature passed H.B. 376, which amended Utah Code Section 78A-8-102 and added the language at paragraph (2). *See* H.B.376, 2011 Leg., Gen Sess. (Utah 2011). This language, along with Rule 2A of the Utah Rules of Small Claims Procedure, allows a defendant in a civil case in the district court to transfer the case to a small claims court "if agreed to by the plaintiff." Utah Code Ann. § 78A-8-102(2)(a). While this does allow a transfer from district court to justice court with the agreement of the parties, it really doesn't accomplish anything that couldn't be done by dismissing without prejudice and refiling in a justice court.

In 2016, the Utah Supreme Court issued its decision in *Simler v. Chilel*, 2016 UT 23, 379 P.3d 1195, in which the court held "that article 1, section 10 of the Utah Constitution guarantees

the right to a jury trial in a small claims trial de novo." *Id*. ¶ 23. The Utah Supreme Court subsequently adopted Rule 4A, effective July 18, 2016, which provides a mechanism to remove a case from justice court to district court in order to effectuate a defendant's right to a jury trial. Utah R. Sm. Cl. P. 4A. If a plaintiff wants a jury trial, they can simply file their claim in the district court. If a defendant served in a justice court case wants a jury trial, they can remove the case to the district court pursuant to this rule, which requires a defendant to file a "notice of removal" within fifteen days in the district court, along with paying the appropriate filing fee, and filing a copy of that notice with the small claims court. *Id*. R. 4A(a).

Rule 1(b) states, "These rules apply to the initial trial and any appeal under Rule 12. *These rules do not apply to an action transferred from justice court to the general civil calendar of the district court*. . . ." *Id*. R. 1(b) (emphasis added). So if a party desires to conduct discovery, they can file in, or transfer to, the district court. Legal counsel representing parties in these disputes should be aware of this and be able to obtain discovery in appropriate cases. However, in most small claims cases the parties are not represented by counsel. Most unrepresented parties will likely not be aware of this option, especially within the fifteen-day response period that is required to remove a case. As a result, some defendants may unknowingly be precluded from conducting discovery in relatively complex cases where it could be advantageous.

Online Dispute Resolution

In September 2018, the Utah Supreme Court issued Standing Order No. 13, authorizing an Online Dispute Resolution (ODR) pilot program. Utah Sup. Ct. Standing Order No. 13, available at https://legacy.utcourts.gov/rules/urapdocs/13.pdf (last visited July 5, 2025). The program was initially piloted in the West Valley and Orem justice courts. The program has continued to expand and is currently being utilized in a little less than half of the justice courts throughout the state.

In ODR, a plaintiff files their small claims affidavit with the court and then must register with the ODR program within seven days. A specific ODR summons must then be served on the defendant along with the affidavit. *See* Sm. Cl. Summons and Affidavit ODR Approved Form, available at https://legacy.utcourts.gov/odr/docs/2001SC_Small_Claims_Affidavit_and_Summons_ODR.pdf (last visited July 5, 2025). This summons informs a defendant that they must register with the ODR program within fourteen days of service or a default judgment may be entered. It also includes instructions on how to register, including a QR code. Parties may request an exemption from the ODR program by showing undue hardship, which in my experience has typically been granted for individuals that do not have reliable computer and internet access, or when they are unable to communicate in English.

After both parties have registered for ODR, they are guided to communicate with one another and exchange information by a facilitator. This process will be for a period not to exceed fourteen days, unless extended by the facilitator. If the parties are able to resolve their dispute, a settlement agreement is prepared and forwarded to the judge. If the parties are unable to resolve their dispute, the ODR program terminates and a trial is scheduled. In theory the facilitator will "work with the parties to prepare a form to submit to the court that includes information provided during facilitation that [is] relevant to the dispute and agreed to by both parties." Sup. Ct. Standing Order No. 13. While in theory this should simplify the trial, in my experience this form is often not completed, or when it is, contains very little helpful information.

The purpose of the ODR program, according to the Standing Order, is to "increase the participation rate of parties, assist the parties in resolving their disputes, and improve the quality and presentation of evidence at trial." *Id*. While the extent to which this has happened can be debated, the program has made at least some positive gains in these areas.

Perhaps the biggest concern for the ODR program is that it is currently stuck without the ability to expand to additional courts. The reason is the lack of facilitators. There are just not enough facilitators to handle the volume of cases currently in the program.

Some justice courts have used volunteer *pro tempore* judges to preside over small claims cases. It was anticipated that with the implementation of ODR, some of these volunteers could be utilized as facilitators. While there are some *pro tempore* judges who have served as facilitators, the need is greater than the supply. Various ideas have been presented to increase the number of facilitators including providing CLE credit, hiring paid facilitators, and others. This issue is currently being discussed, but to date it has not been resolved.

In my experience, ODR has been effective in improving judicial efficiency and serving the parties. The process does tend to weed out the cases where parties fail to appear or those that don't really involve a factual dispute. The cases that remain and are set for trial tend to be the cases that really do need a trial

setting. The court's calendar is also less cluttered with unnecessary hearings. For example, I served as a judge pro tempore in the Fourth District Court in the early 2000s. Everyone was required to appear at the beginning of the calendar at 1:00 p.m. The court would filter the calendar determining which cases were eligible for dismissal based on the plaintiff's failure to appear and those that were eligible for default judgment for a defendant's failure to appear. The court would also excuse those parties present for a supplemental proceeding into a conference room to address those issues. When both parties were present and cases were ready for trial, the court would begin hearing trials. Some parties could end up waiting several hours for their case to be heard. The ODR program addresses all the preliminary issues prior to trial. Trial times can then be scheduled individually for each case and because the parties have already appeared and engaged to some extent, appearance rates tend to be fairly high.

At least in my opinion, the ODR program has been a positive step and, at the very least, saves time for both the parties and the court.

Collections Cases

The bulk of small claims cases filed throughout the state are for account collections. Utah Code Section 78A-8-103 provides, "A claim may not be filed or prosecuted in small claims court by any assignee of a claim." As a result, collections agencies are required to file in the district court. However, there are many businesses that pursue their own collections. This can include title loan and payday loan companies, furniture or other rental companies, and other businesses that choose to pursue their own accounts. These businesses may file claims in small claims court.

The default rate for defendants is very high in these types of cases. Most of the time there is not a real factual dispute to be resolved. Rather, it is a situation where the defendant does not have the money to pay the debt. Some individuals simply choose not to participate in the process. The court is not really functioning as a forum to resolve disputes in these cases. Rather, it is simply the keeper of the process by which one obtains default judgments and pursues collections against individuals who have defaulted on their financial obligations.

Benefits And Drawbacks

The current small claims process largely accomplishes its purpose, which is to dispense speedy justice between the parties. This is accomplished through a lack of discovery, a lack of pretrial motion practice, and short and quickly scheduled hearings. In comparison, the district court process can be time-consuming and complex. Perhaps due to this complexity and the length of time it takes, policymakers have looked for alternatives. Just as the use of mediation and arbitration has increased over the prior decades, small claims jurisdiction has also expanded to encompass larger and more complex case types. As a prior practitioner, I certainly understand the appeal of small claims court in the appropriate case. However, this efficiency does come with some drawbacks.

For a claim involving a few hundred dollars and relatively simple legal issues, discovery and pretrial motions are probably unnecessary. When a case involves a complex business dispute and a claim of $20,000, for example, maybe some level of discovery or motion practice would be beneficial to the parties. While parties may file in, or remove cases to, the district court, many self-represented parties are likely unfamiliar with this process. The Utah Rules of Civil Procedure provide for tiered discovery for cases with different claim amounts. Perhaps such an approach could be used with small claims.

The ODR program appears to have some promise for encouraging greater participation and providing greater efficiency. Expanding it throughout the state, and perhaps refining it for various case types, could also be of great benefit.

All small claims cases are not "small." Simplified rules aren't always the best for resolving complex disputes. As the small claims universe continues to expand, we should ensure that this system continues to meet its goals and serve those parties that find themselves in small claims court.

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The Right to an Unbiased Jury and the Art of Jury Selection

by Hannah Leavitt-Howell

The Utah Court of Appeals recently published an opinion reaffirming a litigant's right to a fair and impartial jury. *See State v. Taylor*, 2025 UT App 14, 564 P.3d 962.

In that case, a defendant raised a for-cause challenge to two prospective jurors: One was a law enforcement officer who had worked on cases like the defendant's with some frequency. *Id.* ¶¶ 3–4. That juror indicated that he had never arrested anyone who later turned out to be "factually innocent." *Id.* ¶ 5. The other juror indicated that she favored the testimony of law enforcement officers. *Id.* ¶ 11.

The district court denied both motions to strike the jurors for cause, *id.* ¶¶ 8, 13, and then defense counsel (despite the earlier motions to strike for cause) elected not to use a peremptory strike. *Id.* ¶ 14. Accordingly, the jurors remained on the jury. Ultimately, the jury unanimously found the defendant guilty. *Id.*

This case raises several questions worth analyzing: Why would a district court fail to grant a motion to strike when the prospective jurors showed such obvious biases? Why would defense counsel choose to use their peremptory strikes in a way that left biased jurors on the panel? In the grand scheme of the trial, did two biased jurors actually make a difference when there were, presumably, six unbiased jurors to serve as a counterbalance?

The answers to these questions give meaningful insight into the efficacy of jury trials, the criminal justice system, and our legal system more broadly.

Pressures to Seat a Jury

Jury selection is an instance in which courts may save more time and resources by discarding jurors liberally rather than trying to stretch standards to make someone fit. Anyone with proximity to the voir dire process knows that district courts feel immense pressure to seat a jury as quickly and efficiently as possible. District court judges are tasked with resolving high-stress cases in a timely manner with limited personnel, time, and physical space. Despite the limitations, we expect the court to get things right and move on to the next case as soon as possible.

Adding to this pressure, judges care about the often large costs this process imposes on prospective jurors – people who never asked to be involved in someone else's problems and are receiving essentially no compensation for the days of effort they will expend. Jury selection requires anywhere from a couple dozen to as many as several hundred citizens, depending on the case. Many of those people make significant sacrifices to appear for jury duty. They take off work, make childcare arrangements, find their way to an unfamiliar location, and wait for long periods without knowing when the whole experience will end.

In this context of limited judicial resources along with the recognition of the burden jury trials place upon members of the community, courts may be tempted to gloss over statements by potential jurors that hint at bias. It's tempting to think that fewer strikes today means courts need to call fewer potential jurors tomorrow. Interviewing five more potential jurors comes with high upfront costs. That's five more lives interrupted, five more questionnaires to review, and five more potential jurors to argue over. This is a real cost, but it pales in comparison with the cost of a new trial.

A trial court's desire to take all juror statements at face value is understandable, but contrary to Utah law. In the case of *Taylor*, the district court left the first juror in because it wanted to trust the juror's "assessment of his abilities to be impartial." *State v. Taylor*, 2025 UT App 14, ¶ 8, 564 P.3d. The court left the

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second juror in the pool because it felt the juror "was the type of person that would follow the court's direction exactly." *Id.* ¶ 13 (quotation simplified). This reaction displays the district court's trust in the system; its decision seems to ask how we can trust anything the jury does if we cannot trust individual's statements that they will be fair and follow instructions.

But that is one of the main takeaways from *Taylor*: Although we must trust individual jurors to be honest, we cannot trust them to know their own biases. The district court's decision not to strike the police officer, despite statements implicating at least some level of bias against criminal defendants, underscores the importance of the principle that "a presumption of bias or partiality is not rebutted "solely by a juror's bare assurance of her own impartiality because a challenged juror cannot reasonably be expected to judge her own fitness to serve." *Id.* ¶ 17 (internal citation omitted).

"The court has a duty to ensure a fair trial, and once a for-cause challenge is raised, a trial court has an obligation to be *lenient* in granting challenges for cause." *Id.* ¶ 18 (emphasis added) (quotation simplified). "Ruling that a prospective juror is qualified to sit simply because he says he will be fair ignores the common-sense psychological and legal reality of the situation." *State v. Saunders*, 1999 UT 59, ¶ 35, 992 P.2d 951. "Instead, the trial court must identify some other basis for overcoming the presumption of bias." *Taylor*, 2025 UT App 14, ¶ 17 (quotation simplified).

Utah case law is clear that no matter the time constraints, when it comes to selecting a jury, courts must prioritize seating an unbiased jury over juror convenience, resource limitations, or other concerns.

The Right to an Unbiased Jury

Ultimately, *Taylor* serves as a reminder of the fact that an unbiased jury is one of the most quintessential principles of our legal system. While most appellate issues require parties to show a reasonable likelihood of a different result before gaining relief, the purity of the jury and its decision-making process is held to a different standard. As the Utah Supreme Court explained, verdicts must be "above suspicion" of outside influence. *State v. Soto*, 2022 UT 26, ¶ 4, 513 P.3d 684 (quotation simplified).

The Utah Rules of Criminal Procedure along with the Utah Rules of Civil Procedure make plain that this right is well-enshrined in Utah law.

Utah Rule of Criminal Procedure 18(e) provides that a juror should be removed for cause based on

> [t]he existence of any social, legal, business, fiduciary or other relationship between the prospective juror and any party, witness or person alleged to have been victimized or injured by the defendant, which relationship when viewed objectively, would suggest to reasonable minds that the prospective juror would be unable or unwilling to return a verdict which would be free of favoritism.

Utah R. Crim. P. 18(e)(4).

The rule also indicates that a juror should not sit if he has "formed or expressed an unqualified opinion or belief as to whether the defendant is guilty or not guilty of the offense charged." Utah R. Crim. P. 18(e)(13). The advisory committee notes the lack of impartiality necessitating a for-cause challenge "may be due to some bias for or against one of the parties; it may be due to an opinion about the subject matter of the action or about the action itself." Utah R. Crim P. 18(e)(14) advisory committee notes.

Finally, Rule 18(e) instructs that a juror should not be seated if her "[c]onduct, responses, state of mind or other circumstances … reasonably lead the court to conclude the juror is not likely to act impartially." *Id.* R. 18(e)(14). The rule concludes, "No person may serve as a juror, if challenged, *unless* the judge is convinced the juror can and will act impartially and fairly." *Id.* (emphasis added). The plain language of the rules imposes a duty on district courts to strike a juror unless they are convinced that the juror is impartial.

