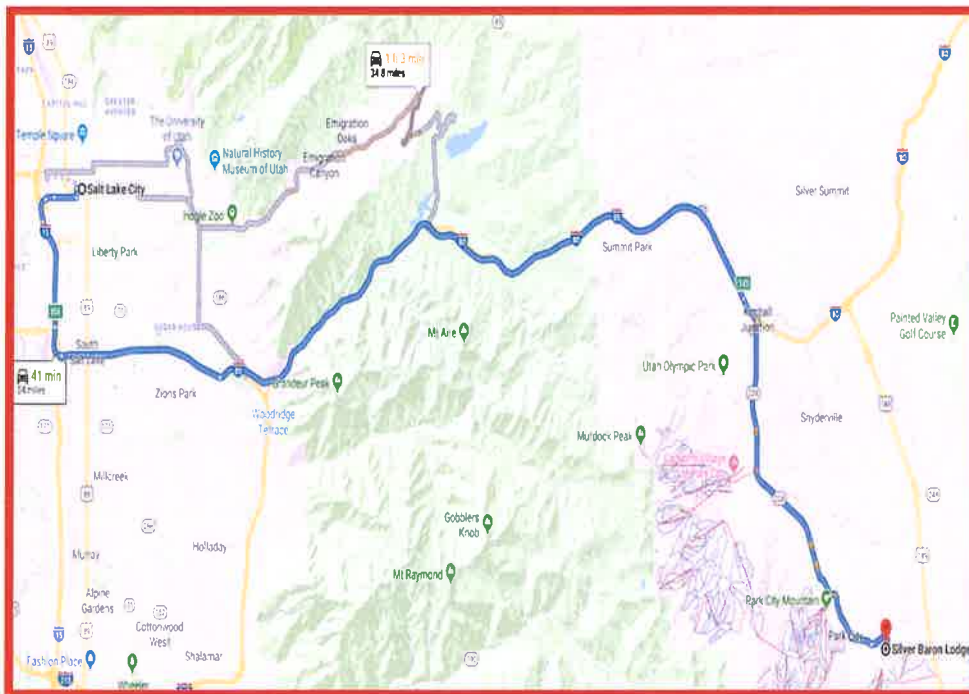


## Driving Directions: Salt Lake City to Silver Baron Lodge, Deer Valley, Utah



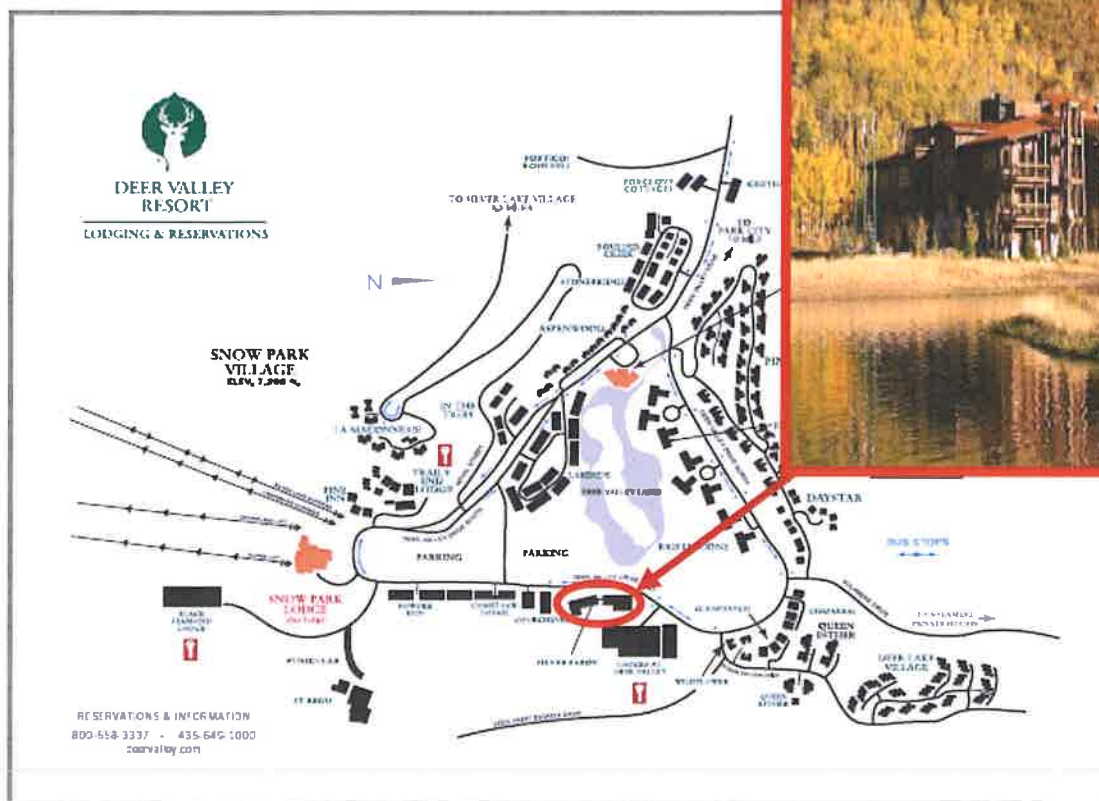
### Salt Lake City

Utah

- > Get on I-15 S/I-80 E from 500 S/Cesar E. Chavez Blvd  
4 min (1.6 mi)
- > Continue on I-80 E to Summit County. Take exit 145 from I-80 E  
24 min (24.2 mi)
- > Follow UT-224 S to Deer Valley Dr N in Park City  
15 min (31.1 mi)

### Silver Baron Lodge

1880 Deer Valley Dr E Park City, UT 84060



## Utah State Bar Commission Meeting

Friday, August 16, 2019

Ponderosa Room, Silver Baron Lodge, Deer Valley

### Agenda

**12:00 N. Lunch**

**1. 1:00 p.m. President's Report: Herm Olsen**

- 15 Mins.* 1.1 Report from MCLE Board: **David Hirschi, Chair & Sydnie Kuhre**
- 15 Mins.* 1.2 Report on National Conference of Bar Presidents Meeting
- 15 Mins.* 1.3 Report on Park City Convention
- 05 Mins.* 1.4 Announcement of ABA Delegates Selection Process **(Tab 1, Page 5)**
- 05 Mins.* 1.5 Propose Continuation of Small Firm Tour

**2. 1:55 p.m. Action items**

- 10 Mins.* 2.1 Appoint Committee Chairs: **Herm Olsen**
- 10 Mins.* 2.2 Approve Committee Charges: **Herm Olsen (Tab 2, Page 10)**
- 10 Mins.* 2.3 Appoint Commission Liaisons: **Herm Olsen**
- 10 Mins.* 2.4 Bar Foundation Request to Lease Employee
- 15 Mins.* 2.5 Request to Fund Licensed Lawyer Advertising **(Tab 3, Page 31)**
- 05 Mins.* 2.6 Move October Commission Meeting to the 18<sup>th</sup> in Moab

**2:55 p.m. Break**

**3. 3:10 p.m. Discussion Items**

- 15 Mins.* 3.1 Community Education and Outreach Committee **(Tab 4, Page 33)**
- 10 Mins.* 3.2 Paralegal Division Request to Waive Revenue Sharing

**4. 3:35 p.m. Information Items**

- 05 Mins.* 4.1 Bar Survey Report
- 05 Mins.* 4.2 Report on Review of Commission Policies & Procedures
- 15 Mins.* 4.3 ABA Delegates' Report: **Nate Alder & Margaret Plane**
- 10 Mins.* 4.4 Licensing Fee Reduction Request for Senior Lawyers **(Tab 5, Page 36)**
- 10 Mins.* 4.5 Report on Ethics Hotline
- 10 Mins.* 4.6 Report on "Interest on Lawyer Trust Accounts" (IOLTA)

**5. 4:30 p.m. Adjourn**

**6:30 p.m. Commission Social/Dinner with Guests - Silver Baron Patio**

## Consent Agenda (Tab 6, Page 40)

1. Approve Minutes of July 18, 2019 Commission Meeting
2. Approve Client Security Fund Report

## Calendar

September 17	Constitution Day		
September 27	Executive Committee	12:00 Noon	Teleconference
October 4	Commission Meeting	9:00 a.m.	TBA
October 15(?)	Admissions Ceremony	12:00 Noon	Capitol Building
October 20-26	Pro Bono Celebration Week		
November (?)	UMBA Awards Banquet		TBA
November (?)	Breakfast with Lawyer Legislators		State Capitol Complex
November 15	Fall Forum		TBA
November 1	Executive Committee	12:00 Noon	Teleconference
November 8	Commission Meeting	9:00 a.m.	Law & Justice Center
December 13	Executive Committee	12:00 Noon	Teleconference
December 20	Commission Meeting	9:00 a.m.	Law & Justice Center

## 2020

January 1	Election Notices Due
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**Utah State Bar Commission Retreat**  
**Saturday, August 17, 2019**  
**Ponderosa Room, Silver Baron Lodge, Deer Valley**

**Agenda**

- 8:00 a.m.      Breakfast with Guests - Ponderosa Room**
- 9:00 a.m.      Commission Photo (Business Casual Attire)**
- 9:15 a.m.      Tax Reform Presentation & Discussion**
- 10:00 a.m.      Break (Check Out)**
- 10:15 a.m.      Legal Market Reform Presentation & Discussion (Tab – Retreat Materials, Page 48)**
- 12:00 N.        Working Lunch (Lunch with Spouses/Guests)**
- 1:00 p.m.      Adjourn**

# TAB 1

## Policy for Appointments of State Bar Delegates to the ABA House of Delegates and Reimbursement Policy

The control and administration of the ABA is vested in the House of Delegates, the policy-making body of the association. Pursuant to the ABA Constitution, the Utah State Bar appoints 3 "State Bar Association Delegates."<sup>1</sup> The ABA requires that one of the three State Bar Association Delegates be a representative of the Young Lawyers Division ("YLD").

**TERM:** The term of State Bar delegates is two years. It is the policy of the Utah State Bar Board of Bar Commissioners ("the Bar Commission") that each State Bar delegate and the YLD delegate may serve up to four (4) consecutive two-year terms, or a maximum of eight (8) years, regardless of whether the individual is serving as the State Bar delegate or the YLD delegate. Former delegates may apply again for appointment after two years from the expiration of their last term.

**REQUIREMENTS:** State Bar delegates are expected to attend the ABA's Midyear and Annual meetings, and on occasion, to participate in conference calls. The delegates are also expected to report to the Commission regarding the work of the House of Delegates and highlights of the meetings.

State Bar delegates and the State delegate (together, "delegates") are expected to serve as *ex officio* members of the Bar Commission and attend Bar Commission meetings.

Delegates must be active members in good standing of the Utah State Bar.

Delegates must be members in good standing of the ABA and meet all eligibility requirements set forth by the ABA.

**SELECTION PROCESS FOR THE STATE BAR DELEGATES:** The **August** before the end of a Bar delegate's term, the Bar Commission will solicit applications to fill the expiring delegate term by sending out a public notice to all members.

By **September 1** of the year in which there is an expiring term, interested Bar members must submit to the Bar Commission a letter expressing interest in and qualifications for serving as a Bar delegate.

At the **September or October** regularly scheduled Bar Commission meeting, the Bar Commission will review the letter submissions and select a Bar delegate by a majority vote of voting Commissioners. When selecting candidates for Bar delegate, the Bar Commission will consider all relevant factors including, but not limited to, a candidate's past service as a Bar Delegate in the interest of fostering continuity and experience, and an open application process

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<sup>1</sup> Utah also has one State Delegate who is elected by the state's ABA members.



that will encourage participation by a broad spectrum of eligible Bar members and foster transparency and fairness in the selection process.

**SELECTION PROCESS FOR THE ABA YLD DELEGATE:** Vacancies in the ABA Young Lawyer delegate position shall be filled by the YLD Board and the Utah Bar Commission. When a vacancy occurs, the YLD Board shall solicit letters of interest in the position from members of the Division. The YLD Board shall select from the applicants three (3) eligible nominees for submission to the Utah Bar Commission. The Utah Bar Commission will select one applicant for appointment to the ABA House of Delegates. In the event there are less than three eligible applicants, all applicants will be submitted to the Utah Bar Commission for consideration. Nominees for this position shall meet all eligibility requirements set forth by the American Bar Association.

The **August** before the end of the ABA Young Lawyer delegate's term, the YLD shall solicit applications from its members to fill the vacant YLD delegate seat by sending out a public notice to all YLD members.

By **September 1** of the year in which there is an YLD delegate vacancy, interested Bar members may submit to the YLD Board a letter expressing interest in and qualifications for serving as delegate. The YLD Board will select three candidates to forward to the Commission for final selection.

