

Utah State Bar Commission

Friday, December 20, 2019

Utah Law & Justice Center

Salt Lake City, Utah

Agenda

1. 9:00 a.m. President's Report: Herm Olsen

- 30 Mins.* 1.1 '20 Legislative Session/Tax Reform: **Foxley/Pignanelli (Tab 1, Page 3)**
05 Mins. 1.2 January Legislative Conference Call Schedule (**See Calendar**)

2. 9:45 a.m. Information Items

- 15 Mins.* 2.1 Regulatory Reform Committee: **Judge Tom Willmore (Tab 2, Page 12)**

3. 10:00 a.m. Discussion Item

- 15 Mins.* 3.1 Proposal to Prohibit "Bullet Voting": **Mark Morris**
15 Mins. 3.2 2020 Leadership Academy Selection Process: **Jen Tomchak**
45 Mins. 3.3 Position on Resolution to Amend Constitution

4. 11:15 a.m. Action Items

- 30 Mins.* 4.1 Review Ethics Advisory Opinion #19-03 Review (**Tab 3, Page 15**)
15 Mins. 4.2 Approve Client Security Fund Recommendations (**Tab 4, Page 52**)

12:00 Noon Break for Lunch

- 10 Mins.* 4.3 Petition to Amend Rule 14-508: **Elizabeth Wright (Tab 5, Page 56)**
10 Mins. 4.4 Approve Creation of Cannabis Law Section (**Tab 6, Page 60**)
10 Mins. 4.5 Approve New YLD Name/Membership Requirements (**Tab 7, Page 109**)

5. 12:30 Executive Session

1:00 p.m. Adjourn

Consent Agenda (Tab 8, Page 111)

(Approved without discussion by policy if no objection is raised)

1. Approve minutes of November 8th, 2019 Commission Meeting

(Over)

Attachments (Tab 9, Page 115)

1. November Financial Statements
2. Article on *How Much Money Lawyers Make in Every State*
3. Office of Professional Conduct Annual Report
4. *Bar Journal* Notice of 3rd Division Commissioner Elections
5. LicensedLawyer Article on *KSL.com*

2020 Calendar

January 2	President-elect Election Notices Due		
January 17	Executive Committee	12:00 Noon	
January 24	Commission Meeting	9:00 a.m.	Law & Justice Center
January 29	Conference Call Re: Legislature	4:00 p.m.	
February 1	Commission Election - Petitions, Statements, Photos Due		
February 4	Conference Call Re: Legislature	4:00 p.m.	
February 11	Conference Call Re: Legislature	4:00 p.m.	
February 13-15	ABA Mid-Year Meeting/NABE/NCBP		Austin, Texasa
February 18	Conference Call Re: Legislature	4:00 p.m.	
February 25	Conference Call Re: Legislature	4:00 p.m.	
February 25-26	Bar Examination	8:00 a.m.	Law & Justice Center
March 3	Conference Call Re: Legislature	4:00 p.m.	
March 6	Executive Committee	12:00 Noon	
March 12	SUBA Luncheon	12:00 Noon	St. George, Utah
March 12	Commission Meeting	1:00 p.m.	St. George, Utah
March 13-14	Spring Convention		St. George, Utah
March 20	Election Email Message Due		
April 1	Election-Online Balloting Begins		
April 1-4	Western States Bar Conference		Scottsdale, Arizona
April 10	Executive Committee	12:00 Noon	
April 15	Election-Online Balloting Ends		
April 17	Commission Meeting	9:00 a.m.	Logan, Utah
April 21-23	ABA Day in Washington		Washington, D.C.
May ?	Admission Ceremony	12:00 Noon	State Capitol
May 29	Executive Committee	12:00 Noon	
June 5	Commission Meeting	9:00 a.m.	Utah State Bar
July 10	Executive Committee	12:00 Noon	Utah State Bar
July 16	Commission Meeting	12:00 Noon	Park City, Utah
July 16-18	Summer Convention		Park City, Utah

TAB 1

2020 Utah State Lawyer Legislative Directory

THE UTAH STATE SENATE



Lyle W. Hillyard (R) – District 25
lhillyard@le.utah.gov

Education: B.S., Utah State University; J.D., University of Utah S.J. Quinney College of Law

Practice Areas: Family Law and Mediation.



Kirk Cullimore, Jr. (R) – District 9
kcullimore@le.utah.gov

Education: B.A., Brigham Young University; J.D., University of Oklahoma School of Law

Practice Areas: Property Rights, Fair Housing, and Property Management.



Daniel Hemmert (R) – District 14
dhemmert@le.utah.gov

Education: B.A., Economics, Brigham Young University; M.B.A., Brigham Young University; J.D., J. Reuben Clark Law School, Brigham Young University



Jani Iwamoto (D) – District 4
jiwamoto@le.utah.gov

Education: B.S., University of Utah, Magna Cum Laude; J.D., University of California Davis School of Law



Daniel McCay (R) – District 11
dmccay@le.utah.gov

Education: Bachelors and Masters, Utah State University; J.D., Willamette University College of Law

Practice Areas: Real Estate Transactions, Land Use, and Civil Litigation.



Todd Weiler (R) – District 23
tweiler@le.utah.gov

Education: Business Degree, Brigham Young University; J.D., J. Reuben Clark Law School, Brigham Young University

Practice Areas: Civil Litigation and Business Law.

THE UTAH STATE HOUSE OF REPRESENTATIVES



Patrice Arent (D) – District 36
parent@le.utah.gov

Education: B.S., University of Utah; J.D., Cornell Law School

Practice Areas: Adjunct Professor, S.J. Quinney College of Law – University of Utah. Past experience: Division Chief – Utah Attorney General's Office, Associate General Counsel to the Utah Legislature, and private practice.



Brady Brammer (R) – District 27
bbrammer@le.utah.gov

Education: B.A., Brigham Young University; MPA, Brigham Young University; J.D., J. Reuben Clark Law School, Brigham Young University

Practice Areas: Commercial, Real Estate, and Government Entity Litigation.



Craig Hall (R) – District 33
chall@le.utah.gov

Education: B.A., Utah State University; J.D., Baylor University

Practice Areas: Litigation and Health Care Law.



Timothy D. Hawkes (R) – District 18
thawkes@le.utah.gov

Education: B.A., Brigham Young University; J.D., Columbia University School of Law

Practice Areas: Current: General Counsel, Water Law. Past: Civil Litigation, Mediation, and Appellate.



Brian King (D) – District 28
briansking@le.utah.gov

Education: B.S., University of Utah; J.D., University of Utah S.J. Quinney College of Law

Practice Areas: Representing claimants with life, health, and disability claims; class actions; and ERISA.



Mike McKell (R) – District 66
mmckell@le.utah.gov

Education: B.A., Southern Utah University; J.D., University of Idaho

Practice Areas: Personal Injury, Insurance Disputes, and Real Estate.



Kelly Miles (R) – District 11
kmiles@le.utah.gov

Education: B.S., Weber State University; J.D., University of Utah S.J. Quinney College of Law; MBA, University of Utah Eccles School of Business

Practice Areas: Estate Planning, Elder Law, and Probate and Estate Settlement.



Merrill Nelson (R) – District 68
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Education: B.S., Brigham Young University; J.D., J. Reuben Clark Law School, Brigham Young University

Practice Areas: Kirton McConkie – Appellate and Constitution, Risk Management, Child Protection, Adoption, Health Care, and Education.



Stephanie Pitcher (D) – District 40
spitcher@le.utah.gov

Education: J.D., University of Utah S.J. Quinney College of Law

Practice Areas: Deputy District Attorney.



Travis Seegmiller (R) – District 62
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Education: B.A., Yale University, cum laude; J.D., Georgetown University, cum laude

Practice Areas:



Lowry Snow (R) – District 74
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Education: B.S., Brigham Young University; J.D., Gonzaga University School of Law

Practice Areas: Snow Jensen & Reece, St. George – Real Estate, Civil Litigation, Business, and Land Use Planning.



Andrew Stoddard (D) – District 44
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Education: B.S., University of Utah; J.D., J. Reuben Clark Law School, Brigham Young University

Practice Areas: Murray City Prosecutor



Keven J. Stratton (R) – District 48
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Education: B.S., Brigham Young University; J.D., J. Reuben Clark Law School, Brigham Young University

Practice Areas: Stratton Law Group PLLC – Business, Real Estate, and Estate Planning.



Steve Waldrip (R) – District 8
swaldrip@le.utah.gov

Education: B.A., Brigham Young University; J.D., University of Utah S.J. Quinney College of Law; LL.M., Taxation, University of Washington School of Law

Tax Restructuring and Equalization Task Force

Task Force Tax Restructuring Policy Proposal

This proposal includes the following policy modifications:

Reductions

Income Tax

- Reducing individual and corporate income tax rates
- Expanding the “Utah Dependent Exemption” provision of the taxpayer tax credit
- Creating an income tax credit for certain Social Security retirement income
- Establishing a state earned income tax credit
- Creating a “Grocery Tax Credit” for low-to-middle-income residents

Sales Tax

- Exempting menstrual products and consumables used in the repair, cleaning, and maintenance of tangible personal property from sales tax

Expansions

Sales Tax

- Restoring the full sales tax rate on unprepared food
- Expanding the sales tax base by repealing certain sales tax exemptions
- Expanding the sales tax base by repealing the sales tax exemption for motor and some special fuels
- Creating new excise tax on diesel rather than repealing sales tax exemption
- Transitioning to direct user fees for transportation costs
- Expanding the sales tax base by charging sales tax on certain services

Other

- Increasing the state Motor Vehicle Rental Tax

Budget Shifts

- Restore funding of Higher Education to the sales tax-backed General Fund, holding Public Education harmless.
- Funding school lunch program and underage drinking prevention program from Education Fund and depositing the portion of the liquor mark-up that currently funds the programs in the General Fund
- Reducing sales tax earmarks for transportation

Policy Descriptions

Reduce Individual and Corporate Income Tax Rates

- Reduce the state income tax rate from 4.95% to 4.66%

Expand the Utah Dependent Exemption

- Increase the exemption amount per dependent from \$565 to \$2,500
- Joint filers with no dependents will be able to claim one exemption
- Credit remains 6% of exemption amount
- Phaseout rate of credit remains \$0.013 per dollar over:
 - \$14,879 for single filers
 - \$22,318 for head of household filers
 - \$29,758 for joint filers
- Phaseout thresholds adjust for inflation

Create an Income Tax Credit for Social Security Income

- Non-refundable tax credit equal to total Social Security income included in Adjusted Gross Income (AGI) x State Income Tax Rate
- Amount of credit reduced by \$0.025 per dollar that modified AGI (including Social Security and all other income) exceeds:
 - \$24,000 for married filers filing separately
 - \$30,000 for single filers
 - \$48,000 for head of household or joint filers

Create a State Earned Income Tax Credit

- Refundable income tax credit to individuals identified by the Department of Workforce Services as experiencing intergenerational poverty and who claim the federal earned income tax credit
- Credit amount equals 10% of the federal credit amount an individual is entitled to claim
- DWS will conduct outreach to inform eligible individuals about credit

Create a "Grocery Tax Credit" for Low-to-Middle-Income Residents

- \$125 refundable income tax credit for the first four household members
 - \$50 refundable income tax credit for each additional household member
- Phaseout rate of credit is 0.0035% of the credit per dollar above 175% of the federal poverty limit
 - For households with more than five members, the phaseout begins at 175% of the federal poverty limit for five member households
- For example, a family of four with a household income of up to \$45,062 per year would qualify for the full grocery credit amount ($4 \times \$125 = \500). That amount would be reduced for each dollar the family makes over \$45,062, with the credit phasing out entirely at \$73,633.
- In addition to the income parameters, to qualify, a claimant must:
 - Be considered a resident for income tax purposes
 - Not be claimed as a dependent on another federal tax return
 - Not have been incarcerated in the state for the portion of the year for which the claimant claims the credit
 - File a completed form with the Tax Commission
- A separate form will be created for claimants who do not file income taxes

Exempt Menstrual Products and Consumables Used in Repair, Cleaning, and Maintenance of Tangible Personal Property from Sales Tax

- The current 4.85% sales tax on menstrual products and items consumed in the repair, cleaning, and maintenance of tangible personal property would no longer be charged

Restore Full State Sales Tax Rate on Food

- The sales tax rate on unprepared food and food ingredients (e.g. groceries) would return to the full state sales tax rate of 4.85% from the currently reduced rate of 1.75%

Repeal Certain Exemptions

- Remove certain existing sales tax exemptions to make the sales tax a broader consumption tax
- The following exemptions would be repealed:
 - Electricity to ski resorts for lifts
 - Vehicles used for temporary sporting events
 - Admissions to college athletic events
 - Textbooks purchased by a student (not including a college bookstore; seller sales primarily textbooks)
 - Primarily unassisted cleaning of tangible personal property
 - Unless payment is exclusively through machines that only accept cash or coin
 - Use of unassisted amusement device
 - Unless payment is exclusively through machines that only accept cash or coin
 - Vending machine food sold for \$1 or less under certain circumstances
 - Unless payment is exclusively through machines that only accept cash or coin
 - Certain car washes
 - Unless payment is exclusively through machines that only accept cash or coin
 - Sales to a public transit district (includes construction materials converted to real property)
 - Fuel sold to a common carrier railroad and used in a locomotive engine
 - Newspapers or newspaper subscriptions
- The following exemption would be repealed in 2027:
 - Construction materials for life science research facility (material converted to real property only)
- The following exemption would be modified to include lessees of certain data centers:
 - Machinery, equipment, or parts purchased by owners of certain data centers (one-year economic life)

Repeal the Sales Tax Exemption on Motor and Special Fuel

- Remove existing sales tax exemption on motor and some special fuels (does not include diesel or aviation fuel) to make the sales tax a broader consumption tax
- Tax would be imposed at the distributor level on the average daily rack price of gasoline (calculated annually) at the existing state sales tax rate (4.85%)
- Tax would be used to fund transportation in the medium term as a user fee until future user fee options that rely on more advanced technology become viable
 - UDOT will begin studying transition immediately
 - UDOT will be required to report on current status of user fees annually

- General sales tax earmarks for transportation would be reduced due to new transportation revenue from motor and special fuel sales tax
 - Because the transportation earmark that funds the Transit Transportation Investment Fund (TTIF) is repealed, an equivalent earmark is enacted to fund the TTIF beginning in FY 2022 with 50% of the growth in new revenue from the sales tax on food above the \$250M of estimated initial revenue from the increased rate
- Use of HOV lane by vehicles with “clean vehicle” decal will be repealed in 2025
- Use of HOV lane will require 3+ vehicles beginning in 2025

Create New Excise Tax on Diesel

- Rather than repeal existing sales tax exemption on diesel, create a new excise tax on diesel of:
 - \$0.06 per gallon starting in 2020 (April 1st)
 - \$0.10 per gallon starting in 2022
- General sales tax earmarks for transportation would be reduced due to new transportation revenue from diesel excise tax

Broaden the Sales Tax Base by Charging Sales Tax on Certain Additional Services

- Include certain services in the tax base to make the sales tax a broader consumption tax and providing more similar treatment to goods and services
- Newly taxed services would be those primarily consumed by the end user to minimizing tax pyramiding
- The following services would be included in the tax base:
 - Installation of tangible personal property when part of a taxable sale
 - Pet boarding, pet grooming, and pet daycare services
 - Personal transportation service
 - Includes all intrastate motor vehicle transportation services except for:
 - services provided by governmental entities
 - ambulance services
 - transportation that is part of a funeral service
 - low speed vehicles in a county of the first class
 - Includes:
 - peer to peer ride sharing (peer to peer car sharing is already subject to sales tax)
 - scenic and sightseeing transportation in a motor vehicle
 - Motor vehicle towing
 - Parking lots and garages
 - Dating referral services
 - Identity theft protection
 - Streaming media
 - Shipping and handling when part of a taxable sale

- Electronic security monitoring of real property
- Include clarifying language to codify existing practice regarding software as a service
- Sales or use tax would be due from the end user of these services if the end user is in Utah
- Businesses (whether in-state or out-of-state) providing the services would collect and remit the tax

Increase the State Motor Vehicle Rental Tax

- Increase the state motor vehicle rental tax from 2.5% to 4.0%
 - Under current state law, this tax applies to peer to peer car sharing services
 - Does not apply to peer to peer ride sharing services

Fund Public Education School Lunch Program and Underage Drinking Prevention Program from Education Fund

- Deposit the current funding source for school lunch and underage drinking prevention, a portion of liquor markup profits, into the General Fund

Restore funding of Higher Education to the sales tax-backed General Fund, holding Public Education harmless.