Rule 47 of the Utah Rules of Civil Procedure provides similar, albeit less specific guidance.

These rules are in place for a reason. In criminal cases, "a fair and impartial jury is the bulwark that defends against the possibility of an innocent man or woman being convicted and wrongly punished. A single juror who does not meet the standard of impartiality fatally weakens that protection." *State v. Millett*, 2012 UT App 31, ¶ 38, 271 P.3d 178. While the stakes are lower in civil cases, the same principle applies.

The Art of Jury Selection: What to Do When the Court Fails to Remove Biased Jurors?

Unfortunately, biased jurors show up far more often than they should. What recourse is there when the court fails to strike all biased jurors? Although a trial court has no discretion to leave a

biased juror on a jury, it's important to note that attorneys actually do. To understand the best way to help a client, it is helpful to first consider the minimum standard.

Practically speaking, there are two instances in which an attorney could be found constitutionally ineffective for the choices she makes during voir dire: (1) she fails to ask follow-up questions to a juror who gives answers that suggest bias, or (2) the court cannot "imagine any plausible countervailing subjective preference that … would operate to justify [t]rial [c]ounsel's failure to challenge [the juror]." *State v. Carrera*, 2022 UT App 100, ¶ 58, 517 P.3d 440; *see State v. King*, 2006 UT App 355, ¶ 6, 144 P.3d 222, *overruled on other grounds*, 2008 UT 54, 190 P.3d 1283.

To ensure that bias has been thoroughly ferreted out, case law suggests several best practices.

First, it can be useful to submit voir dire questions to the court ahead of scheduled jury selection. This gives the court time to consider the questions and provides the attorney with an opportunity to ensure that the court knows which questions are critical for rooting out bias. A court can properly refuse voir dire questions that aim to expose jurors to one side's theory of the case, but the court has very little discretion to refuse questions aimed at discovering bias. *See State v. Wall*, 2025 UT App 25, ¶¶ 29, 32, 566 P.3d 726. Thus, if the court refuses to allow a question that an attorney believes is critical for understanding potential jurors' biases, the attorney should clarify to the court why the question is imperative to seating a fair jury before allowing the court to move on.

Second, attorneys should ask follow-up questions anytime a potential juror gives an answer that could even hint at potential biases. Ultimately, "trial counsel bears the responsibility of actively investigating possible biases that are disclosed during jury selection." *King*, 2006 UT App 355, ¶ 9. "[S]imple uninformed acceptance of apparently biased jurors … amounts to deficient performance." *Id*. Utah courts have indicated that this duty means counsel must ask follow-up questions of *any* juror who answers a question in a way that suggests bias. *Id*. ¶ 7.

Third, if the court denies a motion to strike a juror for cause, it is helpful to make a clear record of how the juror demonstrated bias and why they needed to be struck for cause. Remember, a potential juror's own statement assuring that they can be fair is never enough to rehabilitate them from a statement indicating actual bias.

Active involvement in the voir dire process will hopefully result in the court seating an unbiased jury. However, if the trial court denies a proper motion for cause, the attorney is then faced with the question of whether she should utilize one of her few peremptory strikes on the biased juror. The reversal in *Taylor* shows one reason why attorneys might want to forego striking a biased juror after the court denies a motion to strike for cause, even when the juror is biased against their client. Although we should be careful to ascribe motive to counsel's actions in *Taylor* – it is entirely possible counsel elected to use all their peremptory strikes on jurors who presented more obvious problems to the defendant's case without any calculation about how the decision preserved the issue for appeal – the point remains. After all, the attorneys' decision to leave the biased jurors on the jury in *Taylor* is what resulted in that client getting a fresh start at a new trial.

This conclusion may seem a little backwards: Both jurors in *Taylor* made statements that plainly exhibited bias against the defense. However, "jury selection is more art than science," and comes with "a multitude of inherently subjective factors typically constituting the sum and substance of an attorney's judgments about prospective jurors." *Carrera*, 2022 UT App 100, ¶ 52. Sometimes the artistic side of jury selection requires counsel to choose between two evils – and in such cases, it may be better to choose the option that leaves a client better opportunities on appeal.

Of course, bias goes both ways. If a potential juror is biased in favor of your client, should you leave that juror in the pool? Again, it depends. If your opponent has the right to an appeal and they choose not to strike, you may prefer to strike that juror yourself. It is this exact conundrum that has caused appellate courts to "presume that counsel's lack of objection to, or failure to remove, a particular juror was the result of a plausibly justifiable conscious choice or preference." *Id*. (quotation simplified). In *Taylor*, the prosecution's acceptance of jurors exhibiting anti-defense bias may have seemed helpful at first, but it ultimately resulted in a new trial.

The Utah Court of Appeals' decision in *Taylor* serves as a reminder that all parties involved in a trial should pay attention to potential juror bias. Courts that care about judicial economy should consider investing in ensuring an unbiased jury early on. When that fails, the art of jury selection is nuanced enough that attorneys should consider how best to ensure a favorable outcome for their client. Paying attention to juror bias is an important safeguard to one of the most fundamental principles of our justice system.

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An Urgent Call to the Legal Community: Protect Access to Justice in Utah

by Justice Christine Durham and Amy Sorenson, co-chairs of the Utah State Bar Access to Justice Commission

Utah's cornerstone civil legal aid providers – Legal Aid Society, Utah Legal Services, and Disability Law Center, who together make up the "and Justice For All" (AJFA) partnership – are facing an existential threat. Proposed federal budget cuts, the expiration of pandemic-era relief, and reductions and eliminations in long-standing grant programs are converging to create a funding crisis that threatens not only these time-tested programs, but the operation of our civil justice system itself. If we allow the safety net these organizations provide to unravel, we will all feel the consequences – in our courts, in our communities, and in the integrity of the legal profession itself.

For decades, Utah's three primary legal aid organizations have quietly and effectively provided critical legal services to those who cannot afford private representation. These organizations are often the only resource available for low-income individuals navigating complex legal problems like domestic violence, unlawful eviction, guardianship for children or vulnerable adults, denial of disability benefits, employment and housing discrimination and financial abuse of senior citizens. These organizations also support the work of additional partners across the state through a collaborative grantmaking program, maximizing their impact.

Incredibly, because of their efforts, expertise, and programming, Utah's AJFA organizations serve more than 25,000 Utahns with free or low cost legal services each year.

Yet federal funding is a large and therefore critical part of how these organizations are able to do so much good. Our legal aid providers rely on funding from the Legal Services Corporation, from the federal Victims of Crime Act (VOCA), and from a number of other federal programs that support housing and disability advocacy, among others. To say these programs are facing steep cuts borders on understatement **– and Utah's legal aid agencies stand to lose up to 50% of their already modest budgets in the next year alone as a result.**

For decades, Utah has relied on our AJFA organizations to provide legal clinics, family law advice and representation, and disability rights advocacy, in traditional and limited scope representations. They reduce court congestion and support fair outcomes. Their work makes our legal system more efficient, more effective, and more fair. Every legal aid attorney and paralegal contributes to stability in the courts by ensuring that litigants are prepared, informed, and better equipped to engage in the process, and to accept and honor its outcomes.

And these benefits aren't charity, they make good financial sense. Specifically, **for every $1 invested in legal services** for victims of domestic violence and families in crisis, **Utah taxpayers save an estimated $13 in costs**, including savings as to law enforcement, hospital care, and public assistance. A recent analysis estimated that the family law services provided by just two of AJFA's core agencies – Utah Legal Services and Legal Aid Society – result in at least **$48 million in savings to Utah taxpayers each year**.

Simply put, the loss of this funding means the loss of these programs. Experienced pro bono lawyers will be laid off. Clients will be

JUSTICE CHRISTINE DURHAM (ret.) and AMY SORENSON are Co-Chairs of Utah's first state-wide Access to Justice Commission, a standing committee of the Utah State Bar tasked with advancing access to the Utah courts through its support for non-profit legal aid and social services organizations, sponsoring innovative pro bono projects, and overseeing data-driven research as to effective legal outcomes for underrepresented communities and litigants.

turned away, left to navigate personal risk and the court system, if they can, alone. Our legal aid organizations will be forced to reduce services drastically and to close critical programs entirely.

As members of the Utah legal community, the community which founded AJFA, we cannot allow this to happen.

Since its founding in 1999, AJFA has united the courts, the State Bar, law firms, and individual attorneys around a shared mission: to fulfill the fundamental promise of our justice system – equal access to justice regardless of income. The three legal aid organizations comprising AJFA have more than delivered on our investment and commitment.

In this extraordinary moment, they are now in need of extraordinary help.

So what can we do?

Of course, we must give our time. Take a pro bono case; sign up for free legal answers; staff a clinic; encourage our colleagues to do the same. Recognize those in our firms and community who give of their time and skills in this important way and reinforce a culture of service.

But we also must educate our friends, colleagues and elected officials about the importance of legal aid. Tell them that in the Utah courts, 87% of people in civil cases cannot afford a lawyer and attempt to go it alone. Tell them that as bad as this statistic is, without our AJFA organizations, it will get worse. **Tell them that litigants without lawyers lose important rights – rights like access to their children, benefits, pay, work and housing, often regardless of the merits of their cases.** Tell them that we as a state have been effectively and efficiently righting this wrong through the work of AJFA legal aid lawyers for years.

All of this is **necessary, admirable, and personally fulfilling**. And it is **not nearly enough**.

We must also attempt to close the funding gap ourselves, at whatever financial level we can, and we must do so now. The Utah State Bar has 14,638 active and inactive members. We are a force.

- If we contribute to AJFA, we will help pay for the salaries of full-time legal aid attorneys who handle high caseloads and complex legal issues with efficiency and expertise.
- If we contribute to AJFA, we will help our AJFA organizations continue to represent literally **dozens** of pro bono clients each **day**.
- If we contribute to AJFA, we will help ensure our state and our state courts remain efficient, accessible, and fair.

Please join us in expanding your support for AJFA and help ensure that 25,000 Utahns each year will continue to receive critical legal help.

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Navigating the AI Revolution: Strategies for Utah Attorneys to Thrive in an Evolving Legal Landscape

by Spencer Macdonald

As artificial intelligence (AI) reshapes industries worldwide, the legal profession faces both challenges and opportunities. A recent article highlights concerns voiced by Dario Amodei, co-founder and former CEO of Anthropic, a U.S. AI startup company. Jim VandeHei & Mike Allen, *Behind the Curtain: A White-Collar Bloodbath*, Axios (May 28, 2025), https://www.axios.com/2025/05/28/ai-jobs-white-collar-unemployment-anthropic. Mr. Amodei warns that AI could displace white-collar workers, including attorneys, by automating tasks like legal research and document drafting. For Utah attorneys, particularly solo practitioners and small firm owners, the question should not be whether AI will impact their practice but should instead be how they should adapt to ensure long-term success. Drawing from current trends and practical insights, this article offers actionable strategies to mitigate AI-related risks while leveraging its potential to enhance your practice.

The AI Threat: A Moderate but Growing Concern

AI is already transforming legal practice. Tools like Lexis+ AI, Westlaw Edge, and CoCounsel streamline research, contract drafting, and litigation analytics, reducing time spent on routine tasks. While these advancements boost efficiency, they also threaten billable hours, increase competition from AI-enabled firms, and shift client expectations toward faster, cheaper services. In Utah, attorneys face moderate risk in the near term as AI automates tasks like title review or contract analysis. However, human-centric skills – negotiation, client counseling, and courtroom advocacy – will remain irreplaceable, offering a buffer for practitioners who adapt strategically.

Strategies to Thrive in the AI Era

To safeguard your practice and continue providing for your family, consider the following strategies tailored for Utah's legal market:

Integrate AI Tools into Your Practice

Adopting AI tools enhances efficiency and competitiveness. For example, real estate attorneys may want to consider platforms like Harvey AI to draft leases or purchase agreements, while litigation tools like Gavelytics can predict judicial outcomes in Utah courts. Solo practitioners can start with affordable options like MyCase's AI features for document summarization.

It is imperative, however, that attorneys allocate sufficient and substantial time to learn how to properly deploy these tools, particularly ensuring that AI-generated output is thoroughly vetted to validated to avoid errors, such as "hallucinated" case and statutory citations. Overall, however, integrating AI will allow practitioners to focus on high-value tasks while meeting client demands for speed.

Focus on Non-Automatable Services

AI struggles with tasks requiring empathy and judgment, such as complex litigation, courtroom advocacy, family law, criminal defense, estate planning, ADR, immigration, and other aspects of legal practice which require the "human touch." Strengthen client relationships by offering personalized advice. Marketing your courtroom presence or negotiation skills can differentiate you from AI-enabled competitors.

Adapt Your Billing Model

As AI reduces billable hours for routine tasks, traditional hourly billing may erode income. Experiment with flat fees for transactional work, such as drafting business formation documents, or

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value-based billing for high-stakes litigation, like securing favorable real estate deals. Hybrid models combining hourly and flat fees can balance efficiency with profitability, aligning with client expectations for cost certainty.

Enhance AI Literacy

AI literacy is now a professional duty under American Bar Association (ABA) Model Rule 1.1, requiring attorneys to understand technology's benefits and risks. Enroll in ABA webinars or Thomson Reuters courses on AI for lawyers in your area(s) of practice. Learn ethical considerations, such as ensuring client confidentiality and verifying AI outputs, to avoid sanctions like those in cases involving fake AI-generated citations. Developing expertise in AI-related legal issues, such as data privacy, can attract new clients.

Diversify Income Streams

Diversifying income reduces reliance on traditional legal work. Diversify your areas of practice. Offer consulting services for businesses related to your areas of practice, as this leverages your expertise. Train as a mediator or arbitrator for disputes, a field where human judgment is critical. Pursue supplemental income streams, such as teaching or property ventures, to enhance financial stability.