At the **September or October** regularly scheduled Commission meeting, the Commission will review the YLD's Board recommendations for the ABA Young Lawyer delegate position and approve the candidate by a majority vote of voting Commissioners.

**ALTERNATE DELEGATES:** If a State Bar delegate is unable to attend a meeting of the ABA House of Delegates, the Commission may certify an alternate delegate to serve for the one meeting the regular Bar delegate will be absent. As soon as the Commission becomes aware of the need for an alternate, it will solicit applications to serve as an alternate by sending out a public notice to all members. Interested candidates should submit a letter expressing interest in and qualifications for serving as an alternate. At the next regularly scheduled Commission meeting, or if necessary, by phone, the Bar Commission will review the letter submissions and select an alternate by a majority vote of voting Commissioners.

ABA rules for alternate delegates provide that "[e]ach state, territorial and local bar association, section and affiliated organization represented in the House may certify an alternate delegate to serve during the absence of any of its delegates at a meeting of the House. The alternate delegate's service is: (1) limited to that meeting of the House for which certified; (2) not counted in determining length of service in the House; and (3) not considered a lapse in service for the elected delegate." Certification of the alternate delegate must be completed before the

roster is approved by the House. Once the roster is approved, no additional changes may be made.

**REIMBURSEMENT FOR ALL DELEGATES:** The Utah State Bar will reimburse delegates for travel expenses to ABA meetings or conferences only if those expenses are not covered by the ABA.

Reimbursable expenses include:

1. Early, basic registration fees
2. Coach airfare purchased at least three weeks in advance of event
3. Reasonable lodging at meeting hotel or, if necessary, other reasonable lodging
4. Ground transportation to and from terminals and
5. A per diem for meals at the federal rate for the event city, less any per diem provided by the ABA.

Lodging will be reimbursed only for the days delegates must attend ABA meetings. Unless the delegate is required to attend additional days of meetings, lodging reimbursement is capped at 4 nights for the annual meeting and 3 nights for the midyear meeting.

Procedure for requesting reimbursement:

1. Requests for reimbursement are submitted to the Bar's Finance Department
2. All requests for reimbursement must include a receipt.
3. All receipts must be submitted to the Bar's Finance Department within 60 days of the event.



## **American Bar Association Delegate**

The Utah State Bar Commission is seeking applicants to serve a two-year term as one of the Bar's two representatives in the American Bar Association's (ABA) House of Delegates for a term to run through the August 2022 ABA Annual Meeting. The Bar has one other representative in the House of Delegates, as well as a representative from the Young Lawyers Division. The ABA Members in Utah also have an elected delegate.

The delegate is expected to attend the ABA's Midyear and Annual meetings and to participate in appropriate interim meetings and in conference calls as needed. There will also be some preparation work to review issues and communicate with and report to the Bar Commission on a regular basis. The delegate also serves as an *ex-officio* member of the Bar Commission and would be expected to attend regular Commission Meetings. The delegate must be an active member in good standing of the Utah State Bar and a member in good standing of the ABA and meet all eligibility requirements set forth by the ABA.

Please send your letter of interest and resume no later than 5:00 pm, Monday, September 2, 2019 to Christy Abad, Utah State Bar Executive Assistant, [christy.abad@utahbar.org](mailto:christy.abad@utahbar.org).

# TAB 2

## **CHARGE TO STANDING COMMITTEE**

**TO:** Hon. Christine M. Durham, Co-chair, Access to Justice Coordinating Committee  
Amy Sorenson, Co-chair, Access to Justice Coordinating Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

To provide leadership the Bar's Access to Justice Programs and ensure greater communication among the various providers of legal services to the under-served populations in the state regarding the broad spectrum of judicial, court-related, administrative, educational, market-based, and consumer-oriented issues and to discuss the means of improving the services.

### **SPECIFIC OBJECTIVES:**

1. To coordinate the Bar's Access to Justice programs, which currently includes the Modest Means and Pro Bono Programs as well as the AAA Task Force and the Licensed Lawyer directory site;
2. To regularly gather the various legal services providers in the state to share information, discuss improvements, review the extent to which this work is being accomplished and evaluate any gaps which may still exist; and,
3. To maintain comprehensive reports of the services.
4. To engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### ***COMMISSION LIAISON:***

Heather Thuet

### ***BAR STAFF LIAISON:***

Nicholas Stiles

## **CHARGE TO STANDING COMMITTEE**

**TO:** Steven T. Waterman, Co-chair, Bar Admissions Committee  
Daniel A. Jensen, Co-chair, Bar Admissions Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

To oversee the Bar admissions process for licensure by the Supreme Court and assure that: (1) each applicant has achieved a sufficient amount of scholarly education and graduated from an ABA approved law school; (2) each applicant possesses the requisite moral character and fitness to protect the public interest and engender the trust of clients, adversaries, courts and others; and (3) each applicant has the ability to identify legal issues, to engage in a reasoned analysis of those issues and to arrive at a logical solution by application of fundamental legal principles by examination which demonstrates the applicant's thorough understanding of these legal principles.

The Committee shall consist of its chairs, the chairs of all admission-related committees, the Deputy General Counsel in Charge of Admissions and any at-large members appointed by the Utah State Bar Commission. The Deans of the J. Reuben Clark Law School and S. J. Quinney College of Law shall be *ex-officio* members of the committee.

### **SPECIFIC OBJECTIVES:**

To coordinate the participation and performance of all admission-related Committees regarding admissions process including; (1) initial contact with Bar; (2) the Bar application; (3) the Rules of Admission; (4) the investigative process; (5) the Character and Fitness review process; and, (6) the Bar Exam, preparation, administration, grading and grievances.

1. To hear Bar Exam Applicants' grievances.
2. To research and recommend improvements in the process.
3. The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Tom Seiler

### **BAR STAFF LIAISON:**

Joni Dickson Seko

## **CHARGE TO STANDING COMMITTEE**

**TO:** Heather Farnsworth, Co-chair, Bar Awards Committee  
Michelle Quist, Co-chair, Bar Awards Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

To propose the policies and processes through which the Bar recognizes the meritorious performance and contributions of lawyers and members of the public.

### **SPECIFIC OBJECTIVES:**

1. To establish the process and means to be adopted by the Commission for the solicitation of nominations of lawyers and members of the public for the various Bar awards, including the notification of interested groups; policies on the number and types of nominations which will be considered by the Commission; and the timing of the selection process.
2. To draft the criteria for the Commission to consider in selecting recipients for each award;
3. To draft a formal nomination outline to be use by those nominating candidates for each award;
4. To receive nominations for the awards and present those meeting the award criteria to the Commission according to the approved deadlines, including a listing of past award winners.
5. To engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **BAR STAFF LIAISON:**

Christy Abad

## **CHARGE TO STANDING COMMITTEE**

**TO:** Tanya Lewis, Co-chair, Bar Examiner Committee  
Mark Astling, Co-chair, Bar Examiner Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

To assure that each applicant has the ability to identify legal issues, to engage in a reasoned analysis of those issues and to arrive at a logical solution by application of fundamental legal principles by examination which demonstrates the applicant's thorough understanding of these legal principles by writing and grading the essay questions.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

### **SPECIFIC OBJECTIVES:**

To draft and grade Bar examination questions and answers in accordance with the Bar Examiners Handbook so that the Bar may appropriately assess an applicant's knowledge and competence to practice law in the state of Utah. Committee members will review examination materials prior to questions being placed on the examination. Reviewers will analyze questions and answers to insure that they are fair, clear and accurate.

Questions and model answers shall be completed and submitted for all testing areas by October 1<sup>st</sup> for the February examination and by May 1<sup>st</sup> for the July examination.

Changes requested by the Bar Examiner Review Committee shall be incorporated and submitted by February 15<sup>th</sup> for the February exam and by July 15<sup>th</sup> for the July exam.

The February exam shall be graded in March and the July exam graded in September.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Tom Seiler

### **BAR STAFF LIAISON:**

Joni Dickson Seko

## **CHARGE TO STANDING COMMITTEE**

**TO:** Christine Arthur, Chair, Budget and Finance Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

Provide expert counsel, review and advice to the Bar's Financial Department and the Bar Commission to assure that the Bar is complying with all regulatory accounting requirements, principles and practices so that the financial records of the Bar are clear, transparent, complete, accurate and understandable.

### **SPECIFIC OBJECTIVES:**

1. Review annual budget;
2. Review annual audit;
3. Review quarterly financial statements;
3. Recommend auditors;
4. Work with staff as necessary to keep technology and practices up to date;
5. Review investment policy and portfolio; and
6. Review Bar By-Laws and Financial Policies & Procedures annually to assure compliance with accepted accounting principles and practices and business best practices.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

**BAR STAFF LIAISON:** Kellie Bartz, John Baldwin



## **CHARGE TO STANDING COMMITTEE**

**TO:** Andrew M. Morse, Co-chair, Character and Fitness Committee  
Amy Oliver, Co-chair, Character and Fitness Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

To assure that each applicant has graduated from an ABA approved law school and possesses the requisite moral character and fitness to protect the public interest and engender the trust of clients, adversaries, courts and others.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

### **SPECIFIC OBJECTIVES:**

To meet monthly to review application files, oversee investigations, conduct hearings and either approve or deny applications for admission to the Utah State Bar.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system and to report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Tom Seiler

### **BAR STAFF LIAISON:**

Joni Dickson Seko

## **CHARGE TO STANDING COMMITTEE**

**TO:** William D. Holyoak, Chair, *Utah Bar Journal* Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

**PURPOSE OF COMMITTEE:** To publish six editions of the *Utah Bar Journal* annually.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

**SPECIFIC OBJECTIVES:** To provide comprehensive coverage of the legal profession and the activities of the Utah State Bar, including articles of legal importance, state bar news and information, notices from the Judiciary and Bar Section information, summaries of recent cases, legislative reports, classified advertisements, messages from the Bar President and Commissioners, and appropriate announcements of general interest. This should be performed within the adopted budget and by soliciting sufficient and appropriate advertising.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Mark Pugsley

### **BAR STAFF LIAISON:**

Christine Critchley

## **CHARGE TO STANDING COMMITTEE**

**TO:** Stephen Farr, Chair, Fund for Client Protection Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

**PURPOSE OF COMMITTEE:** To consider claims made against the Fund for Client Protection and recommend appropriate payouts for consideration and approval by the Board of Bar Commissioners.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

**SPECIFIC OBJECTIVES:** To meet on an as-needed basis to review claims, and to provide written recommendations for approval by the Board of Bar Commissioners.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

John Bradley

### **BAR STAFF LIAISON:**

Christine Critchley

## **CHARGE TO STANDING COMMITTEE**

**TO:** John A. Snow, Co-chair, Ethics Advisory Opinion Committee  
Sara Bouley, Co-chair, Ethics Advisory Opinion Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

**PURPOSE OF COMMITTEE:** To prepare ethics advisory opinions in response to requests by members of the Bar concerning prospective conduct that is currently not in litigation and when the issue is a significant one for lawyers and the "Utah Rules of Professional Conduct" do not provide guidance.

The committee shall consist of its chair(s) and any at-large members appointed according to the rules of the committee.

### **SPECIFIC OBJECTIVES:**

1. To meet as necessary to respond to requests and provide proposed advisory opinions to the Board of Bar Commissioners for their review; and
2. To maintain a compilation of all Bar-approved ethics advisory opinions and prepare an index of all opinions which will be published and available at the Bar office for all lawyers.
3. The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Tom Seiler

### **BAR STAFF LIAISON:**

Office of Professional Conduct

## **CHARGE TO STANDING COMMITTEE**

**TO:** Sheleigh Harding, Chair, Fee Dispute Resolution Committee

**FROM:** H. Dickson Burton, President

**DATE:** September 2018

**PURPOSE OF COMMITTEE:** To implement Utah State Bar Fee Dispute Resolution program according to existing rules.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

**SPECIFIC OBJECTIVES:** To assign arbitration panels to hold arbitration hearings with appropriate notice and to provide final decisions to the parties. To finalize revisions to the arbitration rules.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Heather Farnsworth

### **BAR STAFF LIAISON:**

Christine Critchley

## **CHARGE TO STANDING COMMITTEE**

**TO:** Jaqualin Friend Peterson, Co-chair, Governmental Relations Committee  
Sara Bouley, Co-chair, Governmental Relations Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

**PURPOSE OF COMMITTEE:** To monitor pending or proposed legislation which falls within the Bar's legislative policy and make recommendations to the Board of Bar Commissioners to support, oppose, take to no position, or to recommend other appropriate action.

The Committee shall consist of its chair(s) and representatives from the Sections of the Bar.