- Reduce Education Fund appropriations to Higher Education by the amount of sales tax increases, school lunch program funding, and underage drinking prevention program funding proposed in this bill and replace those Education Fund appropriations with a like amount of General Fund appropriations

12/6/19 Update - Fiscal Impact:

Options	Est. Total Impact FY21	Est. Ind. Impact FY21	Est. Bus. Impact FY21
Income Tax			
Reduce income tax rate (4.66%)	(\$344,500,000)	(\$306,500,000)	(\$38,000,000)
Expand Utah Dependent Personal Exemption	(\$132,000,000)	(\$132,000,000)	
Create Social Security credit	(\$18,000,000)	(\$18,000,000)	
Create Earned Income Tax Credit	(\$6,000,000)	(\$6,000,000)	
Create Grocery credit	(\$135,000,000)	(\$135,000,000)	
Total	(\$635,500,000)	(\$597,500,000)	(\$38,000,000)
Sales/Other Tax			
Exempt additional products from sales tax	(\$5,000,000)	(\$5,000,000)	
Restore full sales tax on food	\$250,000,000	\$250,000,000	
Repeal certain exemptions	\$13,000,000		\$13,000,000
Sales tax on motor fuel/excise tax on diesel	\$170,000,000	\$117,000,000	\$53,000,000
Tax certain services	\$43,000,000	\$43,000,000	
Increase motor vehicle rental tax	\$4,500,000	\$4,500,000	
Total	\$475,500,000	\$409,500,000	\$66,000,000
Budget Shifts			
Fund school lunch and underage drinking prevention from Education Fund (\$58M shift)			
Fund higher education from General Fund (\$534M shift)			
Direct a portion of new sales tax on fuel to transportation projects (\$34M shift)			
Replace gas tax earmark for transit with sales tax earmark for transit (future \$6M shift)			
Net fiscal impact	(\$160,000,000)	(\$188,000,000)	\$28,000,000

TAB 2

Narrowing the Access-to-Justice Gap by Reimagining Regulation
Executive Summary By the Utah State Bar of the Report and Recommendations from the Utah
Work Group on Regulatory Reform, the recommendations of which were approved by the Utah
Supreme Court in August, 2019

INTRODUCTION

In August of 2018, the President of the Utah State Bar directed a letter to the Utah Supreme Court referencing the high volume of unrepresented individuals in Utah civil cases, and the results of a recent survey of public perceptions of lawyers, showing many people believe legal services are beyond their means. That letter suggested as one possible way to address these issues the formation of a Work Group to study possible changes to regulations governing the practice of law to address the problem of unmet legal needs in Utah. The Utah Supreme Court accepted this invitation and formed the Utah Work Group on Regulatory Reform, co-chaired by Justice Deno Himonas and John Lund (a past president of the Bar). The result of that group's work is a Report and Recommendation submitted in August of 2019 ("Report"), now approved by the Utah Supreme Court, and which is available on the Utah Bar's website for study and review.

The Utah State Bar and the Utah Judiciary already have done much to make access to justice and to legal services more available to people of limited means. These efforts include state-wide pro bono efforts, moves to systematize court-approved forms and make them easily accessible online, establishing a new legal profession in Licensed Paralegal Practitioners (LPPs), and piloting an online dispute resolution model for small claims court where lawyers are not even necessary. While laudable, these efforts have not been enough. The Report focuses on profoundly reimagining the way legal services are regulated in order to attempt to harness the power of entrepreneurship, capital, and machine learning in the legal arena with an eye particularly to increase access to and the affordability of legal services.

The Report concluded that lawyers cannot volunteer or donate the access-to-justice problem away, and instead a regulatory system that is outcome-based and risk-appropriate should be pursued. Disruptive technological innovation is occurring non-stop in virtually every aspect of our lives, but it has not yet targeted the fact that most in-court civil business cases involve self-represented litigants, the rise of average education levels, or the unaffordability of lawyers. This new market for legal services, serviced partly by non-traditional technology providers, may push the boundaries of what is the unauthorized practice of law under current regulations. Hence the Report strongly encourages creating opportunities for technology to create benefits for access to justice. That easier access created by technology is not without risks, however, which risks the Report concluded should be evaluated and measured in a controlled environment, i.e. a regulatory "sandbox" under the supervision of the Utah Supreme Court.

RECOMMENDATIONS

The Report makes two recommendations. First, Phase 1: propose amendments to The Rules of Professional Conduct to better facilitate lawyer advertising, expand authorized referral fees, and permit non-lawyers to share ownership interests in law firms and to share fees with lawyers. In particular, the Report recommends either eliminating or substantially relaxing Rule 5.4 of the Rules of Professional

Conduct. <https://casetext.com/rule/utah-court-rules/utah-rules-of-professional-conduct/law-firms-and-associations/rule-54-professional-independence-of-a-lawyer>. Second, the Report recommends the establishment of a new regulatory body to supervise new legal services businesses in Utah. This new regulatory body would, like the Utah State Bar, operate under the supervision and direction of the Utah Supreme Court.

The Utah Supreme Court already has set up an implementation task force to be responsible for, among other items, (1) obtaining funding for the regulator, primarily through grant applications, (2) recommending necessary rule changes to the Court, (3) creating and operating a Phase 1 regulator responsible for overseeing a legal regulatory “sandbox” for non-traditional legal services, (4) gathering and analyzing data and other information in order to evaluate and optimize the regulatory process, and (5) preparing a final report and recommendation to the Court regarding the structure of the regulator. It is contemplated this initial process would be completed before the end of 2021.

The regulator will operate alongside the Utah Bar, which will continue to have authority over lawyers and LPPs. The regulator will regulate non-traditional legal services: organizations offering legal services to the public that have ownership, a business structure/organization, or service offerings currently not authorized under Utah practice of law and professional conduct rules. Non-traditional legal entities might include: non-lawyer owned and/or managed corporations or non-profits or individuals/entities proposing to use non-lawyer human or technology expertise to provide legal assistance to the public. The regulator’s focus will be on the activity or service proposed, and on the risks presented to consumers by that activity or service. The testing in the regulatory sandbox within the next two years is hoped to have three key features. First, testing what technological or business innovations are possible. Second, tailored evaluation plans on risks that these innovations might pose to consumers. Lastly, the test will generate data to inform Phase 2 of the plan.

Phase 2 of the plan recommended in the Report contemplates an independent, non-profit regulator with delegated regulatory authority over some or all legal services. Too little is known now, before Phase 1 running its course, to articulate what this might look like in the future. It is the Work Group’s belief that the objectives- and risk-based regulatory approach should be the future of regulation for all legal services in Utah, and indeed throughout the country. The Supreme Court might even end up revising its delegation of authority to regulate the practice of law via Rule 14-102 from the Bar to the new regulator. The Bar might continue to function as a mandatory Bar with regulatory functions operated under the auspices of the Court, but now through the regulator. Or, the Bar might function solely as a voluntary membership organization that awards professional titles and specialized practice certifications, maintains ethical standards, engages in advocacy, and provides continuing education.

CONCLUSION

The Report concludes that the Courts and the Bar have failed to provide meaningful access to justice to our citizens. What this Report proposes is game-changing for lawyers and consumers in Utah. The proposals will certainly be criticized by some and lauded by others. But the Work Group is convinced that it brings the kind of energy, investment, and innovation necessary to seriously narrow the access-to-justice gap.

TAB 3

Ethics Advisory Opinion Committee
Opinion No. 19-03
Issued: May 14, 2019

ISSUE

1. If an individual licensed as an active attorney in another state and in good standing in that state establishes a home in Utah and practices law for clients from the state where the attorney is licensed, neither soliciting Utah clients nor establishing a public office in Utah, does the attorney violate the ethical prohibition against the unauthorized practice of law?

OPINION

2. The Utah Rules of Professional Conduct do not prohibit an out-of-state attorney from representing clients from the state where the attorney is licensed even if the out-of-state attorney does so from his private location in Utah. However, in order to avoid engaging in the unauthorized practice of law, the out-of-state attorney who lives in Utah must not establish a public office in Utah or solicit Utah business.

BACKGROUND

3. Today, given electronic means of communication and legal research, attorneys can practice law “virtually” from any location. This can make it possible for attorneys licensed in other states to reside in Utah, but maintain a practice for clients from the states where they are licensed. For example:

- An attorney from New York may decide to semi-retire in St. George, Utah, but wish to continue providing some legal services for his established New York clients.

- An attorney from California may relocate to Utah for family reasons (*e.g.*, a spouse has a job in Utah, a parent is ill and needs care) and wish to continue to handle matters for her California clients.

ANALYSIS

4. Rule 5.5 of the Utah Rules of Professional Conduct (the “URPC”), which is based upon the Model Rules of Professional Conduct, defines the “unauthorized practice of law,” and Rule 14-802 of the Utah Supreme Court Rules of Professional Practice defines the “practice of law.” In the question posed, the Ethics Advisory Opinion Committee (the “EAOC”) takes it as given that the out-of-state lawyer’s activities consist of the “practice of law.”

5. Rule 5.5(a) of the Utah Rules of Professional Conduct provides that a “lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction.” Rule 5.5(b) provides:

A lawyer who is not admitted to practice in this jurisdiction shall not:

(b)(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(b)(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

URPC 5.5(b).

6. THE LAW OF LAWYERING explains the meaning and relationship of these two sections:

Rule 5.5(b) . . . elaborates on the prohibition against unauthorized practice of law contained in Rule 5.5(a) as it concerns out-of-state lawyers. Rule 5.5(b)(1) broadly prohibits a lawyer from establishing an office or other ‘systemic and continuous presence’ for practicing law in a jurisdiction in which the lawyer is not licensed.

But 5.5(b)(1) doesn't say /s specifically

Geoffrey C. Hazard, Jr., W. William Hodes, Peter R. Jarvis, *THE LAW OF LAWYERING* § 49.02, at 49-7 (4th ed. 2018).

7. With that as our touchstone, it seems clear that the out-of-state attorney who lives in Utah but continues to handle cases for clients from the state where the attorney is licensed has not established an office or “‘other systemic and continuous presence’ for practicing law in [Utah] a jurisdiction in which the lawyer is not licensed” and is not in violation of Rule 5.5 of the Utah Rules of Professional Conduct.

8. While one could argue that living in Utah while practicing law for out-of-state clients does literally “establish a systematic and continuous presence in this jurisdiction for the practice of law,” and that it does not have to be “for the practice of law IN UTAH,” that reading finds no support in case law or commentary.

9. In *In re: Discipline of Jardine*, Utah attorney Nathan Jardine had been suspended from the practice of law in Utah for eighteen months. 2015 UT 51, ¶ 1, 353 P.3d 154. He sought reinstatement, but the Office of Professional Conduct argued against reinstatement because he had violated Rule 14-525(e)(1) of the Supreme Court Rules of Professional Practice by engaging in the unauthorized practice of law while he was suspended. 2015 UT 51, ¶¶ 6, 20. The disciplinary order allowed Mr. Jardine “with the consent of the client after full disclosure, [to] wind up or complete any matters pending on the date of entry of the order,” but “Mr. Jardine never informed [the client] that he was suspended, nor did he wind up his participation in the matter.” *Id.* ¶¶ 8-9 (quotation omitted). Instead, he continued to advise the client and sent a demand letter on the client’s behalf, giving his Utah address but indicating California licensure. *Id.* ¶ 9. Mr. Jardine argued that he did not engage in the unauthorized practice of law because this matter was for an Alaska resident and the resulting case was filed in an Idaho court. *Id.* ¶ 22.

Nevertheless, the Utah Supreme Court found that Mr. Jardine engaged in the unauthorized practice of law in Utah, in violation of his disciplinary order, reasoning: "The disciplinary order expressly prohibited Mr. Jardine from 'performing *any* legal services for others' or 'giving legal advice to others' within the State of Utah." *Id.* (emphasis added). All of the work Mr. Jardine performed for the Alaska client was performed in Mr. Jardine's Utah office, Mr. Jardine's text messages were made from Utah, and Mr. Jardine's demand letter listed his Utah address. *Id.* -

Unlike 12-03, *Jardine specifically excused his suspension order*
 10. *In re Jardine* does not control the question posed. Not only did the Utah Supreme

Court analyze the "unauthorized practice of law" in the context of a suspended Utah attorney violating a disciplinary order that forbid him from performing *any* legal services whatsoever for others, but Mr. Jardine was continuing his legal work out of a Utah office and using a Utah business address. The question posed here to the EAOC deals with attorneys in good standing in other states who simply establish a residence in Utah and continue to provide legal work to out-of-state clients from their private Utah residence.

11. We can find no case where an attorney has been disciplined for practicing law out of a private residence for out-of-state clients located in the state where the attorney is licensed. Indeed, the United States Supreme Court held in *New Hampshire v. Piper*, 470 U.S. 274 (1985), that a New Hampshire Supreme Court rule limiting bar admission to New Hampshire residents violated the rights of a Vermont resident seeking admission under the Privileges and Immunities Clause of the U.S. Constitution. *Id.* at 275-76, 288. Thus, there can be no prohibition on an attorney living in one state and being a member of the bar of the another state and practicing law in that other state.

12. Rather, the concern is that an attorney not establish an office or public presence in a jurisdiction where the attorney is not admitted, and that concern is based upon the need to

protect the interests of potential clients in that jurisdiction. In *Gould v. Harkness*, 470 F. Supp. 2d 1357 (S.D. Fla. 2006), a New York attorney sought to establish an office and advertise his presence in Florida, but advertise “New York Legal Matters Only” or “Federal Administrative Practice.” *Id.* at 1358. The case concerned whether his First Amendment right to freedom of commercial speech under the United States Constitution was violated by the Florida Bar’s prohibition on such advertisements. *Id.* at 1358-59. The *Gould* court held that the Florida Bar was entitled to prohibit such advertisements in order to protect the interests of the public—the residents of Florida. *Id.* at 1364.

13. Similarly, in *In re Estate of Condon*, 76 Cal. Rptr. 2d 933 (Cal. Ct. App. 1998), the court approved payment of attorney fees to a Colorado attorney who handled a California probate matter for a co-executor who lived in Colorado. *Id.* at 924. The *Condon* court held that the unauthorized practice of law statute “does not proscribe an award of attorney fees to an out-of-state attorney for services rendered on behalf of an out-of-state client regardless of whether the attorney is either physically or virtually present within the state of California.” *Id.* at 926.

Here, too, the *Condon* court highlighted concern for in-state California clients:

In the real world of 1998 we do not live or do business in isolation within strict geopolitical boundaries. Social interaction and the conduct of business transcends state and national boundaries; it is truly global. A tension is thus created between the right of a party to have counsel of his or her choice and the right of each geopolitical entity to control the activities of those who practice law within its borders. In resolving the issue ... it is useful to look to the reason underlying the proscription [of the unauthorized practice of law....] [T]he rationale is to protect California citizens from incompetent attorneys....

Id. at 927.

14. An interesting Ohio Supreme Court case further supports this Opinion that an out-of-state attorney practicing law for clients from the state where he is licensed should not be seen to violate Rule 5.5 of the Utah Rules of Professional Conduct’s prohibition on the unauthorized

practice of law. In *In re Application of Jones*, 2018 WL 5076017 (Ohio Oct. 17, 2018), Alice Jones was admitted to the Kentucky bar and practiced law in Kentucky for six years. *Id.* at *1-2. Her Kentucky firm merged with a firm having an office in Cincinnati, Ohio. *Id.* at *1. For personal reasons, Ms. Jones moved to Cincinnati and transferred to her firm's Cincinnati office. *Id.* at *2. She applied for admission to the Ohio bar the month before she moved. *Id.* While awaiting the Ohio Bar's decision, she practiced law exclusively on matters related to pending or potential proceedings in Kentucky. *Id.* Nevertheless, the Board of Commissioners on Character and Fitness chose to investigate Ms. Jones for the unauthorized practice of law and voted to deny her admission to the Ohio Bar. *Id.*

15. The Ohio Supreme Court unanimously reversed this decision. *Id.* at *4. A majority of the *Jones* court held that Ms. Jones' activities did not run afoul of the unauthorized practice of law provision because Rule 5.5(c)(2) of the Ohio Rules of Professional Conduct permitted her to provide legal services on a "temporary basis" while she awaited admission to the Ohio bar. *Id.* at *3. However, three of the seven Ohio Supreme Court justices concurred on a different basis. *Id.* at *5 (DeWine, J., concurring). They found that denial of Jones' application on these facts would violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution as well as the Ohio Constitution's related provisions. *Id.* at *9 (DeWine, J., concurring). Both constitutions protected one's right to pursue her profession, subject to governmental regulation only to the extent necessary to promote the health, safety, morals, or general welfare of society, provided the legislation is not arbitrary or unreasonable. *Id.* at *7-8 (DeWine, J., concurring). The concurring opinion noted that "the constitutional question here turns on identifying Ohio's interest in prohibiting Jones from representing her Kentucky clients while working in a Cincinnati office. The short answer is that there is none." *Id.* at *8 (DeWine,

J., concurring). Two state interests supported attorney regulation—attorneys’ roles in administering justice through the state’s court system and “the protection of the public.” *Id.* (DeWine, J., concurring).

