

Driving Directions Salt Lake City to St. Regis Resort

Retreat Location and Parking:

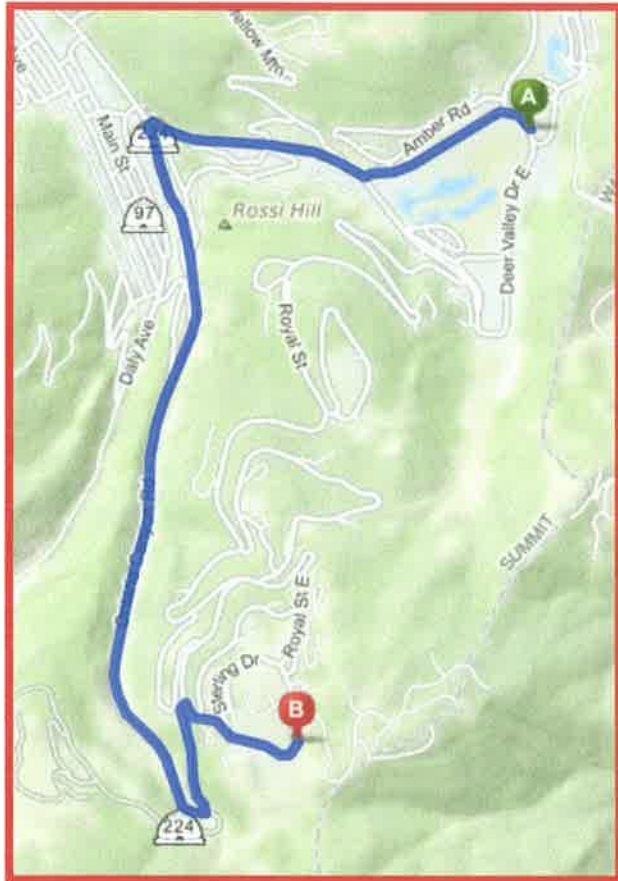
We have requested early check-in. If early check-in is unavailable at the time you arrive, the concierge will hold your luggage and deliver it to your room later. **There are two ways to get to the St. Regis Resort. Below, please find directions for the EASIEST route.**

- Via Lower Resort: (Easiest) This route will take you to the Lower Resort where you will take the FUNICULAR to get to the Upper Resort. The valet will drive your car to Upper Resort and you will depart from the Grand Salon (lobby) on Saturday. Parking fees are included with your stay.



4. Keep **left** to take **I-80 E** toward **Cheyenne**. 16.7 mi
5. Take the **UT-224 S** exit, **EXIT 145**, toward **Kimball Jct/Park City**. 0.5 mi
6. Keep **right** to take the ramp toward **Kimball Jct/Park City**. 0.10 mi
7. Turn **right** onto **UT-224/Highway 224**. Continue to follow **UT-224**. 5.8 mi
8. Turn **left** onto **Deer Valley Dr/UT-224**. 1.1 mi
*Deer Valley Dr is 0.1 miles past Iron Horse Dr
All Seasons Condominiums is on the corner
If you reach 15th St you've gone a little too far*
9. Enter next roundabout and take the 2nd exit onto **Deer Valley Dr**. 0.6 mi
10. Turn **left** onto **Deer Valley Dr N**. 0.5 mi
If you are on Deer Valley Dr S and reach Lakeside Cir you've gone about 0.1 miles too far
11. **22300 DEER VALLEY DR**.
*Your destination is just past Solamere Dr
If you reach Queen Esther Dr you've gone a little too far*

Driving Directions
St. Regis Resort to Park City Culinary Institute



1. Start out going **northwest on Deer Valley Dr E** toward **Solamere Dr.** 0.5 mi

2. Turn **right** onto **Deer Valley Dr.** 0.5 mi

3. Enter next roundabout and take the 2nd exit onto **UT-224.** 1.9 mi

4. Turn **left** onto **Guardsman Connection.** 0.3 mi
If you are on Highway 224 and reach Empire Club Dr you've gone about 0.4 miles too far

5. Turn **right** onto **Royal St W.** 0.4 mi

6. **7720 ROYAL ST E** is on the **right.**
*Your destination is 0.1 miles past Stein Way
 If you reach Bald Eagle Dr you've gone about 0.1 miles too far*

VISION OF THE UTAH STATE BAR

A just legal system that is understood, valued, and accessible to all.

MISSION OF THE UTAH STATE BAR

Lawyers serving the public and legal profession with excellence,
civility, and integrity.

2014 – 2015 COMMISSION PRIORITIES

1. Improving Access to Justice:
Pro Bono Commission & Modest Means Lawyer Referral
2. Advocating for the Judiciary
3. Reviewing Bar Operations:
OPC, Summer Convention, NLTP, Budget
4. Planning for the Future of the Profession
5. Celebrating Magna Carta/Rule of Law
6. Supporting Diversity

UTAH STATE BAR STATEMENT ON DIVERSITY AND INCLUSION

The Bar values engaging 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.

The Bar shall strive to:

- 1. Increase members' awareness of implicit and explicit biases and their impact on people, the workplace, and the profession;*
- 2. Make Bar services and activities open, available, and accessible to all members;*
- 3. Support the efforts of all members in reaching their highest professional potential;*
- 4. Reach out to all members to welcome them to Bar activities, committees, and sections; and*
- 5. Promote a culture that values all members of the legal profession and the judicial system.*

UTAH STATE BAR AWARDS

<u>AWARD</u>	<u>CHOSEN</u>	<u>PRESENTED</u>
1. Dorathy Merrill Brothers Award Advancement of Women in the Law	January/February	Spring Convention
2. Raymond S. Uno Award Advancement of Minorities in the Law	January/February	Spring Convention
3. Pro Bono Lawyer of the Year	April	Law Day
4. Distinguished Judge of the Year	June	Summer Convention
5. Distinguished Lawyer of the Year	June	Summer Convention
6. Distinguished Section of the Year	June	Summer Convention
7. Distinguished Committee of the Year	June	Summer Convention
8. Outstanding Pro Bono Service	September	Fall Forum
9. Distinguished Community Member	September	Fall Forum
10. Professionalism Award	September	Fall Forum
11. Outstanding Mentor	September	Fall Forum
12. Heart & Hands Award	October	Utah Philanthropy Day
13. Distinguished Service Award		As Needed
14. Special Service Award		As Needed
15. Lifetime Service Award		On Occasion

Points From Charlotte Miller's Bar Commission Leadership Workshop (August 23, 2014)

1. Remember why you joined the Commission – what are your goals?
2. Remember your goals are probably the same and/or similar to your colleagues on the Commission, even if you think you come from a different perspective than everybody else.
3. Being on the Commission is a privilege not a chore. Develop a mindset of “I *get* to do X” instead of “I *have* to do X.”
4. Attend all Commissions meetings; study the materials beforehand. Focus 100% of your attention while there. Do not text, or do other work during Commission meetings. Be engaged. Listen carefully. Offer thoughtful comments that are in the best interest of the Bar. Follow through. Make a difference.
5. Your time on the Commission is short, especially ex-officio members. Make the most of it.
6. Remember your role: Bar staff can handle the day –to-day operations of the Bar. Your job is big picture and oversight.
7. Charlotte encouraged the Commissioners to think about what consensus means to each of them and how they should not try to undermine a decision after it is made.
8. If you do not like someone you have to work with, use strategies to get to know the person that will enable you to better work with the person or even begin to like her or him. Charlotte gave an example of making a point to speak every day with a co-worker she thought was difficult.
9. Encourage and mentor others along in Bar leadership. Remember your Bar story, which probably included an invitation from a Bar leader to help.
10. Talk often about the Bar's Vision and Mission statement, to focus your work in a way that is consistent with those statements.
11. Charlotte conducted exercises that encouraged Commissioners to think about the decision making process. Groups were given scenarios with different difficult decisions to make and asked to reach decisions while considering the following factors:
 - a. What facts do they need? Data is very important to good decision making
 - b. What should the process be?
 - c. What unwritten Bar traditions impact the final decision?
 - d. How does the culture of the Bar impact the decision?
 - e. What items in Bar governance materials are relevant to the process?

Two most important responsibilities of a Bar Commissioner

Represent the interests of the attorneys we represent; voice for division

Bar activities and initiatives be consistent with the Bar's purpose and mission.

Help fulfill vision by devoting time and intellect

Contribute ideas and work

Serve lawyers of Utah

Help accomplish goals of the commission

Represent my division and my liaison groups

Make the Bar meaningful to lawyers

Speak honestly

Contribute with ideas and feedback

Fiduciary

Forward thinking visionary

Communicate with Bar members

Have programs that assist all attorneys and advance the profession

Protect core functions

Promote access to justice and diversity

Know concerns of membership

Speak for membership

Take action on members' needs

Be conservative with bar dues

Attend the meetings

Use sound judgment

Serve community

Represent the unrepresented

Access to Justice

Work together to assist sections of the Bar

Support Rule of Law and integrity of legal system

Listen and participate

**Utah State Bar Commission
Meeting and Retreat
Friday, August 28, 2015
Deer Crest Room, St. Regis Resort
Deer Valley, Utah**

Agenda

1. **12:00 p.m. Working Lunch and President's Report: Angelina Tsu**
 - 10 Mins.* 1.1 Committee Chair Appointments **(Tab 1)**
 - 10 Mins.* 1.2 Sponsorship of National Association of Women Judges Conference: **Kate Conyers (Tab 2)**
 - 50 Mins.* 1.3 Appoint Chairs of Exploratory Committees for:
 - A. Bar Review
 - B. Technology CLEs
 - C. Veteran's Mobile Clinic
 - D. Expungement Seminar
 - E. Assistance to Former Members of Fundamentalist Communities Project
 - F. Leadership Academy
 - G. Mentoring Awards "Breakfast of Champions"

* *(Any unfinished items will be discussed on Saturday.)*
2. **1:10 p.m. Discussion Items**
 - 10 Mins.* 2.1 Reinstate Reimbursements for Commissioners Attending Conventions and Expenses for President and President-elect: **Herm Olson**
 - 10 Mins.* 2.2 AAA Task Force Report: **Rob Rice**
 - 45 Mins.* 2.3 Futures Commission Follow Up: **Angelina Tsu and Rob Rice (Tab 3)**
3. **2:15 p.m. Blomquist Hale Presentation: Sean Morris, MS & CEO**
4. **3:15 p.m. Information Items**
 - 4.1 ABA Delegates' Report: **Margaret Plane**
5. **3:30 p.m. Break for Commission Photo (Attire: Business Casual)**
- 4:00 p.m. Adjourn**
- 5:00 p.m. Reception with Guests (Park City Culinary Institute, 7720 Royal Street East)**
- 5:30 p.m. Commissioners' & Guests' Activities**
- 7:00 p.m. Dinner**

(Over)

Consent Agenda (Tab 4)

1. Approve Minutes of July 29, 2015 Commission Meeting
2. Reappointment of Margaret Plane as ABA Delegate 2015-2017
3. Approve Rule Changes to Move Ethics & Discipline Committee Secretary from Office of Professional Conduct to Office of Bar General Counsel Supervision
4. Approve President's Appointment of Bar Exam Appeal Review Panel

Attachments

1. *OPC Initial Letter to Complainants and Respondent Attorneys*

Calendar

September 14	Executive Committee	12:00 Noon	Ray Quinney & Nebeker
September 17	Constitution Day – Teach a class!		Visit: http://civics.utahbar.org/
September 18	Commission Meeting	9:00 a.m.	S.J. Quinney College of Law
October 19-23	Pro Bono Celebration Week		
October 23	Executive Committee	12:00 Noon	Ray Quinney & Nebeker
October 28	Bar Admission Ceremony	12:00 Noon	Utah Supreme Court
October 30	Commission Meeting	9:00 a.m.	Law & Justice Center
November 19	UMBA Awards Banquet		Grand America
November 19-20	Fall Forum		Grand America
November 24	Executive Committee	12:00 Noon	Ray Quinney & Nebeker
December 4	Commission Meeting	9:00 a.m.	Law & Justice Center

2016

January 2 Election Notices Due

**Utah State Bar Commission
Meeting and Retreat**

**Saturday, August 29, 2015
Deer Crest Room, St. Regis Resort
Deer Valley, Utah**

- 8:00 a.m. Breakfast with Guests (St. Regis Lounge)**
- 8:30 a.m. Discuss Big Picture Vision for the Year**
- 8:50 a.m. Leadership Session: Charlotte Miller**
- 11:15 a.m. Group Activity (Including Guests)**
- 12:30 p.m. Lunch and Continuation of Big Picture Discussion**
- 1:10 p.m. Adjourn**
- 1:15 p.m. Executive Session**

TAB
1

Committee Chair Appointments

<u>Committee</u>	<u>Current Chair(s)</u>	<u>Date Began</u>
Admissions	Steven T. Waterman, Co-chair TBD, Co-chair	July 1997
Bar Examiner	David K. Broadbent, Co-chair Tanya N. Peters, Co-chair	July 2010 July 2014
Bar Test Accommodation	Joan M. Andrews, Chair	July 2013
Bar Journal	William D. Holyoak, Chair	July 1999
Budget & Finance	TBD, Chair	July 1992
Character and Fitness	Andrew M. Morse, Co-chair Kimberly A. Neville, Co-chair	July 2012 July 2014
CLE Advisory	Jonathan Hafen, Chair	July 2011
Disaster Legal Response	Brook Ashton, Co-chair Andrea Valente Arthur, Co-chair	July 2011 July 2013
Ethics Advisory Opinion	John A. Snow, Chair	July 2011
Fee Dispute Resolution	William M. Jeffs, Chair	July 2010
Fund for Client Protection	David R. Hamilton, Chair	July 1990
Governmental Relations	John H. Bogart, Co-chair Cameron Beech, Co-chair	July 2013 July 2015
Member Resource	Robert L. Jeffs, Chair	July 2012
New Lawyer Training	TBD, Co-chair TBD, Co-chair	July 2012 October 2011
Unauthorized Practice of Law	Benjamin P. Harmon Jonathan H. Rupp, Co-chair	July 2015 July 2013
2015 Fall Forum	Amy Fowler, Co-chair Gabe White, Co-chair	
2016 Spring Convention	Trystan Smith, Chair	
2016 Summer Convention	Aida Neimarlija, Co-chair Kate Conyers, Co-chair	

**TAB
2**

NATIONAL ASSOCIATION *of* WOMEN JUDGES



With LIBERTY *and*
JUSTICE *for* ALL

2015 Annual Conference | October 7-11, 2015 | Salt Lake City, Utah

37TH ANNUAL CONFERENCE CONFERENCE PLANNING COMMITTEE

Conference Co-Chairs

HON. MICHELE M. CHRISTIANSEN
Utah Court of Appeals

HON. SHARON MCCULLY (RETIRED)
Third District Juvenile Court

Education Committee

HON. JUDITH ATHERTON
Third District Court

PEGGY HUNT, ESQ.
Dorsey & Whitney LLP

TOM LANGHORNE, ESQ.
Utah Administrative Office of the Courts

HON. SANDRA PEULER
Third District Court

NOELLA A. SUDBURY, ESQ.
Zimmerman Jones Booher LLC

HON. KATE TOOMEY, *Committee Chair*
Utah Court of Appeals

JULIETTE PALMER WHITE, ESQ.
Parsons Behle & Latimer

Federal Judge/Court Liaison

HON. BROOKE WELLS
U.S. District Court, District of Utah

Friends Committee Co-Chairs

TAMMY GEORGELAS, ESQ.
Parsons Behle & Latimer

MARGARET N. MCGANN, ESQ.
Parsons Behle & Latimer

International Judges Committee

HON. JULIE LUND
Third District Juvenile Court

New Judges/First Time Attendee Committee

HON. JANICE L. FROST
Second District Juvenile Court

Security Committee

CAROL PRICE
Utah Administrative Office of the Courts

Volunteers Committee

HON. KIM HORNAK
Third District Juvenile Court

HON. JULIE LUND
Third District Juvenile Court

With LIBERTY and JUSTICE for ALL

NATIONAL ASSOCIATION of WOMEN JUDGES


2015 Annual Conference | October 7–11, 2015 | Salt Lake City, Utah

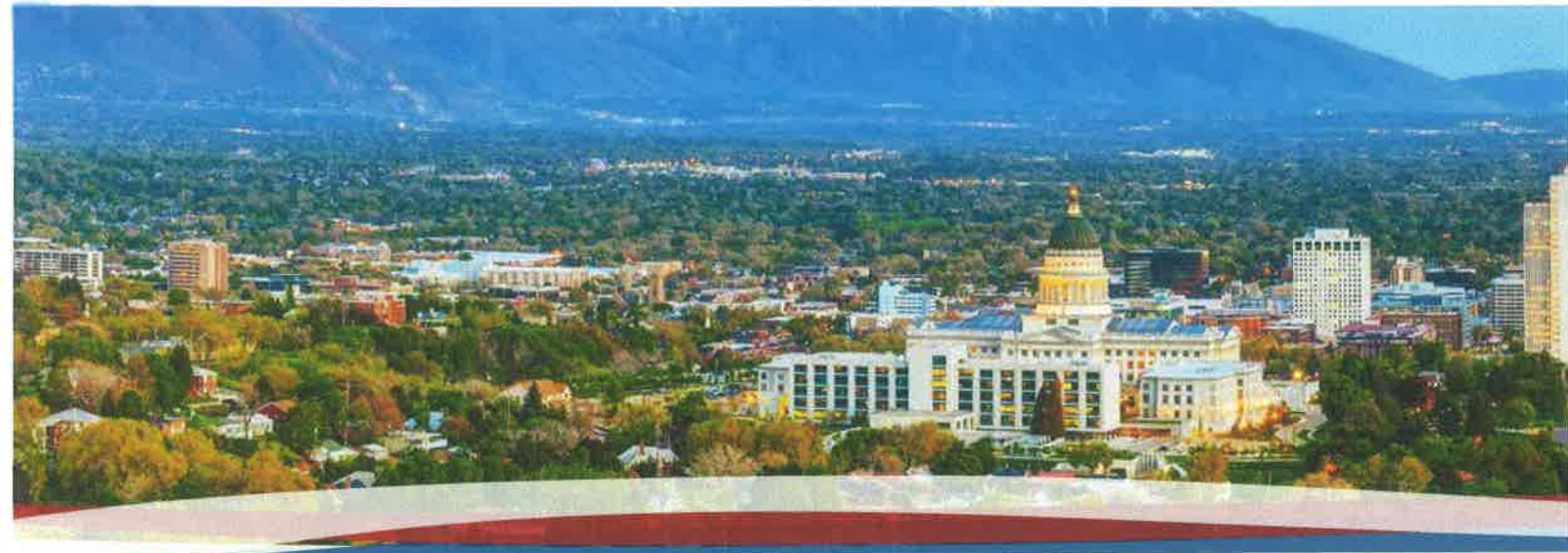
SCHEDULE OF EVENTS

WEDNESDAY, OCTOBER 7

1:00 p.m. – 2:00 p.m.	Film Screening of “Women Trailblazers in the Law: Utah’s First 100 Women Lawyers” Between 1872, when the first two women were admitted to the Bar, and 1975, only 91 women were admitted to the Utah Bar. In 1976, 28 women graduated together, to finally reach the 119 number. We refer to these 119 women as the First 100. The <i>Women Trailblazers in the Law: First 100 Women Lawyers</i> documentary highlights the lives and accomplishments these women admitted to the practice of law in Utah.
4:00 p.m. – 5:30 p.m.	New Judge/First-Time Attendee/Mentor Reception International Judges Reception
6:00 p.m. – 8:00 p.m.	Welcome Reception at The Grand America Hotel