Strengthen Client Base and Marketing

A loyal client base insulates you from AI-enabled competition. Position yourself as a tech-savvy attorney combining AI efficiency with personalized service, appealing to modern clients in a competitive market. Be ready to explain to clients how your use of AI both enhances your skill sets and makes you more efficient in time-consuming tasks (research, drafting, etc.).

Monitor Utah's AI Landscape

Utah leads in AI regulation with the Utah Artificial Intelligence Policy Act (UAIPA), effective May 1, 2024, requiring disclosures for AI use in consumer interactions. Non-compliance risks fines up to $2,500 per violation. UAIPA compliance will typically center on: A) disclosure requirements, both proactive and prompted, B) validating AI output, and C) compliance with ethical and professional standards.

Requirements Re: Disclosure of Generative AI Use

Although UAIPA primarily applies to businesses and individuals in occupations regulated by the Utah Department of Commerce's Division of Occupational and Professional Licensing (DOPL) (e.g., accountants, physicians) or those engaged in activities overseen by the Utah Division of Consumer Protection (UDCP) (e.g., consumer sales, telemarketing, charitable solicitations), attorneys licensed by the Utah State Bar are not subject to DOPL regulation. Instead, attorney conduct, including advertising and client interactions, is governed by the Utah Rules of Professional Conduct (URPC), particularly Rules 7.1–7.5, under the Utah Supreme Court's oversight. Thus, UAIPA's mandatory disclosure requirements for generative AI use do not directly apply to attorneys unless their activities involve UDCP-regulated areas, such as charitable solicitations.

However, adopting a precautionary approach by voluntarily complying with UAIPA's disclosure standards can enhance transparency, build client trust, and mitigate potential ethical risks under the Utah Rules of Civil Procedure, particularly in "high-risk AI interactions." These interactions may include collecting sensitive personal information (e.g., financial or health data), providing personalized legal advice that clients may rely on for significant decisions, or offering legal services where AI plays a material role. Such voluntary compliance also prepares attorneys for future regulatory expansions and aligns with Rules 1.1 (Competence) and 1.6 (Confidentiality). Below are recommended practices for Utah attorneys choosing to adopt UAIPA's disclosure framework:

Proactive Disclosures

When using generative AI in client interactions (e.g., chatbots for intake or AI-drafted documents), consider providing clear disclosures. For oral interactions, verbally disclose AI use at the start (e.g., "This conversation involves a generative AI tool"). For written exchanges, include a written notice before engagement begins (e.g., "This response was generated with AI assistance, reviewed by [Your Name]"). While not required under URPC for standard legal services, this mirrors UAIPA's proactive disclosure for high-risk interactions and enhances transparency.

Prompted Disclosures

If a client asks whether they are interacting with AI (e.g., "Is this a bot?"), provide a clear and conspicuous response (e.g., "Yes, this is a generative AI tool, not a human"). This aligns with UAIPA's prompted disclosure obligation for UDCP-regulated activities and supports URPC 8.4(c) (avoiding misrepresentation).

Practitioners can manage voluntary compliance in the following ways:

- **Train Staff and Systems:** Ensure AI systems (e.g., chatbots) are programmed to recognize and respond to questions like "Are you AI?" with a clear statement, e.g., "Yes, this is a generative AI tool, not a human."

- **Test AI Responses:** Regularly test AI tools to confirm they compliance with prompted disclosure requirements.

- **Document Compliance:** Keep records of AI configurations and disclosure protocols to demonstrate compliance if audited by the UDCP.

By voluntarily adopting UAIPA's disclosure practices, Utah attorneys can proactively address client expectations, align with emerging AI ethics standards, and differentiate their practice as transparent and tech-savvy in a competitive market.

Validating AI Output

Attorneys are, of course, liable for any AI-generated statements or actions that violate consumer protection laws, such as misrepresentations in legal advice or contract terms. Unvetted AI output can also contain substantial errors. Attorneys can mitigate such risks in a few ways:

Validate AI Outputs

Always review AI-generated documents, research, or advice for accuracy, as errors (e.g., "hallucinated" case or statutory citations) could violate URPC 1.1 (Competence) or consumer protection laws.

Use Reliable Tools

Select AI tools designed for legal use with robust training data to minimize erroneous outputs.

Add Disclaimers

Include disclaimers in client communications involving AI, e.g., "This document was prepared with AI assistance and reviewed by [Your Name] for accuracy. Official legal advice is provided by the attorney."

Compliance with Ethical and Professional Standards

AI use must align with URPC and ABA guidelines, particularly Utah Rules of Professional Conduct 1.1 (Competence), 1.6 (Confidentiality), and 8.4(c) (Misconduct), and ABA Formal Opinion 512 (2024) on generative AI. Several factors should therefore be considered when attorneys deploy AI in their practice:

Maintain Competence

Stay informed about AI's capabilities and risks through continuing legal education (CLE) courses, such as those offered by the Utah State Bar or ABA on AI ethics.

Protect Client Confidentiality

Ensure AI tools comply with URPC 1.6 by using secure, encrypted platforms and avoiding input of sensitive client data into public AI models (e.g., ChatGPT).

Avoid Misrepresentation

Disclose AI use to clients when it materially affects representation (e.g., using AI for legal advice), per ABA Formal Opinion 512, to avoid violating URPC 8.4(c).

Join Professional Groups

Participate in the Utah State Bar's technology section or local legal tech meetups to track UAIPA developments and network with peers.

Develop an AI Policy

Create and document a firm policy outlining how AI is used, disclosed, and verified in your practice, covering client interactions, data security, and ethics.

Train Yourself and Staff

Conduct training on UAIPA requirements, focusing on disclosure protocols and ethical AI use, especially for any paralegals or assistants.

Keep Records

Document AI tool configurations, disclosure statements, and client communications to prove compliance if audited by the UDCP.

Conclusion

AI presents both risks and opportunities for Utah attorneys. While it may reduce demand for routine tasks, it can also strengthen your expertise and efficiency. These enhanced skillsets, coupled with human-centric skills, can position attorneys to thrive in what is likely to be a turbulent market in the near future. By integrating AI tools – focusing on non-automatable services, adapting billing, enhancing literacy, diversifying income, strengthening marketing, and monitoring regulations – Utah attorneys can act now to integrate AI ethically and strategically, ensuring their practices thrive in this transformative era.

AUTHOR'S NOTE: *The author thanks Grok, an AI developed by xAI, for assistance in drafting this article, which was significantly modified to reflect the author's expertise and experience in the practice of law.*

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Appellate Highlights

by Rodney R. Parker, Dani Cepernich, Robert Cummings, and Andrew Roth

EDITOR'S NOTE: *The following appellate cases of interest were recently decided by the Utah Supreme Court, Utah Court of Appeals, and United States Tenth Circuit Court of Appeals. The following summaries have been prepared by the authoring attorneys listed above, who are solely responsible for their content.*

Utah Supreme Court

Carter v. State
2025 UT 13 (May 15, 2025)

The district court granted Carter's petition for post-conviction relief and vacated his conviction, ruling the State had violated Carter's constitutional rights under both *Brady v. Maryland*, 373 U.S. 83 (1963), and *Napue v. Illinois*, 360 U.S. 264 (1959), and that those violations were prejudicial as a whole. On the State's appeal from this ruling, the Utah Supreme Court observed that the Post-Conviction Relief Act's prejudice analysis is complicated by the presence of multiple constitutional violations with their own varying materiality standards, since the collective materiality of the tainted evidence is determinative of prejudice. To address such situations, the court adopted a federal test: **A district court must first consider the constitutional violations with a less-demanding materiality standard together, and if those violations are not material standing alone, then the court must consider all of the constitutional violations together under the more-demanding standard. The court is also "free to proceed directly to considering all of the . . . violations under the more-demanding … standard if that is preferable in a given case."**

New Star General v. Dumar
2025 UT 14 (May 22, 2025)

Noting "somewhat ambiguous" prior case law, the Utah Supreme Court clarified the process for determining "substantial compliance" with Utah's construction lien statute, Utah Code § 38-1a-501: **To ascertain whether a contractor substantially complied with the statute, a district court must first determine whether the contractor failed to comply with a provision of the statute. If so, the court must next determine what harm stemmed from that noncompliance and, if the noncompliance caused actual harm, there is no substantial compliance.** Assuming there was no actual harm, a finding of substantial compliance is permissible only if, in light of all surrounding facts, the noncompliance did not create any *potential* for harm.

State v. Andrus
2025 UT 15 (May 29, 2025)

Investigating Andrus for online crimes, state detectives sought help from federal agents who used an administrative subpoena to access Andrus' online accounts. Seeking to suppress this evidence at trial, Andrus argued that state detectives' use of evidence obtained by federal agents violated Utah's Electronic Information or Data Privacy Act, which lays out a strict set of procedural requirements to obtain certain subscriber information from online service providers. The Utah Supreme Court affirmed denial of the motion to suppress, concluding that, although state officials may not lawfully obtain such evidence *directly* from online service providers without following the Act's procedural requirements, **the Act does not demand exclusion of evidence lawfully obtained from online service providers by third parties. Thus, "if state officers obtain subscriber records from federal officers or officers of another state who lawfully obtained the records from the service provider, state officers may rely on those records without triggering [the Act]'s exclusionary rule."**

Griffin v. Snow, Christensen & Martineau
2025 UT 16 (June 5, 2025)

Reversing the court of appeals, the supreme court held that, **to qualify as a managing or general agent for service of process under Utah R. Civ P. 4(d)(1)(E), a person "must be a person exercising general power in the corporation involving the exercise of judgment and discretion."** The court rejected the court of appeals' view that the supreme court's prior precedents authorized service on a person whose role in the company is sufficiently integrated that he or she would know what to do with the summons if the result was that the defendant received adequate notice.

Case summaries for Appellate Highlights are authored by members of the Appellate Practice Group of Spencer Fane Snow Christensen & Martineau.

University of Utah Hospital v. Tullis
2025 UT 17 (June 5, 2025)

In this medical malpractice case, parents of a minor child alleged that negligence during surgery at the University of Utah Hospital caused the child severe lifelong injuries. The University moved for partial summary judgment, arguing that the damages cap included in 2017 version of the Governmental Immunity Act of Utah applied to limit damages available to the child and his parents. The district court denied summary judgment, relying on the Utah Supreme Court's oft-cited prior decision in *Condemarin v. University Hospital*, 775 P.2d 348 (Utah 1989), which held the then-enacted damages cap unconstitutional as applied to the University of Utah Hospital. On interlocutory appeal, the Utah Supreme Court reversed, concluding that the district court's complete reliance on *Condemarin* was erroneous. **The court explained that *Condemarin* was "a plurality opinion with a limited holding applied to a statute that has since been substantively amended." Accordingly, the decision did not govern whether the 2017 version of the damages cap was unconstitutional.** Instead, that question required further exploration by the parties and the district court on remand.

Utah Court of Appeals

Miner v. Miner
2025 UT App 64 (May 8, 2025)

In mediation of a petition to modify their divorce decree, husband alleged that wife concealed her impending remarriage, which would have ended the alimony obligation. Husband assumed liability for $450,000 of her debts in exchange for a substantial reduction in alimony. Wife remarried three weeks later. Husband moved for relief based on fraud under Rule 60(b). The court of appeals held that because the parties were litigation opponents, wife **"had no *common-law* duty to disclose any such information" to husband. Instead, the discovery provisions of the rules of civil procedure exclusively governed her disclosure duties.**

Rodriguez v. Diede
2025 UT App 68 (May 15, 2025)

Utah's collateral source rule generally prohibits reduction of damages by proof "that the plaintiff has received or will receive compensation or indemnity for the loss from an independent collateral source," such as insurance or government assistance. Beyond direct reference, the rule is also violated when defense counsel makes repeated reference to collateral sources by emphasizing the plaintiff's lack of out-of-pocket expenses. Invoking this rule, Rodriguez argued that the trial court erred by admitting testimony regarding her use of medical financing agreements to pay for post-accident treatment and her "general unawareness" of any out-of-pocket costs for that treatment. The Utah Court of Appeals rejected her argument, observing that **a medical financing company which advances payment for accident-related medical care in exchange for a cut of any recovery in litigation, is not a collateral source subject to the rule.** By extension, testimony regarding Rodriguez's lack of out-of-pocket expenses did not implicate any collateral source and was admissible "for a legitimate purpose such as showing potential bias or bad faith" on the part of her treaters.

Garner v. Kadince
2025 UT App 80 (May 22, 2025)

In line with an ongoing national trend, the Utah Court of Appeals sanctioned an attorney for submission of a brief written in part with the aid of ChatGPT. The offending brief quoted at least one non-existent or "AI-hallucinated" case and cited several off-topic authorities. The attorney admitted he failed to ensure the accuracy of the brief, which was written by an unlicensed law clerk, before it was filed. Acknowledging the attorney's contrition, the court nevertheless imposed sanctions, emphasizing that the **"filing of pleadings or other legal documents without taking the necessary care in their preparation is an abuse of the judicial system and subject to sanctions."** The court ordered the attorney to pay opposing counsel's fees, to refund his clients' fees, and to donate $1,000 to a legal charity.

Tenth Circuit Court of Appeals

United States v. Zamora
136 F.4th 1278 (May 13, 2025)

The Juvenile Delinquency Act requires the attorney general to certify that there is a substantial federal interest justifying prosecution of a minor for federal crimes. As a matter of first impression, the Tenth Circuit joined the "overwhelming majority of [its] sister circuits" in holding that **the attorney general's certification under the Act is an unreviewable act of prosecutorial discretion.**

United States v. Peck
139 F.4th 1158 (June 10, 2025)

This case dealt with the government's appeal of the district court's order vacating a preliminary order of forfeiture. The owner of the previously forfeited property argued the Tenth Circuit lacked jurisdiction to consider the appeal because the order was non-final and issued in the context of an ongoing criminal case. As a matter of first impression, the Tenth Circuit **held, first, that an order vacating a prior forfeiture order was a final, appealable order for purposes of 28 U.S.C. § 1291; and, second, that the government was permitted to appeal from an ancillary proceeding even without the express statutory authority required in criminal cases.**

United States v. Tyler
139 F.4th 1212 (June 16, 2025)

Local police officers tracked Gonzalez, who had an outstanding warrant for failure to appear in a drug trafficking case, to a gas station. As Gonzalez began to re-enter the vehicle from on the passenger side, police detained her and ordered the driver and other passengers from the vehicle. The driver and owner of the vehicle, Tyler, was handcuffed, "extensively patted down," and placed in the back of a police vehicle. After refusing a search of his vehicle, law enforcement called for a K-9 unit. The K-9 unit did not arrive for another 15 minutes and ten minutes after Gonzalez was detained. The K-9 unit alerted on the vehicle. A subsequent search uncovered drugs and a firearm. Tyler unsuccessfully sought to suppress the results of the search and entered into a plea deal, reserving his right to appeal. On appeal, the Tenth Circuit **vacated Tyler's conviction on Fourth Amendment grounds and remanded for proceedings following the suppression of all evidence discovered against him after the point that Gonzalez was handcuffed and detained**. The government offered only speculation about what Tyler might have done in the worst-case scenario, which is not enough to detain an individual, handcuffed in the back of a police car, after the suspect had successfully been arrested.