But when applied to a lawyer who is not practicing Ohio law or appearing in Ohio courts, Prof.Cond.R. 5.5(b) serves no state interest. Plainly, as applied to such a lawyer, the rule does not further the state’s interest in protecting the integrity of our court system. Jones, and others like her, are not practicing in Ohio courts. Nor does application of the rule to such lawyer serve the state’s interest in protecting the Ohio public. Jones and others in her situation are not providing services to or holding themselves out as lawyers to the Ohio public. Jones’s conduct as a lawyer is regulated by the state of Kentucky—the state in whose forums she appears.

Id. at *9 (DeWine, J., concurring). The three concurring Ohio Supreme Court justices concluded that Rule 5.5(b) of the Ohio Rules of Professional Conduct, as interpreted by the Ohio Board of Commissioners, would be unconstitutional when applied to Jones and others similarly situated.

Id. (DeWine, J., concurring).

16. The question posed here is just as clear as the question before the Ohio Supreme Court: what interest does the Utah State Bar have in regulating an out-of-state lawyer’s practice for out-of-state clients simply because he has a private home in Utah? And the answer is the same—none.

17. Finally, a perusal of various other authorities uncovers no case in which an attorney was disciplined for living in a state where he was not licensed while continuing to practice law for clients from the state where he was licensed. *See* RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 3 *Jurisdictional Scope of the Practice of Law by a Lawyer* (2000); ROY D. SIMON, SIMON’S NY RULES OF PROF. COND. § 5.5:6 (Dec. 2018); and *What Constitutes “Unauthorized Practice of Law” by Out-of-State Counsel*, 83 A.L.R. 5th 497 (2000).

CONCLUSION

18. Accordingly, the EAOC interprets Rule 5.5(b) of the Utah Rules of Professional Conduct in a way consistent with the Due Process and Privileges and Immunities Clauses of the Fourteenth Amendment to the United States Constitution; the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution; Article 1, Section 7 of the Due Process Clause and Article 1, Section 24 of the Uniform Operation of the Laws Clause of the Utah Constitution; and all commentators and all persuasive authority in support of permitting an out-of-state attorney to establish a private residence in Utah and to practice law from that residence for clients from the state where the attorney is licensed.

*This opinion is subject to revision before final
publication in the Pacific Reporter*

2015 UT 51

FILED
UTAH APPELLATE COURTS
JUNE 19, 2015

IN THE
SUPREME COURT OF THE STATE OF UTAH

In the Matter of the Discipline of NATHAN N. JARDINE, #081215

UTAH STATE BAR,
Appellee

v.

NATHAN N. JARDINE
Appellant.

No. 20130289
Filed June 19, 2015

Third District, Salt Lake
The Honorable Andrew H. Stone
No. 070913637

Attorneys:

Billy L. Walker, Adam C. Bevis, Salt Lake City, for appellee
Nathan N. Jardine, Salt Lake City, for appellant

CHIEF JUSTICE DURRANT authored the opinion of the Court, in which
ASSOCIATE CHIEF JUSTICE LEE, JUSTICE DURHAM, JUSTICE PARRISH, and
JUDGE CHRISTIANSEN joined.

JUSTICE NEHRING did not participate herein due to his retirement;
COURT OF APPEALS JUDGE MICHELE M. CHRISTIANSEN sat.

JUSTICE DENO G. HIMONAS became a member of the Court on
February 13, 2015, after oral argument in this matter, and
accordingly did not participate.

CHIEF JUSTICE DURRANT, opinion of the Court:

Introduction

¶1 Nathan N. Jardine was suspended from the practice of law
for eighteen months for violating numerous rules of professional
conduct. Utah law allows for suspended attorneys to petition for
reinstatement, however, and several years after being suspended,

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Mr. Jardine availed himself of this opportunity by filing a petition for reinstatement in district court. The district court denied his petition, concluding that he failed to comply with six requirements imposed by the rule governing reinstatement.

¶2 We affirm the district court's denial of reinstatement because Mr. Jardine failed to comply with four of the rule's requirements. First, he practiced law within the State of Utah while he was suspended. Second, he failed to establish that he has the requisite honesty and integrity to practice law. Third, he failed to pass the Multistate Professional Responsibility Examination, and has not presented a "good and sufficient reason" for failing to do so. And finally, he failed to keep informed about recent developments in the law.

¶3 While ultimately affirming the district court's denial of reinstatement, we reverse the court's ruling that Mr. Jardine must reimburse the Utah State Bar \$1,000 before he may be reinstated. Because the payment made by the Bar's fund for client protection to Mr. Jardine's former client cannot be traced to any violation of the professional rules by Mr. Jardine, there is no basis for concluding that he must reimburse the Bar.

¶4 Finally, we direct our rules committee to consider amending rule 14-525(e)(4) of the Supreme Court Rules of Professional Practice, which provides that a person seeking reinstatement must have the requisite honesty and integrity to practice law, to clarify what steps a person seeking reinstatement must take in order to establish honesty and integrity.

Background

¶5 In August 2010, Mr. Jardine was suspended from the practice of law for three years. He appealed his suspension to this court. In an opinion issued on March 9, 2012, we held that Mr. Jardine had violated numerous ethical rules, but reduced his suspension period from three years to eighteen months.¹ We issued a separate order that same day explaining that Mr. Jardine's suspension was complete and that he could begin the process of reinstatement.

¶6 Mr. Jardine filed a petition for reinstatement. The district court denied his petition because it concluded that he failed to comply with rule 14-525 of the Supreme Court Rules of Professional

¹ *In re Discipline of Jardine*, 2012 UT 67, ¶ 83, 289 P.3d 516.

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Practice, which governs attorney reinstatement following a suspension of more than six months. Specifically, the court concluded that Mr. Jardine failed to comply with six of the rule's requirements.

¶7 The court concluded that Mr. Jardine violated rules 14-525(e)(1) and 14-525(e)(2) by engaging in the unauthorized practice of law while he was suspended. Before he was suspended, Mr. Jardine agreed to represent Jonathan Glodo. Mr. Glodo was an Alaskan resident who was involved in an automobile accident in Idaho. Because Mr. Jardine was not licensed in Idaho, all court filings were done through his brother, Joseph Jardine, who was licensed in Idaho. But Mr. Jardine concedes that he, not Joseph, performed almost all of the work on the case.

¶8 When Mr. Jardine was suspended in August 2010, the disciplinary order provided that he was

enjoined and prohibited from practicing law in the State of Utah, holding himself out as an attorney at law, performing any legal services for others, giving legal advice to others, accepting any fee directly or indirectly for rendering legal services as an attorney, appearing as counsel or in any representative capacity in any proceeding in any Utah court or before any Utah administrative body as an attorney . . . , or holding himself out to others or using [his] name in any manner in conjunction with the words "Attorney at Law," "Counselor at Law," or "Lawyer"

The disciplinary order also noted that Mr. Jardine "may, with the consent of the client after full disclosure, wind up or complete any matters pending on the date of entry of the order."

¶9 Mr. Jardine never informed Mr. Glodo that he was suspended, nor did he wind up his participation in the matter. Instead, he continued to work on the case after he was suspended. For instance, he exchanged numerous text messages with Mr. Glodo regarding the case. Among other things, Mr. Jardine advised Mr. Glodo that the case was "worth good money," the "liability is great," and that he had "a great case." At one point, Mr. Glodo asked for an update on his case. Mr. Jardine told him that a lawsuit had been filed and that he was working on a demand letter that required his "special attention." On December 23, 2010, he sent that demand letter to Hartford Insurance Company. The letter states that Mr. Jardine represents Mr. Glodo, analyzes the company's liability and Mr. Glodo's damages, and proposes a monetary settlement. The

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letter is printed on letterhead that lists Mr. Jardine's Utah address, but indicates he is licensed in California. The letter made no reference to Mr. Jardine's brother. Mr. Glodo ultimately terminated his relationship with Mr. Jardine after he learned of Mr. Jardine's disciplinary record. Mr. Glodo also filed an informal complaint against Mr. Jardine with the Office of Professional Conduct (OPC).

¶10 The district court concluded that by representing Mr. Glodo, Mr. Jardine violated two of rule 14-525's requirements. First, he violated rule 14-525(e)(1), which requires compliance "with the terms and conditions of all prior disciplinary orders," because his prior disciplinary order specifically prohibited him from practicing law in Utah. And second, he violated rule 14-525(e)(2), which directly prohibits the unauthorized practice of law, by continuing to practice law while suspended.

¶11 Third, the district court denied reinstatement because Mr. Jardine had not demonstrated the requisite honesty and integrity required by rule 14-525(e)(4). As a basis for this conclusion, the court noted that "[t]he Office of Professional Conduct demonstrated substantial debts owed by Jardine, including taxes, child support and a civil judgment for which a Bench Warrant was issued."

¶12 Fourth, the district court concluded that Mr. Jardine failed to show that he complied with rule 14-525(e)(5) by keeping informed about recent developments in the law. Mr. Jardine argued that he complied with this rule by working as a paralegal, but the court concluded that the rule "at a minimum, . . . demands efforts comparable to those required of practicing attorneys, which is something more than merely being engaged in the practice of law."

¶13 Fifth, the court denied reinstatement because Mr. Jardine failed to take and pass the Multistate Professional Responsibility Examination (MPRE).

¶14 And finally, the district court denied reinstatement because Mr. Jardine failed to reimburse the Lawyers' Fund for Client Protection (Fund) for \$1,000 that was paid to one of his former clients to compensate the client for Mr. Jardine's allegedly unreasonable fee.

¶15 Mr. Jardine now appeals the district court's denial of reinstatement. We have jurisdiction under Utah Code section 78A-3-102(3)(c).

Standard of Review

¶16 In attorney discipline cases, "we review the trial court's findings of facts under the clearly erroneous standard, [but] we reserve the right to draw different inferences from the facts than

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those drawn by the trial court.”² And “[w]ith respect to the discipline actually imposed, our constitutional responsibility requires us to make an independent determination as to its correctness.”³

Analysis

¶17 We conclude that Mr. Jardine failed to comply with four requirements imposed by rule 14-525 of the Supreme Court Rules of Professional Practice. Specifically, he failed to comply with the provisions requiring him to (1) comply with prior disciplinary orders, (2) demonstrate the requisite integrity to practice law, (3) pass the MPRE, and (4) keep informed about recent developments in the law. Because he failed to comply with these requirements, we affirm the district court’s denial of reinstatement.

¶18 We also affirm the district court’s denial of a continuance because granting Mr. Jardine additional time to pass the MPRE and complete continuing legal education classes (CLE) would have had no effect on the outcome of his reinstatement petition. Other deficiencies with his petition would have remained even if he had passed the MPRE and taken CLE courses, including his prior unauthorized practice of law and failure to establish the requisite honesty or integrity to practice law.

¶19 While we affirm the district court’s denial of reinstatement, we reverse the portion of the court’s ruling requiring Mr. Jardine to reimburse the Bar for \$1,000 that it paid to one of his former clients. The fee Mr. Jardine charged that client was not in violation of any rule of professional conduct, and so there is no basis for requiring him to reimburse the Bar.

I. Mr. Jardine Failed to Comply with the Disciplinary Order

A. *Mr. Jardine Engaged in the Unauthorized Practice of Law in Utah and Therefore Violated the Disciplinary Order*

¶20 The OPC contends that Mr. Jardine should not be reinstated because he violated rule 14-525(e)(1) of the Supreme Court Rules of Professional Practice by engaging in the unauthorized practice of law while he was suspended. Subsection (e)(1) provides that a person seeking reinstatement must “fully compl[y] with the terms

² *In re Discipline of Ince*, 957 P.2d 1233, 1236 (Utah 1998) (citation omitted).

³ *Id.*

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and conditions of all prior disciplinary orders except to the extent they are abated by the district court." The disciplinary order imposing Mr. Jardine's suspension expressly prohibited him "from practicing law in the State of Utah" while suspended.

¶21 We have never precisely defined "the practice of law," and have noted that "[w]hat constitutes the practice of law in any given situation requires a case-by-case decision."⁴ But we have observed that the practice of law

is generally acknowledged to involve the rendering of services that require the knowledge and application of legal principles to serve the interests of another with his consent. It not only consists of performing services in the courts of justice throughout the various stages of a matter, but in a larger sense involves counseling, advising, and assisting others in connection with their legal rights, duties, and liabilities. It also includes the preparation of contracts and other legal instruments by which legal rights and duties are fixed.⁵

Under this general definition, there is no doubt that Mr. Jardine engaged in the practice of law during the time he was suspended. Most notably, he utilized his "knowledge . . . of legal principles" to draft a demand letter on behalf of Mr. Glodo. Drafting a letter that analyzes another's legal liability and proposes a monetary settlement is at the core of legal representation, and, in any case, surely falls within "counseling, advising, and assisting others in connection with their legal rights, duties, and liabilities." Moreover, he exchanged numerous text messages with Mr. Glodo advising him about the case and the potential for recovery.

¶22 Mr. Jardine argues that even if his actions constituted the practice of law, he nevertheless did not violate rule 14-525(e)(1) because he was not practicing law in Utah. But as we have discussed, the disciplinary order expressly prohibited Mr. Jardine from

⁴ *Utah State Bar v. Summerhayes & Hayden, Pub. Adjusters*, 905 P.2d 867, 870 (Utah 1995).

⁵ *Id.* at 869-70 (citations omitted); see also SUP. CT. R. PROF'L PRACTICE 14-802(b)(1) (defining "[t]he 'practice of law'" as "the representation of the interests of another person by informing, counseling, advising, assisting, advocating for or drafting documents for that person through application of the law and associated legal principles to that person's facts and circumstances").

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“performing any legal services for others” or “giving legal advice to others” within the State of Utah. And all of the work Mr. Jardine performed on Mr. Glodo’s case was performed in Mr. Jardine’s Utah office. His communications with Mr. Glodo, including the text messages that he sent regarding the viability of Mr. Glodo’s claim and the prospect for recovery, were made from Utah. Moreover, the demand letter he sent to Hartford Insurance Company listed his Utah address. So the fact that Mr. Glodo’s case originated, and was later filed, in Idaho is really of no consequence because Mr. Jardine engaged in the practice of law within Utah contrary to the disciplinary order. Accordingly, we affirm the district court’s holding that Mr. Jardine failed to comply with his prior disciplinary order.

B. The District Court’s Order Does Not Violate Rule 52 of the Utah Rules of Civil Procedure

¶23 Mr. Jardine also challenges the district court’s ruling on the unauthorized-practice-of-law issue on procedural grounds. Rule 52 of the Utah Rules of Civil Procedure provides, “In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58A” Mr. Jardine argues that the district court failed to comply with this rule by not separately stating its findings of fact and conclusions of law. But this is simply not the case. The court’s order does separately list the court’s findings of fact and conclusions of law. The mere fact that language in the court’s “findings” section also contains mixed determinations, such as the court’s rejection of “Jardine’s argument that his conduct did not amount to the unauthorized practice of law,” is of no consequence because, as we have previously noted, “[t]he labels attached to findings of fact or conclusions of law are not determinative.”⁶

¶24 He also argues that the court’s order is not supported by enough subsidiary facts to show how the court reached its ultimate conclusion. While “the trial court’s findings must be sufficiently detailed and include enough subsidiary facts to clearly show the evidence upon which they are grounded,” the court “is not required

⁶ *Zions First Nat’l Bank v. Nat’l Am. Title Ins. Co.*, 749 P.2d 651, 656 (Utah 1988); see also *Jex v. Utah Labor Comm’n*, 2013 UT 40, ¶ 42 n.8, 306 P.3d 799 (concluding that an ALJ’s characterization of a finding of fact as a conclusion of law was not determinative).

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to recite each" intermediate step in its "reasoning that leads to its conclusions."⁷ The court's order in this case suffices under this standard. Finding number four recites the fact that Mr. Jardine represented Mr. Glodo from his Utah office. It notes the court's rejection of Mr. Jardine's argument that this representation did not constitute the unauthorized practice of law. And it observes that by practicing law Mr. Jardine violated a prior disciplinary order. On this basis, among others, the court concluded (in a separate section of its order) that Mr. Jardine failed to satisfy rule 14-525(e)'s requirements. So while the court's order *could* have been more detailed, it certainly allows for "meaningful appellate review."⁸

¶25 And in any event, Mr. Jardine's procedural argument mirrors arguments that we have previously rejected. For instance, we have rejected arguments that conclusory findings of fact issued by a screening panel of the Utah Supreme Court's Ethics and Discipline Committee violate due process, the Utah Rules of Lawyer Discipline and Disability, and our caselaw.⁹ In so doing, we have observed that "[b]ecause we are charged with the power to discipline attorneys, conclusory findings of fact do not present the same difficulty in the attorney discipline context as they do in the administrative context."¹⁰ That reasoning is equally applicable here. Because we are charged with regulating the practice of law,¹¹ and because we review attorney-discipline sanctions under a de novo standard of review, the fact that an attorney-discipline order does not perfectly comply with rule 52 of the Utah Rules of Civil Procedure does not render a disciplinary action invalid.