THURSDAY, OCTOBER 8

7:30 a.m. – 8:30 a.m.	Breakfast
8:30 a.m. – 9:15 a.m.	OPENING CEREMONY Welcome by Conference Co-Chairs Honorable Michele M. Christiansen and the Honorable Sharon McCully Remarks by NAWJ President Honorable Julie Frantz, Multnomah County Circuit Court Remarks by Utah Governor Gary Richard Herbert
	
	<p>Honorable Michele M. Christiansen Honorable Sharon McCully Honorable Julie Frantz Governor Gary Richard Herbert</p>
9:15 a.m. – 10:30 a.m.	PLENARY—Gender Bias: How Far We Have Come In 25 Years Senior Judge Martha Craig Daughtrey, U.S. Court of Appeals, Sixth Circuit, NAWJ Past President Justice Christine M. Durham, Supreme Court of Utah, NAWJ Past President Senior Judge Gladys Kessler, U.S. District Court, District of Columbia, NAWJ Past President Administrative Presiding Justice Judith McConnell, California Court of Appeal, Fourth District, NAWJ Past President
10:45 a.m. – 12:00 p.m.	After Marriage: A Dialogue on LGBT Rights and Religious Liberties Moderator: Jennifer Napier-Pearce, <i>The Salt Lake Tribune</i> Professor Clifford J. Rosky, S.J. Quinney College of Law, University of Utah Professor Frederick Gedicks, J. Reuben Clark Law School, Brigham Young University This panel will examine recent debates about religious liberties and anti-discrimination laws. Special attention will be devoted to the Supreme Court’s rulings in <i>Burwell v. Hobby Lobby</i> and <i>Obergefell v. Hodges</i> , as well as recent legislation in Arizona, Arkansas, Indiana, and Utah.
12:15 p.m. – 1:45 p.m.	KEYNOTE LUNCHEON Sujata Warrior, Ph.D., Director, New York City Program, New York State Office for the Prevention of Domestic Violence



THURSDAY, OCTOBER 8 (CONTINUED)

2:15 p.m. – 3:30 p.m.

CONCURRENT SESSIONS:

Impact of Media and Social Media on Criminal, Capital and High Profile Cases

Professor Randy Dryer, S.J. Quinney College of Law, University of Utah
 Nancy Volmer, Administrative Office of the Courts, State of Utah

How do you ensure the court doesn't become the story in a high-profile case? What communication and other tools can be used to address the media's needs in the 24-hours news cycle? How can social media help the news media get the story right? The speakers will answer these questions and others while exploring strategies to address the unique challenges that arise in a high-profile case.

Disrupting the School to Prison Pipeline: How Courts can Address this National Phenomenon

Professor Emily Chiang, S.J. Quinney College of Law, University of Utah

This session will introduce and describe the school-to-prison pipeline, a nation-wide phenomenon wherein students are funneled into the criminal justice system instead of higher education. It will explore how the overuse of school discipline, zero tolerance policies, and increased policing in schools all contribute to lowered graduation rates and increased incarceration rates, particularly for students of color and students with disabilities. Finally, the session will describe what advocates across the country have been doing to plug the pipeline and what judges can do to help.

3:45 p.m. – 5:00 p.m.

PLENARY—The Uneasy Intersection of Law And Medicine

Moderator: Judge Judith S.H. Atherton (Retired), Utah District Court
 Professor Margaret (Peggy) P. Battin, Internal Medicine, Division of Medical Ethics, University of Utah
 Dr. Kirtly Parker Jones, Vice-Chair, Education, Department of Obstetrics/Gynecology, University of Utah

This presentation explores several situations where law and medicine collide, including elective sterilization, paternity and concerns about death and dying. At issue will be autonomy, interests, intentions and questions of justice.

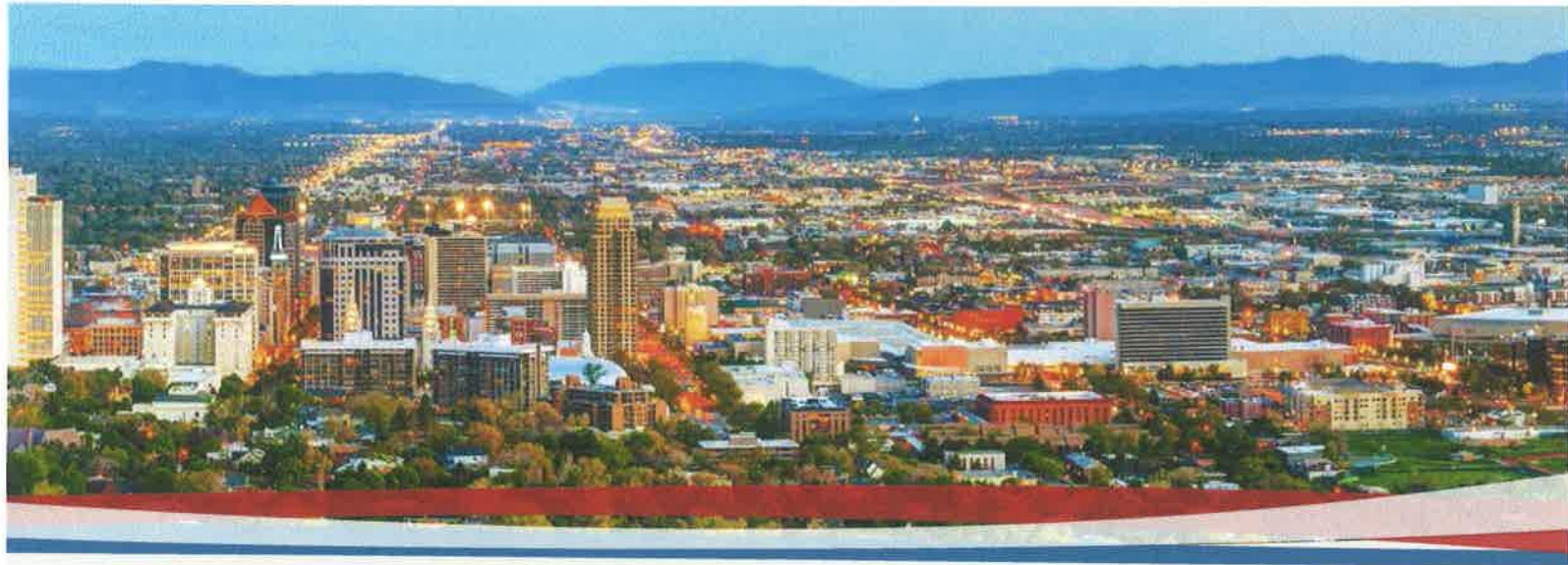
5:30 p.m. – 8:00 p.m.

Reception at The Natural History Museum of Utah

Performance by Nino Reyos, Flute Player

8:30 p.m. – 11:30 p.m

Hospitality Social hosted by The Women Lawyers of Utah



FRIDAY, OCTOBER 9

8:00 a.m. – 9:15 a.m.



Keynote Breakfast

Erwin Chemerinsky, Dean of the School of Law, University of California, Irvine

Dean Chemerinsky presents his uniquely insightful analysis of the U.S. Supreme Court's most recent decisions.

9:30 a.m. – 10:45 a.m.

PLENARY—Immigration Issues Facing State, Local And Federal Courts

Raha Jorjani, Immigration Defense Attorney, Office of the Alameda County Public Defender

This Plenary Session will cover critical immigration concepts and issues facing state, local, and federal courts. The session will focus primarily on three areas: (1) Providing an overview of the federal immigration consequences of criminal convictions, (2) Assessing the role of the Defense, Prosecution, and the Courts after *Padilla v. Kentucky*, and (3) Addressing the impact of Juvenile Court decisions on immigration status for undocumented youth.

11:00 a.m. – 12:00 p.m.

CONCURRENT SESSIONS:

Domestic Sex Trafficking: Overcoming the Barriers to Successful Prosecutions

Carol Owen, Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

Human trafficking often involves highly vulnerable populations and takes the form of forced prostitution, forced labor, and domestic servitude. The FBI is the lead agency for investigating violations of federal civil rights laws, and human trafficking is a top priority. Although this area of the law has been an active one for federal and state investigative agencies for 10 years, courts have only recently begun to see the results of this investigative work, and judges are now faced with learning quickly about the counter-intuitive and often-confusing world of trafficking. This presentation will focus on major challenges to the successful prosecution of trafficking crimes, including judges' and jurors' lack of familiarity with the subject matter; witnesses' memory problems stemming from trauma and substance abuse; their hesitancy about testifying publicly about profoundly personal matters; and the nearly-incredible cruelty of many traffickers, including keeping their victims in dog crates, beating them, and subjecting them to gang rapes.

And Justice For All


Mary Jane Ciccarello, Director, Self-Help Center, Utah State Courts

Anne Milne, Executive Director, Utah Legal Services

Stewart Ralphs, Executive Director, Legal Aid Services of Salt Lake

"AND JUSTICE FOR ALL" was created in 1998 by Utah's primary providers of civil legal services – Disability Law Center, Legal Aid Society of Salt Lake and Utah Legal Services. Despite having differing missions, these three agencies shared a common vision of creating equal access to our system of justice in Utah. By joining forces, they hoped to provide a stable and consistent source of funding for those who cannot afford legal representation because of disability, poverty, age, migrant status, or race. Learn how this unique umbrella organization could be replicated in your communities, and how it partners with law firms, attorneys, judges, legal staff and other community partners to help ensure that vulnerable Utahns across the state have access to the legal system, free of charge.

FRIDAY, OCTOBER 9 (CONTINUED)

12:00 p.m. – 1:45 p.m.	 FRIENDS APPRECIATION LUNCHEON Attorney General Sean D. Reyes, State of Utah
2:15 p.m. – 3:30 p.m.	CONCURRENT SESSIONS: Evidentiary Issues Involving Magnetic Images of the Brain Professor Teneille Ruth Brown, College Of Law, Internal Medicine, University of Utah In this session, you will learn 1) about new brain scanning technologies and how they are already being used in court cases, 2) basic differences between common technologies, and 3) apply evidentiary rules (403, 702) to one type of brain imaging that has been introduced in criminal and civil cases to detect lies. Decision-Making in Custody Cases Involving Domestic Violence: Perspectives from the Family Court Enhancement Project Judge Susan Carbon, New Hampshire Circuit Court; Former Director, Office on Violence Against Women, U.S. State Department of Justice Loretta M. Frederick, JD, Senior Legal and Policy Advisor, Battered Women's Justice Project The Family Court Enhancement Project was launched in 2014 to help courts improve decision-making in divorce and parenting cases where domestic violence is present. Four sites (Multnomah County, OR, Chicago, IL, Minneapolis, MN, and the State of Delaware) have been selected for intensive technical assistance from the National Council of Juvenile and Family Court Judges, the Battered Women's Justice Project (BWJP), the Center for Court Innovation, the National Institute of Justice, and the Office on Violence Against Women. This session will help participants recognize the challenges in domestic violence custody and parenting time decision-making, and the ideological, legal, and structural factors which contribute to them. The BWJP Framework for approaching these cases will also be discussed in an effort to help participants improve outcomes for children in these difficult cases. Predictable Misjudgment: How Intuition Misleads Judges Magistrate Judge Andrew J. Wistrich, U.S. District Court, Central District of California Research reveals that most people are vulnerable to cognitive illusions that can cause erroneous decisions. Do judges share this susceptibility? This session will present empirical data addressing that issue and discuss its implications.
3:45 p.m. – 5:00 p.m.	CONCURRENT SESSIONS: The Justice Reinvestment Initiative: A National Perspective Jake Horowitz, State Policy Director, Public Safety Performance Project, Pew Charitable Trusts Zoë Towns, Manager, Public Safety Performance Project, Pew Charitable Trusts This session addresses one of the biggest sea changes, in decades, affecting our criminal justice system and state courts. Representatives from the Pew Charitable Trust discuss their research findings and how states are, accordingly, changing their criminal justice practices, including sentencing practices. A Conversation with Judge Ilana Diamond Rovner, United States Court of Appeals for the Seventh Circuit In the matter of Gerald Gault – 51 Years Later Presiding Judge Peter Cahill, Juvenile Division I, Gila County Superior Court, Arizona In June 1964, fifteen-year-old Gerald Gault was sent to a prison for kids after a brief off-the-record session in a Globe, Arizona judge's chambers. How did his parents find attorney Amelia Lewis to take the case from Globe to Phoenix and then Washington, D.C.? What was America's first woman chief justice role? Is New York Judge Gertrude Mainzer the "Unsung Heroine" of In Re Gault? Portia: Would she have made a difference in this routine juvenile hearing held in a small Arizona mining town that set the stage for the U.S. Supreme Court ruling that changed juvenile justice in America forevermore?
5:00 p.m. – 6:00 p.m.	NAWJ Resource Board Meeting
5:15 p.m. – 7:00 p.m.	The Utah Women Lawyers Judicial Reception at the United States District Court, District of Utah Courthouse Remarks from Judge Carolyn B. McHugh , United States Court of Appeals for the Tenth Circuit
9:30 p.m. – 11:30 p.m.	Hospitality Suite hosted by the NAWJ Seattle Annual Conference Planning Committee

SATURDAY, OCTOBER 10, 2015

7:45 a.m. – 8:45 a.m.	NAWJ Annual Business Meeting
9:00 a.m. – 10:30 a.m.	Mindfulness and Meditation Diane Musho Hamilton, author of <i>Everything is Workable: A Zen Approach to Conflict Resolution</i> Mindfulness is extremely popular in our culture right now. Everyone from engineers at Google, to business execs, to trial lawyers, and even judges seem to be singing its praises, but what is mindfulness meditation really? This engaging workshop will introduce you to the practice of mindfulness meditation, its effects on the brain and nervous system, and its benefits in calming the emotions, quieting the mind, and increasing overall well-being Diane Musho Hamilton, a professional mediator and meditator for over thirty years, will take you through a guided meditation and answer all of your questions about the power of mindfulness practice.
10:45 a.m. – 12:00 p.m.	KEYNOTE BRUNCH: A Personal Story: Born in Prison, A Woman Rises Against the Odds Deborah Jiang-Stein, author of <i>Prison Baby</i> and the founder of The unPrison Project
12:30 p.m. – 3:00 p.m.	NAWJ 2015-2016 Board of Directors Meeting
5:30 p.m. – 6:30 p.m.	Cocktail Reception
6:30 p.m. – 10:00 p.m.	NAWJ ANNUAL GALA BANQUET
10:00 p.m. – 11:30 p.m.	Hospitality Social hosted by The Women Lawyers of Utah

SUNDAY, OCTOBER 11, 2015

7:45 a.m. – 8:45 a.m.	NAWJ Breakfast and District Meetings
9:00 a.m. – 10:15 a.m.	OPTIONAL EXCURSION: "Music and the Spoken Word" performed by the Mormon Tabernacle Choir Forty (40) attendees may attend the live performance of 'Music and the Spoken Word' featuring the Mormon Tabernacle Choir. The performance starts at 9:30 a.m. Guests must be seated by 9:15 a.m., when the doors are closed. The broadcast is 30 minutes long and ends at 10:00 a.m. Please email lcousin@nawj.org if you want to attend.