**SPECIFIC OBJECTIVES:** To meet as necessary during the year to monitor legislative activity, coordinate activities with the Bar's legislative representative and make recommendations to the Board of Bar Commissioners during regularly scheduled telephonic and other meetings during the session, and before/after the sessions, as appropriate. To develop partnerships between the Bar and the various branches of government.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

John Bradley

### **BAR STAFF LIAISON:**

Christy Abad

## **CHARGE TO STANDING COMMITTEE**

**TO:** Maribeth LeHoux, Co-chair, Unauthorized Practice of Law Committee  
Alex B. Leeman, Co-chair, Unauthorized Practice of Law Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

**PURPOSE OF COMMITTEE:** To review and investigate all complaints made regarding unauthorized practice of law (UPL) allegations. Addressing UPL complaints by means such as dismissal, drafting informal letters of caution, or pursuing more formal Cease & Desist Agreements. Recommending where appropriate and approved, the filing a civil complaint for UPL violations. As deemed appropriate, engage in special projects such as publishing a “notario” pamphlet, drafting Spanish language UPL complaints forms, etc. Reviewing the current UPL process, including guidelines and procedures and advising the Board of Bar Commissioners on recommended changes in the process, such as criminalization, prosecution by the Office of Bar Counsel, or prosecution by others, etc. As directed, work with the Utah Supreme Court’s Rules Advisory Committee.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

**SPECIFIC OBJECTIVES:** To meet as necessary to review and discuss, complaints and current UPL issues and make recommendations to the Board of Bar Commissioners as appropriate for formal action.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee’s diversity and inclusion successes.

### **COMMISSION LIAISON:**

Heather Thuet

### **BAR STAFF LIAISON:**

Elizabeth Wright



## **CHARGE TO STANDING COMMITTEE**

**TO:** Joan M. Andrews, Chair, Bar Exam Test Accommodation Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

To assure that the Bar examination fairly tests an applicant's competency, by utilizing appropriate, accurate, and clearly-worded questions, and that appropriate test accommodations are awarded as required under the Americans with Disabilities Act. And to assure that the latest technological advances in testing processes and security measures are incorporated into the Bar examination, and that testing is conducted at a safe and suitable exam site.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

### **SPECIFIC OBJECTIVES:**

To oversee the administration of the Bar examination, including test preparation, grading, test accommodation requests, site selection, computer use, emergency-preparedness, and test security issues. The Special Accommodation Committee, a subcommittee of the Bar Exam Administration Committee, focuses on reviewing requests for test accommodations on the February and July Bar exams, investigating the applicants and their requests, and making a recommendation on whether to grant, modify, or deny an applicant's test accommodation request.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Tom Seiler

### **BAR STAFF LIAISON:**

Joni Dickson Seko

## **CHARGE TO STANDING COMMITTEE**

**TO:** Tracy Olson, Chair, Disaster Legal Resources Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

**PURPOSE OF COMMITTEE:** To respond and particularly to provide resources to support the delivery of legal services to those who cannot pay for them in the event of a disaster and to help the lawyers affected.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

### **SPECIFIC OBJECTIVES:**

The committee chair(s) shall identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Steve Burt

### **BAR STAFF LIAISON:**

Nicholas Stiles

## **CHARGE TO STANDING COMMITTEE**

**TO:** Jonathan O. Hafen, Chair, CLE Advisory Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

**PURPOSE OF COMMITTEE:** To provide quality continuing legal education programs to all attorneys and paralegals of Utah.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

### **SPECIFIC OBJECTIVES:**

1. To study and report to the Bar Commission on the concept of expanding CLE self-study options to permit interactive videoconferencing as "live" CLE credit in order to accommodate rural and outlying areas as long as not more than 6 credit hours can be completed through participation at traditional "live" events.
2. To explore, in conjunction with the Bar, the implementation of the requirement that each section: (1) provide at least one CLE course per year to section members; (2) provide at least one CLE presentation every three years at a regular Bar convention; (3) consider offering at least one hour of free CLE for section members at section presentations; and (4) encourage certain sections to join together for CLE presentations.
3. To make recommendations on raising the prices of Bar-offered CLE courses and of convention courses to keep pace with the cost of conventions, and to become a modest source of revenue for the Bar.
4. To work, in conjunction with the Bar, with the S.J. Quinney and J. Reuben Clark law schools to make appropriate programs they have developed available on the Bar's website.
5. To work, in conjunction with the Bar, to invite the Bar president each year to provide a lecture on professionalism, civility and problem solving to stress the importance of meaningful problem solving and professionalism.
6. To encourage well-developed, current and informational handouts and materials by CLE presenters.
7. To develop suggested criteria for designating CLE presentations, such as: "Beginning," "Intermediate," and "Advanced" training levels, and in improving the explanations of CLE presentations in advertising so that Bar members might have a more complete idea of the substance and depth of the presentations.
8. To assist the Bar in enhancing the Bar's website to permit the solicitation of ideas and requests for CLE from Bar members and to work to enhance the breadth and mix of topics.
9. To explore the introduction of diversity training as part of Professionalism/Civility CLE programs during the next two years, but not as a mandatory component, and to report back to the Commission on the feasibility of requiring one hour of diversity training every two years as part of the Professionalism/Civility CLE component.
10. The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

**COMMISSION LIAISON:** Mark Morris

**BAR STAFF LIAISON:** Michelle Oldroyd, Director of Professional Development

## **CHARGE TO STANDING COMMITTEE**

**TO:** TBA, Chair, Member Resource Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

**PURPOSE OF COMMITTEE:** To recommend to the Board of Bar Commissioners appropriate group benefit programs or other services for Bar members and monitor the Bar's continuous liability insurance program with carriers under a fully standard policy form and to insure a well-rated and credible insurer.

The committee shall consist of its chair(s) and any at-large members appointed by the Utah State Bar Commission.

**SPECIFIC OBJECTIVES:** To review and recommend to the Board of Bar Commissioners for approval traditional association benefit programs such as health, life, disability, dental and professional liability insurance as well as other programs such as discount purchasing programs, which have potential benefit to the Bar members and which could be provided with little or no cost to the Bar or with potential revenue to the Bar which is generally disclosed to the Bar membership.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

Bebe Vanek

### **BAR STAFF LIAISON:**

Richard Dibblee

## **CHARGE TO STANDING COMMITTEE**

**TO:** Licensed Paralegal Practitioner Admissions Committee

**FROM:** H. Dickson Burton, President

**DATE:** April 2019

### **PURPOSE OF COMMITTEE:**

To oversee the admissions process for licensure as a paralegal practitioner by the Supreme Court and assure that:

- (1) each applicant has achieved a sufficient amount of scholarly education and substantive legal experience to satisfy the LPP education and experience requirements;
- (2) each applicant possesses the requisite moral character and fitness to protect the public interest and engender the trust of clients, adversaries, courts and others; and
- (3) each applicant has the ability to identify legal issues related to their area of practice, to engage in a reasoned analysis of those issues and to arrive at a logical solution by application of fundamental legal principles by examination which demonstrates the applicant's thorough understanding of these legal principles.

The Committee shall consist of its chair and any at-large members appointed by the Utah State Bar Commission.

### **SPECIFIC OBJECTIVES:**

To coordinate the LPP admissions process including:

- (1) the Rules of Admission for LPP's;
- (2) approving all applications and forms related to the LPP Examination and LPP Admissions process;
- (3) reviewing LPP examination application files;
- (4) overseeing the investigative process;
- (5) overseeing the LPP Character and Fitness review process, including conducting hearings and approving or denying applications for admission as an LPP; and
- (6) overseeing the LPP Exam administration and grading, specifically:
  - a. assigning subject matter experts to grade the written portions of the LPP examination so that the Bar may appropriately assess an applicant's knowledge and competence to practice as an LPP.
- (7) assuring that appropriate test accommodations are awarded as required under the Americans with Disabilities Act and that testing is conducted at a safe and suitable exam site.
  - a. this includes:
    - i. reviewing requests for test accommodations on the March and August LPP exams, investigating the applicants and their requests, and making a recommendation on whether to grant, modify, or deny an applicant's test accommodation request;
    - ii. emergency-preparedness; and
    - iii. test security issues.
- (8) to hear Bar Exam Applicants' grievances.
- (9) to research and recommend improvements in the process.

The committee chair shall also identify and train eventual successive chairperson(s).

Additionally, The Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

**BAR STAFF LIAISON:** Carrie T. Boren

## **CHARGE TO STANDING COMMITTEE**

**TO:** Lesley Manley, Co-chair, New Lawyer Training Committee  
R. Josh Player, Co-chair, New Lawyer Training Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

The Utah State Bar Committee on New Lawyer Training shall consist of its chair(s) and any other bar members appointed by the Utah State Bar Commission. The Committee represents the bar membership by bringing together attorneys from large and small firms, government agencies, and members of court.

### **SPECIFIC OBJECTIVES:**

The members are responsible for recruiting and approving mentors and reviewing, evaluating, and creating policies for the NLTP. The committee also assists in the development of valuable resources for mentors and new lawyers and builds relationships with firms, agencies, and other organizations for building an effective mentoring program. The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

S. Grace Acosta

### **BAR STAFF LIAISON:**

Carrie Boren, NLTP Administrator

## **CHARGE TO STANDING COMMITTEE**

**TO:** Heather S. White, Co-chair, Innovation in Law Practice Committee  
Greg Hoole, Co-chair, Innovation in Law Practice Committee

**FROM:** H. Dickson Burton, President

**DATE:** August 2018

### **PURPOSE OF COMMITTEE:**

To lead the Bar and Utah practitioners in using innovation and technology to serve clients more effectively and more efficiently. While all members of the Bar are important to the work of this Committee, the committee will place emphasis on the needs of solo and small firm practitioners, new lawyers and underserved client populations.

The Committee shall consist of its chairs, appointees from Solo, Small Firm and Rural Practice Section, the Young Lawyers Division, the Paralegal Division, the New Lawyers Training Program Committee, the IT Director of the Bar, and any at-large members, including non-lawyers such as IT professionals and firm administrators, appointed by the Utah State Bar Commission.

### **SPECIFIC OBJECTIVES:**

The committee will provide a forum for exchange and exploration of innovative approaches to providing and pricing legal services, not only through new technologies but also through fresh approaches to marketing and business structures.

The committee will provide continuing legal education on these subjects at regular intervals throughout the year but also at the major Bar conventions and meetings, presently to include the Bar's Summer and Spring Conventions and the Fall Forum.

The committee will seek out partnerships with law technology vendors and providers, both to enhance the content of the education and defray the costs and to stay abreast of market-driven innovation in the practice of law.

The committee also will coordinate its efforts and activities with other Bar sections and committees to the extent there are overlapping interests.

The committee will provide a regular and ongoing assessment of the Bar organization's uses of innovation and technology in meeting its mission.

The committee chair(s) shall also identify and train eventual successive chairperson(s).

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

**COMMISSION LIAISON: Mark Pugsley**

**BAR STAFF LIAISON: David Clark**



## **CHARGE TO STANDING COMMITTEE**

**TO:** Jen Tomchak, Bar Leadership Academy

**FROM:** H. Dickson Burton, President

**DATE:** October 2018

### **PURPOSE OF COMMITTEE:**

To promote increased involvement and diversity in the Utah State Bar by recruiting, targeting, and training outstanding leaders to participate in Bar leadership, committees, and the community in general. The Academy will seek diversity in gender, race, and region within the state, recognizing that the Bar will better function to serve its members and communities when participation in Bar functions is more diverse in gender, race, and state region and by bringing in attorneys from underrepresented arenas to broaden and strengthen the Utah Bar and to increase involvement and interest from areas traditionally not actively involved in Bar service.

### **SPECIFIC OBJECTIVES:**

Over each year, participants will meet monthly with Bar leaders and members of the legal community to learn more about the Bar and practice and cultivate leadership skills. At the end of each year, members will commit to serve the Bar as a volunteer in an active capacity for at least one on committee, project, program, meeting, service or activity, or in other areas where they will be needed. Further objectives are included in the Utah Bar Leadership Academy governance information.

Additionally, the Committee shall engage all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession, and the judicial system. Report annually to the Bar Commission on the Committee's diversity and inclusion successes.

### **COMMISSION LIAISON:**

S. Grace Acosta

### **BAR STAFF LIAISON:**

Christy Abad

# TAB 3

The Licensed Lawyer attorney referral service continues to expand. As you know, the Bar has committed \$93,000 over the past two years to grow this service and increase access to justice for Utah residents. Over the two-year period usage of Licensed Lawyer has climbed 86 percent overall, as measured by number of searches.

Last year, the Bar allocated \$54,000 to Licensed Lawyer, and, combined with the public education budget, a total of \$54,000 was allocated for marketing Licensed Lawyer. We focused on digital advertising with Deseret Digital Media, SEO with Fluid, and a “Legal Tips” segment on channel four KTVX.