¶26 In summary, we affirm the district court's decision that Mr. Jardine violated rule 14-525(e)(1) because his representation of Mr. Glodo while he was suspended constituted the unauthorized

⁷ *State ex rel. S.T. v. State*, 928 P.2d 393, 398 (Utah Ct. App. 1996) (internal quotation marks omitted).

⁸ *Id.*

⁹ *Long v. Ethics & Discipline Comm. of the Utah Supreme Court*, 2011 UT 32, ¶ 42, 256 P.3d 206.

¹⁰ *Id.* ¶ 41.

¹¹ See UTAH CONST. art. VIII, § 4 ("The Supreme Court by rule shall govern the practice of law, including admission to practice law and the conduct and discipline of persons admitted to practice law.").

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practice of law within Utah in direct violation of his prior disciplinary order.¹²

II. Mr. Jardine Failed to Establish That He Has the
Requisite Integrity to Practice Law

¶27 In reinstatement proceedings, the person seeking reinstatement bears the “burden of demonstrating by a preponderance of the evidence that [he or she] has met each of the criteria in paragraph (e) or, if not, that there is good and sufficient reason why [he or she] should nevertheless be reinstated.”¹³ One of subsection (e)’s criteria is that the person seeking reinstatement show that he or she “has the requisite honesty and integrity to practice law.”¹⁴ The district court ruled that Mr. Jardine failed to meet his burden in this regard.

¶28 The district court’s analysis focused on three debts owed by Mr. Jardine—a tax lien, outstanding child support, and a civil judgment. The court observed that “[w]hile debts alone do not establish a lack of honesty or integrity, the debts in this case justify requiring Jardine to show either that they are wholly in dispute, that he is unable to make any payments on them, or that he has made some reasonable effort to begin paying them. Jardine claims that he is negotiating these bills, but has not shown any of the above.”

¶29 We affirm the district court’s conclusion that Mr. Jardine failed to establish that he has the requisite honesty and integrity to practice, although we do so on different grounds. The district court’s ruling focused on Mr. Jardine’s failure to sufficiently address his debts. The court’s conclusion has some support. For instance, at the hearing on his reinstatement petition, Mr. Jardine acknowledged that he has an outstanding civil judgment, but failed to give a specific explanation for why that judgment remains unpaid. He also acknowledged at that hearing that he owes over \$40,000 in child support.

¶30 On the other hand, there is some evidence that cuts against the court’s conclusion that Mr. Jardine did not sufficiently address

¹² We note that OPC conceded during oral argument that Mr. Jardine’s unauthorized practice of law during his previous period of reinstatement cannot be used against him in a subsequent petition for reinstatement.

¹³ SUP. CT. R. PROF’L PRACTICE 14-525(g).

¹⁴ *Id.* 14-525(e)(4).

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his debts. For example, the only record evidence regarding the tax lien indicates that the lien has been set aside. Also, Mr. Jardine testified at the hearing that he pays approximately \$1,000 per month in child support and that he has filed a motion seeking a reduction in the amount owed based on his lack of income. He also pointed out that in 2010 he earned less than \$16,000 and in 2011 he earned \$8,603. If accurate, these income amounts suggest that Mr. Jardine uses nearly all of his income to pay his debts. Mr. Jardine neglected, however, to provide a summary of any other assets he has that could be used to pay his debts. Given the conflicting evidence, the question of whether Mr. Jardine sufficiently addressed his debts is a close one.

¶31 But we need not decide whether Mr. Jardine's debts demonstrate a lack of honesty or integrity, because, even ignoring his debts, we conclude that he failed to show by a preponderance of the evidence that he has the requisite honesty and integrity to practice law.

¶32 During the reinstatement-petition hearing, Mr. Jardine offered little evidence that he had the requisite honesty and integrity to practice law. He offered only the testimony of a paralegal at his office and the testimony of his sister. On direct examination, the paralegal was asked whether he ever saw Mr. Jardine engage in "any dishonesty of any sort . . . in any of the business deals that [he] saw [Mr. Jardine] involved in?" The paralegal responded "I did not." He was then asked whether he had "ever known [Mr. Jardine] to lie to you or be dishonest with you in any way?" The paralegal responded by saying "[n]o." Finally, the paralegal was asked whether Mr. Jardine generally kept his word. He responded by saying "[y]es." Mr. Jardine next called his sister to testify. On direct examination by Mr. Jardine, she testified that "[i]t has been my experience in both business and personal that you have always tried to be right with everyone you know. Which would be honest and integritous [sic]. And if you feel like you have made an error that you would correct that error." These few quoted sentences constitute the entirety of Mr. Jardine's affirmative showing of his honesty and integrity.

¶33 Regardless of the effect of Mr. Jardine's outstanding debts on the question of honesty and integrity, conclusory testimony from a coworker and family member is insufficient to demonstrate by a preponderance of the evidence that he has the requisite honesty and integrity to practice law. While rule 14-525(e)(4) could more precisely spell out what a person seeking reinstatement must show to

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establish the requisite honesty and integrity to practice law,¹⁵ the evidence offered by Mr. Jardine in this case falls well short of the preponderance of the evidence standard. He offered no testimony from former clients, other members of the bar, business associates, community members, or any other similarly objective person. The only testimony he offered came from a person to whom he was arguably a direct superior and a family member. And while this testimony is not necessarily irrelevant, it is hardly the type of objective testimony one might get from a disinterested third party.¹⁶ On this basis, we affirm the district court's ruling that Mr. Jardine

¹⁵ Rule 14-525(e)(4) offers little guidance to reinstatement candidates regarding how to sufficiently establish the requisite honesty or integrity to practice law. The rule is more helpful to readmission candidates because it directs them to "appear before the Bar's Character and Fitness Committee and cooperate in its investigation of the respondent." *Id.* The lack of guidance provided by the rule is not concerning in this case, given the fact that Mr. Jardine presented almost no objective evidence indicating he has the requisite honesty or integrity to practice law. But because this issue could raise concerns in future cases, we direct our rules committee to consider amending the rule to provide more specific guidance to reinstatement candidates regarding steps such candidates should take to sufficiently establish that they have the requisite honesty and integrity to practice law.

¹⁶ The rules governing first-time bar applicants recognize this principle by requiring applicants to submit six character references, none of which can come from "persons related to [the applicant] by blood or marriage, romantic partners, law school classmates from the same graduating class, or current employees." See Filing Instructions and Information Utah State Bar Admission Application, at 10, available at http://www.utahbar.org/wp-content/uploads/2014/10/Filing_Instructions_and_Info_2015.doc (last accessed May 26, 2015). We recognize that there are differences in the rules governing first-time bar applicants and reinstatement candidates. For instance, first-time bar applicants have the burden of proving character and fitness by clear and convincing evidence, SUP. CT. R. PROF'L PRACTICE 14-708(a), while reinstatement candidates required to prove honesty and integrity by only a preponderance of the evidence. *Id.* 14-525(g). But these differences do not change the common-sense notion that family members and employees may not provide the most objective evaluation of a person's character.

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failed to meet his burden of establishing that he has the requisite honesty and integrity to practice law.

III. Mr. Jardine Failed to Establish That He Kept Informed About Recent Developments in the Law While He was Suspended

¶34 The district court also denied Mr. Jardine reinstatement because it concluded that while suspended he had not kept informed about recent developments in the law. Rule 14-525(e)(5) requires a person seeking reinstatement to show that he or she “has kept informed about recent developments in the law and is competent to practice.”

¶35 Mr. Jardine argues that he kept informed about recent developments in the law by working as a paralegal at his brother’s law office and that the applicable rule does not require suspended attorneys to take CLE classes. He also argues that he satisfied the requirement by “help[ing] make new law in the State” through his advocacy in his prior disciplinary case. We reject each of these arguments.

¶36 First, working as a paralegal is not alone enough to satisfy rule 14-525(e)(5). The district court correctly observed that the rule, “at a minimum, . . . demands efforts comparable to those required of practicing attorneys, which is something more than merely being engaged in the practice of law.” Under the rules of professional conduct, licensed attorneys cannot satisfy the requirement to take legal-education courses by merely practicing law.¹⁷ Similarly, reinstatement candidates cannot show they kept informed about recent developments in the law merely by practicing as a paralegal. So while Mr. Jardine is correct that rule 14-525(e)(5) does not require that a reinstatement candidate take CLE classes, he must at least show that he made some attempt at engaging in legal education. Because he has failed to make any such showing, we conclude that he has not complied with rule 14-525(e)(5).

¶37 Mr. Jardine’s second argument is especially unpersuasive. He argues that he kept informed about recent developments in the law by representing himself in prior disciplinary proceedings. This argument is plainly wrong. Representing oneself in a disciplinary proceeding does not absolve a reinstatement candidate from the obligation to keep informed about recent developments in the law.

¹⁷ See SUP. CT. R. PROF’L PRACTICE 14-404(a) (requiring active status lawyers to “complete, during each two fiscal year period . . . , a minimum of 24 hours of accredited CLE”).

Cite as: 2015 UT 51

Opinion of the Court

Instead, the fact that an attorney is subject to discipline suggests just the opposite—that the attorney needs the benefit legal-education programs.

¶38 Rule 14-525(e)(5) requires Mr. Jardine to show how he has kept informed about recent developments in the law, and because he did not do so we affirm the district court's ruling that he failed to comply with the rule.

IV. Mr. Jardine Has Not Demonstrated a "Good and Sufficient Reason" for His Failure to Take the MPRE

¶39 Rule 14-525(e)(6) provides that attorneys who are suspended for one year or more must pass the Multistate Professional Responsibility Examination (MPRE) before they may be reinstated to practice. This requirement, like all of the requirements for reinstatement, is subject to an exception—where the person seeking reinstatement can "present[] good and sufficient reason" for not meeting the requirement.¹⁸ The district court observed that Mr. Jardine did not take the MPRE and concluded that he had not established a "good and sufficient reason" for failing to do so.

¶40 Mr. Jardine argues that he should not be required to pass the MPRE because he was involved in a prior disciplinary matter that ultimately resulted in an opinion from this court. He argues that he submitted over 110 pages of briefing to the court, which analyzed approximately fifteen ethical rules.

¶41 Mr. Jardine's argument on this point is similar to his argument we reject above regarding his failure to keep informed about recent developments in the law. We reject his argument here for similar reasons. Being subject to discipline and defending one's self does not constitute a "good and sufficient reason" for failing to comply with rule 14-525(e)(6)'s requirement to pass the MPRE. In fact, the better argument is that attorneys who are subject to discipline have an even greater need to pass the MPRE. Moreover, as Mr. Jardine points out, his briefing in his prior disciplinary case analyzed approximately fifteen ethical rules. Currently, there are over fifty rules governing lawyers in the Utah Rules of Professional Conduct, and Mr. Jardine, if readmitted, would need to comply with all of those rules, not just the fifteen he analyzed in his briefs. In short, we should conclude that Mr. Jardine has not established a "good and sufficient reason" for not passing the MPRE.

¹⁸ SUP. CT. R. PROF'L PRACTICE 14-525(e).

DISCIPLINE OF NATHAN N. JARDINE

Opinion of the Court

V. Mr. Jardine Does Not Need to Reimburse the Client
Security Fund to be Reinstated

¶42 Mr. Jardine was initially suspended for, among other things, violating rule 1.5 of the Utah Rules of Professional Conduct, which governs fees, for charging a client \$10,000 to represent her in criminal and divorce proceedings.¹⁹ But on appeal, this court concluded that this fee did not provide a basis for discipline because it was not excessive.²⁰ The Utah State Bar later paid Mr. Jardine's client \$1,000 out of the Lawyers' Fund for Client Protection (Fund) to partially compensate her for Mr. Jardine's allegedly unreasonable fee. Mr. Jardine never reimbursed the Fund for this payment. The district court held that his failure to reimburse the Fund disqualified him from reinstatement. We reverse and conclude that Mr. Jardine does not need to reimburse the Fund to be reinstated because he did not charge an unreasonable fee.

¶43 Mr. Jardine argues that he should not have to reimburse the Fund because, as this court held, the fee he charged his client was not excessive. The district court appears to have recognized our holding on this point, but nonetheless concluded that Mr. Jardine must repay the Client Security Fund to be reinstated:

The Bar's Fund For Client Protection paid \$1,000 on account of Jardine's conduct. Jardine has failed to show that this was not the case, relying solely on the Supreme Court's determination that the Office had failed to prove the underlying fee for which the fund partially reimbursed the client was excessive. At this stage, it is Jardine's burden to show that the repayment by the fund cannot properly be said to have been on account of his conduct, and he has failed to make the showing. It is undisputed that he has not reimbursed the Fund as required by 14-525(e)(8).

¶44 Rule 14-525(e)(8) of the Supreme Court Rules of Practice provides that a person seeking reinstatement must "fully reimburse[] the Bar's Lawyers' Fund for Client Protection for any amounts paid on account of the respondent's conduct." The district court's ruling misconstrues this rule by requiring a person to reimburse the Fund in cases where that person committed no misconduct that caused a client to incur a loss. But rule 14-902(a) explains that the purpose of

¹⁹ *Utah State Bar v. Jardine*, 2012 UT 67, ¶ 44, 289 P.3d 516.

²⁰ *Id.* ¶ 46.

Cite as: 2015 UT 51

Opinion of the Court

the Fund is to “reimburse clients for losses caused by the dishonest conduct committed by lawyers.” In this case, this court concluded in our prior opinion that Mr. Jardine did not engage in any misconduct in charging his client the \$10,000 fee, so that fee could not have provided a basis for the Bar to compensate Mr. Jardine’s client.

¶45 Reading rule 14-525(e)(8) as the district court did effectively grants the Bar unilateral authority to force an attorney to reimburse the Fund regardless of whether the attorney engaged in misconduct that caused a client to incur a loss. This is an incorrect interpretation of the rule. Properly read, the rule requires reimbursement only in cases where the person seeking reinstatement committed some misconduct that resulted in a client incurring a loss. In this case, Mr. Jardine did not charge his client an unreasonable fee, as this court concluded in our earlier opinion, and so there is no basis for concluding that he must reimburse the Fund. We accordingly reverse the district court’s ruling on this issue.²¹

VI. The District Court Did Not Abuse Its Discretion in Denying Mr. Jardine a Continuance

¶46 The final issue on appeal is whether the district court abused its discretion in denying Mr. Jardine’s motion for a continuance. After the district court held a hearing on Mr. Jardine’s motion for reinstatement, Mr. Jardine asked the court for a continuance so he could take the MPRE and attend CLE classes. The district court denied his request, reasoning that even if a continuance would allow him to take the MPRE and attend CLE classes, it would not cure his failure to comply with other reinstatement requirements.

¶47 We conclude that the court did not abuse its discretion in denying Mr. Jardine a continuance. Mr. Jardine’s continuance motion was premised entirely on his need for additional time to take the MPRE and attend CLE classes. But even assuming that he would have done those things had the court granted him a continuance, he would still have been denied readmission due to his unauthorized practice of law and failure to demonstrate the requisite integrity to practice law. Because of this, the district court did not abuse its discretion in denying his motion for a continuance.

²¹ We note that the OPC conceded this issue in its opening brief by stating “at this point the OPC does not contest Jardine’s argument concerning repayment.”

DISCIPLINE OF NATHAN N. JARDINE

Opinion of the Court

Conclusion

¶48 We affirm the district court's denial of Mr. Jardine's petition for reinstatement because he failed to comply with four requirements imposed by rule 14-525 of the Supreme Court Rules of Professional Practice. Specifically, he failed to comply with the provisions requiring him to (1) comply with prior disciplinary orders, (2) demonstrate the requisite integrity to practice law, (3) pass the MPRE, and (4) keep informed about recent developments in the law. Although we affirm the district court's ultimate denial of reinstatement, we conclude that the court erred in requiring Mr. Jardine to reimburse the Utah State Bar for \$1,000 that the Bar paid to one of his former clients.

¶49 We also conclude that the district court did not abuse its discretion when it denied Mr. Jardine a continuance so that he could take the MPRE and attend CLE classes. We note, however, that because it has been over one year since the district court issued its ruling denying reinstatement, Mr. Jardine is now eligible to reapply for reinstatement in accordance with rule 14-525(h) of the Supreme Court Rules of Professional Practice.