REGISTRATION



THE GRAND AMERICA HOTEL

The host hotel for the conference is The Grand America Hotel located at 555 South Main Street in Salt Lake City, Utah 84111

Rate: \$189, applicable until September 14, 2015 or until NAWJ's room blocks are filled. Booking early is recommended.

To reserve your room call (800) 304-8696 and state that you are with the National Association of Women Judges (NAWJ).

Or, visit www.nawj.org/annual_2015.asp and follow the link to the online reservations page under Hotel.

Attendee registration fees include educational sessions, receptions, meals, transportation to events listed in the program and use of the hospitality suite.

First-Time NAWJ Member Rate:	\$525
NAWJ Member Rate:	\$595
Non-Member Rate:	\$695
Guest Rate:	\$575

Visit http://www.nawj.org/annual_2015.asp and follow the links to register online. Or, download the registration form and fax to NAWJ.

Cancellation Policy

In the case of unforeseen circumstances, if NAWJ is notified of cancellation by September 9, 2015, the registration fee, less a \$50 processing fee, is refundable. Cancellations received within 3 days of the conference are refundable less a \$100 processing fee.

NATIONAL ASSOCIATION *of* WOMEN JUDGES



NAWJ MISSION

The National Association of Women Judges' mission is to: promote the judicial role of protecting the rights of individuals under the rule of law through strong, committed, diverse judicial leadership, fairness and equality in the courts, and equal access to justice.

ABOUT NAWJ

GOALS

Since its formation in 1979, NAWJ has fought to preserve judicial independence, to ensure equal justice and access to the courts for women, minorities, and other historically disfavored groups, and to achieve fairness and equality for vulnerable populations. Led by two visionary women—Justice Joan Dempsey Klein and Justice Vaino Spencer—100 brave and intrepid women judges met and formed an organization dedicated to the above ideals. Throughout its history, NAWJ has been providing judicial education on cutting-edge issues; striving to develop judicial leaders; increasing the number of women on the bench at all levels in order for the judiciary to more accurately reflect the role of women in a democratic society; and improving the administration of justice to provide gender-fair decisions for both male and female litigants.

MEMBERSHIP

From the day it was founded, NAWJ has been committed to diversity in our membership. Our organization welcomes both men and women. Our membership includes trial and appellate, administrative, tribal and military judges on federal, state and tribal courts at every level of the judiciary throughout the country, and international tribunals, as well as attorneys, law clerks, law students and law professors committed to our mission. As members of the International Association of Women Judges [IAWJ], which NAWJ founded, we meet and interact with judges from all over the world.

PROJECTS

We are engaged in projects and judicial education that address human trafficking/modern day slavery; voter education in states with judicial elections; conditions for women in prison; problems facing immigrants in our court system; bioethics; and outreach to students promoting legal and judicial careers, among others.

NATIONAL ASSOCIATION *of* WOMEN JUDGES



With LIBERTY *and*
JUSTICE *for* ALL

2015 Annual Conference | October 7–11, 2015 | Salt Lake City, Utah

NATIONAL ASSOCIATION *of* WOMEN JUDGES



NAWJ MISSION

The National Association of Women Judges' mission is to: promote the judicial role of protecting the rights of individuals under the rule of law through strong, committed, diverse judicial leadership, fairness and equality in the courts, and equal access to justice.

ABOUT NAWJ

GOALS

Since its formation in 1979, NAWJ has fought to preserve judicial independence, to ensure equal justice and access to the courts for women, minorities, and other historically disfavored groups, and to achieve fairness and equality for vulnerable populations. Led by two visionary women—Justice Joan Dempsey Klein and Justice Vaino Spencer—100 brave and intrepid women judges met and formed an organization dedicated to the above ideals. Throughout its history, NAWJ has been providing judicial education on cutting-edge issues; striving to develop judicial leaders; increasing the number of women on the bench at all levels in order for the judiciary to more accurately reflect the role of women in a democratic society; and improving the administration of justice to provide gender-fair decisions for both male and female litigants.

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NATIONAL ASSOCIATION of WOMEN JUDGES

2015 Annual Conference | October 7–11, 2015 | Salt Lake City, Utah

CONFERENCE HIGHLIGHTS

WEDNESDAY, OCTOBER 7

1:00 p.m. – 2:00 p.m.	Film Screening of “Women Trailblazers in the Law: Utah’s First 100 Women Lawyers”	
4:00 p.m. – 5:30 p.m.	CONCURRENT SESSIONS:	
	New Judge/First-Time Attendee/Mentor Reception	International Judges Reception
6:00 p.m. – 8:00 p.m.	Welcome Reception at The Grand America Hotel	

THURSDAY, OCTOBER 8

7:30 a.m. – 8:30 a.m.	Breakfast	
8:30 a.m. – 9:15 a.m.	Opening Ceremony—Remarks by Utah Governor Gary Richard Herbert	
9:15 a.m. – 10:30 a.m.	PLENARY—Gender Bias: How Far We Have Come In 25 Years	
	Senior Judge Martha Craig Daughtrey, U.S. Court of Appeals, Sixth Circuit, NAWJ Past President Justice Christine M. Durham, Supreme Court of Utah, NAWJ Past President Senior Judge Gladys Kessler, U.S. District Court, District of Columbia, NAWJ Past President Administrative Presiding Justice Judith McConnell, California Court of Appeal, Fourth District, NAWJ Past President	
10:45 a.m. – 12:00 p.m.	After Marriage: A Dialogue on LGBT Rights and Religious Liberties	
	Moderator: Jennifer Napier-Pearce, <i>The Salt Lake Tribune</i> Professor Clifford J. Rosky, S.J. Quinney College of Law, University of Utah Professor Frederick Gedicks, J. Reuben Clark Law School, Brigham Young University	
12:15 p.m. – 1:45 p.m.	Keynote Luncheon	
	Sujata Warrier, Ph.D., Director, New York City Program, New York State Office for the Prevention of Domestic Violence	
2:15 p.m. – 3:30 p.m.	CONCURRENT SESSIONS:	
	Impact of Media and Social Media on Criminal, Capital and High Profile Cases	Disrupting the School to Prison Pipeline: How Courts can Address this National Phenomenon
	Professor Randy Dryer, S.J. Quinney College of Law, University of Utah Nancy Volmer, Administrative Office of the Courts, State of Utah	Professor Emily Chiang, S.J. Quinney College of Law, University of Utah
3:45 p.m. – 5:00 p.m.	PLENARY—The Uneasy Intersection of Law And Medicine	
	Moderator: Judge Judith S.H. Atherton (Retired), Utah District Court Professor Margaret (Peggy) P. Battin, Internal Medicine, Division of Medical Ethics, University of Utah Dr. Kirtly Parker Jones, Vice-Chair, Education, Department of Obstetrics/Gynecology, University of Utah	
5:30 p.m. – 8:00 p.m.	Reception at The Natural History Museum of Utah	
	Performance by Nino Reyos, Flute Player	
8:30 p.m. – 11:30 p.m.	Hospitality Social	

CONFERENCE HIGHLIGHTS *(continued)*

FRIDAY, OCTOBER 9, 2015

8:00 a.m. – 9:15 a.m.	Keynote Breakfast Erwin Chemerinsky, Dean of the School of Law, University of California, Irvine		
9:30 a.m. – 10:45 a.m.	PLENARY—Immigration Issues Facing State, Local And Federal Courts Clinical Professor Raha Jorjani, Supervising Staff Attorney, Immigration Law Clinic, University of California, Davis School of Law		
11:00 a.m. – 12:00 p.m.	CONCURRENT SESSIONS:		
	Domestic Sex Trafficking: Overcoming the Barriers to Successful Prosecutions Carol Owen, Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz, PC	And Justice For All Mary Jane Ciccarello, Director, Self-Help Center, Utah State Courts Anne Milne, Executive Director, Utah Legal Services Stewart Ralphs, Executive Director, Legal Aid Services of Salt Lake	
12:00 p.m. – 1:45 p.m.	Friends Appreciation Luncheon Attorney General Sean D. Reyes, State of Utah		
2:15 p.m. – 3:30 p.m.	CONCURRENT SESSIONS:		
	Evidentiary Issues Involving Magnetic Images of the Brain Professor Teneille Ruth Brown, College Of Law, Internal Medicine, University of Utah	Domestic Violence Judge Susan Carbon, New Hampshire Circuit Court; Former Director, Office on Violence Against Women, U.S. State Department of Justice	Predictable Misjudgment: How Intuition Misleads Judges Magistrate Judge Andrew J. Wistrich, U.S. District Court, Central District of California
3:45 p.m. – 5:00 p.m.	CONCURRENT SESSIONS:		
	The Justice Reinvestment Initiative: A National Perspective Jake Horowitz, State Policy Director, Public Safety Performance Project, Pew Charitable Trusts Zoë Towns, Manager, Public Safety Performance Project, Pew Charitable Trusts	A Conversation with Judge Ilana Diamond Rovner, United States Court of Appeals for the Seventh Circuit	Where Are We Almost 50 Years After In Re Gault? Judge Peter Cahill
5:15 p.m. – 7:00 p.m.	The Utah Women Lawyers Judicial Reception at the United States District Court, District of Utah Courthouse Remarks from Judge Carolyn B. McHugh , United States Court of Appeals for the Tenth Circuit		

SATURDAY, OCTOBER 10, 2015

9:00 a.m. – 10:30 a.m.	Mindfulness and Meditation Diane Musho Hamilton, author of <i>Everything is Workable: A Zen Approach to Conflict Resolution</i>
10:45 a.m. – 12:00 p.m.	Keynote Brunch: A Personal Story: Born in Prison, A Woman Rises Against the Odds Deborah Jiang-Stein, author of <i>Prison Baby</i> and the founder of The unPrison Project
5:30 p.m. – 6:30 p.m.	Cocktail Reception
6:30 p.m. – 10:30 p.m.	NAWJ Annual Gala Banquet

SUNDAY, OCTOBER 11, 2015

8:30 a.m. – 9:30 a.m.	NAWJ Breakfast "Music and the Spoken Word" featuring the Mormon Tabernacle Choir at the Salt Lake City Tabernacle
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TAB

3

Report and Recommendations

ON THE FUTURE OF LEGAL SERVICES IN UTAH

by the Futures Commission of the Utah State Bar

July 29, 2015



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INTRODUCTION

George Bernard Shaw¹ said, “Progress is impossible without change, and those who cannot change their minds cannot change anything.”

Fundamentally – to better meet the legal needs of individuals and small businesses in Utah – people are going to have to change their minds. The Utah State Bar will have to change its mind about how it connects lawyers with the people who need them. Lawyers will have to change their minds about how they package, price, and deliver their services. Legal educators and trainers will need to refocus their efforts on equipping their students with the basic business skills to successfully practice. And last, but certainly not least, people with legal needs will need to change their minds. They need to be shown much more convincingly that lawyers and other legal service providers are “worth it.”

By any measure, progress is needed. The number of self-represented litigants in the courts is burgeoning, even as the number of case filings is dropping. People think they can and should handle a court case on their own and sometimes even think it’s better to try to address their problem without taking their case to court at all. This Do-It-Yourself mentality can and often does lead to the legal equivalent of a slapdash basement remodel: It is done, but it is not done well; there might be safety issues; and it probably won’t stand up to the test of time. Of course whether to do it yourself or hire it out is an individual’s choice. However, in no small number, lawyers and the courts are being called upon to come in after such attempts to make repairs, often at greater expense than if they had been involved in the first place.

The Futures Commission was charged by the Utah State Bar to “gather input, study, and consider the ways current and future lawyers can provide better legal and law-related services to the public, especially to individuals and small

businesses in Utah.” A broad spectrum of well-qualified community and thought leaders, practicing lawyers, and Bar leaders have devoted substantial time and energy to meeting this charge. Details of how the Commission conducted its work, what it has done, and who has served on the Commission can be found below. We have concluded that to assure access to quality affordable legal services for all, there needs to be transformational change in the legal profession.²

The profession must adapt to the changed expectations of consumers of legal services and must meet the changing economic realities. If the profession does not adapt, lawyers will become less relevant to the day-to-day lives of ordinary citizens struggling with family issues, financial problems, routine disputes, and basic needs such as housing. If the profession does not adapt, lawyers will continue to drift away from the middle and find themselves relegated to either acting as the elite counselors of the wealthy and well-funded corporations or serving as the underpaid and underappreciated advocates of the poor and the accused, to the extent that such work is funded by government or provided by charity.

The United States of America proudly and properly proclaims itself to be a nation of laws. Lawyers are valuable and indeed critical to making that a reality for all. This Commission firmly believes that lawyers should continue to play a central role in our nation’s legal system and do so for all segments of society, so that every individual truly has access to the protections and benefits of the rule of law. Toward that end, we respectfully submit our report to Utah’s practicing lawyers, to Utah’s law schools, to the Utah judiciary, to the Utah legislature and Governor Herbert and, most importantly, to all the people of Utah, who have every right to expect and to obtain affordable legal assistance from Utah’s lawyers.

1. Irish playwright, noted essayist, co-founder of the London School of Economics and ardent advocate for the working class.

2. This Report reflects the collective views and recommendations of the majority of the Commission members. Not every Commission member necessarily agrees with everything in the Report.

RECOMMENDATIONS

1

Make Lawyers More Available and Much More Accessible

The Bar should proactively use its resources to make lawyers more accessible to the middle class and small businesses, to connect lawyers with those who need legal help, and to communicate with the public about the availability of affordable lawyers and their value. Specific action items for the Bar include:

A. Develop and maintain a robust online lawyer referral directory that is easily available to the public. The directory should provide information about the lawyer's: contact information, geographical location and availability, practice areas, willingness to provide unbundled legal services, willingness to work on some basis other than hourly rate, or to discount rates for lower income clients, and the languages in which the lawyer is competent to provide legal services. If the lawyer will help with cases involving domestic violence or debt collection, then that should be shown in the directory. The online directory should be mobile friendly and use plain English. This should be done as soon as possible.

B. Build and promote a consumer-focused website which, building on the online directory of lawyers, will become the key clearinghouse for clients in need of legal assistance. The website should function as a marketplace for those who need legal services to find appropriate and affordable help and for lawyers to present and promote the particular services they offer, pricing, payment options, and other specifics. See www.justiserv.com for such a website now serving clients in the Boston area. This website should also, in plain English, educate the public about how lawyers can help, how to select and retain a lawyer, what they can do to keep costs under control. To make the website succeed, the Bar should engage in "guerrilla marketing"³ through mass advertising and proactively reach out to community and civic organizations, employers, and faith-based and other organizations. This should be done as soon as possible. It might work best to combine this marketplace project with the online referral directory described in Paragraph A.

C. Increase the use of discrete task representation and fixed fee pricing by

(1) marketing the availability of "unbundling," (2) educating lawyers and courts on best practices for implementing these approaches, and (3) establishing an "unbundled" section for the Bar with lawyers who are willing to help clients on a fee-per-task, limited scope basis.

D. Promote fee-per-task delivery models in locations where lawyers can meet with clients for advice in public access points like courthouses, public libraries, and community centers. The Bar should address, internally and with the courts, adjustments to the rules of practice, administration, and professional responsibility to facilitate such models.

E. Better promote, with both lawyers and those needing lawyers, the numerous *pro bono* and modest means offerings and programs already in place throughout Utah. Strengthen and expand the Bar's Modest Means Lawyer Referral Program, the statewide program already in place to serve middle class clientele.

F. Investigate and promote providing incubators or other support for new lawyers who wish to establish practices, especially in the rural areas of Utah, to provide basic legal services to underserved clients. This should include seeking grants and other private funding, as well as exploring federal and state funding, for the specific purpose of helping lawyers establish viable practices.

G. Investigate and promote changes to licensing requirements to reflect the economic realities of multistate practices and to accommodate lawyers who live in Utah but do legal work for clients outside of Utah.

H. Investigate and consider the impact of changes to Rule 5.4 of the Rules of Professional Conduct to allow non-lawyers to share fees and partner with lawyers in order to increase innovation and encourage lawyers to be more client focused.

3. This is not meant to imply combative, just creative. https://en.wikipedia.org/wiki/Guerrilla_marketing.

2

Better Educate and Train Lawyers and Law Students about Their Business

Utah's law schools do a good job of teaching legal principles while also offering robust practical training and clinical experience for students. Yet many new lawyers feel poorly prepared for the marketplace and for the economic realities of practicing law. And many practicing lawyers have shown little aptitude or appetite for marketplace innovation.

A. The Bar and the law schools should provide more business and entrepreneurial training.

The majority of Utah lawyers are running their own small businesses. They need to become more efficient in their delivery models and more effective in their marketing. Such training is especially needed for those who want to practice in solo or small firm settings, particularly in small towns, rural areas, and linguistically and culturally isolated communities where underserved populations exist.

B. The "Third-Year Practice Rule" should be expanded and enhanced. This would permit more law students to provide limited advice and counsel in specific and innovative ways like issue spotting at legal clinics or courthouse consultations.