United States v. Chavarria
140 F.4th 1257 (June 16, 2025)

Chavarria and an accomplice were accused of forcing a victim into their truck, murdering her, and dumping her body in the desert. Though the alleged crimes took place entirely within New Mexico, the pair were charged under a federal kidnapping statute, 18 U.S.C. § 1201(a), which requires (in addition to the typical elements of the crime of kidnapping) proof of the use of "any means, facility, or instrumentality" of interstate commerce in commission of the crime. To supply that federal "jurisdictional hook," the government generally alleged that the Chavarria used a "motor vehicle" in the kidnapping. The Tenth Circuit affirmed dismissal of the indictment, holding that **a "motor vehicle" is only an "instrumentality of interstate commerce" if there is some plausible allegation of a "nexus" between the vehicle and interstate commerce.** Without that nexus, there was no jurisdictional basis for federal prosecution of an otherwise "purely intrastate crime."

Markley v. U.S. Bank
142 F.4th 732 (June 24, 2025)

Markley sued his employer in federal court, asserting a federal claim for age discrimination and a state-law claim for wrongful termination. The district court resolved the federal claim in favor of the employer and declined to exercise supplemental jurisdiction over the state claim, dismissing it without prejudice. Rather than assert diversity jurisdiction in federal court, Markley took the dismissed claim to state court in a new lawsuit. But his employer removed the action to federal court and then moved to dismiss on the basis of claim preclusion. The Tenth Circuit affirmed dismissal of the new lawsuit, holding: **"If a plaintiff could have litigated a state law claim by asserting diversity jurisdiction but decides otherwise, he cannot assert the claim in a new lawsuit, before the same court, once the original case is resolved on the merits."**

Admissibility of Evidence in Forensic Evaluations

by Sam Goldstein and Andrew M. Morse

A trial judge recently excluded the testimony of neuropsychologist Dr. Sam Goldstein, finding that his expert report was insufficient under Utah Rule of Civil Procedure 26(a)(4) and Utah Rule of Evidence 702. This article discusses the shortcomings of counsel in vetting the report before it was filed and the court's misapplication of these rules to forensic neuropsychology, an area that is not well understood by lawyers and judges. This article also recommends how counsel can effectively work with reports to serve the client.

Case Facts

In this matter, John Doe (59) had a brain tumor, specifically glioblastoma. According to Doe's heirs, this condition caused a psychiatric disorder that significantly impaired his cognitive ability, leading him to gift substantial parts of his estate to new friends he had met shortly before his death. The heirs contested the gifts.

Plaintiffs' counsel retained Dr. Goldstein to evaluate Doe's mental health at the time of the gifts. He was asked to opine whether Doe had sufficient cognitive ability to understand his actions. Dr. Goldstein reviewed Doe's medical records and considered the literature linking glioblastoma to mental health disorders. He interviewed caregivers, family members, and others who had interacted with Doe shortly before he made his unanticipated gifts. Dr. Goldstein acknowledged that Doe's tumor caused a known psychiatric disorder due to both the cancer itself and the treatment received to combat it. He concluded that Doe did not possess the testamentary capacity to lawfully make the gifts.

Court's Exclusion of Dr Goldstein's Opinions

The court ruled that Dr. Goldstein's report "does not identify any principles or methods that Dr. Goldstein use(s) to make his diagnosis of [Doe's] supposed 'psychiatric disorder.'" It ruled that under Rule 702(b), Dr. Goldstein's report did demonstrate that the principles and methodologies supporting his work were generally accepted by the relevant expert community. It found that Dr. Goldstein's report did not identify the "supposed psychiatric disorder" afflicting Doe. Furthermore, the court noted that Dr. Goldstein "provides no specific support for his opinion that Doe suffered from a psychiatric disorder at all." The court was also critical of Dr. Goldstein's methodologies, highlighting that he relied on a post-mortem analysis of Doe's condition without having interviewed and assessed Doe prior to his death. The court went so far as to state that "there is no indication that post-mortem diagnosis of psychiatric disorders without citing to the DSM 5 is credible or reliable." Finally, the court excluded his opinions as stating a legal conclusion.

Critique

Dr. Goldstein's evaluation focused on assessing Doe's mental and testamentary capacity during the final months of life, a period marked by significant cognitive and psychological decline due to glioblastoma. This progressive brain cancer is recognized for its considerable impact on cognitive functioning, including memory deficits, delusions, and impaired reasoning. In contrast to the court's conclusions, Dr. Goldstein employed a rigorous

SAM GOLDSTEIN is a licensed psychologist and certified school psychologist in Utah. He is also board-certified as a pediatric neuropsychologist and is listed with the Council for the National Register of Health Service Providers in Psychology. He serves as an adjunct assistant professor in the Department of Psychiatry at the University of Utah School of Medicine.

ANDREW M. MORSE retired from trial practice in 2023. He remains an active Fellow in the ACTL and serves as Co-Chair of the Wellness Committee of the Utah State Bar. When he isn't golfing he mediates and arbitrates tort and commercial cases.

approach based on established neuropsychological and forensic principles to ascertain whether Doe was capable of making sound decisions regarding his assets and legal matters overall.

This approach relied on inferential reasoning that the court rejected as speculative. However, experts frequently synthesize various data sources, such as hospital notes, educational records, personal correspondence, and interviews with acquaintances, into a coherent clinical narrative. Dr. Goldstein utilized peer-reviewed literature, established diagnostic frameworks, and his professional judgment to evaluate Doe's cognitive and psychological functioning prior to death. These conclusions represented a convergence of evidence rather than the results of direct testing, which was, of course, impossible.

Recognizing the legitimacy and rigor of inferential methodology in post-mortem evaluations is crucial for courts. This court's strict insistence on diagnostic certainty undermined the value of forensic insight. It overlooked the reality that, in many legal contexts, indirect evidence is often the only means available to assess a decedent's mental state. For example, indirect evidence is used to gauge a person's IQ before suffering a traumatic brain injury.

The court's findings that Dr. Goldstein's opinions lacked sufficient support overlook the substantial body of research linking glioblastoma to significant cognitive impairments and psychosis. These effects are not only clinically observed but are also extensively documented across a wide array of peer-reviewed literature in neurology, psychiatry, and neuropsychology.

Numerous studies have shown that glioblastoma, especially when located in the frontal or temporal lobes, can profoundly disrupt executive functioning, memory, attention, judgment, and even emotional regulation. In advanced stages, patients may experience hallucinations, delusional thinking, and severe mood disturbances–symptoms that are highly relevant to the case. The behavioral manifestations detailed in Doe's history were entirely consistent with this clinical profile.

Once again, contrary to the court's reasoning, Dr. Goldstein's conclusions were not speculative but were firmly grounded in established neuropsychological frameworks. These frameworks include widely accepted diagnostic criteria, neurocognitive assessment tools, and empirical correlations between lesion location and functional impairments. Dr. Goldstein relied on both current clinical guidelines and best-practice forensic methodologies to assess the extent of the subject's impairments. In fact, the intersection of oncology and neuropsychiatry has led to the emergence of dedicated subspecialties specifically due to the complex cognitive-behavioral sequelae associated with brain tumors such as glioblastoma. To suggest that such an interpretation lacks support ignores clinical consensus and minimizes the severity of the neurological condition in question.

Furthermore, the suggestion that Dr. Goldstein's opinions amounted to a legal conclusion fundamentally misrepresents the role and scope of forensic experts. The distinction between clinical opinion and legal judgment is well established in both

legal and psychological practices. Dr. Goldstein's role was not to determine legal responsibility or competence, but to provide a scientifically valid and clinically informed account of Doe's mental and cognitive functioning. This includes elucidating how brain pathology impaired Doe's ability to understand, reason, or control behavior at the relevant time.

Misinterpreting clinical insights as legal conclusions not only undermines the value of expert testimony but also risks eroding the nuanced understanding necessary for fair adjudication. When properly contextualized, expert assessments are essential tools for courts and juries addressing the complex intersections of mental health and legal responsibility.

This case underscores the importance of promoting clear communication and mutual understanding among forensic experts, lawyers, and judges. Several measures must be implemented to improve the integration of forensic evidence in legal contexts.

Ultimately, there is a significant need for education within the legal community regarding the nuances of neuropsychological evaluations.

The first necessary step is to educate lawyers and judges, as many are not familiar with neuropsychology. Even fewer understand its application in court. It is not the experts' responsibility to know the rules of disclosure and admissibility; that job clearly belongs to counsel. Here, counsel could have entirely avoided the exclusion of Dr. Goldstein's opinions if he had better understood the disclosure requirements of Utah Rule of Civil Procedure 26(a)(4) and the admissibility requirements of Utah Rule of Evidence 702. With a thorough understanding of these rules, counsel should have discussed the disclosure and admissibility requirements with Dr. Goldstein to ensure that the Rule 26(a)(4) disclosures and reports were solid. Counsel should have been aware of and disclosed in the report the methodologies and the accepted principles employed by Dr. Goldstien. He also should have disclosed the complete factual foundation supporting Dr. Goldstein's opinion.

Furthermore, when the motion in limine was filed, counsel should have taken every possible step to address the issue by submitting an amended report that resolved all disclosure and evidentiary concerns. He should also have requested an evidentiary hearing to allow Dr. Goldstein to comprehensively explain the reliability of his methods and the factual and neuropsychological foundation for his opinions.

Recommendations

Expert reports must clearly articulate methodologies, linking conclusions directly to specific evidence and scientific principles. This clarity can help preempt objections related to data reliability and sufficiency. Reports should also avoid jargon and use plain language whenever possible, ensuring that judges and attorneys without technical backgrounds can easily understand the rationale behind the findings and opinions.

Collaboration between forensic experts and legal counsel is essential. By working together early, both lawyers and experts can better anticipate potential challenges and ensure that reports meet disclosure and admissibility standards. This proactive approach not only improves the admissibility of the evidence but also fosters a more strategic alignment between scientific analysis and legal standards.

Ultimately, there is a significant need for education within the legal community regarding the nuances of neuropsychological evaluations. Judges and attorneys must develop a more sophisticated understanding of how indirect evidence and clinical judgment influence forensic conclusions. Professional organizations can be crucial in providing training and resources to address this knowledge gap. Continuing legal education programs, interdisciplinary seminars, and practical workshops should be widely implemented to improve proficiency in interpreting forensic science. Enhanced education will reduce misinterpretations and help ensure that justice is grounded in scientifically sound evidence.

Forensic experts must advocate for recognizing their field's unique methodologies and constraints. Experts can help shape standards that balance scientific rigor with practical realities by engaging with professional associations and contributing to legal discourse.

Conclusion

The exclusion of Dr. Goldstein's report underscores broader issues in how courts assess expert evidence. While judges must serve as gatekeepers, their evaluation should take into account the complexities of scientific practice. By improving clarity, encouraging collaboration, and advancing education, forensic experts can continue their essential role educating courts and juries.

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Examining Utah's Warrant Approval Process

by Ben Miller

In the acclaimed television series *The Wire*, there was a scene where the detectives presented a search warrant affidavit to a judge. What may have stood out was that, in a bit of creative-license levity, two detectives can be seen hauling an air conditioner unit up the stairs for the judge's later use.

What likely did not register to most viewers was how long the scene took – just under one minute. Anyone would assume that was not meant to depict how long it takes to review and approve a warrant. Yet a recent law review article based on a quantitative study of over 33,000 warrant applications filed in Utah in a three-year span found that "one out of every ten warrants is opened, reviewed, and approved in sixty seconds or less." Miguel F.P. de Figueiredo, Brett Hashimoto & Dane Thorley, *Unwarranted Warrants? An Empirical Analysis of Judicial Review in Search and Seizure*, 138 Harv. L. Rev. 1959, 1960 (2025).

Let that sink in. Nearly three warrants every day were being opened, reviewed, and approved in less time than it would take the average person to read the above two paragraphs twice. *See id*. at 1980 (discussing reading speeds).

The article's authors are a pair of professors from Brigham Young University, and one from University of Connecticut School of Law. Together, they reached several eye-opening determinations. The article's "key findings demonstrate that the warrant review process is fast and nearly always results in approval." *Id*. at 1960. Over 93% of all warrant submissions were approved on first review, 98% eventually were approved. *Id*. The median time for review was just three minutes. *Id*.

Now, what may happen is interested parties will see the article's top-line conclusions and retreat to their respective corners. Defense attorneys – including myself – may want to scream what an outrage; law enforcement may assume the results show they are doing their jobs properly; and judges may defend themselves by pointing to being overworked and that reviewing warrant applications does not always require reading every word, front to back.

Those initial reactions are valid. Nevertheless, the depth of the professors' findings are far too important for us to get stuck in our instant opinions. In this article, I aim to explain why we should let go of some of our respective defensiveness and delve deeper into all the professors' research and conclusions. The other aim of this article, to be addressed first, is why we all should care about the thoroughness of the warrant process. From affidavit to approval. From execution to review.

We should all care about the warrant process because it protects the Fourth Amendment that guards *all* of us. Anyone reading a bar journal article likely already knows that the "primary protection afforded citizens against official, arbitrary intrusions into their homes and other private places is the requirement of a search warrant issued by a magistrate on proof that probable cause exists to invade a person's privacy." *State v. Nielsen*, 727 P.2d 188, 194 (Utah 1986) (Stewart, J., dissenting) (*citing Illinois v. Gates*, 462 U.S. 213, 239-40 (1983)).