CERTIFICATE OF MAILING

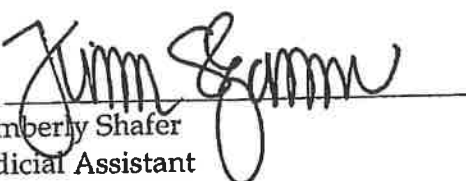
I hereby certify that on June 19, 2015, a true and correct copy of the foregoing OPINION was deposited in the United States mail or was sent by electronic mail to be delivered to:

NATHAN N JARDINE
140 N UNION AVE STE 205
FARMINGTON UT 84025

BILLY L. WALKER
ADAM C. BEVIS
opcfileing@utahbar.org
opcfileing@utahbar.org

HONORABLE ANDREW H. STONE
THIRD DISTRICT, SALT LAKE
ATTN: JULIE RIGBY AND CHERYL AIONO
cheryla@utcourts.gov, julier@utcourts.gov

THIRD DISTRICT, SALT LAKE
ATTN: JULIE RIGBY AND CHERYL AIONO
cheryla@utcourts.gov, julier@utcourts.gov

By 
Kimberly Shafer
Judicial Assistant

Case No. 20130289-SC
THIRD DISTRICT, SALT LAKE, 070913637



Billy L. Walker
Chief Disciplinary Counsel

Adam C. Bevis
Deputy Chief Disciplinary Counsel

Diane Akiyama
Assistant Disciplinary Counsel

Sharadee Fleming
Assistant Disciplinary Counsel

Emily A. Lee
Assistant Disciplinary Counsel

Barbara L. Townsend
Assistant Disciplinary Counsel

Office of Professional Conduct

Serving the Public by Regulating Attorneys and Licensed Paralegal Practitioners

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E-mail: opc@opcutah.org

October 29, 2019

Herm Olsen
President, Utah State Bar
Hillyard, Anderson & Olsen, P.C.
595 S. Riverwoods Parkway, Suite 100
Logan, UT 84321

Re: Request for Review of Utah State Bar's Ethics Advisory
Opinion Committee Opinion No. 19-03

Dear Mr. Olsen:

I am writing on behalf of the Office of Professional Conduct ("OPC") to request that the Bar Commission review Ethics Advisory Opinion Committee ("EAO") Opinion No. 19-03 ("Opinion 19-03") pursuant to rule 14-504(d)(1) of the Supreme Court Rules of Professional Practice Rules of Lawyer Discipline and Disability ("RLDD"). The OPC requested the Utah Supreme Court review of Opinion 19-03 by letter to Catherine J. Dupont dated June 19, 2019 under rule 14-504(d)(2). The request is still pending. I have included a copy of the letter and its attachments for your review. On August 30, 2019, the OPC also requested by the enclosed letter that the EAO reexamine Opinion 19-03 by its enclosed letter of October 10, 2019 which it declined to do. Therefore, the OPC request that the Bar Commission review Opinion 19-03 and withdraw or modify the opinion as further explained below.

Opinion 19-03 states that the Utah Rules of Professional Conduct ("URPC") do not prohibit an out-of-state attorney from representing clients from a state where that attorney is licensed, even if the attorney does so from a location in Utah, provided the attorney does not establish a public office in Utah or solicit Utah business.

The OPC seeks a review and clarification of Opinion 19-03 because it appears to be incongruent with the plain language of rule 5.5(b) of the URPC and the case of *In re: Discipline of Jardine*, 2015 UT 51, 353 P.3d 154. Rule 5.5(b)(1) of the URPC states:

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

Herm Olsen
October 28, 2019
Page 2 of 3

(b)(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law"

Utah R. Prof. Cond. 5.5(b) (2015). While the opinion states that based on caselaw from other jurisdictions rule 5.5(b)(1) only applies if the lawyer is practicing law in Utah matters, the plain reading of the rule does not make that distinction.

Additionally, in *In re: Discipline of Jardine*, this Court found that Nathan Jardine, a suspended attorney, engaged in the unauthorized practice of law in Utah, in violation of his discipline order, when he performed legal work in his Utah office for an Alaska client in an Idaho case. 2015 UT 51, ¶¶ 7, 22. The Opinion 19-03 tries to distinguish *In re Jardine* by pointing out that the case did not look at the language of rule 5.5 of the URPC and Jardine used a Utah business address as opposed to a private Utah residential address. However, the OPC can foresee instances where it will be difficult to distinguish a home address from a business address if an attorney uses the private Utah address on legal correspondence. Furthermore, the language in the Jardine discipline order regarding the prohibition of the practice of law was similar to the language of rule 5.5 of the URPC.

Therefore, given existing law and the possible difficulties of applying Opinion 19-03, the OPC respectfully requests the Bar Commission's review of the opinion. The OPC further requests that the Bar Commission withdraw or modify the opinion, in light of its review, pursuant to rule 14-504(d)(1) of the RLDD. For the Bar Commission's convenience, enclosed is a copy of Opinion 19-03 and *In re: Jardine*.

Sincerely,



Billy L. Walker
Chief Disciplinary Counsel
Office of Professional Conduct

BLW/cs
Enclosures: Opinion 19-03
In re: Jardine

Herm Olsen
October 28, 2019
Page 3 of 3

Letter to Cathy J. Dupont, June 19, 2019
Letter to John A. Snow, August 30, 2019
Letter from John A. Snow, October 10, 2019

cc: w/o Enclosure

John A. Snow
Chair of the Ethics Advisory Opinion Committee
Parsons Behle & Latimer
201 S. Main Street, Suite 1800
Salt Lake City, UT 84111



Billy L. Walker
Chief Disciplinary Counsel
Adam C. Bevis
Deputy Chief Disciplinary Counsel
Diane Akhyama
Assistant Disciplinary Counsel
Sharadee Fleming
Assistant Disciplinary Counsel
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Assistant Disciplinary Counsel

Office of Professional Conduct

Serving the Public by Regulating Attorneys and Licensed Paralegal Practitioners

645 South 200 East, Suite 205 • Salt Lake City, Utah 84111-3834
Telephone: (801) 531-9110 • FAX: (801) 531-9912
E-mail: opo@opcutah.org

August 30, 2019

John A. Snow
Chair, Ethics Advisory Opinion Committee
Parsons Behle & Latimer
201 South Main Street, Ste 1800
Salt Lake City, UT 84111

Re: Request for Review of Utah State Bar's Ethics Advisory Opinion
Committee Opinion No. 19-03

Dear Mr. Snow:

As you are aware, the OPC, pursuant to rule 14-504(d)(2) of the Supreme Court Rules of Professional Practice Rules of Lawyer Discipline and Disability ("RLDD"), previously requested a review of Ethics Advisory Opinion Committee Opinion No. 19-03 ("Opinion No. 19-03") by the Utah Supreme Court. Opinion 19-03 states that the Utah Rules of Professional Conduct ("URPC") do not prohibit an out-of-state attorney from representing clients from a state where that attorney is licensed, even if the attorney does so from a location in Utah, provided the attorney does not establish a public office in Utah or solicit Utah business. Although I previously sent you a copy of the letter to Catherine J. Dupont for the Supreme Court's review, for your convenience and purposes of this request, I have enclosed another copy of the OPC's letter.

The request to the Supreme Court is still pending. However, the OPC wanted to give the EAOC an opportunity to reexamine the issue based on the issues outlined in the OPC's letter, in case it would alleviate the need for the Supreme Court to decide the matter. Therefore, I am writing on behalf of the OPC to request the Committee's reconsideration and/or modification of Opinion 19-03 pursuant to rule 14-504(d)(1) of the RLDD.

Sincerely,

A handwritten signature in dark ink that reads "Billy L. Walker".

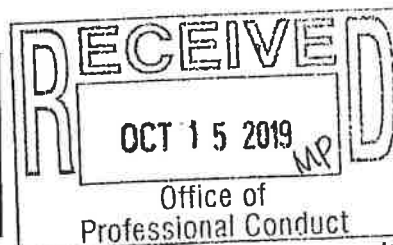
Billy L. Walker
Chief Disciplinary Counsel
Office of Professional Conduct

BLW/sf
Enclosure: Letter to Catherine J. Dupont

201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Main 801.532.1234
Fax 801.538.8111

**PARSONS
BEHLE &
LATIMER**

A Professional
Law Corporation



John A. Snow
Attorney at Law
Direct 801.538.6772
JSnow@parsonsbehle.com

October 10, 2019

Via Email and U.S. Mail

Billy L. Walker
Chief Disciplinary Counsel
Office of Professional Conduct
645 South 200 East, Suite 205
Salt Lake City, UT 84111-3834
Billy.walker@utahbar.org

Re: Ethics Advisory Opinion 19-03

Dear Billy,

Thank you for your letter of August 30, 2019 and your suggestion that the Committee reexamine the above opinion. After discussion, the Committee concluded that the opinion is accurate and therefore declines to reexamine the issue.

Thank you for your consideration.

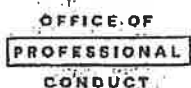
Very truly yours,

A handwritten signature in black ink, appearing to be "John Snow".

John Snow, Chairman

cc: Diane Akiyama, Esq.
Ethics Advisory Opinion Committee

4818-8880-2473v1



Office of Professional Conduct

Serving the Public by Regulating Attorneys and Licensed Paralegal Practitioners

845 South 200 East, Suite 205 • Salt Lake City, Utah 84111-3834
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 Deputy Chief Disciplinary Counsel
 Diane Akiyama
 Assistant Disciplinary Counsel
 Sharadee Fleming
 Assistant Disciplinary Counsel
 Emily A. Lee
 Assistant Disciplinary Counsel
 Barbara L. Townsend
 Assistant Disciplinary Counsel

June 19, 2019

Catherine J. Dupont
 Appellate Court Administrator
 Utah Supreme Court
 450 South State
 P.O. Box 140210
 Salt Lake City, UT 84114-0210

Re: Request for Review of Utah State Bar's Ethics Advisory
 Opinion Committee Opinion No. 19-03

Dear Ms. Dupont:

I am writing on behalf of the Office of Professional Conduct ("OPC") to request that the Supreme Court review Ethics Advisory Opinion Committee ("EAOC") Opinion No. 19-03 ("Opinion 19-03") pursuant to rule 14-504(d)(2) of the Supreme Court Rules of Professional Practice Rules of Lawyer Discipline and Disability ("RLDD"). Opinion 19-03 states that the Utah Rules of Professional Conduct ("URPC") do not prohibit an out-of-state attorney from representing clients from a state where that attorney is licensed, even if the attorney does so from a location in Utah, provided the attorney does not establish a public office in Utah or solicit Utah business.

The OPC seeks a review and clarification of Opinion 19-03 because it appears to be incongruent with the plain language of rule 5.5(b) of the URPC and the case of *In re: Discipline of Jardine*, 2015 UT 51, 353 P.3d 154. Rule 5.5(b)(1) of the URPC states:

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(b)(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law"

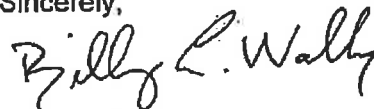
Utah R. Prof. Cond. 5.5(b) (2015). While the opinion states that based on caselaw from other jurisdictions rule 5.5(b)(1) only applies if the lawyer is practicing law in Utah matters, the plain reading of the rule does not make that distinction.

Catherine J. Dupont
June 19, 2019
Page 2 of 2

Additionally, in *In re: Discipline of Jardine*, this Court found that Nathan Jardine, a suspended attorney, engaged in the unauthorized practice of law in Utah, in violation of his discipline order, when he performed legal work in his Utah office for an Alaska client in an Idaho case. 2015 UT 51, ¶¶ 7, 22. The Opinion 19-03 tries to distinguish *In re Jardine* by pointing out that the case did not look at the language of rule 5.5 of the URPC and Jardine used a Utah business address as opposed to a private Utah residential address. However, the OPC can foresee instances where it will be difficult to distinguish a home address from a business address if an attorney uses the private Utah address on legal correspondence. Furthermore, the language in the Jardine discipline order regarding the prohibition of the practice of law was similar to the language of rule 5.5 of the URPC.

Therefore, given existing law and the possible difficulties of applying Opinion 19-03, the OPC respectfully requests the court's review of the opinion. The OPC further requests that the Court make any clarifications or modifications it deems necessary to the opinion, in light of its review, pursuant to rule 14-504(d)(2) of the RLDD. For the Court's convenience, enclosed is a copy of Opinion 19-03 and *In re: Jardine*.

Sincerely,



Billy L. Walker
Chief Disciplinary Counsel
Office of Professional Conduct

BLW/sf
Enclosure: Opinion 19-03
In re: Jardine

cc: w/o Enclosure
John A. Snow
Chair of the Ethics Advisory Opinion Committee
Parsons Behle & Latimer
201 S. Main Street, Suite 1800
Salt Lake City, UT 84111

TAB

4

December 16, 2019

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

Re: ***Fund for Client Protection
 Meeting of November 15, 2019***

Dear President Olson:

The following is a report of the meeting of the Fund for Client Protection a/k/a Client Security Fund which was held November 15, 2019 at the Law and Justice Center. The members of the committee that were present are committee chair Stephen Farr, Kim Colton, Smith Monson, Linda Barclay-Mount, Joanna Bell, Mickell Jiminez, James M. Hunnicutt, and Brad Mumford. Also present was Billy Walker from the Office of Professional Conduct and staff liaison Christine Critchley. The committee considered various claims and makes the following factual analysis and recommendations:

A.	Claimant:	Tricia Jenkins
	Involved Attorney:	Wesley Hutchins
	Disciplinary Status:	3-year suspension

FACTS: The claimant hired Mr. Hutchins to consult and perform legal services on her behalf. The claimant paid Mr. Hutchins the sum of \$2,500 to perform those legal services. After interviewing the claimant, the committee determined that Mr. Hutchins had failed to perform any meaningful legal services on behalf of the claimant. The claimant's efforts to contact Mr. Hutchins were met with no success. Our committee concluded that the claimant should receive a full refund in the sum of \$2,500 which should be reimbursed by Mr. Hutchins, as Mr. Hutchins performed no meaningful legal services in exchange for the money he received.

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

B.	Claimant:	Jody Rhorer
	Involved Attorney:	Wesley Hutchins
	Disciplinary Status:	3-year suspension

FACTS: The claimant hired Mr. Hutchins to consult and perform legal services on his behalf. The claimant paid Mr. Hutchins the sum of \$2,500 to perform those legal services. After interviewing the claimant, the committee determined that Mr. Hutchins had failed to perform any meaningful legal services on behalf of the claimant. The claimant's efforts to contact Mr. Hutchins were met with no success. Our committee concluded that the claimant should receive a full refund in the sum of \$2,500 which should be reimbursed by Mr. Hutchins, as Mr. Hutchins performed no meaningful legal services in exchange for the money he received.

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

C. **Claimant:** **Trisha Shelble**
 Involved Attorney: **Wesley Hutchins**
 Disciplinary Status: **3-year suspension**

FACTS: The claimant hired Mr. Hutchins to consult and perform legal services on her behalf. The claimant paid Mr. Hutchins the sum of \$1,702 to perform those legal services. After interviewing the claimant, the committee determined that Mr. Hutchins had failed to perform any meaningful legal services to justify the retention of the \$1,702 of his retainer fee on behalf of the claimant. Our committee concluded that the claimant should receive refund in the sum of \$1702 which should be reimbursed by Mr. Hutchins.

RECOMMENDATION: The Committee recommends an award of \$1,702.

D. **Claimants:** **Kevin Bosworth**
 Involved Attorney: **Suzanne Marychild**
 Disciplinary Status: **Deceased**

FACTS: Mr. Bosworth retained the services Mrs. Marychild to perform legal services. Mrs. Marychild died suddenly. Mrs. Marychild did not separate her regular account so there was not a trust account available to pay back to the claimant any unearned portions of the retainer fee. Our committee concluded that the claimant should receive refund in the sum of \$250 which should be reimbursed.

RECOMMENDATION: The Committee recommends an award of \$250.

E. **Claimants:** **Jared and Kendra Peterson**
 Involved Attorney: **Kerry F. Willets**
 Disciplinary Status: **18-month suspension**

FACTS: The claimant hired Mr. Willets to consult and perform legal services on her behalf. The claimant paid Mr. Willets the sum of \$2,319 to perform those legal services. After interviewing the claimant, the committee determined that Mr. Willets had failed to perform any meaningful legal services on behalf of the claimant. The claimant's efforts to contact Mr. Willets were met with no success. Our committee concluded that the claimant should receive a full refund in the sum of \$2,319.

RECOMMENDATION: The Committee recommends an award of \$2,319.

F. **Claimant:** **Marie Bryan**
 Involved Attorney: **Kerry F. Willets**
 Disciplinary Status: **18-month suspension**

FACTS: The claimant hired Mr. Willets to consult and perform legal services on her behalf. The claimant paid Mr. Willets the sum of \$650 to perform those legal services. After interviewing the claimant, the committee determined that Mr. Willets had failed to perform any meaningful legal services on behalf of the claimant. Our committee concluded that the claimant should receive a full refund in the sum of \$650.