The results indicated a 47 percent increase in users, a 32 percent increase in searches, and an 18 percent increase in referrals. Throughout the year, 67,943 clients reached out to their attorneys through Licensed Lawyer. In the 2017-18 year, 34,546 clients contacted attorneys, and in 2016-17, the first year of the program, just under 11,000 contacts were made.

It’s important to keep that momentum. To do so, I’m requesting an additional \$54,000 for Licensed Lawyer advertising for the 2019-2020 Bar year. I propose spending the money as follows:

\$18,000: Wasatch Front Digital Billboard campaign, Daily Effective Circulation (DEC) of 50,803  
\$12,000: Other than television streaming services buy including two 15 second spots over three months. Reach per month: 71,440  
\$23,000: Outlying area billboard campaign, will rotate between cities, DEC varies by city.  
\$1,000: Production expense

We’re moving away from SEO because to continue to see increases in our SEO numbers, we’d need to make changes to the Licensed Lawyer platform that we can’t currently make. We are working to get those changes made, and if we can we’d move the billboard expenditures to SEO. Legal SEO is expensive, and without making some back-end changes we’ve maxed out our SEO capabilities.

I believe this expenditure will enable us to continue the growth of the Licensed Lawyer product.

# TAB 4



## Continuing LEGAL Education

To: H. Dickson Burton, Utah State Bar President

From: Michelle M. Oldroyd, Director of Professional Education

Date: March 25, 2019

Re: The Role of the Utah Bar in Community Outreach / Proposal to Create Community Education and Outreach Committee

President John F. Kennedy once said that "leadership and learning are indispensable to one another." Inherent in the objective of teaching and informing our community about the rule of law, the Bar can afford to be nothing short of a leader. It is commensurate with the mission of the Utah State Bar to bring sound legal advice and legal information to our community. We do not abdicate that role to journalists, to the courts, or to any public entity. We instead embrace that duty as part and parcel of serving justice and the common good.

It is the sworn oath of every lawyer to serve equally one's clients and one's community. It is entrusted to lawyers as officers of the court to ensure that the public perception of the judiciary is one of trust and confidence in the process and in the members of the bench.

According to the Lighthouse survey results from 2018, as requested by the Utah State Bar Commission, there is a tremendous and gaping need for increased awareness in the Utah public about who lawyers are, what they can do to serve their clients' needs, and how the rule of law impacts everyday life for individuals and businesses. We are luckily the home of a number of small, locally-owned businesses in Utah. We need to ensure that not only our individual community members know who we are and how to access our expertise, but that businesses who may not have general counsel know how to find lawyers, seek legal advice, and know that attorneys are part of our community to serve a resource for legal information as well.

It has been discussed by the current CLE Advisory Committee whether or not this role of community outreach falls under its charge from the Commission. As much as outreach and public education is related to the objective of educating our Bar, it is a distinct role. The CLE Advisory Committee's focus is on the continuing education needed for our profession to be relevant and well-informed of evolving parts of the law. Educating our community, to understand and respect the rule of law, is a related concept, but is separate indeed. This is why our Department proposes creating a distinct Community Education and Outreach Committee.

The purpose of this new Outreach Committee would be to provide accurate legal information to our community and to ensure that the Utah State Bar is an active and available resource for members of our community, including for schools, civic groups, service clubs, and networking organizations.

Specific objectives can be further developed by the Committee once formed and should at least include a goal of six civic education presentations/collaborations per calendar year for the Bar. Partnerships in this manner could include putting lawyers in classrooms for Law Day or Constitution Day, volunteering to serve as mock trial judges with Utah Law Related Education, or serving as faculty in a session on government at the annual Utah State Social Studies Teachers' Conference. Some of these tasks are already underway in an ad hoc manner by individual attorneys, but tracking and reporting on these events is not ongoing and makes our Bar less accountable for the true public service being provided to our community.

An additional objective for this Committee should include updating and expanding part of our website to be a resource for teachers, parents, scout leaders, community organizers, etc. to access lessons and basic legal information. Lessons and links need not be recreated, but our Bar definitely can serve as a more effective conduit of quality, accurate legal information to our wider constituency. What we know from the Lighthouse survey is that if the community has accurate legal information, they will know about when to use a lawyer's skills and the bottom line of business/the legal industry can be affected in a positive way by this outreach. Humanizing the work of the law and making lawyers relatable also improves our public perception, the confidence in our courts, and the civility in our community for resolving disputes.

I welcome the opportunity to work on this new initiative and to engage my colleagues in our common passion of ensuring that the rule of law is respected, our clients find adequate legal services, and our courts are an institution of public trust.

# TAB 5



Virginius Dabney  
Barbara Dabney

**DABNEY & DABNEY**  
p.l.l.c.

*A Disability Law Firm*

192 East 200 North, Suite #203  
St. George, Utah 84770  
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Toll: (800) 457-5525  
[jaguar@dabneylaw.com](mailto:jaguar@dabneylaw.com)

June 3, 2019

Mr. John Baldwin, Executive Director  
Utah State Bar Association  
Utah Law and Justice Center  
645 East 500 South  
Salt Lake City, Utah 84111

RE: Waiver of Dues for Older Members

Dear John:

My wife, Barbara, and I reached the Golden Age of 75 this past year and received a post-card from the Bar that we no longer have to pay dues. Obviously, this is wonderful news for us and we are happy to accommodate. We are both still practicing with no end presently in sight. I have always said that as long as I enjoy what I do, can help people by doing it and can have some fun while I continue to practice, that I would continue. We both feel very lucky to be able to do what we have done virtually our entire life and look forward to even more years to come.

However, I understand that this Rule has been around for a while, without being updated or reexamined, and in fact may go back to when the Bar was created in 1931. I believe that a dues change for older lawyers should be considered, and I would like to help with a couple of ideas to at least get the ball rolling.

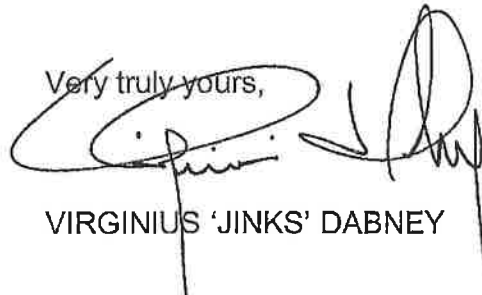
First, I do not think that there are that many members who reach age 75 and want to continue practicing law so the loss of income is probably not that significant. The increase each year with several hundred new lawyers more than makes up for whatever the loss of income for the older lawyers is I am sure.

Second, since a very large number of our Bar become lawyers in their early or middle 20's, those who reach age 75 have probably been practicing law for pretty close to 50 years. That adds up to a pretty substantial dollar amount over the years. Our yearly dues have been raised several times during that period, and I am sure someone with a statistical background could figure out what that roughly equates to.

In sum, I think maybe the Bar should give our older practitioners who have paid dues for a little less than 50 years a little financial break to show the Bar's appreciation for their support for so long. I think having to wait until your 50<sup>th</sup> year is too long and would like to suggest that the Bar consider a gradual sliding scale of lowering the age

Mr. John Baldwin  
June 3, 2019  
Page two

annually by one year starting on July 1, 2019 until the age 65, the normal retirement age, is reached. And, because many lawyers retire then or shortly after they reach 60, the Bar should also consider a partial reduction of 20% a year from ages 61 through 64 and when they reach age 65, then the payment of annual dues would end. In that way more of our older lawyers can enjoy the joy of seeing the appreciation the Bar has for long time service. Thanks for talking with me informally last Friday about this, and for asking me to write this letter.

Very truly yours,  
  
VIRGINIUS 'JINKS' DABNEY

VD:jd

P.S. If the Editor or our Bar Journal would like to publish my letter in the Journal, I would have no objection to that.

Virginius Dabney  
Barbara Dabney

**DABNEY & DABNEY**  
pllc

*A Disability Law Firm*

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[jaguar@dabneylaw.com](mailto:jaguar@dabneylaw.com)

June 4, 2019

Mr. John Baldwin, Executive Director  
Utah State Bar Association  
Utah Law and Justice Center  
645 East 500 South  
Salt Lake City, Utah 84111

**RE: Waiver of Dues for Older Members**

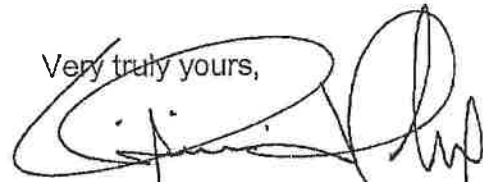
Dear John:

I had added a third paragraph separately when I was at home and forgot to include it in my letter yesterday, so am including it in this letter:

Third, many of our older members have participated in Bar Conventions, Lunches and Seminars for CLE credit. Many of us and them have been presenters at various Bar events and functions over the years, and have also served on various Bar committees over the years as well. The contributions made to the practice of law in Utah by Bar involvement of our long-standing older members cannot really be reduced to a dollar amount, but it is another reason a financial break on fees should be seriously considered for those who have practiced so long in so many areas. Many presently qualify as experienced, knowledgeable and willing Mentors for many younger members of the Bar.

Thank for again for taking the time to talk with me last Friday and for bringing this to the attention of the Bar. I hope the current Rule will be reevaluated and a new Rule put in its place along the lines I suggested in my letter yesterday.

Very truly yours,



VIRGINIUS 'JINKS' DABNEY

VD:jd

# TAB 6

**UTAH STATE BAR  
BOARD OF BAR COMMISSIONERS  
MINUTES**

**JULY 18, 2019**

**GRAND SUMMIT HOTEL, PARK CITY, UTAH**

- In Attendance:** President H. Dickson Burton and President-elect Herm Olsen.  
Commissioners: S. Grace Acosta, John Bradley, Steven Burt, Heather Farnsworth, Chrystal Mancuso-Smith, Marty Moore, Mark Morris, Mark Pugsley, Michelle Quist, Tom Seiler, Heather Thuet, and Katie Woods
- Ex-Officio Members:** Nate Alder, Erik Christiansen, Abby Dizon-Maughan, Amy Fowler, John Lund, Margaret Plane, Robert Rice, Dean Gordon Smith, Bebe Vanek, Lorraine Wardle, and Dean Elizabeth Kronk Warner.
- Not in Attendance:** Mary Kay Griffin, and Cara Tangaro, Ex-Officio Members: Sarah Starkey. Assistant Executive Director Richard Dibblee, and General Counsel Elizabeth A. Wright.
- Also in Attendance:** Executive Director John C. Baldwin, Utah Courts Representative Cathy Dupont

**Minutes: 7:45 a.m. start**

**1. President's Report: H. Dickson Burton**

- 1.1 Welcome and Review Schedule.** Dickson Burton welcomed Bar Commissioners and reminded Commissioners the Summer Convention schedule of events.
- 1.2 Review 2019-2020 Meeting Schedule.** Herm Olsen introduced the 2019-2020 Bar Commission Meeting Schedule.
- 1.3 Review Retreat Schedule.** Herm Olsen briefly discussed the plans for the August 2019 Commission Meeting and Retreat to be held at the Silver Baron Lodge in Deer Valley, Utah.
- 1.4 Report on Tax Reform Town Hall Meetings.** Dickson Burton discussed the need for to be part of the solution for the long-term tax issues facing the state and emphasized the importance for lawyers across the state to participate in the town hall meetings. Dickson reviewed the issues raised and debates that have taken place at the that have already been held.

- 1.5 Report on the Status of the Ethics Hotline.** John Baldwin stated that the Office of Professional Conduct will no longer be hosting the Bar's Ethics Hotline. The Bar's General Counsel, Elizabeth Wright and the Bar's Discipline Process attorney, Jeannine Timothy, have taken over the Ethics Hotline until a more permanent solution is found. The Office of Professional Conduct will temporarily assist Ms. Wright and Ms. Timothy with the responses.
- 1.6 Report on the Bar Survey Request for Proposals.** Mark Morris reported that he has had several responses to the Request for a Proposal announcement. The survey committee will meet to discuss the proposals and will prepare a recommendation for the Bar Commission.

## **2. Information Items.**

- 2.1 Report on MCLE Board Proposals to Court.** Chrystal Mancuso-Smith reported on the MCLE Board meeting with the Court to request several rule changes including having lawyer well-being seminars qualify for CLE credit and changing the reporting year from a 2-year cycle to a 1-year cycle.
- 2.2 Report on Legal Market Reform Task Force.** John Lund indicated that the task force has finalized a report to be submitted to the Utah Supreme Court proposing rule changes for ownership of law firms; lawyer advertising; and rules allowing non-lawyers to practice law under regulations other than those controlled by the Bar.
- 2.3 Report on Access to Justice Commission.** The Honorable Christine M. Durham discussed the current activities of the Access to Justice Commission.