C. We considered whether to recommend administration of the Bar exam before graduation from law school, but the input was equivocal and the question requires more study of both the costs and benefits. While it might make the entry into practice more expedient, having students preparing for the Bar exam while still engaged in course work creates concerns. We recommend additional study and evaluation of this issue in the near future. **We considered and do not recommend creating a "diploma privilege" by waiving the Bar exam for graduates of Utah law schools.**

"This has been a tremendous process, and it has been a true pleasure to work with some of the most creative thinkers in the state on the most important issues facing the legal community today. Utah Law is deeply committed to providing our students with the best possible preparation for practicing law. Working with the Futures Commission has only inspired further innovation in how we train law students."



LINCOLN DAVIES,
Associate Dean
for Academic Affairs
College of Law,
University of Utah

3 Keep Improving Judicial Case Management

Utah enjoys one of the finest run judiciaries in the nation. This is partly due to the effective leadership of the judiciary and to the unified court system created by Utah's Constitution. It is also due to positive collaboration among Utah's legislative, executive, and judicial branches in finding ways to make Utah courts part of the solution to problems experienced by people in Utah.

A. Because a major portion of the unmet legal need is in cases being processed by the courts, **we recommend that the Bar Commission endorse and promote increased judicial case management oversight of dockets**, especially in family law and debt collection cases. Such efforts are already underway by the Court's Standing Committee on Family Law, the Court's Standing Committee on Resources for Self-Represented Parties, the Legal Aid Society of Salt Lake, and the Bar's Family Law Section. Putting increased emphasis on active judge and commissioner case management, rather than attorney-driven case management, offers the potential for improved use of litigant, attorney, and court time, more productive calendars, greater predictability, and potentially reduced costs.

B. We recommend that the Bar Commission endorse and promote simplification of court processes and redesign of court rules and procedures to better enable attorneys and clients to use limited scope representation. The bulk of the need is in family, housing, and debt collection matters so that is where such efforts should focus.

C. We recommend legislation to increase the jurisdictional limit for small claims court. This change will facilitate greater access for many individuals and businesses to an efficient and low-cost dispute resolution process. We also recommend considering legislation to increase support for a companion piece to small claims – mediators. Presently, Utah Dispute Resolution, a nonprofit organization, is conducting numerous free mediations at small claims courts and could conduct more of them with additional resources and volunteers.

D. The Supreme Court's Task Force on limited legal license technicians is currently examining the potential for people other than lawyers to meet these needs. **We recommend that the Bar Commission follow that effort and assist however it can to facilitate the provision of affordable legal services to the people of Utah.**

"As we consider challenges to the delivery of legal services, it's important that the perspectives of both the profession and the courts be considered, but even more important, is the litigant's perspective."



DAN BECKER,
Court Administrator
Utah State Courts

4

Take Control of Technology

As with almost every other facet of life in 2015, technology continues to drive changes and to create both risk and opportunities for lawyers. Now and on an ongoing basis, the Bar should help lawyers use technology to enhance the delivery of legal services and adapt its rules, practices, and policies to permit lawyers and clients to take the fullest possible benefit of new technologies. If lawyers don't take control of the technologies affecting the practice of law, those technologies could very well control what happens to lawyers. The list below is simply what is front and center today:

- A. Promote and maintain online CLE sessions** on the business of practicing of law, best uses of technology, unbundling legal services, effectively promoting services to prospective middle class and small business clients, and managing a virtual law practice.
- B. Encourage lawyers to participate in established *pro bono* efforts that utilize remote services**

delivery systems so that clients in geographically isolated areas can be helped.

- C. Make all of the Bar's CLE offerings available for remote attendance and participation.**

D. Promote Utah's "one stop" shop for small business registration. The state provides a "one stop" online site for registering small businesses. The Bar should link to and promote this website on its own website. The Bar should partner with the Utah Division of Corporations to determine other ways to promote the use of this website, and whether there are additional services to promote. The Bar should also study ways to refer the site's users to potential lawyers if they need additional assistance.

- E. Clarify who with the Bar, among both staff and lawyers, has the charge of leading and training Utah lawyers in the area of law practice technologies.**

5

Support Reestablishment of the Court's Access to Justice Commission

The Bar should discuss with the Utah Supreme Court the history of the court's Access to Justice Commission (which disbanded in 2008). For a time, the Utah Supreme Court led an impressive and active stakeholders' roundtable organization and could again engage in that effort, as many state supreme courts choose to do. The court's leadership in this area is essential to achieving results across a broad spectrum of concerns, not only

judicial and court-related, but also administrative, educational, market-based, and consumer-oriented, and for an array of legal service providers as well. The court's leadership of a community-wide, broad-based Access to Justice Commission could adapt best practices and solutions from other states and regions, as well as craft unique solutions for our state.

THE REASONS FOR THESE RECOMMENDATIONS

The Futures Commission studied and discussed the legal profession and its service to individuals and small businesses from three different perspectives. One subgroup considered the perspective of clients and market dynamics. A second subgroup focused on the lawyers and the delivery of legal services. The third group focused on the education and training of lawyers, both in law school and thereafter. These groups worked independently, but the entire Commission also met regularly in plenary sessions to hear and discuss reports from the subgroups. Through this collaboration, the Commission found common themes and ultimately reached consensus about recommendations to make. What follows is a summary of the reasoning developed by the Commission's three subgroups and the Commission as a whole for its recommendations.

1 There is an unmet need for legal services.

In 2014, there were 66,717 debt collection cases filed in the Utah courts. In 98% of those cases, the defendant was not represented by counsel and in 96% of the cases, the plaintiff had an attorney. That means more than 60,000 Utahns fended for themselves in court. In the 7,770 eviction cases filed that year, 97% of the people defended themselves. In the family law arena, out of the 14,088 divorce cases filed in 2014, there were attorneys for both parties in only 12% of the cases. In 29% of the cases, just one party had an attorney and in 60% of the cases, neither party had counsel. The number of people trying to represent themselves in the Utah courts is not only large, it is steadily increasing. The 2014 data mentioned above is generally higher than similar data for 2005. See Strategic Plan of the Committee on Resources for Self Represented Parties (see link in Resources section below).

We heard many reports from members of the bench and bar about how this not only impacts the litigants but also the courts and the lawyers opposing unrepresented parties. The litigants are in an unfamiliar system without an advocate, without a trained professional, and without someone they can trust. They use the forms that are available from the court's website, www.utcourts.gov/selfhelp, as well as its Online Court Assistance Program, <https://www.utcourts.gov/ocap/>,

but they often don't know how to use the forms or have complications that require special treatment. The judges and court staff must remain impartial and cannot provide legal advice to a party. Maintaining that impartiality can be difficult when it is clear one of the parties has a lot of questions and really needs legal advice. This often results in many patient efforts to explain the process and to try to guide the party towards legal counsel who can advise them.

We learned that the price of legal services is not necessarily the determining factor in whether or not an individual or small business will engage a lawyer. While some may perceive legal services as too expensive or unaffordable, many individuals and businesses simply do not sense the need to involve a lawyer or do not understand that using lawyers early in their problem solving would benefit them. This increase in self-representation comes as legal issues are becoming more, not less, complex. The forms required to complete a divorce can be a challenge when there are children, real property, retirement plans, or foreign citizenship to consider.

Many potential clients do not know how to access lawyers, are not sure the lawyer will help matters or make matters worse, and are concerned about the cost, especially when quoted as an open-ended hourly rate. While some potential

clients perceive lawyers as inaccessible, they know information online is immediately accessible and turn to it. Doing so is the legal equivalent of diagnosing one's medical condition based on a review of the WebMD website or other online information. Often, these individuals will perceive lawyers as unnecessary and, thus, will attempt to "go it alone." Or they will be convinced that a form for a will, deed, or contract that can be purchased or even accessed for free online will be adequate.

There are also language barriers for the growing number of Utahns who have limited proficiency in the English

language. While the courts provide interpreters for court hearings and processes, that service does not extend to the private consultations that clients need to have with their counsel. There is an increasing need for lawyers who can offer services in Spanish and other languages.

For victims of domestic violence in particular, there continues to be an acute need for legal services in these areas: family law (especially divorce and child custody issues), criminal law, and immigration. Also, in Utah's rural areas, there are overloaded attorneys, few *pro bono* services, and frequent conflicts of interest.

2

Enough lawyers are being educated and licensed in Utah to meet the needs.

One of the more confounding aspects of this issue is that at the same time that there are clearly unmet legal needs and people who can and would pay something for some legal help, there is also a large number of under-employed lawyers, especially new lawyers. Utah currently has 9,148 active licensed lawyers, over 35% of who are in private practice on their own or in a firm with five or fewer lawyers. With a population approaching three million, that means there are about thirty lawyers for every 10,000 Utahns, placing Utah in the middle of the pack and slightly below average compared to other states. See http://www.americanbar.org/resources_for_lawyers/profession_statistics.html.

Roughly 350 new lawyers are admitted to the Bar each year. These bright, ambitious people are coming out of law school with somewhat compromised dreams of working full time in the legal profession in what has turned out to be a very difficult employment market (and at the same time being saddled with large amounts of student loan debt). This particular group can help solve the unmet legal needs in our communities. Indeed, we hope they

will remain engaged in finding solutions. One example of this is Open Legal Services, an innovative non-profit law firm founded by two 2013 graduates of the University of Utah S.J. Quinney College of Law: Shantelle Argyle and Dan Spencer. <http://openlegalservices.org/>.

If there are many underemployed lawyers and much unmet legal need, then why doesn't the market work to bring them together? Basic economic theory teaches that, in a competitive market, price should move to the point where the demand equals supply. But that theory also assumes the participants in the market have perfect information about the price as well as perfect information about the usefulness and quality of the service in question. That is not a valid assumption in the legal market. The total price is not often provided, just the hourly rate for an indeterminate number of hours. And the value proposition is not well understood by consumers. Our recommendations for making lawyers more accessible and creating an online marketplace are intended to address these issues.

3 People need a much better way to find lawyers who will help them.

People expect to find useful information quickly and easily on their mobile devices and computers. If information about finding lawyers, what they do, and what they cost is not readily available through the Bar's website, then people will search elsewhere. Their searches might find lawyers who pay for more advertising on Google or other search engines. Or people may simply decide to forego lawyers completely. The Bar can and should be a reliable source for the information people need about lawyers.

Little is currently known about how people try to find information about lawyers and how they try to connect with them. However, we do know the following: Two major focal points of information and referral in our state's legal landscape are Utah Legal Services (ULS) and the Self-Help Center (SHC) of the Utah State Courts. In their 2014 fiscal year, ULS provided legal advice and representation to 8,658 clients who met its income and other eligibility criteria. In free legal clinics staffed by ULS and based on the agency's eligibility criteria, another 145 people received brief advice. Pro bono lawyers handled 596 cases. While these numbers demonstrate the wide reach of services ULS provides, the agency also had to refer 6,498 people to other legal resources (including private attorneys) because they did not meet ULS's eligibility criteria for any number of reasons including they were over income, they were financially eligible but not within ULS case priorities, or they were non-citizens.

The SHC provides legal and procedural information and

help with forms, but not advice, in all Utah state courts. Services are virtual, provided by telephone, email, text, and the court's website. In fiscal year 2015 (July 2014 through June 2015), the SHC responded to 18,173 contacts. A staff survey is completed for each contact and, since November 2014, that survey has tracked whether the person contacting the SHC was referred to other legal resources. Such referrals are made after SHC staff assesses the person's situation and determines that the person needs legal advice or representation. Referrals to other legal resources are made in around 33% of all contacts. In only eight months of tracking referrals, the SHC made 3,883 referrals. Projecting for a full year, the SHC expects to make at least 6,000 referrals. So, from just ULS and the SHC, we can safely say that at least 12,000 referrals to legal resources are made each year. Many other non-profit agencies and government agencies, as well as libraries, schools, senior centers, churches, unions, and community centers need to have good referral sources available as well. Additionally, the courts and other agencies cannot make referrals to individual lawyers; they can only point to a list of potential lawyers or to a lawyer directory.

For all these thousands of potential referrals each year, there is not a good referral source or a simple source of contact information to connect a potential client with a lawyer. A reliable source – the Utah State Bar – can be that point of contact to the benefit of the public and lawyers alike.

“Our goal is to make sure no one in Utah is left behind when it comes to meeting their legal needs.”



ERIC. G. MAXFIELD,
Partner, Holland & Hart

4

Technology is constantly changing things.

A thread running through all of our discussions was technology. Whether it is using social media for referrals, video-conferencing for court hearings, or online legal forms and services, the internet and other technologies are integral to the discussion. In this respect, it is important to realize that a consumer's decision process for purchasing legal services is not altogether different from how he or she might select an accountant or make a major purchase.

Further, people are increasingly comfortable with searching for and getting answers – for better or worse – to legal questions online. Individuals are willing to pay online vendors discrete sums if they perceive it might resolve their legal needs. This is the LegalZoom model. Social media is also providing access to information as people share their experiences and own advice, further reducing the perceived need to consult with lawyers. For example, Avvo offers clients both the opportunity to review and rate their lawyer and the opportunity to submit a question online and get it answered by a lawyer licensed in the jurisdiction in question. Such technological tools

certainly appear to be more accessible ways for consumers to get information from and about lawyers.

Researchers, entrepreneurs, and innovators are exploring ever more creative ways to use sophisticated software to deliver legal services more cheaply and more quickly wherever there is a need. Some rely heavily on technology to sell legal forms or help customers find lawyers. There are online mediation and settlement services for simple disputes. And there are even models for using artificial intelligence to conduct legal reasoning and make rulings.

It is simply not possible to catalog all of these new technologies and the changes they bring. And by the time that catalog is finished, it would be out of date. Suffice it to say that the legal profession will continue to be profoundly altered by technology and the Bar must be working to not only stay abreast of those technologies but to help Utah lawyers implement them for the benefit of their clients.

“The biggest expense in our law firm is our people, not glass and marble. ‘Necessary’ expenses are sometimes luxuries, and innovation can mean foregoing those luxuries to serve more clients for less money.”



SHANTELE ARGYLE,
co-founder, co-director,
and attorney with
Open Legal Services

5

The marketplace for legal services is evolving.

Due in no small measure to the technologies discussed above, the traditional ways for lawyers and clients to find each other are becoming less the norm. Certainly it is still common for people with legal problems to go to their community and religious leaders or family and friends for suggestions about a lawyer to hire. Word of mouth still counts and so does reputation. However, word of mouth now also includes what a former client is willing to say in an online client review. And reputation could include how high someone lands on a Google search for “best Utah divorce lawyer in Utah,” which likely has more to do with search algorithms and Google AdWords than with anything else.

Another aspect of the market is that lawyers in general have a perception problem. They are perceived as expensive, even by themselves. Many a lawyer has noted that he or she wouldn't be able to afford him- or herself. And, instead of perceiving lawyers as the problemsolvers and peacemakers that they often are, the public worries that the lawyer will be confrontational and drag things out, possibly due to a self interest in charging more fees. While this is certainly not accurate as to most lawyers, the perception does exist.

So if lawyers are going to be expensive and possibly not helpful, then where else might someone with a legal problem turn? The data for the SHC shows that many try to do it on their own. Others will turn to commercial online services. Latinos often will turn to “notarios” or “immigration consultants” who provide services that often become the practice of law without a license and at no true saving or benefit to the client. Similarly, in the bankruptcy courts, a market has developed for “bankruptcy petition preparers” who, under the guise of filling out forms, end up giving bad non-legal advice.

The Bar's response to this should be not only to work to protect consumers from illicit services, but to recognize that this is a symptom of the substantial unmet need for those in the middle class. If lawyers do not meet the demand for help with services that clients can afford, then others will continue to seek to fill the void. With their dignity and ethics preserved, lawyers need to be available for hire online where consumers are shopping for them.

“Even with more attorneys and newer technology, middle class families and local businesses are struggling to afford quality legal services. As a solo-practice attorney, I believe I have an obligation to my community and my clients to help make legal services more accessible to everyone. I was proud to be a part of this commission.”



CHRISTOPHER WHARTON,
Young Lawyers Division President,
practicing attorney at
Chris Wharton Law, LLC

Law schools and traditional legal education model face specific challenges.

Nearly four out of every ten lawyers seeking admission to practice in Utah have attended law school out of state. So, the condition of legal education across the nation affects Utah, even though the BYU and U of U law schools have remained strong and economical.

Nationally, law schools in the United States face numerous challenges. According to the American Bar Association Task Force on the Future of the Legal Profession, these include declining number of applicants, declining enrollments for minority and diverse candidates, increases in the cost of tuition and associated expenses, the high cost of clinical education, limited salary expectations post-graduation, inadequate training of lawyers in the business of law practice, including the business of client development and retention, and quite simply, too few traditional jobs for law graduates. The Task Force concluded that, at a national level, the current means of financing legal education contributes to the steadily increasing price of legal education and tends to impede the growth of diversity in legal education and in the profession.

The Task Force further concluded that the current system of pricing and funding demands serious re-engineering. It also concluded that (1) the accreditation system should seek to facilitate innovation in law schools and programs and legal education, (2) the core purpose of all law schools is to prepare individuals to provide legal and related services in a professionally reasonable fashion, and (3) that fact should lead to more attention being given to skills training, experiential learning, and the development of practice-related competencies.

The Futures Commission's subgroup on education and training surveyed Utah lawyers concerning their experiences in this regard. One survey was administered to lawyers who entered the profession within the last ten years and the other survey targeted lawyers practicing longer than that. The combined number of responses exceeded 900. There was strong agreement that attorneys and firms need to innovate to respond to changing

markets and indeed many attorneys already have begun changing their billing and hiring practices. There was also strong agreement from lawyers practicing more than ten years, and in a position to employ younger lawyers, that they value the clinical experiences, substantive specialization, legal employment during law school, and skills courses that prepare students for practical application of legal concepts. Lastly, there was a consensus that law students are not well trained in practical legal skills and are not prepared for the business side of the legal profession. See link to survey in Resources below.