We should care because of the preference for warrants and the deference given to any actions taken pursuant to a warrant, whether constitutional or not. Once law enforcement has that warrant, anything recovered becomes largely shielded from later suppression. This is so for two reasons.

First, if there is a challenge to evidence seized pursuant to a warrant, that initial decision to grant the warrant is afforded "great deference." *State v. Saddler*, 2003 UT App 82, ¶ 7, 67 P.3d 1025, *rev'd*, 2004 UT 105. Routine second guessing of those decisions would only undermine the "preference" for law enforcement to obtain a warrant before acting. *Id*. ¶ 7 n.1. And

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second, in *United States v. Leon*, 468 U.S. 897 (1984), the United States Supreme Court created the "good faith" exception. The exception excuses a Fourth Amendment violation if police relied in "objective good faith" on a search warrant. *Id*. at 920. Although not all states follow the good-faith exception, Utah does. *See, e.g., State v. Baker*, 2010 UT 18, ¶ 36, 229 P.3d 650.

If we presume that the warrant process is the best way to protect the Fourth Amendment, then we should all care that the review of warrant affidavits is performed in a manner to merit such deference.

Yes, but isn't finding evidence of a crime more important than how much time was spent approving the warrant? I would suggest it does not have to be an either/or situation. We can both allow police to properly do their jobs and guard the sanctity of the warrant process.

We should care because mistakes occur where police act on a warrant that should not have been issued only to find nothing. Though those cases likely will never end up in court, they should not be brushed aside as "no harm, no foul." Mistakes also can lead to tragedy. As the law review article details, when police act on a warrant issued despite "various errors" and a "questionable" basis, there can be deadly consequences. De Figueiredo et al., *Unwarranted Warrants?*, 138 Harv. L. Rev. at 1962.

There is Blackstone's ratio, "the core principle of our criminal legal system," that "tells us 'it is better that ten guilty persons escape than one innocent suffer.'" *Pleasant Grove City v. Terry*, 2020 UT 69, ¶ 25, 478 P.3d 1026 (quotation simplified). If police are submitting warrant affidavits that lack probable cause even a small fraction of the time, there remains only one way to identify the outliers: reviewing each warrant, from start to finish, as if it could be one of those outliers.

We should also care because as new technology emerges faster than most of us could imagine, inattention to details will only increase mistakenly issued warrants. It is difficult to look anywhere and not see a discussion of generative AI. Encouragingly, Utah has been at the forefront nationally in using legislation to balance placing guardrails on generative AI while not standing in the way of innovation. *See* Staff, *Utah Sets a New Standard in AI Regulation with the Enactment of the AI Policy Act*, Complex Discovery (Apr. 21, 2024), https://complexdiscovery.com/utah-sets-a-new-standard-in-ai-regulation-with-the-enactment-of-the-ai-policy-act/.

Particularly relevant here, this past session, legislation was passed requiring law enforcement to include a disclaimer if a report or record was "created wholly or partially by using generative artificial intelligence." Law Enforcement Usage of Artificial Intelligence, S.B. 180, 66th Leg., 2025 Gen. Sess. (Utah 2025). Generative AI can cut down on the time needed for law enforcement to produce warrant affidavits. But what is populated by AI in an affidavit and what was actually observed by law enforcement may be difficult to detect unless the affidavit is being reviewed with precision and care.

As technology advances, the issues surrounding whether a warrant is needed will only increase. There was taking someone's DNA upon arrest in *Maryland v. King*, 569 U.S. 435, 449 (2013) (no); placing a GPS tracker on a car in *United States v. Jones*, 565 U.S. 400, 402 (2012) (yes); and cell-site location information in *Carpenter v. United States*, 585 U.S. 296, 309-10 (2018) (yes).

In what may be the next technology to reach the United States Supreme Court, law enforcement have relied on Geofence "warrants" to respond to crime. Though called a "warrant," this tactic involves law enforcement contacting Google to obtain a list of all active cell phones in a certain area at a certain time. Jackie O'Neil, *Much Ado About Geofence Warrants*, Harv. L. Rev., Blog (Feb. 18, 2025), https://harvardlawreview.org/blog/2025/02/much-ado-about-geofence-warrants/. In 2020 alone, law enforcement sought this information, without a court-issued warrant, over 11,500 times. *Id*. Recently, two circuits reached different results when applying the Fourth Amendment to Geofence warrants. The Fourth Circuit held there was no expectation of privacy, and no need for a court-issued warrant, a decision the circuit court upheld in an en banc decision. *United States v. Chatrie*, 107 F.4th 319, 322 (4th Cir. 2024), *aff'd en banc*, 136 F.4th 100 (4th Cir. 2025). The Fifth Circuit reached the opposite conclusion. *United States v. Smith*, 110 F.4th 817, 820 (5th Cir. 2024). Stay tuned.

That said, if warrants are being reviewed in less than three minutes, is there meaningfully more Fourth Amendment protection by requiring law enforcement to obtain a warrant before using any existing or soon-to-exist surveillance technique?

This leads to the other point of this article: why all of us should put aside initial reactions to the professors' findings in favor of engaging in all that they present. Everyone should read the article. Not just defense attorneys. Not just prosecutors. And not just judges. All of us have an interest when our rights are at stake.

To start, Utah judges were tasked with reviewing 33,000 warrants in three years. De Figueiredo et al., *Unwarranted Warrants?*, 138 Harv. L. Rev. at 1960. If we want more attention paid to the warrant-review process, we must also explore ways to see that those doing the review have the support needed to give each application the time the Fourth Amendment and deference to warrants demands.

To the defense attorneys, the professors in the law review article admit that time by itself is not a sufficient way to determine whether a warrant should have been issued. The professors write how law enforcement may seek several similar warrants where issues or cases overlap. For example, warrants to obtain blood for suspicion of DUI are common, require very standard language, and account for a large number of warrants. A reviewing judge can probably review each one with increasing speed. The professors also explain how standard boilerplate may add words to an affidavit's total but not much time to how long a meaningful review may take. So to the defense community, I'd suggest we take the professors' findings as a starting point but recognize looking at time alone will not advance Fourth Amendment protections.

To those instinctively wanting to defend the existing warrant-approval process, you should pay attention to the article's repeated attempts to adjust for possible innocent explanations for such short review times. For instance, the professors found that even removing all of the DUI warrants from their conclusions increased the median review time "by only twenty-one seconds." *Id*. at 2002.

The professors explored the warrants that were reviewed and approved in less than a minute. Their conclusion: "there [were] no key characteristics" that distinguished the subset from the broader sample. *Id*. at 2038. The professors determined that although the language of some of the less-than-a-minute warrants may merit a "quick review," there was "no apparent justification for how a judge could have credibly reviewed" many of these warrants "so rapidly other than the conclusion that they did not fully (or even partially) read the relevant text." *Id*. The article points to one specific warrant application of over 2,7000 "fact-dense words seeking a 'nighttime, no-knock warrant.' It was opened, reviewed, and approved in 'forty-six seconds.'" *Id*. at 2038–39.

Law enforcement should be applauded for seeking warrants roughly 1,000 times a month instead of just acting without them. Indeed, the Fourth Amendment has a "strong preference for searches conducted pursuant to a warrant." *State v. Brooks*, 849 P.2d 640, 645 (Utah Ct. App. 1993). No doubt, few if any people join law enforcement out of a desire to write warrant affidavits.

Along those lines, law enforcement should be recognized for the 98% approval rate. Looking at the 98% approval, even the most cynical would likely agree the overall majority of warrant requests likely fall squarely within the dictates of the Fourth Amendment.

Even the defense attorney in me found a level of comfort in seeing that when warrants were rejected, police did not blindly re-submit. Instead, sometimes decisions were made to move on, perhaps to other investigative techniques. And sometimes, care was taken to shore up the affidavit to see that on re-review it could be approved. De Figueiredo et al., *Unwarranted Warrants?*, 138 Harv. L. Rev. at 1998. Knowing law enforcement will proceed appropriately after denying a warrant should boost a judge's willingness to send an affidavit back for further work if it leaves questions open.

The professors discussed examples where a warrant request should have been rejected for possible resubmission instead of approved. As the professors write, "In some cases, officers requested and were approved for affidavits that described in broad strokes what individuals involved in a given criminal activity do but failed to allege specifics in the relevant case." *Id.* at 2036. They detailed an affidavit that mentioned a gun found underneath a passenger's seat of a stolen car and requested a search to uncover "evidence of illegal conduct." *Id.* That affidavit, on its face, should not have been approved. *Id.* One may say the dots between finding a gun in a stolen car to searching those inside for a possible crime are not difficult to connect. True. But it is up to the submitting officers to provide those dots; it is not for the reviewing judge to assume they exist.

When steps are skipped, when assumptions are made, errors will happen. Every mistake might not have deadly consequences or lead to a wrongful arrest. Still, picture being at home and suddenly police are banging at the door, demanding entry, saying they have a warrant. The experience alone would be unnerving to anyone. Now add in if you later found out the warrant that led police to your door contained an obvious mistake. But it was approved in an instant. As one defense attorney said, in response to a decision by the California Supreme Court upholding the constitutionality of a search based on a warrant approved despite the incorrect address being listed, "You should have a right to be safe in your own home." Stuart Pfeifer, *Evidence From Bad Warrants Held Valid*, Los Angeles Times (Oct. 17, 2000), https://www.latimes.com/archives/la-xpm-2000-oct-17-me-37711-story.html. Or as the Fourth Amendment guarantees, safety in your "persons, houses, papers, and effects." U.S. Const. amend. IV.

This article began with a reference to *The Wire*. A tag line to the show was "All the pieces matter," emphasizing that perceived minor details can have major impacts. The same should be our takeaway from the professors' research when considering what to do next. Only by remembering that all the details do matter can we be reasonably confident that the warrant requirement and the protections it affords remain *warranted*.

Finding Purpose Through Service: Law Students Reflect on the 2025 Pro Bono Challenge

by Kimberly Farnsworth

In the rigorous environment of law school, students are often immersed in dense legal theory, case law, and high-stakes exams. But for many, pro bono work offers a powerful reminder of why they chose this path in the first place. During the 2025 Pro Bono Challenge, hosted by the Utah State Bar's Access to Justice Office, Utah's two law schools strove to provide as many pro bono hours as possible to give back to Utah's community. In the process, students were able to connect with new people, share their skills, gain valuable perspective, and build a foundation of service in their future careers.

A Shared Commitment to Service

From January 30 to February 28, 2025, students from Brigham Young University's J. Reuben Clark Law School and the University of Utah's S.J. Quinney College of Law participated in the second statewide Pro Bono Challenge. During the event, both schools provided pro bono opportunities to students and encouraged them to stretch themselves and explore new ways to serve their communities.

The challenge began with a joint Free Legal Answers Power Hour at the Adobe Campus in Lehi. Nearly thirty students from both schools gathered to answer legal questions submitted by income-qualifying individuals through the ABA's Free Legal Answers portal. The students were supervised by Adobe's in-house attorneys, as well as BYU Law Dean David Moore, S.J. Quinney Pro Bono Initiative Director Caisa Royer, BYU Director Barbara Melendez, and attorneys from the Access to Justice Office and Utah Legal Services.

For many students, it was the first opportunity they had had to participate in pro bono work and was an invaluable opportunity to come in contact with the common legal issues that affect Utahns who can't afford an attorney's help.

Reflecting on the experience, BYU Law student Randi Kurth said that engaging in pro bono work "brought me back to reality and helped me realize that a legal education is a special skill that can be used to help people navigating a complex system."

University of Utah's Joshua Sudekum said that "the opportunity to help others through substantive legal work in the Pro Bono Challenge has been one of my most rewarding law school experiences."

Bronwen Dromey from Adobe said,

> It was a pleasure to participate in the Free Legal Answers event hosted at Adobe, in partnership with the J. Reuben Clark Law School, S.J. Quinney College of Law, and Utah State Bar. As a lawyer, it was rewarding to participate in a pro bono event where I could use my experience to help clients in need, while also working alongside law students whose energy, passion, and fresh perspective brought a renewed sense of purpose to the work we were doing together.

BYU Law

At BYU Law, the challenge was an opportunity to deepen the school's commitment to service and expand student participation. Dean David Moore, who became Dean of BYU's Law School in 2023, said,

> BYU Law's mission is to "develop people of integrity who combine faith and intellect in lifelong service to God and neighbor." The commitment to pro bono service begins in law school and helps students simultaneously develop their legal skills and their dedication to using those skills to bless the lives of others.

Many students at BYU take clinical classes for credit where they serve clients through places like Timpanogos Legal Center, a nonprofit that provides free legal services to low-income Utahns and victims of domestic violence, or at the Community Lawyering Clinic. During the 2025 Winter Semester, students performed 1,912.5 hours of clinic work. During the challenge, some students

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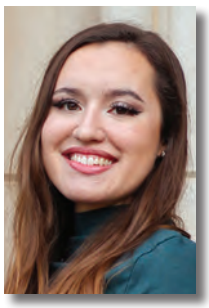

took that commitment further and volunteered their time outside of class. They also shadowed BYU alumni on the Pro Se Debt Collection Calendar, helped with an Access to Justice research project, and furthered personal pro bono initiatives.

BYU students logged a total of 160 hours – nearly doubling their 2023 total of 86 hours and marking an 86% increase. For many students, these experiences helped them find personal and professional alignment. Gracie Messier, President of the Public Interest Law Foundation at BYU, shared, "Pro bono work has helped me bridge the gap between what I care about and what I'm training to do. These moments of service remind me that law school isn't just about learning the law – it's about learning how to use it with compassion and purpose."

Faculty and community partners also took note of the students' energy and commitment. Susan Griffith, Executive Director of the Timpanogos Legal Center, remarked that she's

> seen pro bono work transform lives – not just the one receiving the services, but also the one providing them. It is a space where your own challenges fade into the background while you help another person with your unique skills and knowledge. I was thrilled to see the enthusiasm of the students during the Pro Bono Challenge and I love to see the students recognize that they can start using their legal skills to serve others while they are still in school.