## **3. Action Items.**

- 3.1 Approve Well-Being Committee Recommendations.** The Commission voted to approve the recommendations of the Well-Being Committee.
- 3.2 Approve Recommendation on Legal Research Benefit.** The Commission approved the contract with FastCase as the Bar benefit for online legal research.
- 3.3 Approve Request to Support ABA Position.** The Commission approved the request to support the ABA position to increase bandwidth internet access so that rural Utah communities have greater access to legal assistance.

## **4. Commission Reorganization.**

- 4.1 Welcome New Bar Commissioners.** Dickson Burton welcomed newly elected Bar Commissioners Marty Moore and Michelle Quist, and introduced Elizabeth Kronk Warner, Dean of the S.J. Quinney College of Law.

**4.2 Appoint *Ex Officio* Members.** Tom Seiler *moved* and Grace Acosta *seconded* the appointment of the new *Ex Officio* members of the Bar Commission to serve for the 2019-2020 fiscal year, including: H. Dickson Burton as Immediate Past Bar President; Gordon Smith, Dean of J. Reuben Clark Law School; Elizabeth Kronk Warner, Dean of S.J. Quinney College of Law; Jiro Johnson, Utah Minority Bar Representative; Kate Conyers, Women Lawyers of Utah Representative; Victoria “Torie” Finlinson, Young Lawyers Division Representative; Candace Gleed, Paralegal Division Representative; Amy Fowler, LGBT & Allied Lawyers of Utah Representative; Margaret Plane, Utah ABA Members’ Delegate; Nate Alder and Erik Christiansen, Bar’s Delegates to the ABA; and Bebe Vanek, Young Lawyers Division Delegate to the ABA. The motion was approved unanimously.

**4.3 Approve Executive Committee.** Herm Olsen *moved* and Grace Acosta *seconded* the appointment of new members to the Bar Commission Executive Committee: Herm Olsen, Heather Farnsworth, Mark Morris, Cara Tangaro, Tom Seiler, and John Bradley. The motion was approved unanimously.

**4.4 Adopt Resolution on Bank Signatures.** Grace Acosta *moved* and Chrystal Mancuso-Smith *seconded* the motion accepting the Bar Commission Executive Committee as bank signatories. The motion was approved unanimously.

**5. Recognize Retiring Commissioners.**

Dickson Burton thanked Herm Olsen for his 14 years of service as the 1<sup>st</sup> Division Bar Commissioner and thanked Grace Acosta for her 3 years of service as a 3<sup>rd</sup> Division Bar Commissioner. Dickson presented each with plaques. Herm thanked Dickson Burton for his years of service as a 3<sup>rd</sup> Division Bar Commissioner and as Bar President. He then presented Dickson with a plaque and gift.

**The meeting adjourned to an Executive Session at 10:45 a.m.**

**Consent Agenda**

1. Approved Minutes from the May 17, 2019 Commission Meeting.
2. Approved amendments to the Family Law Section By-laws.



August 2, 2019

Board of Bar Commissioners  
Attention: Herm Olsen, Bar President  
Utah State Bar  
645 South 200 East, Suite 310  
Salt Lake City, Utah 84111-3834

Re: ***Fund for Client Protection  
Meeting of June 14, 2019***

Dear President Burton:

The following is a report of the meeting of the Fund for Client Protection a/k/a Client Security Fund which was held June 14, 2019 at the Law and Justice Center. The members of the Committee that were present are Committee Chair Stephen W. Farr, Bradley N. Mumford, Linda Barclay Mount, Kim S. Colton, James M. Honnicutt, Joanna G. Bell, Smith D. Monson, Robert R. Harrison, David E. Letta and Kathleen S. Jeffrey. Also present were Barbara Townsend from the Office of Professional Conduct and Staff Liaison Christine Critchley. The Committee considered various claims and makes the following factual analysis and recommendations:

<b>A.</b>	<b>Claimant:</b>	<b>Sandra Johnson</b>
	<b>Involved Attorney:</b>	<b>Paul Remy</b>
	<b>Disciplinary Status:</b>	<b>3 year suspension</b>

**FACTS:** The claimant hired Mr. Remy to consult with her and perhaps file a bankruptcy petition. The total sum paid by Ms. Johnson to Mr. Remy was \$875. A screening panel hearing was held in this matter. Prior to the hearing, Mr. Remy refunded to Ms. Johnson the sum of \$500. No legal services were performed. Ms. Johnson asked for a return of the balance of her fee in the amount of \$375. This request was denied by Mr. Remy. Our committee concluded that Mr. Remy had received a total sum of \$875, \$500 had been previously reimbursed by Mr. Remy, and Mr. Remy provided no meaningful services towards earning the balance of the fee.

**RECOMMENDATION:** The Committee recommends an award of \$375.

<b>B.</b>	<b>Claimant:</b>	<b>Matt Saunders</b>
	<b>Involved Attorney:</b>	<b>Sean P. Young</b>
	<b>Disciplinary Status:</b>	<b>3 year suspension</b>

**FACTS:** In this case, Mr. Saunders retained the services of Mr. Young and paid Mr. Young the sum of \$2500 for a 1-751 application. No meaningful services were furnished by Mr. Young on behalf of Mr. Saunders.

**RECOMMENDATION:** The Committee recommends an award of \$2,500.



C.     **Claimant:**                             **Javier Rico Carrasco**  
          **Involved Attorney:**         **Sean P. Young**  
          **Disciplinary Status:**        **3 year suspension**

**FACTS:** In this matter, Mr. Javier Carrasco retained services Mr. Young to represent him in a removal matter and other immigration issues. Mr. Carrasco claimed that he pay Mr. Young a total of \$9300 for representation in this case. However, Mr. Carrasco was only able to document payment of \$5150. The committee found that some legal services have been performed by Mr. Young on behalf of Mr. Carrasco and the value of the legal services actually performed totaled \$1150.

**RECOMMENDATION:** The Committee recommends an award of \$4,000.

D.     **Claimants:**                             **Juan Isidro Garcia Cendejas**  
          **Involved Attorney:**         **Sean P. Young**  
          **Disciplinary Status:**        **3 year suspension**

**FACTS:** Mr. Juan Isidro Garcia Cendejas retained the services Mr. Young to assist him in the handling of immigration issues. Mr. Cendejas furnished proof that he paid to Mr. Young the sum of \$5150 to assist him in certain legal matters regarding his immigration case. The committee found that some legal services had been performed however, the value of the legal services performed was only \$1150.

**RECOMMENDATION:** The Committee recommends an award of \$4,000.

E.     **Claimants:**                             **Rachel Crossley**  
          **Involved Attorney:**         **Charles Parson**  
          **Disciplinary Status:**        **Disbarred**

**FACTS:** Ms. Crossley claimed that she retained the services of Mr. Parsons and paid him the sum of \$2000 after he had been already disbarred.

**RECOMMENDATION:** The Committee recommends an award of \$2,000.

F.     **Claimant:**                             **Vivel Lakhumana**  
          **Involved Attorney:**         **Thomas M. Burton**  
          **Disciplinary Status:**        **3 year suspension**

**FACTS:** Mr. Lakhumana, paid to Mr. Burton the sum of \$850. Mr. Burton was to review Mr. Lakhumana sentence and take whatever appropriate action would be necessary to either vacate and/or mitigate the sentence. In exchange for the \$850 paid by Mr. Lakhumana, the

committee found that no meaningful services were performed and that the attorney failed to communicate with his client following the receipt of the retainer money.

**RECOMMENDATION:** The Committee recommends an award of \$850.

G.     **Claimant:**                     **Frank Brown**  
          **Involved Attorney:**       **Thomas M. Burton**  
          **Disciplinary Status:**       **3 year suspension**

**FACTS:** The claimant Mr. Frank Brown is currently incarcerated at the Utah State prison. The state prison has changed their policy and now requires a court order for a claimant to contact the client security fund to make a telephone appearance at their hearing. Accordingly, this matter was tabled for further proceedings and an investigation into rule changes that would permit claimants to contact the committee at the pre-designated time in furtherance of their claim with the client security fund committee.

**RECOMMENDATION:** Due to rule changes at the Utah State Prison, the Prison expects an Order so claimant can appear via telephone. A hearing will be reset.

H.     **Claimant:**                     **Marco Shkreli**  
          **Involved Attorney:**       **Philip Danielson**  
          **Disciplinary Status:**       **Resigned with discipline pending**

**FACTS:** Mr. Shkreli retained the services of an attorney Phil Danielson to assist him in certain pending legal matters. Mr. Shkreli acknowledged that some meaningful services had been performed by attorney Danielson. Of the total sum paid to Mr. Danielson in the amount of \$2685, the claimant believed that Mr. Danielson had earned approximately one half the fee actually paid

**RECOMMENDATION:** The Committee recommends an award of \$1,350 as no meaningful work was done.

I.     **Claimant:**                     **Robert Crabtree**  
          **Involved Attorney:**       **Philip Danielson**  
          **Disciplinary Status:**       **Resigned with discipline pending**

**FACTS:** Mr. Crabtree paid to Mr. Danielson the sum of \$4223 to assist him with certain legal matters. The Respondent failed to appear or otherwise failed to offer any testimony in defense of his position.

**RECOMMENDATION:** The Committee recommends an award of \$4,223 as no meaningful work was done.

The Committee has made recommendations that \$19,298 be paid out as compensation for the above-referenced claims. With these payments, the Fund's balance would be approximately \$255,581. Please contact me with nay comments or questions.

Sincerely,

**FUND FOR CLIENT PROTECTION**

*/s/ Stephen W. Farr*

Stephen W. Farr  
Committee Chair

SWF/nh

cc: Committee Members in Attendance

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# Access-Driven Calif. Reforms Likely To Spur Big Pushback

 By **Andrew Strickler** | August 4, 2019, 8:02 PM EDT

A potential redesign in how California regulates the practice of law is focused on shrinking the justice gap in the nation's largest legal market, and an upcoming hearing in San Francisco promises both to shine a more public light on the ambitious project and provoke controversy beyond the state's borders.

Advocates involved in the effort and similar initiatives in Utah and Arizona say the public forum on Aug. 10 is wisely timed to coincide with the annual [American Bar Association](#) meeting in San Francisco, thus maximizing publicity for the reform push.

The meeting and related discussions within the ABA are expected to catalyze debate among a swath of the legal community members nationwide, many of whom may be unaware of how far the discussion on changes — particularly those designed to drop barriers to nonlawyer ownership of firms — has come.

“Even I’m surprised by what’s happened over the last year, with three jurisdictions looking very

seriously at this,” said Washington-based legal ethics specialist Art Lachman, who co-chairs a “future of lawyering” commission at the Association of Professional Responsibility Lawyers.

## **In Calif., Atty Regulatory Changes Steam Ahead**

The reform of attorney rules can move at a glacial pace, but that hasn’t been the case for proposals in California concerning nonlawyer fee-sharing, nonlawyer ownership and more.

### **January 1, 2018**

Separation of the bar’s oversight and trade group activities completed; the division also put all bar trustee appointment authority with the governor, legislature and Supreme Court.

### **July 2018**

The 13-member bar Board of Trustees, which includes six nonlawyer members, gets consultant report on legal market and access to justice crisis.

### **September 2018**

Board creates task force to study access-to-justice regulatory changes.

### **June 2019**

Task force approves tentative proposal for sweeping reforms and calls for public comment.

### **December 31, 2019**

Final recommendations due to the Board of Trustees. Full implementation would require both judicial and legislative action.

“The pushback is coming, I have no doubt. But I think the broader profession is very interested. The timing is right, and lawyers are finally realizing that the current rules just aren’t working,” he said.

The hearing, held by the bar’s Task Force on Access Through Innovation of Legal Services, is part of an effort to gather public input on a sweeping — but still tentative — set of proposals aimed at encouraging the development of technology and services that make the justice system more affordable and accessible.

In a June report, the group called for a series of changes in the state Rules of Professional Conduct that would let authorized nonlawyers give legal advice and create a new regulatory framework for hybrid entities and artificial intelligence systems that “perform the analytical functions of an attorney.”

Another proposal calls for the broad Rule 5.4 ban on nonlawyer fee-sharing to be replaced with a “permissive rule” allowing such deals, provided client protections and consent are in place.

Yet another proposal focuses on a new Rule 5.7 designed to encourage investment in “technology-driven delivery systems including associations with nonlawyers and nonlawyer entities.”

In explaining the rationale behind its Rule 5.4 proposals, the California task force said in a June report that “a major shift” in the legal field is necessary “to disrupt the continuing access to justice crisis.”