RECOMMENDATION: The Committee recommends an award of \$650.

G.	Claimant:	Tommy Leeder
	Involved Attorney:	Kerry F. Willets
	Disciplinary Status:	18-month suspension

FACTS: The claimant hired Mr. Willets to consult and perform legal services on her behalf. The claimant paid Mr. Willets the sum of \$1,236 to perform those legal services. After interviewing the claimant, the committee determined that Mr. Willets had failed to perform any meaningful legal services on behalf of the claimant. The claimant's efforts to contact Mr. Willets were met with no success. Our committee concluded that the claimant should receive a full refund in the sum of \$1,236.

RECOMMENDATION: The Committee recommends an award of \$1,236.

H.	Claimant:	Harry and Mary Piltz
	Involved Attorney:	Jeremy Eveland
	Disciplinary Status:	Disbarred

FACTS: Mr. Eveland appeared by telephone and explained his position of the case. The committee recommends no award because we find that the claimant failed to make a timely filing and may have other remedies that they can pursue against Mr. Eveland.

RECOMMENDATION: The committee recommends no award.

The Committee has made recommendations that \$11,157. be paid out as compensation for the above-referenced claims. With these payments, the Fund's balance would be approximately \$271,923. Please contact me with any comments or questions.

Sincerely,

FUND FOR CLIENT PROTECTION

/s/ Stephen W. Farr

Stephen W. Farr
Committee Chair

SWF/nh

cc: Committee Members in Attendance

TAB 5

Utah State Bar®

M E M O R A N D U M

TO: Utah State Board of Bar Commissioners
FROM: Elizabeth A. Wright
RE: Clarification Changes to Licensing Rule 14-508
DATE: November 20, 2019

Attached for Commission approval are proposed changes to licensing rule 14-508(d) to remove language that has confused licensees and made administration of the rule difficult for Bar staff. Rule 14-508(d) addresses readmission for lawyers who have been administratively suspended for failure to pay licensing fees for three or more years. The Bar proposes removing the word "resigned" from the rule. Resigned is a status in the Bar's licensing database for individuals who have written a letter to the Bar formally resigning their license to practice law in Utah. Resigned is not a designation that accurately reflects an individual who has been administratively suspended for failure to pay licensing fees. We have an obligation to the public, the courts, and other licensing entities to accurately describe the licensing status of Bar licensees.

Bar staff is concerned that the rule requires the Bar to list these individuals as "resigned" in our database when "suspended for nonpayment" is the accurate description. When other licensing entities need to verify a lawyer's licensing status, Bar staff must explain the difference between an individual who submitted a letter a resignation and an individual who has failed to pay. The distinction is confusing and not completely accurate.

At a regularly scheduled Commission meeting in March 2016, the Commission approved changes to the attached rule to address the issue of licensees who fail to pay any licensing fees for three or more years. Under the pre-2016 rule, these licensees could pay back fees and resume practice even though they may have not been practicing law or paid any fees for multiple years. The 2016 change added the word “resigned.” The Court agreed with the concern that licensees who fail to pay for three or more years should have to explain their failure to pay and establish competency to resume practicing law in Utah. The most common scenario involves a lawyer who is practicing in another jurisdiction and never again intended to practice law in Utah. Those individuals seeking to activate their Utah law license could apply through Admissions and prove competency by the years of practice in another jurisdiction. Other individuals may have to take CLE and meet other measures to prove competency as determined by Admissions rules.

The proposed change removes the word “resigned” in order to accurately describe the licensing status and fulfill the intended purpose of the 2016-2017 changes.

November 2019

Rule 14-508. Periodic assessment of lawyers.

(a) Annual licensing fee. Every lawyer admitted to practice in Utah shall pay to the Bar on or before July 1 of each year an annual license fee for each fiscal year to be fixed by the Board from time to time and approved by the Supreme Court. The fee shall be sufficient to pay the costs of disciplinary administration and enforcement under this article.

(b) Failure to renew annual license. Failure to pay the annual licensing fee or provide the required annual licensing information shall result in administrative suspension. Any lawyer who practices law after failure to renew his or her license violates the Rules of Professional Conduct and may be disciplined. The executive director or his or her designee shall give notice of such removal from the rolls to such non-complying member at the designated mailing address on record at the Bar and to the state and federal courts in Utah.

(c) Reenrollment within three years of administrative suspension. A lawyer who is administratively suspended for failure to pay licensing fees for three years or less may apply in writing for reenrollment. The request should be made to the Utah State Bar Licensing Department and include payment equal to the amount of fees the lawyer would have been required to pay had the lawyer remained an inactive member to the date of the request for reenrollment and a \$200 reinstatement fee. Upon receiving the same, the Bar shall order reenrollment and so notify the courts. Re-enrollment based on failure to renew does not negate any orders of discipline.

(d) Reenrollment after three years of administrative suspension. A lawyer who is administratively suspended for three years or more for failure to pay license fees ~~will be deemed to have resigned and shall~~ must comply with the admissions requirements set forth in the Supreme Court Rules of Professional Practice governing admission for lawyers who have ~~resigned~~ been administratively suspended for nonpayment for three or more years before being reinstated.

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Effective May 1, 2017

TAB**6**

Hannah B. Follender
Workman Nydegger
60 East South Temple, Suite 1000, Salt Lake City, Utah 84105 | 801-322-8406
HFollender@wnlaw.com

October 28, 2019

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

Dear Utah State Bar Commission:

In order to support the learning and advancement of attorneys in the State of Utah, I intend to form a new Cannabis Practice section of the Utah State Bar.

On December 3rd, 2018, Utah lawmakers passed House Bill 3001: Utah Medical Cannabis Act (UMCA). This legislation directs the Utah Department of Health to issue medical cannabis cards to patients, register medical providers who wish to recommend medical cannabis treatments for their patients, and license medical cannabis pharmacies. These activities must be implemented by March 2020. On September 16, 2019, the Utah Legislature passed changes to the UMCA to privatize medical cannabis pharmacies and expand the number of available pharmacy licenses in order to ensure patients are guaranteed adequate access by the March 2020 deadline. This effectively places the onus of pharmacy operation on private companies, who then must develop these businesses around evolving Utah regulatory standards.

Furthermore, December 20, 2018 marks the date that the U.S. Government passed the Agricultural Improvement Act of 2018 (the “Farm Bill”), which removed hemp from the Controlled Substance Act (CSA) and provided for the legal growth, processing, import and export of hemp and hemp-derived products.

As patients, medical providers, caregivers, pharmacy owners, and state agencies are faced with the challenges of navigating Utah’s new medical marijuana program, as well as the standards for growing and processing industrial hemp, members of Utah’s legal community will be relied upon to represent the rights and interests of all parties involved.

The cannabis sector of law is an emerging field, presently dubbed the “wild west” of law. Cannabis policy touches almost every law practice area, from employment, tax, and healthcare law to business and intellectual property law. Cannabis brings an added nuance to these practice areas and requires legal practitioners who are immersed in the constantly evolving practice of cannabis law to knowledgeably address client issues related to cannabis.

Utah State Bar Commission
October 28, 2019
Page 2

Many state bars have instituted “Cannabis” or “Marijuana” practice sections to facilitate the education of their respective state’s legal professionals so that they may serve parties in need of information and/or representation related to cannabis law.¹ The term “cannabis” is preferred to encompass both medical marijuana and industrial hemp as the two are derived from the same plant genus.

The American Bar Association has even begun to host multi-day CLE conferences on cannabis in order to educate practitioners in the field. In fact, Hannah Follender was invited to speak as an emerging expert in cannabis law within the scope of patent and trademark prosecution at the ABA’s “Regs To Riches” Cannabis Conference in Chicago this past September.

The value of the United States cannabis industry is expected to rise to as high as \$77 billion by 2022. An industry this large will significantly impact most, if not all, legal practice areas. Legal practitioners in Utah are in need of a forum in which they can learn and be kept up to date on evolving cannabis law and policy as it relates to their respective fields. Additionally, as members of the legal field, we abide by and uphold a professional code of ethics. Practitioners need to know how to advise and assist their cannabis clients in accordance with state ethics rules.

The Cannabis Section of the Utah State Bar will serve to educate members in Utah law and policy on hemp and medical marijuana. The Cannabis Section will host CLEs covering complex aspects of cannabis law and facilitate a dialogue between practitioners in this space.

A new cannabis section of the Utah bar is necessary to enable legal practitioners in Utah to provide high quality and well-informed legal guidance to all parties engaged in the Utah medical marijuana and hemp ecosystem.

Thank you for your thoughtful consideration of this proposal.

Sincerely,

Hannah B. Follender
Utah State Bar #16818

J.D. Lauritzen
Utah State Bar #14237

¹ The following states have established “Cannabis” or “Marijuana” law sections and/or advisory councils of their respective state bars: Washington, Colorado, New York, Oregon, New Mexico, Michigan, Ohio, Connecticut, New Jersey, Michigan, Arizona, Illinois, Pennsylvania.

UTAH STATE BAR CANNABIS SECTION BYLAWS

ARTICLE 1 ORGANIZATION

1.1 Creation. The Cannabis Law Section (hereinafter "Section") was established pursuant to the Bylaws of the Utah State Bar (sometimes referred to as the "Bar") to accomplish the purposes set forth therein.

1.2 Purpose. The purpose of the Section shall be to assist its members and all interested members of the Bar:

- a. By providing high quality continuing legal education ("CLE") opportunities which will satisfy all of the Utah State Bar Mandatory Continuing Legal Education requirements;
- b. By sponsoring periodic CLE luncheons with topics selected by Section officers (after considering input from Section members);
- c. By holding an annual Section meeting (typically a half-day seminar with an update of case law from the Utah Supreme Court and Utah Court of Appeals, legislation and other topics);
- d. By sponsoring break-out session(s) at the Utah State Bar mid-year and annual meetings;
- e. By providing opportunities and forums for lawyers to network and exchange ideas regarding the practice of cannabis law;
- f. By periodically publishing a newsletter advising Section Members of upcoming events, legislation and other matters pertinent to cannabis lawyers;
- g. By monitoring legal and political issues relevant to cannabis lawyers and to make recommendations to the Bar with respect thereto including without limitation participation on the Utah State Bar Governmental Relations Committee;
- h. If applicable, by forming ad hoc committees to address legislation of general interest to cannabis practitioners; and
- i. To undertake such other service as may be of benefit to the Section's members, the legal profession and the public.

1.3 Limitations. These Bylaws are adopted subject to the applicable Utah Statutes and the Bylaws of the Utah State Bar, and supersede any existing Bylaws of the Section.

1.4 Principal Office. The principal office of the Section shall be maintained in the offices of the Utah State Bar.

1.5 Fiscal Year. The fiscal year of the Section shall coincide with that of the Utah State Bar.

ARTICLE 2 MEMBERSHIP

2.1 Enrollment. Any member of the Utah State Bar in good standing with the Bar shall, upon request to the Executive Director of the Bar, be enrolled as a member of the Section by the payment of annual Section dues in an amount and for the purpose approved by the Board of Commissioners of the Utah State Bar.

2.2 The Membership. Members enrolled as provided in Section 2.1 shall constitute the membership of the Section.

2.3 Associate Members. Enrollment of Associate Members. The members of the Section may include persons who are not attorney members of the Utah State Bar, and shall be known as "Associate Members". It is the policy of this Section to involve Associate Members for the limited purpose of advancing the Section's principal objectives that are set forth in these Bylaws. As a specific condition for membership in the Section, Associate Members shall take all precautions to assure that they do not hold themselves out as being members of the Utah State Bar, and fill follow all guidelines and directives from the Section Chair in connection with the implementation of this requirement. Membership as an Associate Member shall be at the absolute and sole discretion of the majority of the members of the Executive Committee. Associate Members may not hold office in the Section, but are otherwise entitled to all of the privileges and benefits of Section membership. Associate Members shall pay annual Section dues equivalent to the amount paid by regular members of the Section.

2.4 Student Section. Enrollment of Student Members. The Associate Members of the Section may include degree or certificate seeking students, subject to their showing evidence of current enrollment at an institution of higher education. Student Members are subject to the limitations, requirement, and benefits of other Associate Members pursuant to Article 2. Student Members shall pay annual Section dues.

2.5 Dues. The Section officers shall set the dues for Section members. The dues shall be \$25.00 for each member per year unless the Section officers determine an adjustment should be made.

ARTICLE 3 OFFICERS

3.1 Officers. The Officers of the Section shall be a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer, chosen from the membership of the Section.

3.2 Duties of Officers. The Officers shall generally supervise and control the affairs of the Section, subject to the rules and bylaws of the Utah State Bar, and shall establish and execute the general policy, programs, and activities of the Section.

3.3 Chair. The Chair shall preside at all meetings of the Section and shall perform such other duties and acts usually pertaining to this office. The Chair shall communicate with the Board of Commissioners of the Bar and others as may be necessary.

3.4 Vice Chair. The Vice Chair shall act as Chair in the absence of the Chair and shall perform other duties as appropriate.

3.5 Secretary. The Secretary shall keep a record of all proceedings of all meetings of the Section and of the Officers, whether assembled or pursuant to teleconference or other electronic communication. The Secretary shall work with the Bar's webmaster to keep the Section's website current. In conjunction with the Chair and Vice Chair, the Secretary shall attend generally to the business of the Section.

3.6 Treasurer. The Treasurer shall prepare and keep regular financial reports regarding Section budget use, dues, CLE charges, and any other use and collection of funds by the Section. The Treasurer shall prepare the annual budget and make recommendations on rates for dues, CLE charges, and special meetings and events. The Treasurer shall attend generally to the business of the Section.

ARTICLE 4 MEETINGS

4.1 Annual Meeting. The annual meeting of the Section shall be held at a place determined by the officers on the third (3rd) Thursday in the month of April in each year or such other date as designated by the Section Officers unless that day is a legal holiday, and if a legal holiday, on the following Thursday which is not a legal holiday.

4.2 Quorum. Those Section members present at any duly called Section meeting shall constitute a quorum for the transaction of business.

4.3 Controlling Vote. Action of the Section shall be by majority vote of the members present and voting at any meeting of the Section.

4.4 Agenda. At the annual meeting of the Section members, Officers of the Section shall be elected and other business may be discussed and voted upon as determined to be appropriate by the Officers.

4.5 Special Meetings. Special meetings of the membership of the Section may be called by the Section Chairperson at such time and place as he or she may determine.

4.6 Notice of Meetings. Written, printed, or electronic notice shall be given to all Section members stating the date, hour and place of all meetings of members, and in the case of all special meetings the purpose or purposes for which the meeting is called. Notice shall be delivered by hand, U.S. mail or e-mail at least five (5) days prior to the date of the meeting to each member of the Section. If mailed, notice shall be deemed delivered when deposited in the United States mail addressed to the member at his or her address as it appears on the records of

the Utah State Bar, with postage thereon prepaid.

ARTICLE 5 ELECTIONS

5.1 Term and Succession to Offices. The term of office for each Officer will commence on July 1 following election and last for one year. On July 1 of the next year, the Treasurer shall automatically succeed to the office of Secretary. The Secretary shall automatically succeed to the Office of Vice Chairperson. The Vice Chairperson shall automatically succeed to the Office of Section Chairperson.

5.2 Elections. A new Treasurer shall be elected each year at the Section's annual meeting by majority vote of the members then in attendance. If for lack of nominations or any other reason no Treasurer is elected, the position may be filled pursuant to Section 5.5, below.

5.3 Nominations. Nominations for the office of Treasurer may be made in writing or electronically to any member of the Executive Committee before June 1 or, in the case of a special election to fill an unexpired term, within two weeks of the date set for the beginning of balloting. A person may nominate themselves, or may be nominated by another if the consent of the nominee is included with the nomination.

5.4 Voting. In the event that more than one person is nominated, the Treasurer will be elected by the greatest number of votes cast by members of the Section voting. Ballots shall be provided to all active members of the Section containing an alphabetized listing of names of those members who have been nominated. Said ballots shall be provided electronically, unless a member has no electronic (such as e-mail) address associated with his membership, in which case the ballot shall be mailed. Ballots shall be distributed at least 10 days prior to the date on which ballots will be counted. Ballots shall state the date upon which they are due and shall be returned so as to reach the Bar offices, whether by mail, in person, or electronically no later than 5:00 p.m. on the day prior to the date ballots will be counted. The Executive Committee shall designate the time, date and place for the counting of ballots, and shall arrange for the counting of those ballots not cast electronically. Balloting and vote counting shall be provided in such a way as to assure that voting is by secret ballot, although disinterested employees of the Bar may be used to collect electronically cast votes and verify that mailed ballots are from active members of the Section. Candidates shall be notified of the outcome of the vote by a member of the Executive committee as soon as reasonably possible after the votes are counted, and the Section membership shall be notified at their next meeting. If any day or date set forth above shall fall on a Saturday, Sunday or holiday, the act requires or time fixed shall occur on or run from the next working day.