University of Utah

The University of Utah's Pro Bono Initiative (PBI) has long been a cornerstone of the school's public service mission. Although the PBI provides experiential learning opportunities, it is unique in that it is entirely not-for-credit. The PBI sites, which provide free legal services in the most common areas of legal need in Utah, are staffed and run by current S.J. Quinney law students, who make significant sacrifices of their time and talents to support their community. Since the PBI began, it has become a fundamental part of the culture of service and community engagement at S.J. Quinney, weaving pro bono work into the everyday lives of its students.

Dean Elizabeth Kronk Warner noted,

> Pro Bono has such a tremendous impact on law students and young lawyers. Many of our law students come to law school wanting to make a difference in the world. Some struggle, however, to see the connection between what they are studying and the impact they want to make. It is incredible watching students and young lawyers re-connect with their goals through pro-bono work.

During the challenge, students not only volunteered at PBI legal sites but also conducted research for the Access to Justice Office and shadowed University of Utah alumni on pro se calendars. In total, they logged 135 hours of independent work and 275 hours at PBI. By the end of the challenge, 80% of S.J. Quinney's eligible student body had provided pro bono services – a striking testament to the commitment of every student to serving their community in the face of the intense time pressures of law school.

In total, U of U students contributed 410 hours – up from 243 in 2023, a 69% increase. The impressive growth reflects both the strength of PBI and the initiative of students committed to broadening their impact. Matthew McGrath noted that the challenge gave him the chance to explore "other forms of service outside of our Pro Bono Initiative." Matthew holds the distinction of completing more hours of research to help the Access to Justice Office than any other student who participated in the project.

For India Alfonso, pro bono work is central to her legal education. "I am so grateful to go to a school that is committed to serving the community," she said. "Volunteering at pro bono events through the Utah State Bar and with the University of Utah's Pro Bono Initiative has been the highlight of my law school journey."

Dean Elizabeth Kronk Warner emphasized the lasting value of these experiences, explaining that pro bono work often helps students reconnect with the motivations that brought them to law school in the first place. As a practicing lawyer, she was able to represent an asylum-seeker. When she had successfully obtained asylum for him and his family, he invited her to join him at the airport. "It was truly an amazing moment," she recalled, "and I felt so privileged to be invited to participate in the reunion."

S.J. Quinney's top student during the challenge, Breanna Hickerson, expressed that her

> favorite thing about the pro bono challenge is that it is a way for the entire University of Utah law school community to come together to prioritize serving others. There is nothing more motivating to me than being able to use my legal knowledge to help people who cannot afford an attorney. Before law school, I spent nearly a decade in restaurant and hospitality management. The people I get to help now include many of the same underprivileged groups that I spent years working alongside, and that is a truly amazing feeling. The pro bono challenge is just a small snapshot of the many incredible initiatives at SJQ that allow us to give back through our time and expertise. I'm thankful the Utah Bar understands the value of that and advocates for our service through the pro bono challenge!

A Culture of Compassion and Competence

Across both campuses, students found that pro bono work offered clarity and purpose in the midst of a challenging academic journey. Cameo Petersen, former President of BYU's Public Interest Law Foundation, said that "in those moments when I've been able to use what I'm learning to help someone in need, I've found purpose and clarity."

Randi Kurth, also from BYU, reflected on how these experiences grounded her during the more abstract phases of legal training: "Especially my first year when all the concepts and rules seemed so esoteric, doing pro bono work brought me back to reality and helped me realize that the things I was learning were applicable to real life."

Echoing that sentiment, the University of Utah's India Alfonso shared what continues to draw her to this work. "What brings me back to pro bono work again and again are the client interactions," she said. "It is so rewarding to help people learn their rights and get oriented in the judicial system, especially when many of them don't know where else to go to get the relief they need."

A Note of Gratitude

The Utah State Bar's Access to Justice Office extends heartfelt thanks to the students, faculty, and staff at both law schools who made the 2025 Pro Bono Challenge a success. Special recognition goes to the directors of pro bono programs at each institution – Caisa Royer at the University of Utah and Barbara Melendez and Susan Griffith at BYU – for their leadership and commitment.

We would also like to take this chance to once again recognize the top students who contributed to the pro bono challenge and won the ATJ Office's Pro Bono Law Student Awards this year:

Most Hours Contributed During 2025 Challenge
Breanna Hickerson (University of Utah) – 28.25 hours

2nd Most Hours Contributed from University of Utah
India Alfonso – 27 hours

Top Hours Contributed from BYU
Baldemar Orozco – 26 hours

Law Student of the Year
Lauren Harvey (University of Utah)
Recognized for her extraordinary contributions to the University of Utah's Pro Bono Initiative

To these students and all the other students, attorneys, and community partners who participated in the challenge and in other pro bono opportunities throughout the year: Thank you for showing us what the future of the legal profession can look like.

You are compassionate, committed, and community-minded. Your work matters, and we hope it inspires continued service throughout your careers.

Same Road, Straighter Lines: Rule 3.3 Rewritten

by Matthew S. Thomas and Keith A. Call

"I am not bound to win, but I am bound to be true."
– Abraham Lincoln

Lawyers are professional advocates, trained to tell our clients' stories with strength and strategy. But when we appear before a court, whether in person, in writing, or through a witness, we don't just speak for clients. We serve as agents of the legal system, bound by a duty higher than persuasion: candor.

On May 1, 2025, the Utah Supreme Court sharpened the focus and reinforced Utah Rule of Professional Conduct 3.3 by adopting more forceful language. In a small but significant change, the supreme court replaced the word "shall" with the word "must" in five places. As now written, a lawyer "must" not make a false statement to a tribunal, "must" not offer evidence that the lawyer knows to be false, "must" take remedial measures in certain circumstances, and "must" inform the tribunal of all material facts in an ex parte proceeding. Utah R. Pro. Cond. 3.3. By replacing "shall" with "must," the court made plain what many already understood: candor toward the tribunal is not a suggestion, it is mandatory.

The rule also reflects the court's effort to realign Utah's version of Rule 3.3 with the structure of the ABA model rule, resolving prior inconsistencies in internal references and restoring clarity.

This article walks through what the revised rule now requires, from speaking truthfully, to correcting falsehoods, to disclosing fraud and material facts in ex parte proceedings. It also explores what hasn't changed and why the court's updated language brings renewed clarity to duties we've always had.

A Duty to Correct, Not Just Avoid

Rule 3.3(a) makes clear that a lawyer must not knowingly or recklessly make a false statement of fact or law to a tribunal. This isn't new language for Utah lawyers. "Recklessly" was already in the rule. But its impact is sharper now that the rule's overall phrasing is categorical. If a false statement is made, even unintentionally, and the lawyer later becomes aware of it, the rule mandates correction.

Suppose you're in a hearing and cite a case that squarely supports your argument. Unbeknownst to you, that case was overturned six months ago. The mistake wasn't reckless – it was an honest oversight. But later that day, you discover the reversal. From that point forward, you're on notice. The duty to correct the misstatement has activated. Not because the opposing party noticed. Not because the judge relied on it. But because you now know the court has been misled, and silence is not an option.

The same paragraph imposes a duty to disclose adverse legal authority in the controlling jurisdiction that opposing counsel hasn't cited. That requirement is often regarded with skepticism. Why would you arm your opponent? But it's not about your opponent. It's about the court. If the law is directly contrary to your position and is binding in your jurisdiction, the court is entitled to know. Not because you want to share it, but because the rule says you must.

The revised rule doesn't toughen these standards, but it strips away any suggestion that they are discretionary.

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KEITH A. CALL is a shareholder at Spencer Fane LLP. His practice includes professional liability defense, IP and technology litigation, and general commercial litigation. After a hiatus from the early 2000s, he is now serving his third term as a member of the Ethics Advisory Opinion Committee.

When False Evidence Comes to Light

Rule 3.3(b) addresses what might be the most difficult ethical challenge a lawyer can face: discovering that evidence previously offered is false. If the lawyer knows that they, their client, or a witness has presented materially false evidence, they must take reasonable remedial measures. The phrase "reasonable remedial measures" gives some flexibility in how to respond. But it doesn't offer the option of doing nothing.

Imagine your client testifies that she hasn't worked since her injury. Weeks later, as you're preparing for mediation, you review records showing she's had steady gig income. You didn't know at the time. But now you do. If that falsehood is material, you must correct it. Maybe that means amending a disclosure, revisiting deposition testimony, or, even if uncomfortable, telling the court.

Importantly, the duty applies even if the lawyer didn't offer the evidence knowingly. What matters is what the lawyer knows now. And what they do with that knowledge.

The rule also allows a lawyer to refuse to offer evidence they "reasonably believe" is false, with one important exception: a criminal defendant's own testimony. This exception preserves a defendant's constitutional rights but still places the lawyer in a difficult position. The updated phrasing doesn't resolve that tension, but it underscores that, wherever possible, lawyers are expected to act as guardians of the record, not mere conduits for it.

Fraud Cannot Be Ignored

The revised rule also clarifies the lawyer's obligation when criminal or fraudulent conduct taints the proceeding. Under Rule 3.3(c), if a lawyer knows that someone, whether the client or a third party, is engaging in, has engaged in, or intends to engage in fraud related to the proceeding, they must take reasonable remedial measures.

This might include forged signatures, doctored records, or backdated documents submitted to the court. It also includes any conduct that could deceive the tribunal about a material issue. The lawyer's duty here is active. If remedial efforts short of disclosure fail, such as persuading the client to correct the record or withdrawing from representation, the lawyer must make a disclosure to the court as reasonably necessary to remedy the situation.

The Utah Supreme Court also resolved a structural issue with the previous version of the rule. Paragraph (d) now confirms that the duties in (a), (b), and (c) all continue through the conclusion of the proceeding. In the prior version, only (a) and (b) were listed, leaving paragraph (c) oddly outside the continuing-duty clause. That gap has now been closed.

Even more significant is what paragraph (d) says next: the duty to correct or disclose applies "even if compliance requires disclosure of information otherwise protected by Rule 1.6." That is, when the lawyer's obligation to the tribunal collides with their obligation of client confidentiality, truth wins. It's not a decision left to the lawyer's discretion. The rule now states the hierarchy plainly.

One-Sided Hearings, One-Sided Responsibility

Rule 3.3(e) governs ex parte proceedings. In those settings, the court relies solely on the presenting lawyer to provide a fair picture. The rule says the lawyer must inform the tribunal of all material facts known to them, even if adverse.

Ex parte proceedings, such as protective orders, emergency motions, or temporary restraining orders, present a unique ethical challenge. When one side is absent, there's no counterweight to correct misstatements, offer missing context, or raise objections. That burden shifts entirely to the lawyer who is present. In those moments, advocacy must give way to accuracy. The presenting lawyer becomes, in effect, both advocate and gatekeeper, responsible for ensuring that the tribunal is not misled by omission.

Say you're seeking a temporary order and know that your client has a history of similar filings that were denied. The opposing party isn't present. If those prior cases are relevant and material to the court's decision, you must disclose them. That may feel like helping the other side, but in truth, it's helping the court. And the court is who Rule 3.3 is designed to protect.

Conclusion

The updated rule doesn't say we must be perfect. But it does say we must be honest. If we know the tribunal is being misled – by our words, by our silence, or by someone else's fraud – we are not permitted to sit quietly. We are required to act.

And now, the rule says that plainly. Not "shall." Must.

Every case is different. This article should not be construed to state enforceable legal standards or to provide guidance for any particular case. The views expressed in this article are solely those of the authors.

UTAH STATE BAR®

FALL FORUM AWARDS

Nominations will be accepted until Friday, September 12 for awards to be presented at the 2025 Fall Forum. We invite you to nominate a peer who epitomizes excellence in the work they do and sets a higher standard, making the Utah legal community and our society a better place.

"No one who achieves success does so without acknowledging the help of others. The wise and confident acknowledge this help with gratitude."

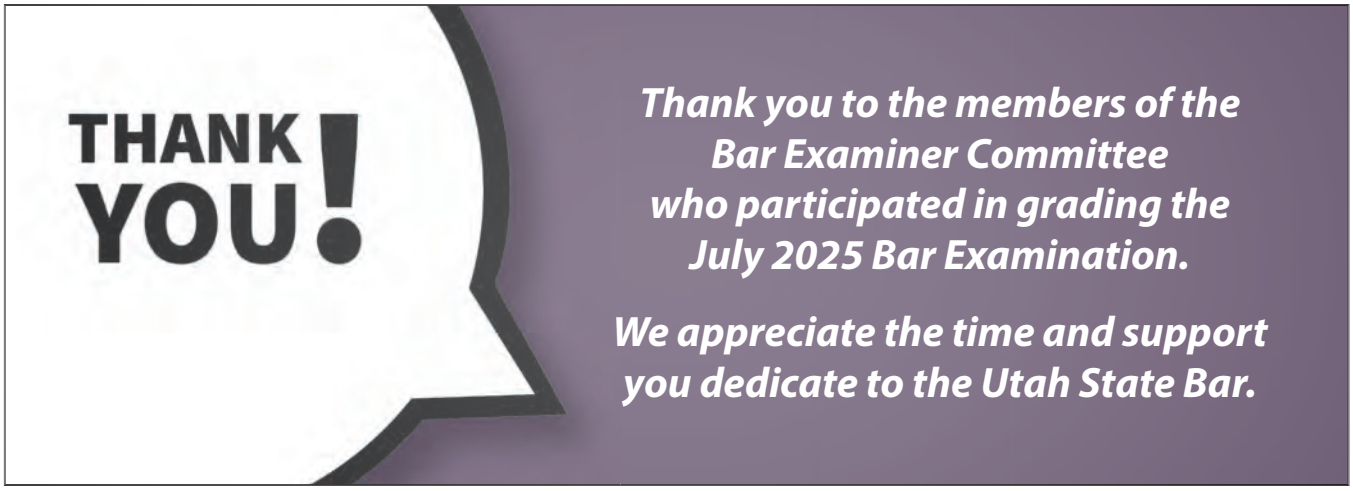
The Fall Forum Awards include:

The James Lee, Charlotte Miller, and Paul Moxley Outstanding Mentor Awards.
These awards are designed in the fashion of their namesakes, honoring special individuals who care enough to share their wisdom and guide attorneys along their personal and professional journeys. Nominate your mentor and thank them for what they have given you.