Many law schools have expanded practice preparation opportunities for students and also now offer courses about the business of law practice. The two law schools in Utah have already made significant efforts, especially in recent years, to innovate their curricular offerings and to better train students for law practice. Both schools offer extensive clinical programs, which afford students important opportunities for practical legal training. Both schools also have begun to offer more business-oriented courses; BYU offers two very popular courses in the first year of law school in this regard, for instance, and the U of U has for the last several years offered a course to train students how to run a solo or small practice. Further, both schools have initiated mentoring programs in which experienced lawyers can advise new lawyers during and immediately following law school. Compared to national averages, the cost of legal education at both of Utah's schools also is quite affordable.

Nonetheless, given the changes in the national and local legal markets, both Utah and BYU should continue to explore innovative ways to offer practical training to students and to respond to the evolving legal industry and market. Throughout the legal education system, more can be done to prepare students to represent middle class and low-income clients in innovative and cost-effective ways and also to help students interested in that kind of career keep the cost of their education manageable.

7 Geographic barriers to the practice of law are fading.

Throughout the history of this country, as decisions were handed down by courts and statutes were passed by legislatures, those laws were printed in books. For decades, if information about the law of a certain state was needed, a person would invariably work with a lawyer in that state who had a library of the laws applicable in that state. And to this day lawyers often give media interviews with a backdrop of such dusty volumes of reported cases. But, that is no longer where lawyers go to find the law. They go to the internet, using online services or state-sponsored sites to access case decisions, court rules, and statutes. And there is no state boundary to such information. A lawyer, or for that matter anyone with an internet connection can instantly access the local rules of practice for the District of Guam, for example. See http://www.gud.uscourts.gov/?q=local_rules.

Likewise, lawyers now work extensively with their clients, with each other, and even with the courts via email, telephone, and videoconferencing. Substantial practices can be conducted without being physically present at the courthouse, in the office or even in the state. Transactional lawyers edit in real time or shoot redlined drafts of complex agreements back and forth across the country as readily as teenagers text selfies to each other.

The regulatory lines have become less distinct as well.

Since 2013, the Utah Supreme Court has adopted the Uniform Bar Exam for admission to the Utah State Bar. This uniform exam is now used in sixteen states, including several other Western states, and scores are generally transferable from one state to the next. <https://www.ncbex.org/exams/ube/>. In other words, applicants in all of these states are being tested on the same legal concepts and may be able to gain admission to various other states based on their performance on the test in their home state.

There is also common use, in state and federal courts in Utah and throughout the nation, of *pro hac vice* admissions that allow a lawyer licensed elsewhere to be admitted for a specific case. And Utah has a reciprocity rule that generally allows lawyers from other states to be admitted to the Utah Bar if their state allows Utah-licensed lawyers to be admitted in their state. See Utah Code of Judicial Administration, Rule 14-705.

We are at a point where there are lawyers living in Utah who exclusively represent non-Utah clients and there are no doubt lawyers living and licensed elsewhere who are providing legal services to clients based in Utah. The Bar should study these dynamics and address them in a way that facilitates both good service to Utah clients and good opportunities for Utah lawyers, while not unduly regulating lawyers not actually serving Utah clients.

“In today’s globally competitive and technologically advanced world, every industry, every occupation and every job feel the impacts of disruption. Utah’s legal services are no exception and the Futures Commission plotted a thoughtful path forward.”



NATALIE GOCHNOUR,
Associate Dean,
David Eccles
School of Business

CONCLUSION

Mahatma Gandhi⁴ said, “The future depends on what you do today.” If access to legal services in Utah for individuals and small businesses is to be improved, it depends not on this report but rather on what actions flow from it. As such, we certainly hope the Bar’s Affordable Attorneys for All (Triple A) Task Force, the courts, the law schools, our legislators and governor, and practicing lawyers will find value in our recommendations and work to implement them. We would also note and acknowledge that many other bar organizations are working on these same issues. We have relied in part on those efforts in doing our work. No doubt new and better ideas will come to the fore as the discussion continues.

For now, we believe we have identified specific steps that should be pursued to assure legal services be provided more efficiently and affordably to Utahns, by better connecting those who need lawyers with lawyers to serve

them. While there is momentum toward moving some elements of the practice of law to other licensed professionals, we would note much of the work can, and should, be performed only by lawyers. The practice of law is much more than filling out forms and citing rules. A good lawyer is a problem solver who has been trained to look deeply at the facts presented and then to help the client avoid more problems later. It is critical for clients seeking legal services to have access to lawyers who are qualified, thoughtful and ethical in how they serve their clients. And it is essential for Utah lawyers to make themselves available to serve those clients. Critically, more can be done to bring them together. The Futures Commission of the Utah State Bar hopes its recommendations will contribute to this effort. In the words of Mother Teresa,⁵ who accomplished more than a few things in her life, “Yesterday is gone. Tomorrow has not yet come. We have only today. Let us begin.”

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4. Lawyer and practitioner of non-violence.
 5. Missionary and servant to the poorest of the poor.

“While the great majority of attorneys in the state practice along the Wasatch Front, the unique needs of those attorneys practicing in Utah’s rural districts and counties should not be discounted in further addressing the issues discussed in this report.”



MAYBELL ROMERO,
Harris, Preston & Chambers, LLP
Logan, Utah

FUTURES COMMISSION MEMBERS

Co-Chairs of the Futures Commission:

Nate Alder, practicing lawyer, former President of the Bar, and current member of the ABA House of Delegates

John Lund, practicing lawyer, Bar Commissioner, and member of the Utah Judicial Council

Business Representatives:

C. Scott Brown, retired executive, Questar Corporation

James Clarke, President, Clarke Capital Partners

Don Gale, President, Words Words Words

Natalie Gochnour, Salt Lake Chamber of Commerce, Eccles School of Business, University of Utah

Non-profit Representatives:

Anne Burkholder, Executive Director, YWCA of Utah

Stewart P. Ralphs, Executive Director, Attorney, Legal Aid Society of Salt Lake

Shantelle Argyle, Co-Founder, Co-Director, Attorney, Open Legal Services, Inc.

Government and Court Representatives:

Jacey Skinner, General Counsel, Office of Utah's Governor

Honorable David Nuffer, Presiding Judge of the U.S. District Court for the District of Utah

Hon. Elizabeth A. Hruby-Mills, District Court Judge, Third Judicial District Court, Utah State Courts

Daniel J. Becker, Court Administrator, Utah State Courts

Mary Jane Ciccarello, Director, Self-Help Center, Utah State Courts

Utah's Two Law School Representatives:

Lincoln Davies, Associate Dean, Professor, S.J. Quinney College of Law, University of Utah

D. Gordon Smith, Professor, J. Reuben Clark Law School, Brigham Young University

Utah's Small Firm Legal Community Representatives:

Maybell Romero, Harris Preston & Chambers, Logan

T. Christopher Wharton, Chris Wharton Law, Salt Lake City

Charles Stormont, Stormont Billings, Salt Lake City

Utah's Large Firm Legal Community Representatives:

Eric G. Maxfield, Holland & Hart, Salt Lake City

Scott Young, Stoel Rives, Salt Lake City

Utah State Bar Leadership:

James D. Gilson, Callister Nebeker & McCullough, Bar president

Angelina Tsu, Zions Management, Bar President-Elect

Robert O. Rice, Ray Quinney & Nebeker, Bar Commissioner

H. Dickson Burton, TraskBritt, Bar Commissioner

Curtis M Jensen, Snow Jensen & Reece, past Bar President

Janise K. Macanas, Assistant Utah Attorney General, Bar Commissioner

Heather M. Farnsworth, Match & Farnsworth, Bar Commissioner

John C. Baldwin, Executive Director, Utah State Bar

RESOURCES, SOURCES, MATERIALS & FURTHER INFORMATION

All of the links below, as well as additional resources, can be found online at: www.utahbar.org/futures. We recommend continued dialogue with community, business and thought leaders, clients and client organizations, government, judicial and legislative leaders, as well as attorneys working on these issues. To that end, the following materials, information and links may prove useful as the conversation continues.

Utah Resources

Open Legal Services: www.openlegalservices.org

State of Utah Division of Corporation's "One Stop" site for registering small businesses: https://secure.utah.gov/account/login.html?returnToUrl=https%3A%2F%2Fsecure.utah.gov%2Fosbr-user%2Fui_authentication

State of Utah's Small Business Health Insurance Marketplace: <http://www.avenueh.com/>

Utah State Bar and *Utah Law Review* ONLAW September 27, 2013 Symposium papers on the *Twin Crises in the Law*: <http://epubs.utah.edu/index.php/utahonlaw/issue/view/88/showToc>

Utah State Bar survey to members regarding law students, law school issues (2015): https://www.utahbar.org/wp-content/uploads/2015/07/2015FuturesCommission_Employers.pdf

Utah State Bar survey to members of Young Lawyers Division (2015): <https://www.utahbar.org/wp-content/uploads/2015/07/2015FuturesCommissionYoungLawyers.pdf>

Utah State Courts

Online Court Assistance Program: www.utcourts.gov/ocap

Self-Help Resources: www.utcourts.gov/selfhelp

Utah Code of Judicial Administration, Rule 14-705

Utah Judicial Council's Standing Committee on Resources for Self-Represented Parties (including information about the committee, surveys, reports, related articles, the 2007 Justice Gap report, and the committee's various strategic plans): <http://www.utcourts.gov/committees/ProSe/>

Utah Supreme Court Task Force to Study Limited Legal Licensing (including information about the task force, reports, related articles, and reports from Arizona, California, Colorado, Connecticut, New York, Oregon, and Washington): http://www.utcourts.gov/committees/limited_legal/

Utah Rules of Professional Conduct

Additional Resources

Alaska State Bar Unbundled Section (example of bar site with unbundled resources):

https://www.alaskabar.org/servlet/content/Unbundled_Legal_Services_atty_list.html

Arizona (The Judicial Branch of Arizona's mandatory arbitration program to reduce costs):

www.superiorcourt.maricopa.gov/SuperiorCourt/CivilDepartment/Arbitration/Index.asp

American Bar Association Legal Profession Statistics: www.americanbar.org/resources_for_lawyers/profession_statistics.html

American Bar Association Standing Committee on the Delivery of Legal Services Resource Center

(a rich assembly of information on innovative practice models around the country):

http://www.americanbar.org/groups/delivery_legal_services/resources.html

American Bar Association Standing Committee on the Delivery of Legal Services Year in Review 2014 (articles and other resources on legal services delivery models especially for unbundled practice and incubators):

http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_2014_year_in_review.authcheckdam.pdf

American Bar Association Task Force on the Future of Legal Education Report and Recommendations:

http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_and_recommendations_of_aba_task_force.authcheckdam.pdf

Susan Beck, *Emerging Technology Shapes Future of Law*, THE AMERICAN LAWYER, August 4, 2014:

<http://www.neotalogic.com/assets/resources/American-Lawyer-The-Future-of-Law-August-2014-Neota-Logic.pdf>

California Civil Justice Strategies Task Force Report and Recommendations:

<file:///C:/Documents%20and%20Settings/mary.ciccarello/My%20Documents/Downloads/California%20Task%20Force.pdf>

Canadian Bar Association Futures Initiative (including reports and other materials): <http://www.cbafutures.org/>

JustiServ (commercial site; example of lawyer directory service): www.justiserv.com

Uniform Bar Exam: www.ncbex.org/exams/ube

Cary Spivak, *Bankruptcy petition preparers running afoul of law*, JOURNAL SENTINEL, August 5, 2013: <http://www.jsonline.com/watchdog/watchdogreports/bankruptcy-petition-preparers-running-afoul-of-law-b9967467z1-218451771.html>

All of the links above, as well as additional resources, can be found online at: www.utahbar.org/futures.



Utah State Bar.
Lawyers working for justice. www.utahbar.org

Summary of 2015 Futures Commission Report Recommendations

Items Needing Attention:

Make Lawyers More Available and Much More Accessible

- _____ 1. Increase the use of discrete task representation and fixed fee pricing by:
 - (a) marketing the availability of “unbundling,”
 - (b) educating lawyers and courts on best practices for implementing these approaches, and
 - (c) establishing an “unbundled” section for the Bar with lawyers who are willing to help clients on a fee-per-task, limited scope basis.
- _____ 2. Promote fee-per-task delivery models in locations where lawyers can meet with clients for advice in public access points like courthouses, public libraries, and community centers.
- _____ 3. Investigate and promote changes to licensing requirements to reflect the economic realities of multistate practices and to accommodate lawyers who live in Utah but do legal work for clients outside of Utah.

Better Educate and Train Lawyers and Law Students about Their Business

- _____ 4. The Bar and the law schools should provide more business and entrepreneurial training.
- _____ 5. We considered and do not recommend creating a “diploma privilege” by waiving the Bar exam for graduates of Utah law schools.

Keep Improving Judicial Case Management

- _____ 6. We recommend that the Bar Commission endorse and promote increased judicial case management oversight of dockets, especially in family law and debt collection cases.
- _____ 7. We recommend that the Bar Commission endorse and promote simplification of court processes and redesign of court rules and procedures to better enable attorneys and clients to use limited scope representation.

Take Control of Technology

- _____ 8. Promote Utah’s “one stop” shop for small business registration.
- _____ 9. Clarify who with the Bar, among both staff and lawyers, has the charge of leading and training Utah lawyers in the area of law practice technologies
- _____ 10. Make all of the Bar’s CLE offerings available for remote attendance and participation.
(Partially in progress. Rule change required.)

Support Reestablishment of the Court’s Access to Justice Commission

Summary of 2015 Futures Commission Report Recommendations

Items in Progress:

Make Lawyers More Available and Much More Accessible

1. Develop and maintain a robust online lawyer referral directory that is easily available to the public. *(Being addressed by the AAA Task Force.)*
2. Build and promote a consumer-focused website which, building on the online directory of lawyers, will become the key clearinghouse for clients in need of legal assistance. *(Being addressed by the AAA Task Force.)*
3. Investigate and promote providing incubators or other support for new lawyers who wish to establish practices, especially in the rural areas of Utah, to provide basic legal services to underserved clients. *(Being addressed by the AAA Task Force.)*
4. Better promote, with lawyers and those needing lawyers, the numerous pro bono and modest means offerings and programs already in place throughout Utah. *(In progress.)*
5. Investigate and consider the impact of changes to Rule 5.4 of the Rules of Professional Conduct to allow non-lawyers to share fees and partner with lawyers in order to increase innovation and encourage lawyers to be more client focused. *(Being addressed by Utah Court Committee on Limited Legal License Technicians.)*

Better Educate and Train Lawyers and Law Students about Their Business

5. The “Third-Year Practice Rule” should be expanded and enhanced. *(Being addressed by the AAA Task Force.)*
6. The Supreme Court’s Task Force on limited legal license technicians is currently examining the potential for people other than lawyers to meet these needs. We recommend that the Bar Commission follow that effort and assist however it can to facilitate the provision of affordable legal services to the people of Utah. *(Being addressed by Utah Court Committee on Limited Legal License Technicians.)*

Keep Improving Judicial Case Management

7. We recommend legislation to increase the jurisdictional limit for small claims court. *(In progress.)*

Take Control of Technology

8. Promote and maintain online CLE sessions on the business of practicing of law, best uses of technology, unbundling legal services, effectively promoting services to prospective middle class and small business clients, and managing a virtual law practice. *(In progress.)*
9. Encourage lawyers to participate in established pro bono efforts that utilize remote services delivery systems so that clients in geographically isolated areas can be helped. *(In progress.)*
10. Make all of the Bar's CLE offerings available for remote attendance and participation. *(Partially in progress. Rule change required.)*

Support Reestablishment of the Court's Access to Justice Commission

11. Support Reestablishment of the Court's Access to Justice Commission

TAB
4

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

JULY 29, 2015

SUN VALLEY, IDAHO

In Attendance: President James D. Gilson, President-elect Angelina Tsu; Commissioners: Steven Burt, H. Dickson Burton, Kenyon Dove, Mary Kay Griffin, Heather Farnsworth, John Lund, Janise Macanas, Herm Olsen, Rob Rice and by phone and later in person Susanne Gustin.

Ex-Officio Members: Dean Robert Adler, Heather Allen, Katherine Judd, Susan Motschieder, Jesse Nix, Margaret Plane, Dean James Rasband and Lawrence Stevens

Not in Attendance: Honorable Mike Leavitt and Tom Seiler. Ex-Officio Members: Nate Alder and Curtis Jensen. Assistant Executive Director Richard Dibblee,

Also in Attendance: Kate Conyers, Liisa Hancock, Michelle Mumford and Katie Woods. Executive Director John C. Baldwin, General Counsel Elizabeth A. Wright, Sean Toomey, Utah State Bar Communications Director.

Minutes: 1:15 p.m. start

1. President's Report:

1.1. Welcome and Review Schedule. Jim Gilson welcomed the newly elected Commissioners Kate Conyers, Liisa Hancock, Michelle Mumford and Katie Woods.

New Item: Access to Justice Coordinator Michelle Harvey gave an overview of all the programs under the umbrella of her office. She also provided a handout with a description of each program.