And in order to encourage innovation and technology-driven legal delivery models, the state should recraft ethics rules to allow for “broad flexibility” in financial deals between lawyers and those outside the profession, including through fee-splitting and referral payments not currently allowed, the task force said.

The task force — which includes a majority of nonlawyers as well as representatives from the legal tech industry — pointed to the profession’s and regulators’ “immense” failure to come up with ways to help more people afford or find appropriate legal help.

“Under the current rules, lawyers alone are responsible for the protection of clients — often resulting in such narrow and strict business models that a large majority of access to justice needs go unmet,” the group said.

Similar Rule 5 reforms and allowances for law-tech partnerships have been discussed in the bar for decades. And in recent years, the call for rule reforms has been amplified by a range of new commissions and studies focused on the use of technology to connect parties with low-cost lawyers or even to provide legal guidance directly.

Those efforts have also been met with sharp criticism that allowing third-party ownership in firms would undermine attorney independence and open up client cases to influence by outside financial interests.

Most recently, a push from within the ABA to consider loosening rules against nonlawyer firm ownership came to a halt in 2016 under fierce opposition from many corners of the bar.

Echoing previous debates on the issue, many pointed to a lack of hard evidence that jurisdictions that allow for nonlawyer firm ownership, including the United Kingdom and Australia, had made their own justice systems more accessible.

Legal market expert William Henderson, who wrote an economics-focused report for the California bar last year that led to the task force formation, said the profession is far more aware today, even compared to two years ago, of how the current rules stymie legal-technology collaborations.

There are also more studies and data showing a fast-growing percentage of people either unable to afford lawyers or with a legal claim whose value is far outstripped by the costs of the legal help they would need to get the case resolved.



In one major 2015 study, the National Center for State Courts said 76% of litigants represented in the study were unrepresented in civil matters, nearly double from two decades earlier.

“The idealized picture of an adversarial system in which both parties are represented by competent attorneys who can assert all legitimate claims and defenses is an illusion,” the study said.

Henderson, a professor at Indiana University Maurer School of Law, said that, in the face of that kind of crisis in the civil justice system, the proposals were “relatively modest” from a public policy point of view. He also predicted the relatively muted reaction around the bar so far to the California initiative won’t last.

“There is going to be an outcry from a particularly powerful lobbying group, lawyers,” he said. “But we also know that three out of four people who show up in a state court are unrepresented, and that’s what I think the [bar] trustees are worried about.”

If California does act, Henderson and others said it would be a strong incentive for other states that are considering sweeping changes to move forward.

In Arizona earlier this month, a commission created by the state Supreme Court to look broadly at state ethics rules voted to recommend a sweeping set of rule changes.

They include the elimination of Rule 5.4 altogether and most of the regulations governing lawyer advertising. The proposed reforms would also allow lawyers to share fees with non-lawyers.

The state Supreme Court in Utah has also begun what it described as a “reimagining” of the state’s lawyer regulation structure to improve access to affordable legal services through “the power of entrepreneurship, capital and machine learning in the legal arena.”

Salt Lake City litigator John Lund, who co-chairs the task force, said the group was preparing to recommend a series of changes on fee-sharing and outside investment, as well as the formation of a new regulatory body to oversee nonlawyers providing distinct legal services.

“If anything, this is going to be more aggressive than what we’re seeing come out of California,” Lund told Law360. “But the underlying driver is: We’ve got a huge population of people who just can’t afford lawyers.”

The public comment period for the California proposals ends Sept. 23. The task force’s final report and recommendations are due to the bar’s Board of Trustees by the end of the year.

A public comment period and judicial review of the Arizona proposals are expected in the fall. Lund said the Utah task force report is expected to be submitted in August to the state Supreme Court, which may call for a public comment period.



Attorney Toby Rothschild, a vice chair of the California task force, said every opinion would be considered as the plan moves forward, and he emphasized that the proposals were highly tentative.

Members of the bar's recently reconstituted governance body have been "interested and engaged and encouraging" of the group's work, Rothschild said, and "may well push it forward."

"In my mind, as a career legal aid attorney, the need is so overwhelming that we have to find ways to help people recognize that if this is done right, it will actually expand the public's recognition of the need for legal services," he said.

"We do expect to hear more negative words, mostly from lawyers worried that the law is becoming more a business than a profession" Rothschild added. "But that train may have already left the station."

--Editing by Philip Shea and Jill Coffey.

*Have a story idea for Access to Justice? Reach us at [accesstojustice@law360.com](mailto:accesstojustice@law360.com).*



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## The United States Law Week

# California Opens Door to More Legal Tech, Non-Lawyer Roles (1)

By Roy Strom

Posted July 2, 2019, 1:49 PM Updated July 2, 2019, 3:05 PM

- State bar task force proposed rules to allow non-lawyer investment in law firms, practice of law
- Similar reform efforts have stalled, but California bar's new structure could change outcome

California has taken a step towards altering the role of lawyers after a state bar task force last week advanced controversial proposals for new ethics rules that would allow non-lawyers to invest in law firms and tech companies to provide limited legal services.

The new rules could open up Big Law firms, at least in California, to greater competition from "New Law" providers and the Big Four accounting firms that have been so far limited from practicing law in the U.S. They could also provide an avenue for law firms to receive outside investors to foster spending on tech or new business lines.

The proposed rules are sure to spark a debate between legal market traditionalists and those looking to change the system last seen on a national scale in 2016 when an American Bar Association working group scrapped proposals to allow outside investment in law firms or so-called alternative business structures.

Still, California's efforts are one of the first possible steps toward a U.S. legal market that looks more like the U.K. and Australia's. Those countries allow non-lawyers to own legal service providers and have scaled back traditional protections for work that must be handled by lawyers.

"We can look to those markets to see that the sky hasn't fallen," said Dan Rodriguez, a former dean at Northwestern University Pritzker School of Law who wants California's proposals to become the new rules. "We need natural experiments."

The proposals face a series of votes and potential lobbying before becoming effective. They arose from a task force convened last year by the California State Bar to increase access to justice.

Arizona and Utah also have initiated task forces in recent months to study similar issues because of concerns over access to justice.

### 'Kicking-And-Screaming Transformation'

One of the most controversial proposals in the California set would amend ABA Model Rule 5.4 to permit law firms to share fees with non-lawyers in what the California committee proposing the rules said would create "a major shift" to solve a growing access to justice problem.

Other rules would create licenses for non-lawyers to “provide legal advice and services” and would allow “technology-driven delivery systems to engage in authorized practice of law activities.” New regulatory bodies could be created to oversee those new providers, the rules suggest.

The proposed exception allowing tech-driven delivery systems is “a form of legitimization” to alternative legal service providers like Elevate and UnitedLex, said Michele DeStefano, a law professor at the University of Miami School of Law and founder of the nonprofit group LawWithoutWalls, an education program for lawyers and law students designed in part to help create legal tech innovations.

“They’ve been in an uphill battle” to sell their services and products in the United States, said DeStefano. “But this change would make it easier for them to enter this space.”

The way that California rule is currently written is a disincentive to legal industry entrepreneurs, DeStefano added. But by allowing new legal tech businesses to sprout up, a rule change could benefit “both David and Goliath”—meaning both individual citizens and large corporations—by promoting the creation of legal solutions that are cheaper and of higher quality.

Mark Cohen, a law firm business consultant who has been critical of restrictions against non-lawyer ownership in the past, said the California proposals could go beyond allowing new staffing models and technologies, specifically by defining the tasks that make up “the practice of law,” and would therefore require lawyers.

“This is all a footnote to law’s kicking-and-screaming transformation from a lawyers-only profession to an industry where lawyers are just part of the delivery process,” Cohen said.

California’s proposed rules will be released for a 60-day comment period if they pass a vote by the State Bar of California board of trustees on July 11. Joanna Mendoza, an elected trustee, said she expects that vote to pass the 13-member board. The comment period will help shape a final report due to the board in December with recommendations for final rules proposals.

“Lawyers are typically conservative and they don’t like change,” Mendoza said. “So we are putting these recommendations together based on what we think needs to happen and not on what we think will happen. And we hope it pushes things in the right direction.”

### Increased Odds of Passage

U.S. state bar associations and the lawyers they represent have in the past lobbied against the types of changes proposed by California’s task force.

But California’s bar association underwent major reforms in recent years that might give the state’s regulators a better chance of passing new proposals. The bar association in January 2018 was split to separate its regulatory function from its lawyer trade association function.

The state bar’s regulatory body now has a board of trustees that counts seven lawyers and six non-lawyers on its roster. But Mendoza, a lawyer and potential swing vote, said she is in favor of the non-lawyer ownership rules, which she thinks will help lower the cost of legal services.

The California Supreme Court will also be a key player in the debate since it oversees the regulatory body. Mendoza said the trustees likely would not adopt proposals that it knew the court would shoot down.

A court spokesperson said the Supreme Court doesn't comment on potential rules changes. The court receives rules proposals for consideration and can approve, amend, deny or take other actions, the spokesperson noted.

"I would like to think that the current board is not protectionist and really understands the regulatory body is there for the consumer of legal services, and not for lawyers," Mendoza said. "I don't trust that yet, but I hope it is true that they will focus on what is right for the consumers and not lawyers."

With assistance from Sam Skolnik

(Added information about other states' task forces in paragraph seven.)

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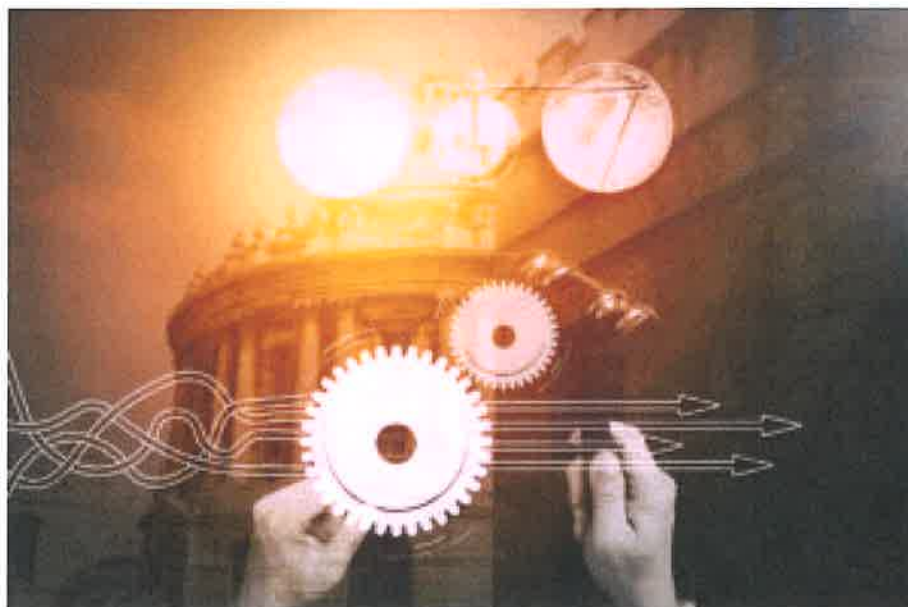
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## Re-regulating Lawyers for the 21st Century

Posted on July 18, 2019 by Jayne Reardon



Do lawyer ethics rules prohibit innovation in the delivery of legal services and contribute to the access to justice gap? Yes, according to a task force on lawyer regulation formed last

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summer by the California State Bar's Board of Trustees. The task force has recommended changing some key lawyer ethics rules.

California isn't alone in exploring this issue. Arizona and Utah have also convened task forces. Illinois has been studying similar issues for some time. In addition, there are national organizations attuned to lawyer regulation issues.

Whether new ethical rules are adopted by one or more states, indicators point to a dramatic re-structuring of the legal market. Lawyers in every state should follow these developments with interest.

## Backstory on Lawyer Re-Regulation

About a year ago, [William Henderson](#), a prolific author and lecturer on the legal market who holds the Stephen F. Burns Chair on the Legal Profession at Indiana University Maurer School of Law, issued a watershed report on the changing legal market. The report became a clarion call to action.

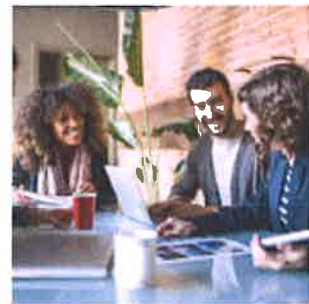
Henderson's [Legal Services Landscape Report](#), which was written at the request of the State Bar of California, was released in July 2018. The report squarely points to ethics rules as contributing to the access to justice gap as well as the flat demand for legal services. Henderson wrote,

“the legal profession is at an inflection point. Solving the problem of lagging legal productivity requires lawyers to work closely with professionals from other disciplines. Unfortunately, the ethics rules hinder this type of collaboration. To the extent these rules promote consumer protection, they do so only for the minority of citizens who can afford legal services. Modifying the ethics rules to facilitate greater collaboration across law and other disciplines will (1) drive down costs; (2) improve access; (3) increase predictability and transparency of legal services; (4) aid the

### Re-regulating Lawyers for the 21st Century



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growth of new businesses; and (5) elevate the reputation of the legal profession.”