The Distinguished Community Member Award.
This award celebrates outstanding service provided by a member of our community toward the creation of a better public understanding of the legal profession and the administration of justice, the judiciary, or the legislative process.

The Professionalism Award.
The Professionalism Award recognizes a lawyer or judge whose deportment in the practice of law represents the highest standards of fairness, integrity, and civility.

Please use the Award Nomination Form at https://www.utahbar.org/awards/ to submit your entry.



Notice of Petition for Reinstatement to the Utah State Bar

Pursuant to Rule 11-591(d), Rules of Discipline, Disability, and Sanctions, the Office of Professional Conduct hereby publishes notice of the Verified Petition for Reinstatement (Petition) filed by James H. Tily, in *In the Matter of the Discipline of James H. Tily*, Third Judicial District Court, Civil No. 040912422. Any individuals wishing to oppose or concur with the Petition are requested to do so within twenty-eight days of the date of this publication by filing notice with the district court.

Recap of the 2025 Utah State Bar Annual Meeting

The Utah State Bar presented its 2025 Annual Meeting on June 26 at This Is The Place Heritage Park in Salt Lake City. The event was attended by nearly 150 members of the legal community to recognize professional accomplishments, witness the transition of Bar leadership, and hear from leaders in the judiciary.

The program began with the administration of the oath of office to new Bar leaders by Utah Supreme Court Justice Paige Petersen. Jessica Couser was sworn in as a Bar Commissioner representing the Third Division. Tyler Young took office as President-Elect, and Kim Cordova was formally installed as President of the Utah State Bar.

In an official announcement of her presidency, Cordova addressed her priorities for the coming year. Drawing on her experience, she emphasized the importance of building community, attorney wellness, and improving access to legal services.

"As an attorney who has worked in prosecution, defense, government, and private practice, I understand the variety of needs of Utah's legal community," she said. "I look forward to promoting policies that support lawyers and serve the public interest."

Utah Attorney General Derek Brown delivered the keynote address. He provided an overview of recent efforts that included the restructuring of the Attorney General's Office, with a focus on improved efficiency, transparency, and public accountability. Brown also discussed broader professional values and emphasized the role of intellectual curiosity in legal practice.

"Curiosity fuels our understanding of the law, of our clients, and of the world," he said. "The best leaders and advocates are often those who remain open to learning and growth."

His remarks encouraged attorneys to continue seeking improvement and to remain engaged in addressing complex legal and societal challenges.

A highlight of the evening was the recognition of thirty-three attorneys who have practiced law in Utah for fifty years. These individuals were honored for their longstanding contributions to the legal profession and their commitment to upholding ethical standards and advancing the administration of justice. The names of each attorney were featured in a slide presentation. Those in attendance were hand-delivered plaques to commemorate their five decades of active lawyering.

Utah State Bar Executive Director Elizabeth Wright commended the honorees for their decades of service. "These attorneys have demonstrated sustained dedication to the practice of law and have made significant contributions through their work in litigation, public service, and mentorship," she said.

ATTORNEYS HONORED FOR FIFTY YEARS OF ACTIVE LICENSURE

Edward F. Allebest
Gary N. Anderson
John J. Borsos
Allan T. Brinkerhoff
Robert R. Brown
Jon J. Bunderson
Roger P. Christensen
Charles W. Dahlquist, II
Scott Daniels
Dennis C. Ferguson
Dennis M. Fuchs
G. Richard Hill
Connie C. Holbrook
*James R. Holbrook
D. Miles Holman
*James S. Jardine
Julian D. Jensen
*Ernest W. Jones
John T. Kesler
Michael R. Labrum
*Judith F. Lever
W. Waldan Lloyd
R. Collin Mangrum
Harold D. Mitchell
*Paul T. Moxley
*William B. Parsons, III
*Bradley P. Rich
Reed M. Richards
Terrell W. Smith
Jeffrey C. Swinton
Robert B. Sykes
*Frank M. Wells
*Francis M. Wikstrom

**Honorees who were present for the celebration.*

SECTION OF THE YEAR

Joshua Rogers of the Estate Planning Section, accepting the award from Utah State Bar Executive Director, Elizabeth Wright.

COMMITTEE OF THE YEAR

Steve Carr, chair of the Fund for Client Protection Committee, accepting the award from Utah State Bar Past-President, Cara Tangaro.

The Utah State Bar also recognized the Elder Law Section and the Estate Planning Section as the 2025 Sections of the Year. These sections were selected for their outstanding service to their section members, public education initiatives, and professional development programming. The Fund for Client Protection was named Committee of the Year, in recognition of its work ensuring financial accountability and client restitution.

The culmination of the evening was the presentation of the 2025 Lifetime Service Awards to the Hon. Noel S. Hyde, Associate Dean Reyes Aguilar, and Professor Jensie L. Anderson. Each was honored for decades of service to the legal profession, law students, and to the public.

Judge Hyde was recognized for his judicial leadership and his work as the founding judge of the Weber County Mental Health Court. Dean Aguilar was honored for his national leadership in legal education and for efforts to increase access to law school. Professor Anderson was acknowledged for her advocacy on behalf of the wrongly convicted and for her longstanding contributions to legal education at S.J. Quinney College of Law.

Each recipient spoke briefly upon receiving the award, reflecting on their careers and expressing appreciation to their families, colleagues, students, and the broader legal community. The heartfelt words of gratitude from each award recipient were applauded in standing ovations.

As the event concluded, attendees were reminded of the Utah State Bar's upcoming milestone: the organization's 95th anniversary in 2026. That occasion will be commemorated at next year's Annual Meeting, which is scheduled to take place in Sun Valley, Idaho, August 4–8, 2026.

The 2025 Annual Meeting provided an opportunity to reflect on the past year, honor distinguished service, and prepare for the work ahead. The evening's events underscored the ongoing commitment of the Bar and its licensees to the administration of justice and to the continued development of the legal profession in Utah.

LIFETIME ACHIEVEMENT AWARDS

SAVE THE DATE!

UTAH STATE BAR®

FALL FORUM

The event will feature up to **10 hours of MCLE credit** (including both ethics and civility, live MCLE credits) over a two-day agenda.

Confirmed topics and speakers at the event include practical and ethical uses of AI in your work, well-being and building resilience through challenges, Utah's outlaw history, in addition to professionalism lessons from American civic and business leaders.

Distinguished CLE sessions will include discussion of the Utah Judiciary Strategic Plan, continuing the new CLE series "Your Bar Commission Speaks," and sessions featuring both the Utah State Courts and the United States District Court for the District of Utah, as well as Utah's lawyer legislators.

Nov. 13-14, 2025

Little America Hotel

Registration for the event opens in September 2025.
Please email CLE@utahbar.org for any additional information.

Pro Bono Honor Roll

The Utah State Bar and Utah Legal Services wish to thank these volunteers for accepting a pro bono case or helping at a recent free legal clinic. To volunteer, call the Utah State Bar Access to Justice Department at 801-297-7049.

Domestic Family Law Pro Se Calendar

Lucas Adams
Jessika Allsop
Chris Ault
Taylor Broadhead
Marco Brown
Victoria Camejo
Trevor Casperson
Heidi Chamorro-Leon
Brent Chipman
Julianne Coomer
McKayla Dangerfield
Rebecca Dustin
Navid Farzan
Grace Goddard
Thomas Greenwald
Colby Harmon
Brittani Harris
Tre Harris
James Hunnicutt
Gabi Jones
Robb Jones
Rachel Low
Sheridan Maltby
Susan Morandy
David Ostrowski
Alexandra Paschal
Kayla Quam
Clay Randle
Lillian Reedy
Heather Rupp
Nick Schwarz
Emily Smoak
Aubrey Staples
Chad Steur
Sheri Throop
Ayran Torres
Sade Turner

Family Justice Center

Rob Allen
Samuel D McVey
Ashley Delbalzo
Amberlee Dredge
Jessica Ekblad
Karissa Gillespie
Michael Harrison
Jenny Hoppie
Sophie Humpherys
Brooklyn Jensen
Suzie Jo
Steven Johnson
Sarah Martin
Victor Moxley
Ruth Peterson
Sterling Puffer
Thomas Scribner
Dylan Thomas
Susan Watts

Private Guardian ad Litem

Mary Bevan
Rachel Maxwell Booker
Celia Ockey
Babata Sonnenberg

Pro Bono Initiative

Jessica Arthurs
Noah Barnes
Amanda Bloxham
Dan Crook
McKaela Dangerfield
Elizabeth Farrell
Michael Farrell
Ana Flores
Jennie Garner
Peter Gessel
Jeffry Gittins
Bill Gray
Laura Gray
Sam Hawe
Adam Long
Kenneth McCabe
Andy Miller
Landon Moore
John Morrison
Leonor Perretta
Abigail Philips
Cameron Platt
Stewart Ralphs
Brian Rothschild
Lauren Scholnick
Jake Smith
Andrew Somers
Anthony Tenney
Sade Turner
Nicholle Pitt White
Leilani Whitmer
Nick Wilde
Shannon Woulfe

Timpanogos Legal Center

Jenny Arganbright
Steven Averret
Ali Barker
Bryan Baron
Shirly Benjamin
Felipe Brino
Nathan Buttars
Sophia Chima
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Chad Funk
Michael Harrison
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Steven Johnson
Gabrielle Jones
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Thomas Scribner
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Lawyer Discipline and Disability

Visit opcutah.org for information about the OPC, the disciplinary system, and links to court rules governing attorneys and licensed paralegal practitioners in Utah. You will also find information about how to file a complaint with the OPC, the forms necessary to obtain your discipline history records, or to request an OPC attorney presenter at your next CLE event. **Contact us – Phone: 801-531-9110 | Fax: 801-531-9912 | Email:** opc@opcutah.org

Please note, the disciplinary report summaries are provided to fulfill the OPC's obligation to disseminate disciplinary outcomes pursuant to Rule 11-521(a)(11) of the Rules of Discipline Disability and Sanctions. Information contained herein is not intended to be a complete recitation of the facts or procedure in each case. Furthermore, the information is not intended to be used in other proceedings.

PRIVATE ADMONITION

On May 14, 2025, the Honorable Laura Scott, Third Judicial District Court, entered an Order of Discipline: Private Admonition against a lawyer for violating Rule 4.2(a) (Communication with Persons Represented by Legal Professionals) of the Utah Rules of Professional Conduct. The order was based upon a Discipline by Consent and Settlement Agreement between the lawyer and the Office of Professional Conduct.

In summary:
The lawyer received notice that a former client retained counsel to represent the former client in a claim against the lawyer's firm and certain individual attorneys at the firm. Roughly a month later, on a Friday, the lawyer sent an email to the former client's new counsel indicating that the lawyer would like to speak and hoped to find a way to resolve the case. After the weekend, the lawyer called the former client directly and left a voicemail message indicating that the lawyer would like to resolve the matter. The lawyer followed up with a text message sent directly to the former client. The lawyer did not have consent from the former client's lawyer to communicate directly with the former client. The former client informed their attorney of the communications and did not directly contact the lawyer.

Mitigating circumstances:
Absence of a prior record of discipline, cooperative attitude towards proceedings, and remorse.

PRIVATE ADMONITION

On June 13, 2025, the chair of the Ethics and Discipline Committee of the Utah Supreme Court entered an Order of Admonition against a lawyer for violations of Rule 4.2(a) (Communication with Persons Represented by Legal Professionals) of the Utah Rules of Professional Conduct.

In summary:
The complainant and the lawyer represented opposing parties in a divorce proceeding. After the parties entered into an agreement to resolve the issues in the divorce, the lawyer attempted to negotiate with the complainant to modify the agreement. The lawyer sent two emails to both the complainant and his client, even though the respondent knew the complainant continued to represent the client in the matter. The complainant responded to the emails but omitted both his own client and the lawyer's client from the emails. The complainant concluded the email by stating "[o]n another note, please do not ever directly email one of my clients." Despite the complainant's warning, the lawyer sent additional settlement communications to the complainant with both clients copied on the emails.

The respondent violated Rule 4.2(a) by communicating about the subject of the representation with a person the respondent knew was represented by counsel, even after opposing counsel instructed the lawyer to remove the client from the communications.

Mitigating circumstance:
Absence of prior record of discipline.

PUBLIC REPRIMAND

On June 30, 2025, the chair of the Ethics and Discipline Committee of the Utah Supreme Court entered an Order of Public Reprimand against Bradley A. Schmidt for violations of Rule 1.3 (Diligence) and Rule 1.4(a) (Communication) of the Utah Rules of Professional Conduct.

In summary:
Mr. Schmidt failed to file initial disclosures in his clients' case, both in support of his clients' claims and in defense of the counterclaim filed against them. He also failed to file a response to the counterclaim. In addition, Mr. Schmidt did not keep his client reasonably informed about the status of the case, failed to timely respond to the client's requests for information, and failed to reasonably inform his client about the means by which he intended to accomplish the

DISCIPLINE PROCESS INFORMATION OFFICE

The Disciplinary Process Information Office is available to all attorneys who find themselves the subject of a Bar complaint. Catherine James will answer your questions about the disciplinary process, reinstatement, and relicensure.

801-257-5518 | DisciplineInfo@UtahBar.org

Adam C. Bevis Memorial Ethics School

6 hrs. CLE Credit, including at least 5 hrs. Ethics
(The remaining hour will be either Prof/Civ or Lawyer Wellness.)
September 17, 2025 or March 18, 2026
To register, email: CLE@utahbar.org

Trust Accounting/Practice Management School

January 28, 2026 | 5 hrs. CLE Credit, with 3 hrs. Ethics
To register, email: CLE@utahbar.org.

clients' objectives. Mr. Schmidt exhibited a pattern in which large gaps of time elapsed, sometimes months at a time, before he would respond to communications from his client.