2. Action Items:

2.1 Approve 2015-2016 Final Budget.

John Lund moved that the Commission approve the 2015-2016 budget with the understanding that it can be amended later if needed. H. Dickson Burton seconded the motion which passed unopposed.

2.2 Approve Admissions Rule Changes.

Elizabeth Wright explained that the Court made changes to the proposed admissions rules the Commission approved at its December 5, 2014 meeting. Notably, the Court added a rule under which applicants who have passed the Bar or been admitted by motion can be sworn in by a District Court Judge before the swearing in ceremony. This will allow solo

practitioners and others to begin practicing without having to wait a month or more for the ceremony to take place. **Dickson Burton moved that the Commission approve the Court's changes to the proposed admissions rules. Rob Rice seconded the motion which passed with none opposed.**

3. Discussion Items:

3.1 Futures Commission Report: John Lund. John Lund provided a handout outlining the Futures Commission recommendations and described them to the Commission. The recommendations are: 1. Make lawyers more available and accessible; 2. Better educate and train law students about how to run a business; 3. Keep improving judicial case management; 4. Take control of technology; and 5. Support reestablishment of the Court's Access to Justice Commission. The Commission discussed the importance of the report and the need to act on the recommendations.

3.2 AAA Task Force Report: Angelina Tsu and Rob Rice. Rob explained that the AAA Task Force's purpose is to increase legal services to the middle class by utilizing the skills of unemployed or under employed lawyers. Goal is to have a short-term component that can be implemented by January 1, 2016. The Task Force has 5 specific areas of focus. Angelina noted how well the work of the AAA Task Force dovetails with the work of the Futures Commission.

3.3 NLTP Review Committee Report: Kenyon Dove. Kenyon reported that the review committee determined the NLTP is still meeting its goals as set forth in the original petition to the Court to establish the program. The committee also found that the program is financially self-sustaining and valuable to the new lawyers. The committee proposed some suggestions for improving the program having mostly to do promotion of the program and with keeping mentors enthused and engaged.

3.4 Budget and Finance Review Committee Report: Margaret Plane. Margaret reported that the committee looked closely at the budget except as it relates to programs subject to other reviews. They also did not examine employee compensation because they are not compensation experts. Overall, the committee determined that Bar is spending its money wisely. The committee did recommend that the Commission examine the cost of the admissions ceremony and the cost of printing and mailing the Bar Journal. They also recommend that sections be required to roll their funds back into the general fund if they are not spent after a certain amount of time.

3.5 OPC Review Committee Report: Larry Stevens. Larry reported that the committee's report is not completed because of an issue with obtaining access to confidential records. Committee members Tim Shea, Larry Stevens and Susanne Gustin reported that in an effort to resolve the access to confidential records, the Review Committee found that the rules governing OPC are not as clear as they could be. The Commission discussed the possibility of reviewing and amending OPC rules. Margaret Plane pointed out that the ABA has a committee tasked with assisting bars in conducting such rule reviews. The Commission discussed the fact that the Review Committee should not rush its report to

meet a deadline, but rather should take the all the time necessary to conduct a complete review.

3.6 Convention Review Committee Report: Dickson Burton. Dickson reported that the committee will not be able to make a report until the figures for the Summer 2015 convention are available.

4. Commission Reorganization:

4.1 Welcome New Commissioners.

4.2 Appoint Ex Officio Members.

Heather Farnsworth moved to appoint the following *ex officio* members for the 2015-2016 year: the Immediate Past Bar President **James Gilson**; the Bar's Representatives to the ABA House of Delegates **Larry Stevens**; Utah's ABA Members' Representatives to the ABA House of Delegates **Nate Alder and Margaret Plane**; the Utah Minority Bar Association Representative **Melinda Bowen**; the Women Lawyers of Utah Representative **Susan Motschieder**; the Paralegal Division Representative **Heather Allen**; the J. Reuben Clark Law School Dean **James Rasband**; the S.J. Quinney College of Law Dean **Robert Adler**; and the Young Lawyers Division Representative **Chris Wharton**. **Dickson Burton seconded the motion which passed with none opposed.**

4.3 Approve Executive Committee.

Kenyon Dove moved to appoint the following Executive Committee members for 2015-2016: **Angelina Tsu, H. Dickson Burton, Margaret Plane, Herm Olsen, Heather Farnsworth, and Rob Rice**. **John Lund seconded the motion which passed unopposed.**

4.4 Adopt Resolution on Bank Signatures.

Mary Kay Griffin moved to approve members of the Executive Committee to serve as signatories on the Bar's checking accounts for 2015-2016. **Susanne Gustin seconded the motion which passed unopposed.**

4.5 Review 2015-2016 Meeting Schedule and Retreat Information.

4.6 Sign Conflict of Interest Disclosures. Commissioners were asked to sign conflict of interest disclosures and return them to Elizabeth Wright ASAP.

HANDOUTS DISTRIBUTED AT MEETING:

1. Access to Justice Handout
2. Futures Commission Report
3. Budget and Finance Review Committee Report

ADJOURNED: 4:45 p.m.

CONSENT AGENDA:

1. Approve Minutes of June 12, 2015 Commission Meeting.

Rules implicated in changing role of Secretary to the Committee from the OPC to General Counsel of the Utah State Bar

Rule 14-503. Ethics and Discipline Committee.

(a) Composition. The Committee shall be appointed by the Supreme Court. The Committee shall consist of eight public members and 28 members of the Bar who have demonstrated a high standard of professional conduct. All appointments shall be for a term of three years. The Supreme Court shall designate one lawyer member as Committee chair and three lawyer members as Committee vice chairs.

(b) Committee chair. The Committee chair shall supervise the Committee and screening panels. The chair is responsible to maintain an adequate check on the work of the screening panels to ensure that matters move forward expeditiously, to determine that screening panels have a uniform basis for the judgments rendered, and to provide the screening panels with information concerning ethics and judicial decisions necessary to their activities. The chair shall make recommendations to the Supreme Court concerning appointments to and removals from the screening panels and reports concerning the activities of the screening panels and the overall work of the Committee.

(c) Vice chairs. The Committee vice chairs shall act in the event of the chair's absence or resignation. In the event of the chair's absence or resignation, a vice chair will become the chair. The chair may call upon either vice chair to assist in any of the Committee chair's duties.

(d) Screening panels, quorums. The Committee members, except for the Committee chair and Committee vice chairs, shall be divided into four screening panel sections of six members of the Bar and two public members. The Supreme Court shall name a chair and vice chair for each screening panel. The chair or, in the absence of the chair, the vice chair shall preside over the screening panel hearings. The panel chair may call upon the vice chair to assist in any of the panel chair's duties. Chairs or vice chairs from other panels may conduct hearings if the regular chair and vice chair are unable to attend. In the event of the chair's removal or resignation, the vice chair will become the chair, and the Court shall appoint a member of the Committee to serve as vice chair. Two members of the Bar plus one public member shall constitute a quorum of a screening panel. The concurrence of a majority of those members present and voting at any proceeding shall be required for a screening panel determination. If an even number of screening panel members participate in a proceeding, the chair or vice chair shall not vote unless necessary to break a tie. The chair or vice chair shall, however, fully participate in the proceeding. Each screening panel shall meet as is necessary to effectively and promptly carry out its duties.

The entire Committee may be convened at such other times by the chair as necessary to effectively and promptly carry out its duties.

(e) Removal, alternates. The Committee chair may recommend removal of a Committee member by notifying the Supreme Court of the recommendation of removal and reasons for the recommendation. The removal shall take effect upon the Supreme Court's acceptance of the recommendation.— Members of any screening panel may serve as alternate members on different screening panels. The Committee chair and the Committee vice chairs may serve as alternate members on all screening panels.

(f) Responsibilities. Informal complaints shall be randomly assigned to screening panels. The screening panels shall review, investigate, and hear all informal complaints charging unethical and/or unprofessional conduct against members of the Bar. After such review, investigation, hearing and analysis, the screening panels shall determine the action to be taken on any informal complaint which, based upon the facts of the particular case, is most consistent with the public interest and the Rules of Professional Conduct.

(g) Subpoena. Any party or a screening panel, for good cause shown, may petition under seal the district court for issuance of a subpoena, subpoena duces tecum or any order allowing discovery prior to the filing of a formal complaint. Except for good cause shown, all petitions under this rule shall require a five-day written notice to the opposing party prior to the issuance of an appropriate order of subpoena.

(g)(1) Enforcement of subpoena. A district court in the district in which the attendance or production is required may, upon proper application, enforce the attendance and testimony of any witnesses and the production of any documents subpoenaed.

(g)(2) Quashing subpoena. Any attack on the validity of a subpoena so issued shall be heard and determined by the Committee chair or by the court wherein enforcement of the subpoena is being sought. Any resulting order is not appealable prior to the entry of a final order in the proceeding.

(g)(3) Witnesses and fees. Subpoena fees, witness fees, and mileage shall be reimbursed in the amounts provided under Rule 45 of the Utah Rules of Civil Procedure.

(h)(1) ~~Clerk of the Committee, and OPC as screening panel secretary.~~ OPC counsel shall be the secretary to The Clerk of the Committee and is charged with the responsibility of the administrative affairs of the Committee, the handling of the screening panel calendars, giving notice to screening panel members and members of the Bar whose attendance is requested, notifying those who have filed informal complaints of the times and dates their matters will be heard, and otherwise performing or providing the secretarial and administrative functions of

the Committee and screening panels. ~~Except as otherwise provided in this article, whenever OPC counsel may be present before a screening panel during a hearing, the respondent may also be present. The Clerk shall be responsible for maintaining the hearing record as required by rule 14-510(b)(6). OPC Senior Counsel shall be responsible for all other record keeping duties as set forth in this article. With regard to confidentiality, anyAny activities undertaken by the Clerk in accordance with this rule shall be confidential as defined by rule 14-515.~~

(h)(2) OPC counsel shall within three months after the filing of an informal complaint of unprofessional or unethical conduct of a respondent, advise the party making the informal complaint concerning the initial consideration of the informal complaint, and shall promptly advise such party in writing of the subsequent disposition of the informal complaint and the reasons ~~therefortherefore.~~

(i) ~~Annual report.~~ Senior counsel shall prepare and submit an annual report to the Supreme Court and the Board encompassing the scope and nature of the Committee work. The report shall be submitted on or about August 1 of each year for the preceding fiscal year and shall set forth the number of disciplinary cases investigated, the number brought before the Committee, formal complaints filed, dispositions, cases dismissed, informal ethics opinions issued, diversionary dispositions and such other information as may be helpful to the Supreme Court in comprehending the operations of the OPC as well as the efficiency and effectiveness of the disciplinary system. Such report may contain Committee recommendations for rule amendments or changes in Committee procedure. The chair and senior counsel shall annually consult with the Board and the Supreme Court regarding the level of activity and general standing of disciplinary matters and procedures.

Comment [TW1]: OPC will rely on Clerk to provide information regarding SP's for the annual report, but probably can be handled with a policy and does not require a change to the rule

Rule 14-504. OPC counsel.

(a) Appointment and qualifications. The Board shall appoint a lawyer admitted to practice in Utah to serve as senior counsel. Neither the senior counsel nor any full-time assistant counsel shall engage in the private practice of law for payment.

(b) Powers and duties. The senior counsel shall perform all prosecutorial functions and have the following powers and duties, which may be delegated to other staff:

(b)(1) screen all information coming to the attention of the OPC to determine whether it is within the jurisdiction of the OPC in that it relates to misconduct by a lawyer or to the incapacity of a lawyer;

(b)(2) investigate all information coming to the attention of the OPC which, if true, would be grounds for discipline or transfer to disability status, and investigate all facts pertaining to petitions for reinstatement or readmission;

(b)(3) for each matter not covered in Rule 14-510 brought to the attention of the OPC:

(b)(3)(A) dismiss;

(b)(3)(B) decline to prosecute;

(b)(3)(C) refer non-frivolous and substantial informal complaints to the Committee for hearing; or

(b)(3)(D) petition to the district court for transfer to disability status;

(b)(4) prosecute before the screening panels, the district courts, the Supreme Court, and any other courts, including but not limited to, any court of the United States all disciplinary cases and proceedings for transfer to or from disability status;

(b)(5) attend the Character and Fitness Committee proceedings in all cases for readmission, and represent the OPC before the district courts, Supreme Court, and any other courts including, but not limited to, any court of the United States in all cases for reinstatement and readmission;

(b)(6) employ or appoint and supervise staff needed for the performance of prosecutorial functions and delegate such responsibilities as may be reasonably necessary to perform prosecutorial functions, including supervising attorneys who provide pro bono services to the Bar, by supervising the practice of respondents

who have been placed on probation;

~~(b)(7) notify promptly the complainant, the respondent, and any counsel of record of the disposition of each matter;~~

(b)(8) notify each jurisdiction in which a respondent is admitted of a transfer to disability status or any public discipline imposed in Utah;

(b)(9) seek reciprocal discipline where appropriate when informed of any public discipline imposed by another court, another jurisdiction, or a regulatory body having disciplinary jurisdiction;

Comment [TW2]: Notice to complainant is covered in 503(h)(2), notice to Respondent is covered in 510 (b)(10)?

(b)(109) forward a certified copy of the judgment of conviction to the disciplinary agency in each jurisdiction in which a lawyer is admitted when the lawyer is convicted of a crime in Utah which reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(b)(110) maintain permanent records of discipline and disability matters subject to any expungement requirements and compile statistics to aid in the administration of the system, including but not limited to, a log of all informal complaints received, investigative files, statistical summaries of rules violated and dispositions, any transcripts of proceedings, and other records as the Supreme Court requires to be maintained;

(b)(111) expunge after seven years all records or other evidence of the existence of any informal complaint terminated by dismissal or a declination to prosecute;

(b)(112)(A) Notice to respondent. If the respondent was contacted by the OPC concerning the informal complaint, or the OPC otherwise knows that the respondent is aware of the existence of the informal complaint, the respondent shall be given prompt written notice of the expungement.

(b)(112)(B) Effect of expungement. After a file has been expunged, any OPC response to an inquiry requiring a reference to the matter shall state that there is no record of such matter. The respondent may answer any inquiry requiring a reference to an expunged matter by stating that no informal complaint was made.

(b)(113) provide informal guidance concerning professional conduct to members of the Bar requesting guidance, participate in seminars which will promote ethical conduct by the Bar, formulate diversionary programs, monitor probations, and disseminate disciplinary results to the Bar and the public through the Utah Bar Journal and otherwise as appropriate, maintaining the confidentiality of respondents subject to private discipline; and

(b)(114) along with the executive director annually formulate the budget for the OPC and submit the budget to the Board for approval. OPC counsel may petition the Supreme Court for review of modifications to the budget imposed by the Board.

(c) Disqualification. In addition to complying with the Rules of Professional Conduct regarding successive government and private employment (Rule 1.11 of the Rules of Professional Conduct), a former OPC counsel shall not personally represent a lawyer following completion of the OPC counsel's service in any proceeding as provided in these rules which former OPC counsel investigated or prosecuted during his or her employment by OPC.

(d) Effect of ethics advisory opinions. The OPC shall not prosecute a Utah lawyer for conduct that is in compliance with an ethics advisory opinion that has not been withdrawn at the time of the conduct in question. No court is bound by an ethics opinion's interpretation of the Utah Rules of Professional Conduct.

(d)(1) The OPC may at any time request the Bar's Ethics Advisory Opinion Committee to review, modify or withdraw an ethics advisory opinion and if so, any

OPC investigation or prosecution is suspended pending the final outcome of the request. The Ethics Advisory Opinion Committee may issue a modified opinion, withdraw the opinion or decline to take any action but shall report its action or recommendation to the Board of Bar Commissioners and the Board will take such final action as it deems appropriate.

(d)(2) The OPC may also request the Supreme Court to review, affirm, reverse or otherwise modify an ethics advisory opinion.

Rule 14-510. Prosecution and appeals.

(a) Informal complaint of unprofessional conduct.

(a)(1) Filing. A disciplinary proceeding may be initiated against any member of the Bar by any person, OPC counsel or the Committee, by filing with the Bar, in writing, an informal complaint in ordinary, plain and concise language setting forth the acts or omissions claimed to constitute unprofessional conduct. Upon filing, an informal complaint shall be processed in accordance with this article.

(a)(2) Form of informal complaint. The informal complaint need not be in any particular form or style and may be by letter or other informal writing, although a form may be provided by the OPC to standardize the informal complaint format. It is unnecessary that the informal complaint recite disciplinary rules, ethical canons or a prayer requesting specific disciplinary action. The informal complaint shall be signed by the complainant and shall set forth the complainant's address, and may list the names and addresses of other witnesses. The informal complaint shall be notarized and contain a verification attesting to the accuracy of the information contained in the complaint. In accordance with Rule 14-504(b), complaints filed by OPC are not required to contain a verification. The substance of the informal complaint shall prevail over the form.

(a)(3) Initial investigation. Upon the filing of an informal complaint, OPC counsel shall conduct a preliminary investigation to ascertain whether the informal complaint is sufficiently clear as to its allegations. If it is not, OPC counsel shall seek additional facts from the complainant; additional facts shall also be submitted in writing and signed by the complainant.