## California Task Force

Soon after the Landscape Report, the California Bar’s Board of Trustees formed the Task Force on Access Through Innovation of Legal Services (ATILS). ATILS was charged with identifying possible regulatory changes for enhancing the delivery of, and access to, legal services using technology, including artificial intelligence and online legal service delivery models. The task force was to make recommendations that included an explanatory rationale reflecting a balance of the dual goals of public protection and increased access to justice.

ATILS’ 23 members—which includes 11 public members, 10 lawyers and two judges—have leveraged widespread expertise on technology, professional responsibility and online legal information. During late 2018 and early 2019, ATILS formed various working groups, held meetings and heard presentations.

## ATILS’ recommendations

On July 11, 2019, ATILS delivered sweeping recommendations to the State Bar of California with a request to circulate the recommendations for a period of public comment. The recommendations were described as “tentative,” and it’s expected they may be revised based on the comments received. A report setting forth ATILS’ final recommendations is to be submitted to the Board of Trustees no later than December 31, 2019.

The recommendations released on July 11 provide a general framework for lawyer regulation reform rather than specific amended language for the ethics rules. However, there are two cutting-edge areas where regulatory easing is recommended: restrictions on the unauthorized practice of law and restrictions against fee-sharing reflected in Rule of Professional Conduct 5.4.

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"CLE is often seen as a chore; a box you need to check. But the simple act of



ATILS recommended several exceptions to restrictions on the unauthorized practice of law, including:

- To allow individuals who are not lawyers to offer certain types of legal services to consumers, with regulation. Alternative regulation schemes include: regulating the entity the individual works in and requiring the entity to ensure quality control (entity regulation); creating a new licensing scheme for individuals who are not lawyers; or certifying paraprofessionals and allowing them to provide legal advice as an exemption from the UPL statutes.
- To allow state-certified/regulated/approved entities to use technology-driven legal services to engage in authorized law practice activities. In this case, the regulator must establish adequate ethical standards governing both the provider and technology. Specifically, client communications with technology-driven legal service delivery systems should receive equivalent protections as afforded by the attorney-client privilege and a lawyer's duty of confidentiality.

ATILS contemplates that the regulatory process will be funded through application and renewal fees.

Another series of recommendations is intended to remove financial barriers to collaboration between lawyers and other professionals through the modification of Rule 5.4. Perhaps anticipating controversy over this issue, two versions were set forth: alternative 1 is a narrow approach and alternative 2 is a broader approach.

- Alternative 1 would allow a lawyer to share fees with another individual and be part of a firm in which another individual holds a financial interest if: the firm's sole purpose is providing legal services; the other professionals provide services that assist the lawyer in providing legal services; and the other individuals have no power to direct or control the professional judgment of a lawyer. This alternative, which is modeled on the revisions to ABA Model Rule 5.4

proposed by the ABA Ethics 20/20 Commission in 2011, is more limiting than the proposal of the Multidisciplinary Commission in 1999. The Multidisciplinary Commission contemplated that owners who were not lawyers could separately and independently provide services of a nonlegal nature, such as accounting or financial planning services.

- Alternative 2 would dramatically revise Rule 5.4, allowing fee sharing with someone who is not a lawyer if the lawyer or law firm obtains a client's informed written consent to the arrangement. The ATILS report notes that innovation requires collaboration, multidisciplinary participation and funding/investment. Alternative 2 is "meant to create a major shift in Rule 5.4 around ownership and fee sharing with very limited regulation."

## Lawyer Re-Regulation in Other States

### *Arizona*

The Arizona Supreme Court also relied on Henderson's Legal Services Landscape Report in forming its Legal Services Task Force (LSTF) in early 2019. Noting that court rules haven't kept pace with the changes impacting the delivery of legal services, the Arizona Supreme Court charged the task force with reviewing the regulation of the delivery of legal services in the state, focusing on "how rules and codes governing the practice of law in Arizona can be revised to improve the delivery of legal services to consumers by lawyers and others, such as document preparers."

Coincidentally acting on the same date as ATILS in California, on July 11, 2019, the Arizona LSTF voted to streamline, delete and amend many ethical rules as well as move forward with considering entity regulation. This is according to veteran Arizona ethics attorney Lynda Shely, who is assisting in the process. Next steps are for the Arizona Judicial Council to review and possibly approve the task force's recommendation of

a period of public comment. The review is likely to take place in fall 2019.

Although there may be further amendments throughout the process, the LSTF's recommendations on lawyer regulation are significant and worth following. They include:

- Eliminate all of Rule 7.2 governing advertising and referrals, retaining only a requirement that advertising include a name and contact information;
- Eliminate Rule 5.4 and make revisions to other ethical rules that would: permit Arizona firms to include partners who aren't lawyers, allow lawyers to share fees with professionals who aren't lawyers and allow passive investment in law firms, while also reaffirming that lawyers are responsible for maintaining all ethical obligations to firm clients, including conflict considerations and confidentiality.

### *Utah*

Utah, as those following the access to justice issue may recall, has rolled out various initiatives to increase access, including becoming the second state behind Washington to create a new license for professionals delivering certain legal services, the licensed paralegal practitioner.

In late 2018, the Utah Supreme Court embarked on what it described as the "most promising initiative" moving toward equal access to justice, involving "profoundly reimagining the way the law is regulated in order to harness the power of entrepreneurship, capital and machine learning in the legal arena."

The Court tapped John Lund (former president of the Utah State Bar) and Utah Supreme Court Justice Deno Himonas to lead a working group that's studying and will make recommendations to the Court on "optimizing the regulatory structure for legal services in the Age of Disruption in a manner that fosters

innovation and promotes other market forces so as to increase access to and affordability of legal services.”

The working group is charged with examining a new regulatory structure including:

- Loosening restrictions on lawyer advertising, solicitation and fee arrangements, including referrals and fee sharing;
- Providing for broad-based investment and participation in business models that provide legal services to the public, including non-lawyer investment and ownership of these entities; and
- Creating a regulatory body under the auspices of the Utah Supreme Court that would develop and implement a risk-based, empirically grounded regulatory process for legal services.

A final report and specific recommendations were due to the Court by June 30, 2019, but the date has been pushed back a few months. I’ve spoken to both Himonas and Lund, who advise that the recommendations will likely include establishing a “regulatory sandbox” that will allow legal service providers other than lawyers to experiment with innovative models during a pilot or test phase.

### *Illinois*

My home state of Illinois issued a study of client-lawyer matching services and proposed a regulatory framework to ease the dual problems that (1) many of the civil legal needs of poor and moderate-income individuals are not met even while (2) many lawyers are underemployed or unemployed.

The Attorney Registration and Disciplinary Commission (ARDC) of the Supreme Court of Illinois issued a comprehensive report proposing soft regulation of matching-service providers and has been studying the comments received. The draft proposal includes:

- Matching service providers be required to register with and subject to regulation by the ARDC;
- Including for-profit client-lawyer matching services as well as existing referral services, providing more options for consumers;
- Allowing fee-splitting with registered matching services.

## Lawyer Re-Regulation at the National Level

*APRL*

As I've written before, the ethical rules are passed by the supreme courts in each state. Some pressure for ethical reform concerns the fact that regulations are inconsistent, inhibiting efficiencies and efficacy in client representation across state lines. It would be nice to see some harmonization or even uniformity among these reform options, lest we replicate the confusing patchwork of regulations that have developed over time with respect to advertising rules. There is some hope this may occur.

The Association of Professional Responsibility Lawyers (APRL), a national bar association of legal ethics lawyers, has formed a Future of Lawyering Committee. APRL started the national dialogue on the need for revised ethical rules around advertising and solicitation, which resulted in the changes adopted or being considered by many state supreme courts.

APRL's Future of Lawyering Committee is exploring the intersection between technology, the delivery of legal services and the access to justice gap with a "goal to make meaningful proposals for change in the area of lawyer regulation so that the profession may both embrace evolving technology and increase the delivery of competent legal services to the American public, with full accountability and without unreasonably restraining competition."

The Future of Lawyering Committee (full disclosure, I am a member) is studying the Rules of Professional Conduct that regulate the sharing of legal fees with non-lawyers, referral services and the unauthorized practice of law with a goal of delivering a comprehensive report and set of recommendations regarding rule amendments.

Importantly, the committee is including diverse perspectives from outside the organization. These liaisons include attorney regulators (National Organization of Bar Counsel), the Federal Trade Commission, the Legal Marketing Association, the ABA Center for Professional Responsibility and the Conference of Chief Justices. Committee chairs regularly report their progress to the chief justices of the state supreme courts.

### *IAALS*

The Institute for the Advancement of the American Legal System (IAALS) collaborates with thought leaders across the country to force innovative solutions to problems in our legal system. One of IAALS' latest projects is tackling issues around the regulation of the profession.

I participated in an IAALS workshop on entity regulation in April 2019. The workshop included APRL members as well as some of the judges driving the changes in Utah and Arizona.

IAALS' intent in convening the gathering was to explore how the existing regulatory environment may impede innovation and access to legal services, examine new regulatory models and evaluate rules changes that might lead the way into the future.

Noted economist Gillian Hadfield and Lucy Ricca, a fellow at the Center on the Legal Profession at Stanford Law School, presented a draft concept for an independent national nonprofit that would regulate legal service providers—this includes lawyers as well as others. A conference report and discussion on next steps is expected soon.

## Be Part of the Dialogue

I've followed lawyer regulation for more than a decade. At no other time have I seen the rapid action that has characterized the past year. I encourage you to stay tuned and get involved as follows:

- Provide feedback on the draft California recommendations. On July 23, the State Bar of California [published](#) a 60-day comment period for the report "Options for Regulatory Reforms to Promote Access to Justice." A [public hearing](#) will be held on Saturday, August 10, from 2- 5 p.m. PDT at the State Bar of California's main office (180 Howard St., San Francisco). Comments should be submitted using the online [Public Comment Form](#). The deadline for comment is September 23.
- Learn more about APRL's Future of Lawyering Committee at APRL's Annual Conference, August 8-10, 2019 in San Francisco. On Saturday, August 10, I'm moderating a panel [Revolution in the Wild West & Update on APRL's Futures Effort](#). During the panel you'll hear directly from folks on the ground in California, Arizona and Utah.
- Follow developments on the websites of thought leaders of change: [California](#), [Arizona](#), [Utah](#), [Illinois](#), [APRL](#) and [IAALS](#).

Finally, let me know about advancements in lawyer regulation in other states. I will report further on developments as they occur.

*Updated July 24, 2019.*

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**Jayne Reardon**



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AMERICAN BAR ASSOCIATION

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## JUSTICE *for* SOME

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*The United States has a justice gap. Innovation and legal technology can help lawyers start to address it.*

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**C**AROL AND HER HUSBAND, RICHARD, live in Erie County, New York. Today their life together has the type of calm that many people imagine for themselves in retirement. They talk regularly with friends, go to the movies when there's a new showing, and walk their dog every night before dinner.

But it wasn't until recently—during a routine hospital screening—that a caseworker learned there was more to the couple's story. For more than a decade, Richard and Carol had been victims of elder abuse.

Using an app called [Legal Risk Detector](#) that screens seniors for potential legal issues, the caseworker learned that Carol's situation was very high-risk. She “felt unsafe at home,” “was afraid of someone,” and “had been verbally threatened,” according to the assessment.

It came to light that for many years Carol and Richard had been housing Carol's adult granddaughter, who refused to pay rent or other expenses and often left her newborn daughter in Carol's care for hours, even days at a time without advance notice. The few times Carol and Richard protested, the granddaughter threatened them verbally—and once even resorted to physical violence.

*“Middle-class Americans, recent college graduates, first-generation immigrants, and new parents can all experience barriers to accessing the legal resources they need.”*

That's when Carol learned there were legal options for people in situations like this one. “We didn't know where to turn,” she says.

Today in the United States, millions of people like Carol lack access to basic legal resources for a variety of reasons. They forgo legal action because they find the system too overwhelming, for example, or because they perceive it to be too expensive. Many simply do not know when they qualify for legal services in the first place. And it isn't an issue that affects only the elderly. Middle-class Americans, recent college graduates, first-generation immigrants, and new parents can all experience barriers to accessing the legal resources they need.