Mitigating circumstances:
Absence of prior record of discipline and remorse.

SUSPENSION

On April 30, 2025, the Honorable Samuel Chiara, Eighth Judicial District Court, entered Findings of Fact, Conclusions of Law and Order of Discipline: Suspension against Marsha M. Lang suspending her from the practice of law for two years for violations of Rule 8.1(b) (Bar Admission and Disciplinary matters) and Rule 8.2(a) (Judicial Officials) of the Utah Rules of Professional Conduct.

In summary:
The opposing counsel in a domestic matter filed a complaint with OPC regarding Ms. Lang's conduct in representing the opposing party. Ms. Lang filed Verified Objections to the Findings of Fact and Conclusions of Law and Order on Motions to Enforce and Contempt. In the filing, Ms. Lang made various derogatory assertions about the court. She stated that the court based its order of contempt against her client on "faulty facts and conclusions of law." She also asserted that the court "misrepresented" her client's testimony, invented things in its order, and intentionally did not correctly read the pleadings she had submitted or misrepresented the truth about the pleadings. Ms. Lang claimed that the court ignored her client's requests, incorrectly failed to find the opposing party in contempt, and made several errors. She stated that her client objected to "all the factual misrepresentation in the Court's version of the facts." Ms. Lang filed a Verified Motion to Finalize the (previous) Order. In the motion, Ms. Lang asserted that the opposing party's attempt to reach a stipulation was based upon the "temper of the Court," which gave the opposing party reason to believe she had power over the situation.

The Court entered a Ruling and Order on the objection that Ms. Lang had filed. The court stated in part, "[t]he Court is concerned with the Respondent's Objection. Counsel for the Respondent, Mrs. Marsha Lang, accuses the Court of lying, ignoring facts, fabricating facts, and treating the parties unequally. Mrs. Lang's accusations assign the Court with a biased motive while making the May 27, 2022, decision. The accusations disparage the integrity of the Court." The court concluded that zealous advocacy did not include attacking the integrity and motives of the court and that Ms. Lang's approach distracted from the issues at hand, prolonged the resolution of the matter, and caused added costs to all involved.

During administrative proceedings, the Office of Professional Conduct served Ms. Lang with a Notice of potential rule violations. Although a response was required, Ms. Lang failed to respond. She also failed to cooperate in the administrative investigation by failing to reply to letters sent by the Office of Professional Conduct.

Aggravating circumstances:
Substantial experience in the practice of law, prior record or discipline, refusal to acknowledge the wrongful nature of the misconduct involved, and failure to acknowledge any fault or remorse in the present case.

Alex N. Vandiver Leads YLD With Strategic Focus and Enthusiasm

Alex Vandiver, YLD President

Alex N. Vandiver steps into her term as President of the Utah State Bar's Young Lawyers Division (YLD) for 2025–2026 with energy, purpose, and more than five years of dedicated service on the YLD Board. Having chaired the Social Activities Committee and most recently served as President-Elect, Alex now leads a community of more than 3,000 early-career attorneys – those under thirty-six or within their first ten years of practice.

Throughout her time with YLD, Alex has helped shape the division's core mission: building community, offering education, fostering professional growth, and driving public service. Having led numerous social gatherings over the years, Alex knows what brings members together – good company, shared purpose, and a welcoming atmosphere. With that in mind, Alex shares a clear and exciting vision for the year ahead:

Public service will continue to be a defining pillar of YLD work. The Veterans Clinic, under the leadership of **Mike Meszaros**, provides free brief legal advice to veterans and their families. Similarly, Wills for Heroes, thanks to the tireless work of **Jessica Arthurs**, **Aaron Christensen**, and **Rebekah Ann Duncan**, runs strong with volunteer teams offering free estate planning documents to first responders and their families throughout the state. This year, Wills for Heroes is excited to welcome **Joseph Castro** to their ranks! A growing waitlist for these programs reflects their great impact.

YLD's signature social events – such as the Winter Gala at the Loveland Living Planet Aquarium and the Spring Social at Tracy Aviary – have long served as touchpoints for the YLD, bringing families and young lawyers together in celebration. Alex's past leadership in the Social Activities Committee, along with Nicole Johnson, has also brought to life smaller social experiences – Top Golf nights, Salt Lake Bees outings, and casual get-togethers – that bridge connections between the larger annual gatherings. This year, **Nicole Johnston** will carry on the torch for the Social Activities Committee – continuing to bring excellent programming for our members to meaningfully connect – while also balancing her responsibilities as President-Elect.

Continuing Legal Education (CLE) remains a cornerstone of what YLD offers its members. With peer-designed and peer-led workshops now hosted both in person and online, CLEs are more engaging and accessible than ever. Topics range from ethics and leadership to business development and mental wellness – designed to reflect the needs and interests of young lawyers. This year, co-chairs **McKaela Dangerfield** and **Emily Lowder** are ready to take things to the next level!

In addition to our core initiatives, YLD's **Fit2Practice**, **Diversity, Equity & Inclusion (DEI)**, **VA Youth Prom**, and **And Justice For All** committees will continue to offer valuable programming and volunteer opportunities – ranging from wellness events and inclusive community-building to meaningful partnerships that expand legal access. YLD's committees are where passion meets purpose. These efforts, along with many others across our growing network, demonstrate the depth of our members' commitment. While not all contributions can be listed here, they collectively reflect the energy, talent, and generosity of this division. **Brittany Frandsen** and **Ezzy Khaosanga** have also continued to strengthen the YLD's connection with the American Bar Association.

As an attorney at Parsons Behle & Latimer in Salt Lake City, Alex litigates commercial, personal injury, construction, environmental, and civil cases. She also chairs her firm's Attorneys of Color Affinity Group. Previously, Alex was a Pro Bono Fellow, Executive Footnote Editor of the Utah Law Review, and a William H. Leary Scholar. The Utah State Bar and Federal State Bar have recognized Alex for her commitment to service.

Alex captures this moment succinctly: "I'm honored and energized to build a more engaged, supported attorney community. It's time for mentorship that matters, CLE that connects, and service that inspires." Under her leadership, the YLD is positioned to

deliver meaningful change for Utah's new lawyers – expanding influence, fostering wellbeing, and strengthening public service.

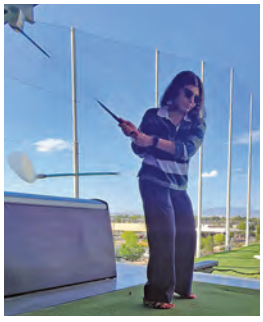
Over the coming year, YLD plans to ensure the division's actions reflect its mission – helping young lawyers thrive both personally and professionally, while serving Utah's communities with commitment and care. The YLD Board is poised to do so with a talented and dedicated team of leaders. **Ezzy Khaosanga** serves as Immediate Past President, bringing invaluable experience and continuity. **Nicole Johnston** steps into the role of President-Elect, poised to continue her impactful work with enthusiasm. **Anna Paseman** manages the division's finances as Treasurer, while **Sydney Sell** keeps the board organized and on track as Secretary.

Jessica Arthurs rounds out the leadership team as Publicity Manager, skillfully promoting YLD's events and initiatives. Together, this dynamic board is committed to advancing the mission of YLD and supporting young lawyers across Utah.

Alex adds, "YLD always welcomes volunteers – whether you want to help with pro bono opportunities, organize social events, support CLE, or liaison with other Bar groups. We believe that every contribution makes a difference. So, please, reach out! We will find a spot for you within the YLD."

Connect with YLD on Instagram @utahyld and LinkedIn. Please send all inquiries about YLD to yldutah@gmail.com.





Message from the Chair

by Jacob Clark

My name is Jacob Clark, and it is my honor to serve as the Paralegal Division Chair for the 2025–2026 year. I stand on the shoulders of many great leaders and board members who have served the Paralegal Division before me, and I acknowledge their hard work and dedication, which has helped make the Paralegal Division what it is today.

The Paralegal Division was formed in 1996 and is comprised of more than 200 members residing throughout the State of Utah, from Logan to St. George. Since its formation, the Paralegal Division has sought to enhance the paralegal profession in Utah by offering high quality CLEs, networking, and community service opportunities. Our members share many other benefits that members of the Utah State Bar also enjoy, including access to mental health services through Tava and employee discounts through Beneplace.

We invite attorneys and law firms across the state to encourage their paralegals, legal assistants, and licensed paralegal practitioners (LPPs) to become members of the Paralegal Division so that they can continue to perform at their highest level to help you produce meaningful results for your clients. Details about how to become a member or renew an existing membership can be found on the Paralegal Division's website at: https://paralegals.utahbar.org/.

The Paralegal Division will be celebrating its 30th anniversary in 2026. The Board of Directors is already hard at work planning a special event which will take place next Spring to commemorate this important milestone. We have also formed a special committee to update the logo for the Paralegal Division, which will honor the division's past while looking ahead to the future. We hope you will join us in celebrating this anniversary year.

Our Education and Community Service committees are also working diligently to bring you exceptional CLE programming and community service activities. Theirs is a titanic undertaking, and they are always looking for members of the Paralegal Division to help them accomplish their goals. If you are interested in serving on the Education or Community Service subcommittees, please reach out to us at utahparalegaldivision@gmail.com.

To stay connected with the Paralegal Division, please follow us on LinkedIn, Facebook, Instagram (@utahparalegaldivision), and/or X (@utahparalegals). We post content relevant to the Paralegal Division on all our social media channels. While we often post events-related news and other information online, we will also share important information with you via email. Please make sure your email address is up to date so that you can receive communications from the Paralegal Division.

Finally, I wish to acknowledge this year's Board of Directors, comprised of a group of paralegal volunteers dedicated to furthering the Paralegal Division's mission to enhance the paralegal profession in our state. The division would not be where it is today without their efforts.

Once more, I appreciate the opportunity to serve as Chair of the Paralegal Division. If you have any suggestions or ideas for us, please feel free to contact us at utahparalegaldivision@gmail.com. Let's make this anniversary year one to remember!

Our Board of Directors this year includes:

- **Jacob Clark,** Chair
- **Elizabeth Hill,** Chair Elect
- **Leslie Bullard,** Secretary
- **Scott Anderson,** Finance Officer
- **Liberty Stevenson,** Parliamentarian
- **Alba Monge-Rosa and Izamar Rael,** Education Committee Co-Chairs
- **Rachael Gren and Tally Van Ry,** Community Service Committee Co-Chairs
- **Marci Cook and Linda Echeverria,** Membership Committee Co-Chairs
- **Frances Helsten,** Communications/Social Media Committee Chair
- **Greg Wayment,** Marketing/Publications Committee Chair
- **Kymberly May,** Ethics/Professional Standards Committee Chair
- **Jennifer Carver,** Immediate Past-Chair

JACOB CLARK is a paralegal at Smith Hartvigsen, PLLC and currently serves as the Chair of the Paralegal Division of the Utah State Bar.

Classified Ads

RATES & DEADLINES

Classified Ad Rates: Up to 100 words, $70. Cancellations must be sent in writing to: BarJournal@utahbar.org.

To place an ad: Go to https://services.utahbar.org/Jobs-Classifieds/Post-a-Classified-Ad and follow the instructions. Payment is required when ordering the ad. If you need assistance with this process call 801-297-7022 or email BarJournal@utahbar.org.

Classified Advertising Policy: 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. The publisher may, at its discretion, reject ads deemed inappropriate for publication, and reserves the right to request an ad be revised prior to publication. For display advertising rates and information, please call 801-910-0085.

Utah Bar Journal and the Utah State Bar 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 tenth day of the month prior to the month of publication. (Example: April 10 deadline for the May/Jun issue.) If advertisements are received later than the tenth, call 801-297-7022 to see if the ad can still be placed.

OFFICE SPACE/SHARING

Office suite with 3 large offices, storage and reception area availalbe in Murray-Holladay. Pricing and lease term is negotiable. If you are interested, contact Sandra at 801-685-0552 for more information.

POSITIONS AVAILABLE

Established AV-rated Business and Estate Planning Law Firm with offices in St. George, UT and Mesquite, NV is seeking a Utah-Licensed attorney with 3–5 years of experience in business, real estate, construction, or transactional law. An active bar license in Nevada and tax experience are also preferred, but not necessary. Ideal candidates will have a distinguished academic background and relevant experience. We offer a great working environment and competitive compensation package. St. George and Mesquite are great places to live and work. Please send resume and cover letter to Barney McKenna & Olmstead, P.C., Attn: Daren Barney at daren@bmo.law. www.bmo.law

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CHILD SEXUAL ABUSE – SPECIALIZED SERVICES. Court Testimony: interviewer bias, ineffective questioning procedures, leading or missing statement evidence, effects of poor standards. Consulting: assess for false, fabricated, misleading information/allegations; assist in relevant motions; determine reliability/validity, relevance of charges; evaluate state's expert for admissibility. Meets all Rimmasch/Daubert standards. B.M. Giffen, Psy.D. Evidence Specialist 801-485-4011.

Utah Law & Justice Center: Exclusive Facilities for Legal Professionals

The Utah State Bar is pleased to offer active Utah Bar licensees in good standing **complimentary use of facilities at the Utah Law and Justice Center** for quick, law, practice-related meetings of up to two hours (for example, notarization, client meetings, signings). Licensees can enjoy free parking, Wi-Fi, and basic room setup. However, please note that any additional requirements, such as a notary or witnesses, will need to be arranged independently.

Additionally, the center is a great place to host your law-related events or meetings with a variety of rooms to choose from, including a boardroom, suitable for an array of configurations to accommodate your specific needs. We regularly host Continuing Legal Education (CLE) sessions and can also set up law-related banquets, board meetings, one-on-one consultations, legal signings, mediations, and other legal activities. Check out our updated and simplified room rates – starting at $125 for half a day and $200 for the full day – on our website: utahbar.org/uljc-rental-info/ or by scanning this code.

With your guidance, we handle all the details to ensure the space meets your requirements. Room rates include setup, tables, chairs, AV equipment, free parking, and Wi-Fi. We can also assist with catering orders and delivery, adding the food cost to your invoice with no extra surcharge.

For information contact: travis@utahbar.org or visit: utahbar.org/uljc-rental-info/

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