(a)(4) Potential Referral to Professionalism Counseling Board. In connection with any conduct that comes to their attention, whether by means of an informal complaint, a preliminary investigation, or any other means, OPC counsel may, at its discretion, refer any matter to the Professionalism Counseling Board established pursuant to the Supreme Court's Standing Order No. 7. Such referral may be in addition to or in lieu of any further proceedings related to the subject

matter of the referral. Such referral should be in writing and, at the discretion of OPC counsel, may include any or all information included in an informal complaint or additional facts submitted by a complainant.

(a)(5) Notice of informal complaint. Upon completion of the preliminary investigation, OPC counsel shall determine whether the informal complaint can be resolved in the public interest, the respondent's interest and the complainant's interest. OPC counsel and/or the screening panel may use their efforts to resolve the informal complaint. If the informal complaint cannot be so resolved or if it sets forth facts which, by their very nature, should be brought before the screening panel, or if good cause otherwise exists to bring the matter before the screening panel, OPC counsel shall cause to be served a NOIC by regular mail upon the respondent at the address reflected in the records of the Bar. The NOIC shall have attached a true copy of the signed informal complaint against the respondent and shall identify with particularity the possible violation(s) of the Rules of Professional Conduct raised by the informal complaint as preliminarily determined by OPC counsel.

(a)(6) Answer to informal complaint. Within 20 days after service of the NOIC on the respondent, the respondent shall file with OPC counsel a written and signed answer setting forth in full an explanation of the facts surrounding the informal complaint, together with all defenses and responses to the claims of possible misconduct. For good cause shown, OPC counsel may extend the time for the filing of an answer by the respondent not to exceed an additional 30 days. Upon the answer having been filed or if the respondent fails to respond, OPC counsel shall refer the case to a screening panel for investigation, consideration and determination or recommendation. OPC counsel shall forward a copy of the answer to the complainant.

(a)(7) Dismissal of informal complaint. An informal complaint which, upon consideration of all factors, is determined by OPC counsel to be frivolous, unintelligible, barred by the statute of limitations, more adequately addressed in another forum, unsupported by fact or which does not raise probable cause of any unprofessional conduct, or which OPC declines to prosecute may be dismissed by OPC counsel without hearing by a screening panel. OPC counsel shall notify the complainant of such dismissal stating the reasons therefor. The complainant may appeal a dismissal by OPC counsel to the Committee chair by providing written notice to the Clerk within 15 days after notification of the dismissal is mailed. Upon appeal, the Committee chair shall conduct a de novo review of the file, either affirm the dismissal or require OPC counsel to prepare a NOIC, and set the matter for hearing by a screening panel. In the event of the chair's recusal, the chair shall appoint the vice chair or one of the screening panel chairs to review and determine the appeal.

(b) Proceedings before Committee and screening panels.

(b)(1) Review and investigation. In their role as fact finders and investigators, screening panels shall review all informal complaints referred to them by OPC counsel, including all the facts developed by the informal complaint, answer, investigation and hearing, and the recommendations of OPC counsel. Prior to any hearing OPC may provide the screening panel a summary of its investigation. If provided, the summary shall identify with particularity any additional violations of the Rules of Professional Conduct as subsequently determined by OPC after service of the NOIC. If provided to the screening panel, the summary shall also be provided by the Clerk to the complainant and the respondent and shall serve as notice of any additional violations not found in the NOIC. If additional rule violations are alleged in the summary, the summary shall be provided to the respondent no less than seven days prior to the hearing. In cases where a judicial officer has not addressed or reported a respondent's alleged misconduct, the screening panel should not consider this inaction to be evidence either that misconduct has occurred or has not occurred.

(b)(2) Respondent's appearance. Before any action is taken that may result in the recommendation of an admonition or public reprimand or the filing of a formal complaint, the screening panel shall, upon at least 30 days' notice by the Clerk, afford the respondent an opportunity to appear before the screening panel. Respondent and any witnesses called by the respondent may testify, and respondent may present oral argument with respect to the informal complaint. Respondent may also submit a written brief to the screening panel at least 10 days prior to the hearing, which shall not exceed 10 pages in length unless permission for enlargement is extended by the panel chair or vice-chair for good cause shown. A copy of the brief shall be forwarded by the Clerk to OPC counsel to and the complainant. If OPC identifies additional rule violations in the summary referenced in (b)(1), the respondent may file an additional written response addressing those alleged violations prior to the hearing.

(b)(3) Complainant's appearance. A complainant shall have the right to appear before the screening panel personally and, together with any witnesses called by the complainant, may testify.

(b)(4) Right to hear evidence; cross-examination. The complainant and the respondent shall have the right to be present during the presentation of the evidence unless excluded by the screening panel chair for good cause shown. Respondent may be represented by counsel, and complainant may be represented by counsel or some other representative. Either complainant or respondent may seek responses from the other party at the hearing by posing questions or areas of inquiry to be asked by the panel chair. Direct cross-examination will ordinarily not be permitted except, upon request, when the panel chair deems that it would materially assist the panel in its deliberations.

(b)(5) Rule Violations Not Charged by OPC. During the screening panel hearing, but not after, the panel may find that rule violations not previously charged by OPC in the NOIC or summary memorandum have occurred. If so, the screening panel shall give the respondent a reasonable opportunity to respond during the hearing. The respondent may address the additional charges at the hearing and also provide the panel with a written response to the new charges along with supplemental materials related to the new charges. Any written response and supplemental materials shall be submitted to the Clerk and served upon OPC within five business days of the hearing. ~~OPC shall promptly deliver the response to the panel.~~ Prior to making a determination or recommendation, the response and any supplemental materials shall be reviewed and considered by at least a quorum of the panel members present at the original hearing.

(b)(6) Hearing Record. The proceedings of any hearing before a screening panel under this subsection (b) shall be recorded by the Clerk at a level of audio quality that permits an accurate transcription of the proceedings. ~~Pursuant to its function as secretary to the Committee under Rule 14-503(h)(1), OPC~~ The Clerk shall be responsible for the assembly of the complete record of the proceedings, to be delivered to the chair of the Committee upon the rendering of the panel's determination or recommendation to the Committee chair. The record of the proceedings before the panel shall be preserved for not less than one year following delivery of the panel's determination or recommendation to the chair of the Committee and for such additional period as any further proceedings on the matter are pending or might be instituted under this section.

(b)(7) Screening panel determination or recommendation. Upon review of all the facts developed by the informal complaint, answer, investigation and hearing, the screening panel shall make one of the following determinations or recommendations:

(b)(7)(A) The preponderance of evidence presented does not establish that the respondent was engaged in misconduct, in which case the informal complaint shall be dismissed. ~~OPC counsel~~ The Clerk shall promptly give notice of such dismissal by regular mail to the complainant, and the respondent and OPC. A letter of caution may also be issued with the dismissal. The letter shall be signed by ~~OPC counsel~~ or the screening panel chair or vice chair and shall serve as a guide for the future conduct of the respondent. The complainant shall also be confidentially notified of the caution;

(b)(7)(B) The informal complaint shall be referred to the Diversion Committee for diversion. In this case, the specific material terms of the Diversion Contract agreed to by the respondent are to be recorded by the Clerk as a part of the screening panel record, along with any comments by the complainant. The screening panel shall have no further involvement in processing the diversion.

The Diversion Committee shall process the diversion in accordance with Rule 14-533.

(b)(7)(C) The informal complaint shall be referred to the Professionalism Counseling Board established pursuant to the Supreme Court's Standing Order No. 7;

(b)(7)(D) The informal complaint shall be referred to the Committee chair with an accompanying screening panel recommendation that the respondent be admonished;

(b)(7)(E) The informal complaint shall be referred to the Committee chair with an accompanying screening panel recommendation that the respondent receive a public reprimand; or

(b)(7)(F) A formal complaint shall be filed against the respondent if the panel finds there is probable cause to believe there are grounds for public discipline and that a formal complaint is merited. A formal complaint shall also be filed if the panel finds the misconduct is similar to the misconduct alleged in a formal complaint against the respondent that has been recommended by a screening panel or is pending in district court at the time of the hearing.

(b)(8) Aggravation and Mitigation. The respondent and OPC may present evidence and argument as to mitigating and aggravating circumstances during the screening panel hearing, but this evidence shall not be considered until after the panel has determined the respondent engaged in misconduct.

(b)(9) Multiple cases involving the same respondent. More than one case involving the same respondent may be scheduled before the same panel. In determining whether a rule has been violated in one case, a screening panel shall not consider the fact it may be hearing multiple cases against the same respondent.

(b)(10) Recommendation of admonition or public reprimand. A screening panel recommendation that the respondent should be disciplined under subsection (b)(7)(D) or (b)(7)(E) shall be in writing and shall state the substance and nature of the informal complaint and defenses and the basis upon which the screening panel has concluded, by a preponderance of the evidence, that the respondent should be admonished or publicly reprimanded. A copy of such screening panel recommendation shall be delivered by the Clerk to the Committee chair and a copy served upon the respondent and OPC.

(c) Exceptions to screening panel determinations and recommendations. Within 30 days after service ~~the date~~ of the determination of the screening panel of a dismissal, dismissal with letter of caution, a referral to the Diversion Committee, a referral to the Professionalism Counseling Board, or the recommendation of an admonition, or the recommendation of a public reprimand, OPC may file with the Committee chair exceptions to the determination or

recommendation and may request a hearing. The respondent shall then have 30 days within which to make a response, and the response shall include respondent's exceptions, if any, to a recommendation of an admonition or reprimand. Within 30 days after service by OPC of the recommendation of an admonition or public reprimand on respondent, the respondent may file with the Committee chair exceptions to the recommendation and may request a hearing, and OPC shall have 30 days within which to file a response. The Committee chair may allow a reply to any response. No exception may be filed to a screening panel determination that a formal complaint shall be filed against a respondent pursuant to Rule 14-511. All exceptions shall be mailed to the Clerk and served upon the other party, and shall include a memorandum, not to exceed 20 pages, stating the grounds for review, the relief requested and the bases in law or in fact for the exceptions.

(d) Procedure on exceptions.

(d)(1) Hearing not requested. If no hearing is requested, the Committee chair will review the record compiled before the screening panel.

(d)(2) Hearing requested. If a request for a hearing is made, the Committee chair or a screening panel chair designated by the Committee chair shall serve as the Exceptions Officer and hear the matter in an expeditious manner, with OPC counsel and the respondent having the opportunity to be present and give an oral presentation. The complainant need not appear personally.

(d)(3) Transcript Request. Upon request the Committee chair shall extend the deadlines for filing exceptions or responses in order to allow a party time to obtain a transcript of the screening panel proceedings. The cost of such transcript shall be borne by the requesting party. If a transcript is requested, OPC the Clerk will also provide the Committee chair with a copy of the transcript as transcribed by a court reporting service, together with an affidavit establishing the chain of custody of the record.

(d)(4) Burden of proof. The party who files exceptions under subsection (c) shall have the burden of showing that the determination or recommendation of the screening panel is unsupported by substantial evidence or is arbitrary, capricious, legally insufficient or otherwise clearly erroneous.

(d)(5) Record on exceptions. The proceedings of any hearing on exceptions under this subsection (d) shall be recorded at a level of audio quality that permits an accurate transcription of the proceedings.

(e) Final Committee disposition. Either upon the completion of the exceptions procedure under subsection (d) or if no exceptions have been filed under subsection (c), the Committee chair shall issue a final, written determination that either sustains, dismisses, or modifies the determination or recommendation of the screening panel. No final written determination is needed by the Committee

chair to a screening panel determination to a dismissal, a dismissal with a letter of caution, or a referral to the Diversion Committee if no exception is filed.

(f) Appeal of a final Committee determination.

(f)(1) Within 30 days after ~~service by the Clerk the date of a final, written determination of the Committee chair under subsection (e), OPC or respondent~~ may file a request for review by the Supreme Court seeking reversal or modification of the final determination of the Committee. ~~Within 30 days after service by OPC of a final, written determination of the Committee chair under subsection (e), the respondent may file a request for review with the Supreme Court seeking reversal or modification of the final determination by the Committee.~~ A request for review under this subsection shall only be available in cases where exceptions have been filed under subsection (c). Dissemination of disciplinary information pursuant to Rules 14-504(b)(13) or 14-516 shall be automatically stayed during the period within which a request for review may be filed under this subsection. If a timely request for review is filed, the stay shall remain in place pending resolution by the Supreme Court unless the Court otherwise orders.

(f)(2) A request for review under this subsection (f) will be subject to the procedures set forth in Title III of the Utah Rules of Appellate Procedure. Documents submitted under this Rule shall conform to the requirements of Rules 27(a) and 27(b) of the Utah Rules of Appellate Procedure.

(f)(3) A party requesting a transcription of the record below shall bear the costs. ~~OPC~~ The Clerk will provide the Court with the transcript as transcribed by a court reporting service, together with an affidavit establishing the chain of custody of the record.

(f)(4) The Supreme Court shall conduct a review of the matter on the record.

(f)(5) The party requesting review shall have the burden of demonstrating that the Committee action was:

(f)(5)(A) Based on a determination of fact that is not supported by substantial evidence when viewed in light of the whole record before the Court;

(f)(5)(B) An abuse of discretion;

(f)(5)(C) Arbitrary or capricious; or

(f)(5)(D) Contrary to Articles 5 and 6 of Chapter 14 of the Rules of Professional Practice of the Supreme Court.

(g) General procedures.

(g)(1) Testimony. All testimony given before a screening panel or the Exceptions Officer shall be under oath.

(g)(2) Service. To the extent applicable, service or filing of documents under this Rule is to be made in accordance with Utah Rules of Civil Procedure 5(b)(1), 5(d) and 6(a).

(g)(3) Continuance of disciplinary proceedings. A disciplinary proceeding may be held in abeyance by the Committee chair prior to the filing of a formal complaint when the allegations or the informal complaint contain matters of substantial similarity to the material allegations of pending criminal or civil litigation in which the respondent is involved.

Rule 14-515. Access to disciplinary information.

(a) Confidentiality. Prior to the filing of a formal complaint or the issuance of a public reprimand pursuant to Rule 14-510 in a discipline matter, the proceeding is confidential, except that the pendency, subject matter, and status of an investigation may be disclosed by OPC counsel if the proceeding is based upon allegations that have been disseminated through the mass media, or include either the conviction of a crime or reciprocal public discipline. The proceeding shall not be deemed confidential to the extent:

Comment [TW3]: There is no reference to the Committee (here or elsewhere) as it relates to confidentiality. Obviously, this rule does not prevent the disclosure of confidential information to the committee, so to the extent it is simply implied that the committee can have confidential info, the same would seem to apply to the Clerk, and thus no real change to the rule would be necessary.

(a)(1) the respondent has given an express written waiver of confidentiality;

(a)(2) there is a need to notify another person or organization, including the Bar's Lawyer's Fund for Client Protection, in order to protect the public, the administration of justice, or the legal profession; or

(a)(3) the information is required in a subsequent lawyer sanctions hearing;

(a)(4) a referral is made to the Professionalism Counseling Board pursuant to Rule 14-510 (a)(4) or (b)(6)(C). In the event of such a referral, OPC counsel, the Clerk, members of the Committee and of any screening panel, and members of the Professionalism Counseling Board may share all information between and among them with the expectation that such information will in all other respects be subject to applicable confidentiality rules or exceptions.

(b) Public proceedings. Upon the filing of a formal complaint in a discipline matter, the filing of a petition for reinstatement, or the filing of a motion or petition for interim suspension, the proceeding is public, except as provided in paragraph (d) below.

(c) Proceedings alleging disability. Proceedings for transfer to or from disability status are confidential. All orders transferring a respondent to or from disability status are public.

(d) Protective order. In order to protect the interest of a complainant, witness, third party, or respondent, the district court may, upon application of any person and for good cause shown, issue a protective order prohibiting the disclosure of

specific information and direct that the proceedings be conducted so as to implement the order, including requiring that the hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of the application.

(e) Request for nonpublic information. Nonpublic information shall be confidential, other than as authorized for disclosure under paragraph (a), unless:

(e)(1) the request for information is made by the Board, any Bar committee or the executive director, and is required in the furtherance of their duties; or

(e)(2) the request for information is approved by OPC counsel and there is compliance with the provisions of paragraphs (f) and (g) of this rule.

(f) Notice to the respondent. Except as provided in paragraph (g), if the Committee decides to provide nonpublic information requested pursuant to paragraph (e), and if the respondent has not signed an express written waiver permitting the party requesting the information to obtain the nonpublic information, the respondent shall be notified in writing at the respondent's last known designated mailing address as shown by Bar records of that information which has been requested and by whom, together with a copy of the information proposed to be released. The notice shall advise the respondent that the information shall be released at the end of 21 days following mailing of the notice unless the respondent objects to the disclosure. If the respondent timely objects to the disclosure, the information shall remain confidential unless the requesting party obtains a court order authorizing its release.

(g) Release without notice. If an otherwise authorized requesting party as outlined in paragraph (e) has not obtained an express written waiver from the respondent to obtain nonpublic information, and requests that the information be released without giving notice to the respondent, the requesting party shall certify that:

(g)(1) the request is made in furtherance of an ongoing investigation into misconduct by the respondent;

(g)(2) the information is essential to that investigation; and

(g)(3) disclosure of the existence of the investigation to the respondent would seriously prejudice that investigation.

(h) OPC counsel can disclose nonpublic information without notice to the respondent if:

(h)(1) disclosure is made in furtherance of an ongoing OPC investigation into misconduct by the respondent; and

(h)(2) the information that is sought through disclosure is essential to that investigation.