5.5 Vacancies. If at any time an office shall become vacant for any reason, then the remaining Section Officers may appoint any member of the Section to fill the vacancy for the balance of the unexpired term. Such appointed person shall not succeed automatically to another Section Office as provided in Section 5.1, above, but shall be subject to elections as provided in

Section 5.2, above.

ARTICLE 6 COMMITTEES

6.1 Committees. The Section shall have such committees as may from time to time be appointed by the Officers to perform such duties and exercise such powers as the Officers may direct.

6.2 Committee Chairperson. Each Committee shall have a Chairperson to be appointed by the Officers who will then regularly report to the Officers.

6.3 Duties of Committees. Each Committee shall have the responsibilities which are delegated to it by the Officers, which may include the following:

- a. To plan and implement Section projects including but not limited to Section meetings and continuing legal education seminars.
- b. To analyze issues and make recommendations to the Officers on matters referred to the Committee or on its own initiation.

6.4 Membership of Committees. Upon request, any member of the Section may be a member of one or more Committees.

6.5 Duties of Members of Committee. A Section member shall become a member of a Committee with the understanding he or she will devote sufficient time to assist the Chairperson of the Committee in performing the duties of the Committee.

6.6 Meetings. The Committees may act by correspondence or at meetings separate from the Section. Section members may but need not be given notice of Committee meetings and all Committee meetings may but need not be open to all Section members.

ARTICLE 7 AMENDMENTS

7.1 These Bylaws may be amended at any meeting of the Section by a majority vote of the members of the Section present and voting.

CERTIFICATION OF ADOPTION

I CERTIFY THAT THE FOREGOING BYLAWS WERE ADOPTED BY VOTE OF THE SECTION MEMBERSHIP OF THE CANNABIS SECTION OF THE UTAH STATE BAR AT A MEETING, DULY CALLED, ON THE __TH DAY OF [Month, 20xx].

BY: _____

*, SECTION CHAIR

I fully support the creation of a Cannabis Law Section of the Utah State Bar and I intend on joining the Section once it has been approved by the Utah State Bar Commission.

<u>NAME</u>	<u>BAR NUMBER</u>
1. J. Paul Norton	16117
2. Paige Anderson	16772
3. Brian N. Platt	17099
4. Jens Jenkins	8871
5. Mark Tolman	10793
6. Daniel S. Daines	12484
7. J. D. Lauritzen	14237
8. Charles Meeker	14716
9. Emily E. Lewis	13281
10. Jonathan S. Clyde	12474
11. Neil A. Kaplan	3974
12. Megan Crenan	15803
13. Janelle Bauer	8801
14. John Guynn	6237
15. Katherine E. Pepin	16925
16. Walter A. Romney, Jr.	7975
17. Andres F. Morelli	16907
18. Jaime DuPratt	17057
19. Rebecca L. Hill	06246
20. Jeffrey Enquist	14634
21. Jeffrey Bramble	15548
22. Tanner S. Lenart	13876
23. Scotti Hill	17140
24. John Carpenter	14611
25. D. Zachary Wiseman	8361
26. Beth Ranschan	13846
27. Whitney Krogue	15184
28. Skye Lazaro	14701
29. Jascha Clark	16019
30. Hannah B. Follender	16818
31.	

State Information for Cannabis Law Section

States with Cannabis Law Sections

Arizona

California

San Francisco – Alameda County

Los Angeles

Colorado

Connecticut

Georgia

Illinois

Michigan

New Jersey

New Mexico

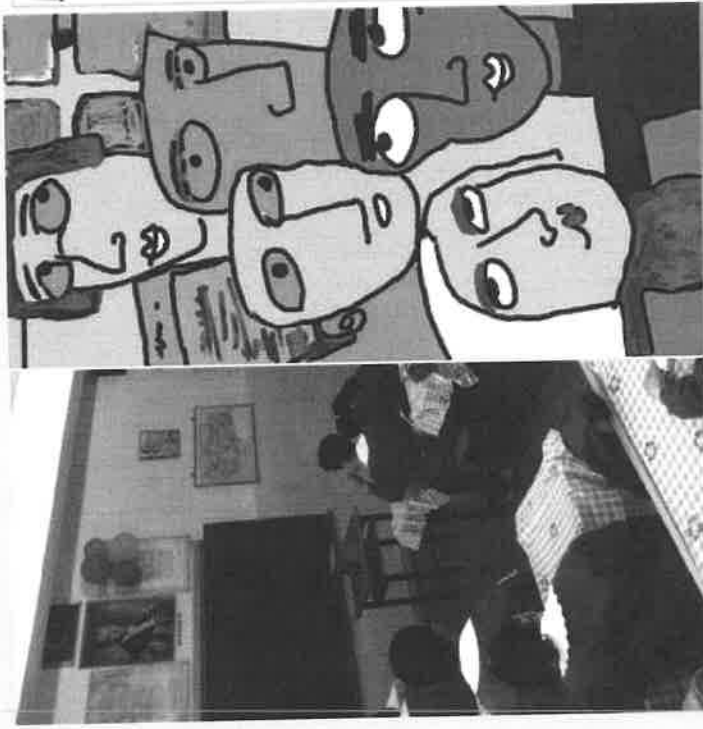
New York

Ohio

Oregon

Pennsylvania

Washington



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W-3

Cannabis Law
2018 Updates

There is a growing number of new and emerging legal issues surrounding cannabis in the workplace. Members of the Arizona Cannabis Bar Association and other legal professionals who are involved in the workplace should be aware of the latest developments in this area. This presentation will provide an overview of the latest developments in this area, including the impact of the 2018 Arizona Cannabis Bar Association conference on the workplace. The presentation will also discuss the impact of the 2018 Arizona Cannabis Bar Association conference on the workplace.

What You'll Learn:

- 1. Overview of the latest developments in the workplace.
- 2. Impact of the 2018 Arizona Cannabis Bar Association conference on the workplace.
- 3. A wide discussion of the impact of the 2018 Arizona Cannabis Bar Association conference on the workplace.

Presented by:

Arizona Cannabis Bar Association

Chair: Gary Michael Smith, South Side P.C.

Faculty:

Ben Dunn, Thomas W. Dunn P.C.

Greg Loh, Sherman & Howard LLC

Alex Korman, South Side P.C.

Robert A. Marshall, Marshall Young, P.C.

Susan Martinez, Law Office of Susan Martinez

Laurel Uecker, Regional Vice President, Arizona Cannabis Bar Association

Work with members in the
Arizona legal community and
make a difference

Before passage of Arizona Proposition 203, medical marijuana was leading the way out of the dark ages of cannabis prohibition nationwide. This vacuum of law is rapidly being filled.

As decriminalization and possible rescheduling of cannabis loom on the horizon, no aspect of the law will be untouched. Whether litigation or transactional work, contracts or family law, employment or insurance law, etc., cannabis will weave itself into every thread of society. The lawyers of the Arizona Cannabis Bar Association are bravely leading the way towards smart, professional, and ethical cannabis law practice.

JOIN US

OUR MISSION

CANNABIS HISTORY



Arizona Cannabis Bar Association

Supporting the Legal Community That's Working to Grow and Enjoy Cannabis

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UPCOMING ACBA AND MEMBER CLE PRESENTATIONS

- 29 June 2019 - 11:30 am - 1:30 pm MST, Green Star Doctors Presents Legal Lunch & Learn Free to the Public, to have held at 2515 N. Scottsdale Rd., Suite 11, Scottsdale, AZ 85257.
- 12 June 2019 - National Business Institute, Marijuana Business Law Seminar in Phoenix, presented by Jeff Matura and Tabitha Myers.
- 15 May 2019 - Gary Smith and Alex Karam taught a seminar on Cannabis and Real Estate Law for Real Estate Professionals, sponsored by Empire West Title.
- 19 February 2019 - Gary Smith and Alex Karam taught a seminar on Cannabis and Real Estate Law For Real Estate Professionals, sponsored by Empire West Title.
- 27 June 2018 - Live Presentation in Conjunction with the State Bar of Arizona - 2018 Bar Convention - Panel presentation.
- 05 June 2018 - Live presentation in conjunction with the National Business Institute - Melissa England presenting on Obtaining Medical Marijuana Business Licenses; Gary Smith presenting on Attorney Ethics in Cannabis Practice; Alex Karam presenting on Essential Business Considerations for Medical Marijuana Dispensaries; Jerry Chesler presenting on Financing Difficulties for Lenders and Marijuana Businesses and Medical Marijuana Business Taxation: Strategies to Overcome Current Difficulties.
- 26 January 2018 Live Seminar presented in Conjunction with the State Bar of Arizona - Its Not Easy Being Green - Smoking Hot Topics: A summary of key issues and litigation topics brought on by Arizona's



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SAN FRANCISCO

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Continuing Legal Education Program Sections

Program Overview

- > CLE Calendar
- > How to Register
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- > Frequently Asked Questions

Cannabis Law

The purpose of the Cannabis Law Committee shall be to serve the public interest in the broad field of cannabis law. To that end, the Committee shall attempt to further the development of the law within that field in all its areas, to encourage the study of that field.



Related information

- > Find out how to join.
- > Visit our calendar of events

Calendar of Events

- BASF Event Highlights:**
- November 15, 12:00p - 7:00p
Barristers Annual Meeting
MCLE: 4H
 - November 21, 3:00p - 8:00p
Women's Impact Network - No Glass Ceiling 2.0
Conference
MCLE: 3H
 - December 3, 5:30p - 7:30p
Barristers Club Holiday Party
[See full calendar](#)

Executive Committee

Chair



Ryan Lowther
Fareka Braun + Martel

Vice Chair



Shay Gilmore
Law Office of Shay Aaron Gilmore

Secretary



Nicole Neubert
Clark Neubert

Treasurer

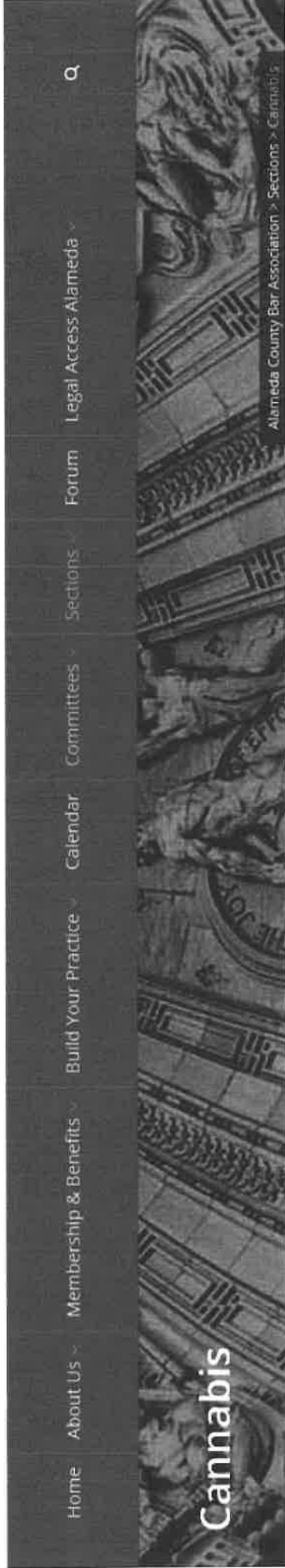


Lara DeCaro
Leland, Parachini, Steinberg,
Mabey & Mahoney



Alameda County Bar Association

GIVE TO LEGAL ACCESS



Cannabis Section

Welcome to one of the ACBA's newest section created especially for attorneys interested in the cannabis industry.

Although small, the Cannabis section has dedicated committee filled with passionate and experienced lawyers focusing on cannabis business law, public policy, and financing. The Committee anticipates a large growth period for the section, reflective of the growth seen in the commercial cannabis space seen both in the state of California, across the nation, and across international borders. We strive to provide an ongoing forum for our members to network and become familiar with existing and new laws affecting commercial cannabis industry. The Executive Committee intends to provide robust and substantial continuing education programs presented by knowledgeable and experienced people so our members can obtain timely information relevant to the fast pace of cannabis public policy change.

If you have time, please note that we have a standing invitation for any interested attorney to attend our Executive Committee meetings where lively discussions of



Upcoming Programs and Events

New events are added regularly. Visit the ACBA calendar for more upcoming



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ABOUT US CALENDAR SECTIONS RESOURCES & CLE NEWS & PUBLICATIONS BENEFITS GIVE BACK NEED LEGAL HELP?

The Los Angeles County Bar Association > Sections > LACBA Sections > Cannabis Section > Cannabis Section Home Page

LACBA Sections

Sections Home Page

Antitrust and Unfair Business Practices Section

Appellate Courts Section

Baristers/Young Attorneys Section

Business Law Section

Cannabis Section

Commercial Law and Bankruptcy Section

Criminal Justice Section

Entertainment Law and Intellectual Property Section

Environmental Law Section

Family Law Section

Healthcare Law Section

Immigration and Nationality Law Section

Individual Rights Section

International Law Section

Labor and Employment Law Section

Cannabis Section

Responding to the needs of lawyers in California and across the country, the Board of Trustees for the Los Angeles County Bar Association (LACBA) has approved a new law practice section specifically focused on cannabis, one of the fastest growing industries in the world. With California being a leader in the rapidly evolving cannabis industry, having the biggest legal market in the world, and many well-known players operating in the state, attorneys are increasingly playing a huge role in the creation and proliferation of cannabis companies, as well as aligning as trusted advisors in the protection of cannabis businesses. The industry is not without fraught as marijuana use is still federally illegal and lawyers assist cannabis players walk the fragile tightrope.

"The Cannabis Industry is booming, perhaps like the next Gold Rush. LACBA must provide its over 15,000 members with a practice group on the cutting edge of the law. Los Angeles already has countless business practices directly and indirectly involved with cannabis opportunities. The creation of the Cannabis Section within LACBA meets a current need, and provides an important and necessary space for the many types of lawyers who provide legal services to this industry," said Ronald F. Brot, President of the Los Angeles County Bar Association.

Several LACBA member firms practice in the cannabis space making the creation of this law practice section a logical next step. "It is an exciting time in the legal cannabis industry. Things move fast and it can be hard to stay on top of all the developments. One month in this industry is like a year in other industries," said Josh Mandell of Akerman LLP. Josh, along with Ariel Clark, Alex Freedman, and Taylor Wagniere are the founding members of the section. LACBA was founded in 1878 and is one of the largest voluntary metropolitan bar associations in the country, with more than 15,000 members.

For questions about this new section, please email [Joshua Mandell](mailto:joshua.mandell@akerman.com) at joshua.mandell@akerman.com.

Cannabis Law Section

The Changing legal status of cannabis creates a broad spectrum of challenges to Colorado lawyers. This section seeks to help lawyers give their clients better advice through sharing educational resources, and otherwise helping Colorado set the highest possible legal and business standards for legalized hemp and marijuana.

Additional Resources

Marijuana Business: How to Open and Successfully Run a Marijuana Dispensary and Grow Facility
Colorado Marijuana Laws and Regulations (2014)
Cannabis Law Journal – Allowing Indoor Cannabis Consumption
There's a New Sheriff in Town: Is the Honeymoon over for Recreational Cannabis?

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Committee on Cannabis Law / Events

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03

Medical Marijuana - Who Pays? CLE (EYL191203)

CBA Law Center

30 Bank St
New Britain, Connecticut
United States

This seminar will discuss medical marijuana and workers' compensation, and the conflicts between the state of Connecticut (which has a medical marijuana program) and federal law. Learn about the CT medical marijuana scheme and the conflict of law/supremacy clause, constitutionality (what we can and cannot decide in CT), the current cases at the CRB, and what other states have done thus far.

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About the Committee

The Committee on Cannabis Law's mission is to educate attorneys and citizens regarding the legal issues surrounding the legalization of cannabis across the state and the globe.

Committee Chair

Co-Chair

Jerry Farrell Jr.

Law Office of Jerry Farrell Jr.
6 N Main Street, Ste 202
Wallingford, CT 06492
(203)774-5002
jerry@ctliquorlaw.com

If you are interested in joining this committee, contact Carol DeJohn at (860)612-2000 or cdejohn@ctbar.org.

If you are already a member of the committee you must log in to access the committee documents.



Cannabis and Hemp Law



Member Directory

First name Last name

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This section was formed in recognition that cannabis/hemp law is perhaps one of the fastest-growing yet complex areas of the law. The new hemp and medical cannabis regulations in Georgia create a broad spectrum of challenges that impact nearly every practice area. This section seeks to help Georgia lawyers give their clients better advice through sharing educational resources, and otherwise assisting Georgia lawyers, businesses and medical professionals navigate the new state rules for legalized cannabis and hemp cultivation and products. Membership in the section enables members to stay informed on the latest updates in this important and fast-moving area of the law. Additionally, this section seeks to develop a network of highly skilled practitioners working together to interpret the ever-changing cannabis/hemp rules and regulations to further best practices guidelines for this growing industry.