This issue affects lawyers, too.

"Lawyers wrestle with the challenges that can make connecting with clients more difficult," says Bob Carlson, president of the American Bar Association and a shareholder with the Butte, Montana, law firm Corette Black Carlson & Mickelson, P.C.

But Carol's story also hints at a possible solution. "Technology can help bridge the divide here, making lawyers more effective and efficient," Carlson says.

In Carol's case, legal technology did more than diagnose her situation; it automatically connected her with attorney Stephen Cho of the [Center for Elder Law and Justice](#).

"When Carol's case came to me, I already had background information, which enabled us to begin consulting on her choices quickly," Cho says. He helped Carol and Richard evaluate their legal options and eventually have their granddaughter removed from their home.

Taking a case from a hospital bedside to the desk of an attorney at no cost would have been unimaginable even a few years ago. Today the Legal Risk Detector tool is just one development in a growing movement to responsibly integrate new technologies into the United States' legal system.

Improved benefits.  
Greater value.

The practice of law is the experience  
of a lifetime. Develop your career.  
Advance the profession.



SEC. 1

## *the* UNITED STATES *has a* JUSTICE GAP

**DEFENDANTS FACING JAIL TIME** in criminal cases have a constitutional right to be provided an attorney, but many people are surprised to learn there is no equivalent guarantee for individuals in civil cases. Typically, defendants in such cases—including divorces, domestic violence orders, home foreclosures, evictions, wills, and immigration applications—are responsible for attaining their own legal representation. And therein lies the gap.

By [one estimate](#) from the Legal Services Corporation<sup>1</sup>, 86 percent of low-income people with civil legal problems received inadequate or no legal help in the past year. Between 2015 and 2018, roughly [80 percent to 90 percent](#) of domestic relations cases in Philadelphia involved at least one self-represented party. In 2016, [75 percent of low-income rural households](#) experienced a civil legal

problem, but only 22 percent sought professional legal help. And in 2017, 90 percent of evicted tenants in New York City never made an appearance in court.

#### Legal Services Corporation <sup>1</sup>

Congress established Legal Services Corporation (LSC) in 1974 to provide financial support for civil legal aid. Today the LSC is the single-largest funder of civil legal aid for low-income Americans in the nation.

#### Justice Gap <sup>2</sup>

The difference between the civil legal needs of low- and middle-income Americans and the resources available to meet those needs.

The justice gap<sup>2</sup> knows no regional or demographic boundaries. In its research, Legal Services Corporation has given special focus to a variety of groups impacted by access-to-justice challenges, including veterans, rural residents, parents and guardians of minor children, and survivors of domestic violence or sexual assault.

In certain cases, having legal representation can quite literally mean the difference between staying in this country and being deported to life-threatening conditions. “When unaccompanied children go to a removal hearing without representation by a lawyer, they win legal relief in about 15 percent of the cases,” says Jack Rives, executive director of the American Bar Association. “If they have an attorney, however, over 70 percent are able to remain in this country.”

The justice gap also persists in part because people simply don’t know when and how to engage with the legal system. Currently one in five low-income Americans cites “wasn’t sure if it was a legal issue” as the reason for not pursuing the help of an attorney, while 22 percent say they “didn’t know where” to begin their search for legal resources.



2017 Justice Gap Measurement Survey | [www.lsc.gov](http://www.lsc.gov)

“Part of the problem is how people think about and understand the civil justice issues that they have,” says Rebecca Sandefur, professor of sociology at the University of Illinois. “Many low- and middle-income people simply don’t realize that the problems in their life have a legal element.”

A host of reasons beyond income level can determine someone’s ability to diagnose and address a legal issue. Older people, people with significant disabilities, and people with language barriers are less likely than others to be informed about the civil justice system and may lack social networks that can connect them to legal resources, Sandefur says.

SEC. 2

## BRINGING LAW to the

## PEOPLE

**MARGARET HAGAN IS THE DIRECTOR** at Stanford Law School's Legal Design Lab. The organization looks at how technology can be used to create new legal-services solutions. Early in her research, Hagan noticed that for many low- and middle-income Americans who have questions about the law, the instinct is to start online.

"There's a huge population of people with legal needs right now," Hagan says. "But they're not picking up the phone or using other tools to find a lawyer." Instead, they're turning to free online sources of information.

Most observers agree that online advice cannot compare to professional legal counsel. (Reddit Legal Advice, which brands itself as a place to ask simple legal questions, explicitly advises users to "see a local attorney for the best answer" to their questions, for instance.) But even so, more than [two-thirds of American adults](#) now report that they would be willing to use online legal services if it would save them money, with younger adults and those with an annual household income below \$100,000 even more likely to do so.

Part of the incentive is cost, but another is confidence, whether it's founded or not. Many middle-income people believe that they are capable of handling things without the assistance of an attorney, Rives says.



"Middle-income people, especially if they have a college degree, feel comfortable taking their questions to Google. They'll ask a question, they'll be taken to a form, and they'll think they know what they're doing—but really, they don't."

Searching for answers to everyday questions on Google can be rewarding, but the stakes are dramatically different when it comes to the law. For example, the answer to a legal problem in one state or jurisdiction can be quite different in another.

"Search results have a huge influence on what people trust," Hagan says. "If Google tells someone that an answer to their legal question is the number-one hit, people assume that it's correct, unaware that it may be based on laws in another state. We have seen people click on Australian legal advice even if they're in California."

In the same way that an individual can misdiagnose a serious medical condition by being overly reliant on online advice, someone using online legal resources can set themselves down a path that can become very expensive to get out of later.

Studies show that people have dramatically lower rates of success when they attempt to solve their legal problems without the assistance of an attorney.

According to an [October 2018 study](#) from Harvard Law School's Access to Justice Lab, when a legal aid group in Philadelphia County directed low-income divorce-seekers to use self-help resources to assist them with their divorce, only 5 percent managed to end their marriages without an attorney.

*"Middle-income people, especially if they have a college degree, feel comfortable taking their questions to Google. They'll ask a question, they'll be taken to a form, and they'll think they know what they're doing—but really, they don't."*

What's more, many self-help websites are not ultimately liable for errors and mistakes that can happen. Individuals who rely on these resources essentially have no claim if the information they get is incorrect or incomplete.

When consulting an attorney, people can trust that they are working with someone who has passed the bar examination, is licensed within a state, understands local regulation, and is typically responsible for fulfilling ongoing educational requirements and for adherence to ethical guidelines such as those outlined in the American Bar Association's [Model Rules of Professional Conduct](#).

Hagan's research shows that a majority of people still prefer professional legal counsel to online resources, but access to legal assistance remains one of the most significant factors in people's decisions.

"Surveys show that people want and need attorneys to resolve legal problems," Hagan says. "Now we just need to make it easier and more affordable for people to access them."

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SEC 3

## *the* POWER *of* ATTORNEY

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AS WITH MANY LAWYERS TODAY, Martin Tully did not have a single "eye-opening moment" that turned him onto legal technology. Instead, he had countless such experiences. "I remember thinking, *This train is eventually going to leave the station, and I need to be on board*," Tully says. "If you're not on board, chances are you're going to get run over."

Tully is a member of the American Bar Association's [Privacy & Data Security Committee](#) in the Section of Litigation and is a founding partner at Actuate Law

in Chicago, Illinois. Over the course of a 25-year career in commercial litigation, Tully noticed that many parts of his job could be done more efficiently.

“There are so many parts of our jobs that can and should be automated,” Tully says. “When you let the machine handle them, chances are they can be done better, faster, and cheaper.”

If repeatable parts of a lawyer’s job—like keeping records, conducting basic research, and completing form letters—were automated, Tully says, lawyers would have “more time to do the things that matter most.”



“With some of those things out of the way, lawyers may be able to assist more people for less,” Tully says. “Maybe you only have time to do so much pro bono or low-cost assistance. But if you have tools that help you deliver services in a better, faster, and cheaper way, that may allow you to serve people using a different economic model.”

A variety of vendors offer affordable artificial-intelligence tools that allow attorneys to automate basic tasks. As a result, firms can provide services to a

broader spectrum of clients, including low- and middle-income people who previously might have been priced out of the market.

Tully says the next hurdle for lawyers isn't technological adoption—it's competency. "Nowadays the phone in someone's hands has more technology in it than many of the things NASA first sent to the moon," Tully says. "Clients already know how to use online legal resources because those resources were made for them.

"Now lawyers need to do the legwork in order to keep up."

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SEC. 4

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## NARROWING *the* GAP

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**"LET'S BE HONEST; HISTORICALLY SPEAKING,** lawyers aren't always the first to pick up new technologies," says Daniel Rodriguez, professor of law at Northwestern Pritzker School of Law. "But given the severity of the situation, the modern profession needs destabilizing forces."

Rodriguez sees the current moment as an important opportunity for the legal industry. There is growing interest in legal technology at all levels, from the local—with Carol telling her friends about the Legal Risk Detector tool—to the national, with university programs like Stanford's Legal Design Lab. Importantly, this expanding focus on technology also is at the heart of the United States legal system: with the American Bar Association.

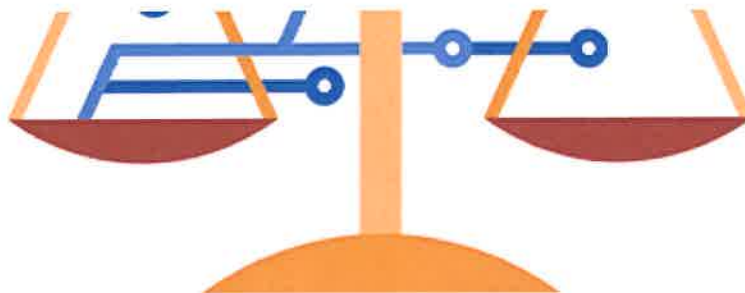
In 2012, the ABA voted to update [Rule 1.1](#) of the Model Rules of Professional Conduct<sup>3</sup> to make it clear that a lawyer's duty of competence includes a commitment to understand not only the law and its practice but also relevant developments in technology.

### ABA Rule 1.1 of Conduct<sup>1</sup>

To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

According to Andrew Perlman, dean of Suffolk Law School, that change in standards came about as a result of people having increased access to legal technology. "Expertise in an area of law is not enough anymore," he says. "Lawyers need to understand how to deliver their services more efficiently and effectively by using technology if they are going to meet the public's legal needs."





But the Model Rules of Professional Conduct can only do so much. That's why, four years after that change in language, the American Bar Association decided to take its commitment to legal technology a step further.

Rodriguez and Perlman work with the American Bar Association Center for Innovation, Rodriguez as the center's chair and Perlman, the former chair, as a special advisor. Founded in 2016, the Center for Innovation brings together attorneys, technologists, everyday people, and even chatbots to explore how technology can help lawyers start to tackle the justice gap.

"We know the most successful technological solutions to the access-to-justice gap involve collaboration with lawyers, with technologists, with entrepreneurs and, hopefully to an increasing extent, with consumers," Rodriguez says. "The object of what we're doing is to improve the ability of lawyers to provide representation, not to supplant their businesses."

As part of its mission, the American Bar Association Center for Innovation has partnered with legal technology organizations across the United States to design and develop several tools to close the justice gap.

*"We know the most successful technological solutions to the access to justice gap involve collaboration with lawyers, with technologists, with entrepreneurs, and hopefully to an increasing extent also with consumers."*

It supports apps like Flood Proof, which helps individuals complete disaster-relief applications, and the Miranda Tool, currently in testing, which aids police in informing people with limited English proficiency of their constitutional rights. The center also supports Hate Crime Help, which assists victims of harassment, violence, and property damage resulting from hate crimes, and Immigration Justice, which supports pro bono attorneys seeking to offer immigration-law assistance.

In addition to supporting the development of new legal technologies, the Center for Innovation also helps bring to light those that already exist. In May, the center launched a partnership with Legal Services Corporation called [Legal Tech for Change](#)<sup>4</sup>. The program is designed to give LSC-funded legal aid programs free access to technology that can help lawyers reach more people with the same resources.

#### Legal Tech for Change companies <sup>4</sup>

1. Ross Intelligence
2. PacerPro
3. MetaJure
4. vTestify
5. Civvis



6. Powernotes
7. Documate

Perlman and Rodriguez acknowledge that legal technology is “not a magic bullet” that can solve the justice gap overnight. But it is “an important supplement,” they say, and a step in the right direction.

“How much time does it take a lawyer to create documents for a client? How quickly can the lawyer find the needed documents?” Perlman asked. “If lawyers can do both of those things and others more quickly, they can serve more clients in the same amount of time and better serve the public.”

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*The ABA offers countless resources to lawyers,  
judges, law students and those who are interested  
in law-related issues.*

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