(i) Duty of participants. All participants in a proceeding under these rules shall conduct themselves so as to maintain confidentiality.

Rule 14-702. Board - general powers.

(a) Admission to the Bar. The Board shall recommend and certify to the Supreme Court for admission to the Bar persons who possess the necessary qualifications of learning, ability and character which are a prerequisite to the privilege of engaging in the Practice of Law, and who fulfill the requirements for admission to the Bar as provided by this article.

(b) Subpoena power. The Executive Director, the General Counsel and the Deputy General Counsel shall have power to issue subpoenas for the attendance of witnesses or for the production of documentary evidence before the Board or before anyone authorized to act on its behalf.

(c) Administration of oaths. Members of the Board, the Executive Director and their designees shall have power to administer oaths in furtherance of this article.

(d) Taking of testimony. Members of the Board, the Executive Director and their designees shall have the power to take testimony in furtherance of this article.

(e) Regulations. The Board is empowered to appoint committees or persons who may adopt and enforce reasonable regulations and policies in furtherance of this article.

(f) Waiver of rules. Neither the Bar nor its representatives has authority to waive any rule. Waiver of any rule may only be obtained by petitioning the Supreme Court.

Rule 14-701. Definitions.

As used in this article:

(a) "ABA" means the American Bar Association;

(b) "Active Practice" means work performed by an attorney holding an "active" status law license and having professional experience and responsibilities involving the Full-time Practice of Law as defined in sections (t) and (ee). The Active Practice of law includes any combination of the following activities provided that such employment is available only to licensed attorneys and the activities are performed in the jurisdiction in which the Applicant is admitted or in a jurisdiction that affirmatively permits such activity by a licensed lawyer not admitted to practice in the jurisdiction where performed;

(b)(1) sole practitioner, or partner, shareholder, associate, or of counsel in a law firm;

(b)(2) an organization's employee whose principal responsibility is to provide legal advice or service;

(b)(3) government employee whose principal duties are to provide legal advice or service;

(b)(4) service in the United States armed forces as a lawyer or judge;

(b)(5) judge of a court of general or appellate jurisdiction provided that such employment requires admission to the bar for the appointment thereto and for the performance of the duties thereof;

(b)(6) law clerk to a judge of a court of general or appellate jurisdiction; or

(b)(7) teaching full-time at an Approved Law School;

(b)(8) the Active Practice of law shall not include work that, as undertaken, constitutes the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located, nor shall it include work completed in advance of any bar admission. Also, the hours in attendance at continuing legal education courses shall not count toward the Active Practice of Law;

(c) "Admissions Committee" means those Utah State Bar members or others appointed by the Board or president of the Bar who are charged with recommending standards and procedures for admission to the Bar and with implementation of this article. The Admissions Committee is responsible for supervising the work of the Bar Examiner Committee, the Test Accommodations Committee, and the Character and Fitness Committee, hearing appeals as provided herein and performing other work relating to the admission of Applicants;

(d) "Applicant" means each person requesting admission to the Bar. For purposes of this article, an Applicant is classified as a Student Applicant, a Foreign Law School Applicant, an Attorney Applicant, a Motion Applicant, a Foreign Legal Consultant Applicant, or a House Counsel Applicant.

(e) "Approved Law School" means a law school which is fully or provisionally approved by the ABA pursuant to its Standards and Rules of Procedure for Approval of Law Schools. To qualify as approved, the law school must have been fully or provisionally approved at the time of the Applicant's graduation, or at the time of the Applicant's enrollment, provided that the Applicant graduated within a typical and reasonable period of time;

(f) "Attorney Applicant" means any person who satisfies the requirements of Rule 14-704;

(g) "Bar" means the Utah State Bar, including its employees, committees and the Board;

(h) "Bar Examination" means the Bar Examination as defined in Rules 14-710 and 14-711 and includes the UBE, regardless of where the UBE was taken;

(i) "Bar Examiner Committee" means those Bar members or others appointed by the Board or president of the Bar who are charged with grading the Bar Examination;

(j) "Board" means the Board of Bar Commissioners;

(k) "Character and Fitness Committee" means those Bar members or others appointed by the Board or president of the Bar who are charged with assessing the character and fitness of Applicants and making determinations thereon;

(l) "Complete Application" means an application that includes all fees and necessary application forms, along with any required supporting documentation, character references, a criminal background check, a photo, an official certificate of law school graduation and if applicable, a test accommodation request with supporting medical documentation, a certificate of admission and/or good standing, and a certificate of discipline;

(m) "Confidential Information" is defined in Rule 14-720(a);

(n) "Deputy General Counsel for Admissions" or "Deputy General Counsel" are terms used interchangeably to mean the Bar's attorney in charge of admissions or her or his designee;

(o) "Disbarred Attorney Applicant" means a person who has previously been licensed to practice law in Utah and who is no longer licensed to practice law because of disbarment or resignation with discipline pending or their equivalent and who satisfies the requirements of Rule 14-708(g) and 14-717;

(p) "Executive Director" means the executive director of the Utah State Bar or her or his designee;

(q) "First Professional Degree" means a degree that prepares the holder for admission to the practice of law (e.g. juris doctorate) by emphasizing competency skills along with theory and analysis. An advanced, focused, or honorary degree in law is not recognized as a First Professional Degree (e.g. master of laws or doctor of laws);

(r) "Foreign Law School" means any school located outside of the United States and its protectorates, that is accredited by that jurisdiction's legal accreditation body, if one exists, and whose graduates are otherwise permitted by that jurisdiction's highest court to practice law;

(s) "Foreign Legal Consultant Applicant" means any Applicant who satisfies the requirements of Rule 14-718;

(t) "Full-time Practice" means the Active and lawful Practice of Law for no fewer than 1000 hours per year. Time spent on administrative or managerial duties, continuing legal education, or client development and marketing does not qualify as part of the required 1000 hours of legal work;

(u) "General Counsel" means the General Counsel of the Utah State Bar or her or his designee;

(v) "House Counsel Applicant" means any Applicant who satisfies the requirements of Rule 14-719;

(w) "Inactive " means an attorney's law license is held in "inactive status" or an equivalent term;

(x) "MBE" means the Multistate Bar Examination prepared by the NCBE;

(y) "MEE" means the Multistate Essay Examination prepared by the NCBE;

(z) "Motion Applicant" means any person who satisfies the requirements of Rule 14-705;

(aa) "MPRE" means the Multistate Professional Responsibility Examination prepared by the NCBE;

(bb) "MPT" means the Multistate Performance Test prepared by the NCBE;

(cc) "NCBE" means the National Conference of Bar Examiners, an organization that develops, maintains, and applies reasonable and uniform standards of bar examination education and testing;

(dd) "OPC" means the Bar's Office of Professional Conduct;

(ee) "Practice of Law" means employment available only to licensed attorneys where the primary duty of the position is to provide legal service representation. The Practice of Law includes such activities as furnishing legal counsel, drafting documents and pleadings, interpreting and giving advice with respect to the law, and preparing, trying or presenting cases before courts or administrative agencies. The Practice of Law is a term of art and though no broad rule can precisely define the Practice of Law, it constitutes more than merely working with legally-related matters;

(ff) "Privileged Information" in this article includes: information subject to the attorney-client privilege, attorney work product, test materials and applications of examinees; correspondence and written decisions of the Board, Admissions Committee, Bar Examiner Committee, Character and Fitness Committee, and Test Accommodations Committee; and the identity of individuals participating in the drafting, reviewing, grading and scoring of the Bar Examination;

(gg) "Reapplication for Admission" means that for two years after the filing of an original application, an Applicant may reapply by completing a Reapplication for Admission form updating any information that has changed since the prior application was filed and submitting a new criminal background check;

(hh) "Student Applicant" means any person who satisfies the requirements of Rule 14-703(a);

(ii) "Supreme Court" means the Utah Supreme Court;

(jj) "Test Accommodations Committee" means those Bar members or others appointed by the Board or president of the Bar who are charged with the review of requests from Applicants seeking to take the Bar Examination with test accommodations and who make determinations thereon;

(kk) "Unapproved Law School" means a law school that is not fully or provisionally approved by the ABA. For an Unapproved Law School's graduates to be eligible for admission, the law school must be accredited in the jurisdiction where it exists, provide legal education that is the substantial equivalent of the legal education provided by an Approved Law School, and not be based on correspondence or internet study;

(ll) "UBE" means the Uniform Bar Examination as prepared by the NCBE;

(mm) "Updated Application" means that an Applicant is required to amend and update her or his application on an ongoing basis and correct any information that has changed since the application was filed; and

(nn) "Written Component" means that portion of the Bar Examination that consists of MEE and MPT questions.

Rule 14-715. Bar Examination appeals.

(a) Request for review. A request for review, along with the prescribed filing fee, must be filed with the Bar in writing within 30 calendar days of the date that the Bar Examination results are mailed to the Applicant.

(b) Standard of review. The Board or its designees shall only review the request of failing Applicants who claim that failure was because of a substantial irregularity in the administration of the examination that resulted in manifest unfairness or because of mathematical errors in the scoring of the Applicant's examination. A substantial irregularity in the administration of the examination will not be a matter that will result in questions or answers being reread, reevaluated or regraded. The Board and its designees shall not reread, reevaluate or regrade Bar Examination answers.

(c) Bar Examination review and appeal procedure. The request for review shall contain a short and plain statement of the reasons that the Applicant is entitled to relief based on Rule 14-715(b).

(c)(1) Review panel and Board decision. The review panel consisting of no fewer than three members of the Admissions Committee shall review all relevant evidence. Requests for review setting forth common issues may be consolidated in whole or in part as determined by the chair of the review panel. The Admissions Committee shall file with a panel of three members of the Board its written findings of fact and recommendation. The Board panel shall make a decision on the request for review and shall notify the Applicant in writing of its decision in the form of a final decision, which includes findings of fact and conclusions of law.

(c)(2) Appeal process. Within 30 calendar days after the date of the final decision, the Applicant may appeal to the Supreme Court by filing a written notice of appeal with the clerk of the Supreme Court and serving a copy upon the General Counsel. At the time of filing the notice of appeal, the Applicant shall pay the prescribed filing fee to the clerk of the Supreme Court. The clerk will not accept a notice of appeal unless the filing fee is paid.

(c)(3) Records of proceedings. A record of the proceedings shall be prepared by the Bar and shall be filed with the clerk of the Supreme Court within 21 calendar days following the filing of the notice of appeal.

(c)(4) Appeal petition. An appeal petition shall be filed with the Supreme Court 30 calendar days after a record of the proceedings has been filed with the Supreme Court. The appeal petition shall state the name of the petitioner and shall designate the Bar as respondent. The appeal petition must contain the following:

(c)(4)(A) a statement of the issues presented and the relief sought;

(c)(4)(B) a statement of the facts necessary to an understanding of the issues presented by the appeal;

(c)(4)(C) the legal argument supporting the petitioner's request; and

(c)(4)(D) a certificate reflecting service of the appeal petition upon the General Counsel.

(c)(5) Format of appeal and response petitions. Except by permission of the court, the appeal petition and the Bar's response shall not exceed 25 double-spaced pages, each. These documents shall be typewritten on 8 ½ inches by 11 inches paper. The text, including footnotes, shall be in type no smaller than 10 characters per inch for monospaced typeface

and 13-point or larger for proportionally spaced typeface. An original and six copies of the appeal petition and the response petition shall be filed with the clerk of the Supreme Court.

(c)(6) Within 30 calendar days after service of the appeal petition on the Bar, the Bar, as respondent, shall file its response with the clerk of the Supreme Court. At the time of filing, a copy of the response shall be served upon the petitioner.

(c)(7) The clerk of the Supreme Court will notify the parties if any additional briefing or oral argument is permitted. Upon entry of the Supreme Court's decision, the clerk shall give notice of the decision.

Attachments

Christy Abad

To: Angelina Tsu
Subject: RE: Initial letter to Complainants and Respondent Attorneys

From: Billy Walker [mailto:billy.walker@utahbar.org]
Sent: Monday, August 24, 2015 11:04 AM
To: Angelina Tsu
Subject: Initial letter to Complainants and Respondent Attorneys

Angelina, per our discussion, attached above is the letter we are sending out to complainants (with a copy to respondent attorneys) to notify them of our receipt of their bar complaint. Consistent with your suggestion, we have added language to give both the complainant and respondent attorney target timeframes for the process. To improve the communications regarding status we have set up an email drop box system where both complainants and respondent attorneys can request status update information. In our letter, we suggest that if they have not heard from my office for a 60 day period they can email us for an update and we will respond within 3 business days.

If you and/or the Commissioners have further input that you would like to provide to us concerning the information we place in this letter, please let me know. Thanks.

Billy L. Walker
Senior Counsel Office of Professional Conduct
Utah State Bar
(801) 531-9110

THIS ELECTRONIC MESSAGE, INCLUDING ANY ACCOMPANYING DOCUMENTS, IS CONFIDENTIAL and may contain information that is privileged and exempt from disclosure under applicable law. If you are neither the intended recipient nor responsible for delivering the message to the intended recipient, please note that any dissemination, distribution, copying or the taking of any action in reliance upon the message is strictly prohibited. If you have received this communication in error, please notify the sender immediately. Thank you.

DATE

Re: Information Submitted Concerning:
OPC File No.

Dear :

This is to confirm our receipt of the information you submitted regarding_____. This matter will be reviewed by an Office of Professional Conduct (“OPC”) attorney and you will be contacted regarding the results of the review. Please be aware that the OPC does not represent you in this matter.

Be aware that the OPC has no authority to impose discipline upon an attorney. The OPC’s responsibilities are to investigate allegations of professional misconduct and, in appropriate cases, prosecute attorneys for violations of the Rules of Professional Conduct. If a tribunal, either the Ethics and Discipline Committee of the Utah Supreme Court or a Utah District Court, finds that the attorney violated the Rules of Professional Conduct, it may then order that an appropriate sanction be imposed pursuant to the Standards for Imposing Lawyer Sanctions.

Because of the potentially serious nature of the allegations, these matters take time to investigate and research, and we appreciate your patience and understanding during the process. Even though it may take time, ascertaining the facts and analyzing them in accordance with the Rules of Professional Conduct is an important process that must take place to determine whether there has been a violation of the Rules.

Attorney discipline matters are governed by the Rules of Lawyer Discipline and Disability (“RLDD”), which do not give specific deadlines for completing the investigative process. Nonetheless, we have found that cases that are not dismissed prior to a screening panel hearing typically proceed according to the following time line:

Initial investigation – 150 days

(gathering documents, contacting witnesses, reviewing materials to determine if rules may have been violated)

Follow-up investigation – 120 days

(getting a formal response from the attorney, gathering and reviewing additional materials as necessary)

Screening Panel process – 90 days

(presenting the matter to a Screening Panel if we feel the attorney engaged in misconduct)

At any point during this process you may be contacted to provide additional information. However, it is also likely that you may not hear from our office for some time. If you have not heard from our office for 60 days and would like an update on your case, you can go to <http://www.utahbar.org/opc/opc-case-status/> to let us know you would like an update. Someone from our office will then get in touch with you within three business days. Please keep us informed of any change of your address or phone number. Thank you in advance for your patience.

It is possible that this issue can be addressed by the Utah State Bar's Consumer Assistance Program. The Consumer Assistance Program is designed to quickly address minor disputes between consumers and attorneys. If appropriate, your information will be forwarded to Jeannine Timothy, the Consumer Assistance Program attorney, and she will contact you.

We realize that you are submitting this information to our office because you feel you have problems with an attorney. The OPC does not discourage attempts by you and the attorney to resolve your dispute or address the problem. However, if the problems as you see them create legal issues, and you do not feel comfortable or confident handling these legal issues yourself, you should consult with another attorney.

If you are already involved in litigation before a tribunal and your complaints are related to that litigation, you might want to consider addressing your concerns in that forum.

If your problem involves a fee dispute, you may wish to consider fee dispute resolution. The Utah State Bar offers a voluntary program to assist attorneys and clients in quickly and inexpensively resolving fee

disputes. You may contact Christine Critchley at (801) 531-9077 for more information.

Please also note that your release of information concerning this matter would be considered a serious breach of the confidentiality provisions (rule 14-515) of the RLDD.

The information you submitted is not intended to be investigated publicly. If you publicize this information you have contributed to one of the types of potential harm that the confidentiality rule is intended to prevent. That harm is the premature disclosure of possibly prejudicial information when there has been no determination that the information has merit. Not only could this subject you to legal claims by the attorneys involved, it could also affect the way your information is viewed and processed by this office. Therefore, you are cautioned to conduct yourself in accordance with rule 14-515.

As our investigation progresses you may be asked to provide our office with information or materials related to the allegations. Please be aware that any information or materials we receive will become part of our investigative file and will be shared with all the parties involved.

If you have questions about the disciplinary process and your rights and obligations with respect to it please contact Jeannine Timothy, who also serves in the Disciplinary Process Information Office. You can reach Ms. Timothy at 801-257-5515. Ms. Timothy can provide general information about attorney discipline and can refer you to the appropriate procedural rules in order to guide you through this process. Ms. Timothy cannot, however, give legal advice and because she is not part of the Office of Professional Conduct her opinions are not binding on this office.

Sincerely,

Assistant Counsel
Office of Professional Conduct

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cc: [Respondent]