Section Officers

Click on a name below to go to that member's listing in the online directory.

Chair: Jennifer Thomas

Vice Chair:

Secretary:



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THE BAR NEWS



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medical marijuana

June 2, 2016 | Practice News

Quick Takes for Your Practice: What you should know about medical marijuana and the new DUI laws

Attorney Donald Ramsell discusses what you should know about Illinois Medical Marijuana, and the new DUI laws.

December 3, 2014 | Practice News

ISBA ethics opinion: lawyers may advise clients about medical marijuana

As Illinois implements the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/5 *et seq.*), attorneys face an ethical dilemma. Illinois Rule of Professional Conduct 1.2(d) prohibits a lawyer from assisting clients in conduct he or she knows is criminal. And even though state law allows the cultivation, sale, and use of marijuana for limited medical purposes, marijuana is still classified as a Schedule I controlled substance under federal law.

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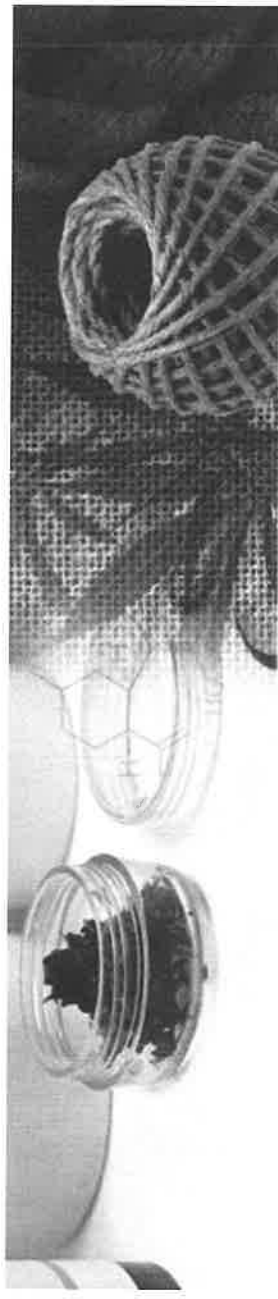
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Mission

To improve and expand the knowledge of lawyers who engage in the practice of marijuana law.

- Member-Only Content
- Section Discussions
- Section Events
- Section Roster
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Council Information

- [Officers & Council Members PDF 2019–2020](#)
- [Bylaws PDF](#)
- [Section Demographics PDF](#)

Minutes

All minutes are in PDF.

- [July 19, 2018](#)
- [June 21, 2018](#)
- [May 17, 2018](#)
- [April 26, 2018](#)
- [March 22, 2018](#)
- [February 15, 2018](#)
- [January 11, 2018](#)
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- [May 17, 2016](#)

Annual Reports

All reports are in PDF format.

- [2017-2018](#)
- [2016-2017](#)

OUR MISSION

The Cannabis Law Committee brings together a group of attorneys who examine the many legal issues – from civil to business to criminal – that will stem from medical, and potential consumer access to cannabis. It will review legislation and make recommendations to the Board of Trustees; suggest *amicus* advocacy positions; inform discussions on Court Rules and other matters that pertain to the regulation of attorneys; produce a newsletter or information on cannabis law; and/or create continuing legal education for attorneys to learn more about this burgeoning field.

OUR COMMITTEE

Michael F. Schaff
Wilentz Goldman & Spitzer
90 Woodbridge Center Drive
Woodbridge, NJ 07095
732-855-6047

Seth Tipton
Florio Pernucci Steinhardt
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Robert W. Bacso
Joshua Bauchner
Elizabeth Bogle
Brittany A. Bonetti
Cristin M. Boyle
Raymond M Brown
Jennifer Cabrera
Jill Caffrey
Christopher T. Cam...

UPCOMING EVENTS

Nov 21, 6:00 PM - 8:00 PM (ET)
New Brunswick, NJ, United States

CANNABIS LAW COMMITTEE MEETING

Jan 16, 6:00 PM - 8:00 PM (ET)
New Brunswick, NJ, United States

2ND ANNUAL CANNABIS SYMPOSIUM

Mar 18, 9:00 AM - 4:00 PM (ET)
New Brunswick, NJ, United States



Enrolling in a State Bar practice section comes with many benefits. Membership in a section can include practice area-targeted resources, networking opportunities, leadership experience, public service potentials, discounted rates on CLE programs and more! Section membership is open to all attorneys throughout the year and ends in December in the year of enrollment. Law student membership includes enrollment in up to two sections per year. Please note: Renewal of section membership is each year.

Join a Section

2020 Election Submission Form: <https://form.jotform.com/sbnm/2020Elections>

Click the links below to learn more about a practice section.

Animal Law	Immigration Law
Appellate Practice	Indian Law
Bankruptcy Law	Intellectual Property Law
Business Law	Natural Resources, Energy and Environmental Law (NREEL)
Cannabis Law	Prosecutors
Children's Law	Public Law
Criminal Law	Real Property, Trust & Estate
Elder Law	Solo and Small Firm

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https://www.nmbar.org/nmstatebar/AboutUs/Sections/Nmstatebar/About_Us/Sections.aspx?hkey=67dfc575-41cc-4ed7-ada2-96: ☆ ☆

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Cannabis Law	Prosecutors
Children's Law	Public Law
Criminal Law	Real Property, Trust & Estate
Elder Law	Solo and Small Firm

STATE BAR OF NEW MEXICO CANNABIS LAW SECTION BYLAWS

ARTICLE I: IDENTIFICATION

1.1 Name. This Section shall be known as the “Cannabis Law Section,” and shall be hereinafter designated simply as the “Section.”

1.2 Purpose. The general purpose of the Section shall be the promotion of the objectives of the State Bar of New Mexico within the field of cannabis law. To that end, the purposes of this Section shall be:

- a. To provide a forum for members of the profession to consider and discuss the legal issues surrounding the changing legal landscape regarding the regulation of cannabis in New Mexico.
- b. To recognize the interrelationship between cannabis law and various other areas of law including employment, torts, contracts, criminal, administrative, regulatory, municipal, trusts and estates, real property and constitutional;
- c. To represent the view of the lawyers of the Section to the legislature, the Bar and the Public;
- d. To sponsor nonpartisan educational programs for the general public on current issues affecting cannabis laws and policies, and to foster and maintain learning and provide a public service through the education of attorneys and private citizens;
- e. To participate in legislative, executive and judicial processes by informing Section members about issues affecting and relating to the purposes of the Section. Upon approval of the Board of the Section, take such further action as may be necessary to present the views of the Section to the appropriate court, executive office or legislative body for consideration.

1.3 Limitations. These Bylaws have been adopted and are subject to the Bylaws of the State Bar of New Mexico. If there is a conflict between these Bylaws and the Bylaws of the State Bar of New Mexico, the Bylaws of the State Bar of New Mexico take precedence.

ARTICLE II: MEMBERSHIP

2.1 Enrollment & Membership. Membership in the Section is open to any member of the State Bar who is in good standing (including non-attorney members of the State Bar), and attorneys who reside in New Mexico, whether or not members of the State Bar. An individual becomes a member of this Section either by checking off the Section’s enrollment option on the annual State Bar dues form or by letter, fax or email request to the Executive Director of the State Bar’s Designee. The membership of the Section (“Membership”) consists of enrolled members whose dues are paid. Enrollment is renewable on a calendar-year basis. In addition, the following individuals who are not actively licensed to practice law in New Mexico may be enrolled voting members of the Section by making application to the Executive Director of the State Bar’s Designee (collectively, “Non-Attorney Members”):

- a. Law enforcement officials;

- b. Governmental employees of Federal and State tax and health agencies;
- c. Law Students;
- d. Law School Professors; and

In no event shall Non-Attorney members comprise more than fifty (50%) percent of the members of the Section. Law Student members shall not have the right to vote or be a member of the Board.

2.2 Dues. Dues for membership in the Section shall be in an amount set by the Section and approved by the Board of Bar Commissioners, payable upon enrollment and thereafter annually in advance each year. Any person who fails to pay the annual dues shall cease to be a member of the Section. Changes in dues shall be effective for the fiscal year then immediately following such determination.

ARTICLE III: COMMITTEES (AND DIVISIONS)

3.1 Committees and Divisions. The Board of this Section is authorized to establish, or to empower the Chair of the Section to establish, such committees (and divisions) as it may deem necessary and desirable to promote effectively the activities of the Section within the jurisdiction of the Section. In establishing a new committee (or division), the Board shall state the area of its proposed activities. (A division shall be a grouping of committees in such manner as the Board may from time to time designate.)

3.2 Chain of Responsibility. A Division chair shall be directly responsible and report to the Board. Committees of the Section shall be directly responsible and report to a division chair or to the Board if the Board so directs. Subcommittees of the Section shall be directly responsible and report to their parent committees.

ARTICLE IV: MEETINGS OF THE MEMBERSHIP

4.1 Annual Meeting. The Section shall hold an annual meeting of members at a time and place to be designated by the Board of Directors. The Section may hold other meetings of members throughout the year. Notice of the annual meeting shall state the time and place of the annual meeting and shall be published at least sixty (60) days prior to the meeting.

4.2 Quorum. The members of the Section present at the meeting shall constitute a quorum for the transaction of business.

4.3 Controlling Vote. Action of the Section shall be by majority vote of the members present.

4.4 Agenda. The agenda for the annual meeting, or for any other membership meeting, shall be decided by the Chair or Board.

4.5 Mail, E-Mail and Online Voting. The Board may direct that a matter be submitted to the members of the Section for vote by mail, e-mail or online. In that event, binding action of the Section shall be by a majority of the votes received from members in accordance with rules fixed by the Board.

ARTICLE V: OFFICERS

5.1 Officers. The officers of the Section shall be the Chair, the Chair-Elect, the Secretary, and the Budget Officer. Officers shall be active Attorney Members of the State Bar.

5.2 Chair. The Chair, or successively, the Chair-Elect and the Secretary, in the absence of the Chair, shall preside at all meetings of the Section and of the Board. The Chair shall appoint the chair and members of all committees of the Section who are to hold office during the term of the Chair. The Chair shall plan and superintend the programs of the Section during the term of the Chair, subject to the directions and approval of the Board. The Chair shall superintend the performance of all activities of the Section. The Chair shall keep the Board duly informed and carry out its decisions. The Chair shall perform such other duties and acts as usually pertain to the office or as may be designated by the Board.

5.3 Chair-Elect. The Chair-Elect shall aid the Chair in the performance of the Chair's responsibilities in such manner and to such extent as the Chair may request. The Chair-Elect shall perform such further duties and have such further powers as usually pertain to the office or as may be designated by the Board or the Chair. In case of the death, resignation, or disability of the Chair, the Chair-Elect shall perform the duties of the Chair for the remainder of the Chair's term or disability, as the case may be.

5.4 Secretary. The Secretary shall consult with and assist all the officers of the Section in the work of the Section generally, in the manner and to the extent they may request. The Secretary shall be the liaison between the Section and the State Bar of New Mexico staff regarding the retention and maintenance of books, papers, documents, and other property pertaining to the work of the Section and in the custody of the State Bar of New Mexico. The Secretary shall keep a true record of the proceedings of all meetings of the Section and of the Board, whether assembled or acting under submission. The Secretary, in conjunction with the Chair, as authorized by the Board, shall attend generally to the business of the Section.

5.5 Budget Officer. The Budget Officer, in conjunction with the Chair, shall be responsible for communicating with the Designee of the Executive Director of the State Bar of New Mexico concerning the Section's financial requirements. The Budget Officer shall prepare a budget in compliance with Section 10.2 of the Bylaws. The Budget Officer shall monitor all accounts of Section funds, revenues, and expenditures kept by the State Bar and shall report upon the Section's financial condition at each meeting of the Board.

ARTICLE VI: THE BOARD OF DIRECTORS

6.1 Powers. The Board shall be vested with the powers and duties necessary for the administration of the affairs of the Section. The Board shall also have the power to create or terminate special and standing committees of the Section, determine the functions and duties of those committees, and specify the number and qualifications of the committee members. No action of any Section committee shall be effective until approved by the Board.

6.2 Composition. The Board shall be composed of:

- a. Six (6) Attorney Members, elected for three (3) -year staggered terms, from whom the officers shall be elected;
- b. The last retiring Chair to serve for one (1) year;
- c. A representative appointed by the Young Lawyers Division from among its members, who shall serve for a term of one (1) year; and
- d. The Chair of the Board may, in their discretion, appoint one (1) Non-Attorney member of the Section to serve as a voting member of the Board for a term of one (1) year.

The Section, and current Board members, shall actively encourage and solicit nominations for open Board positions with the goal that the Board represents the diversity within the Section membership, and the community that the Section serves.

6.3 Quorum and Board Action. A quorum at any meeting of the Board shall consist of two-thirds (2/3) of the Board members, whether participating in person or by telephone. Action of the Board shall be by majority vote of the quorum participating in a Board meeting, provided a quorum exists.

6.4 Meetings. The Board shall hold an organizational meeting in January of each year to announce the annual election results, select officers, and plan activities for the new Bar year. In addition, the Board shall hold a regular meeting each year at the time and place of the Section annual membership meeting to dispatch any necessary business.

6.5 Special Meetings. Special meetings of the Board may be called by the Chair or by a majority of the Directors then serving. Written notice of each meeting of the Board, stating the date, time, place of the meeting, and of the subject to be considered at the meeting, shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting. The Secretary shall call a special meeting of the Board upon written application of the Board on any issue proposed to be considered at the proposed special meeting.

6.6 Poll of Board. In urgent matters requiring immediate attention, the Chair may, and upon request of three (3) members of the Board shall, submit in writing to each of the members of the Board a proposition upon which the Board may be authorized to act, and the members of the Board may vote upon the proposition either by written ballot, e-mail or by telephone vote, confirmed in writing, to the Secretary, who shall record the proposition and votes in the matter.

6.7 Board Authority. Between meetings of the Section, the Board shall have full power to do and perform all acts and functions that the Section itself might perform. Any such action taken by the Board shall be reported to the Section at its next meeting. The Board may not, without prior approval of the Board of Bar Commissioners, make any statement or take any position publicly with regard to any issue, legislation, controversy, or other matter.

6.8 No Compensation. No salary or compensation for services shall be paid to or by any officer, member of the Board, or member of any committee, except as may be specifically authorized by the Board of Bar Commissioners. This shall not preclude the reimbursement of expenses.

6.9 Referendum. The Board may direct that a matter be submitted to the members of the Section for vote by mail, e-mail or online. In such event, binding action of the Section shall be a majority of the votes received in accordance with rules fixed by the Board and as conducted and certified by the Secretary.

6.10 Reports. The Board shall present to the Board of Bar Commissioners an annual report of activities for the previous twelve (12) months and such other reports as may be requested by the President of the Board of Bar Commissioners. Such annual written report, with any recommendations, shall be presented to the Executive Director of the State Bar's Designee no later than December 31st.

6.11 Resignation. A Director may resign at any time by filing a written resignation with the Chair of the Board.

6.12 Vacancies. Any vacancy occurring in the Board of Directors and any position to be filled by reason of an increase in the number of Directors may be filled, upon recommendation of a Board member, by the affirmative vote of a quorum of the Board of Directors. A Director elected to fill the vacancy shall be elected for the unexpired term of their predecessor in office.

6.13 Removal of a Board Member for Cause. Any three (3) Board members may petition the Section Chair in writing for the removal of a Board member. The Petition for Removal shall set forth the reasons for the request for removal. Upon receipt of the Petition for Removal, the Chair shall send a written notice to all Board members that removal of a Board member has been requested, along with a copy of the Petition for Removal. Notice that a Motion to Remove a Board member is going to be presented shall be sent by the Section Chair no less than thirty (30) days prior to the meeting at which such motion will be made.

A Board member may be removed for cause by a three-quarters (3/4) vote of the Board members present at a regular meeting.

The Board member who files the Petition for Removal must make the Motion to Remove at the meeting and the motion must be seconded before any discussion can be held. The movant shall be the first to speak in favor of or against the motion. Other Board members may speak in favor of or against the motion. At the conclusion of the discussion, a vote shall be taken by written ballot. If the vote is to remove the Board member, removal is effective immediately.

A vacancy shall be filled pursuant to Section 7.3 of these bylaws.

The term "cause" shall be defined as the commission of a felony or misdemeanor other than a traffic violation, the commission of an act involving embezzling Section funds, even if no charges are brought, violation of a fiduciary duty owed to the Section, sexual harassment, moral turpitude, disbarment, suspension from the practice of law in any state in which the individual has been admitted or neglect of Board member duties as provided in Section 6.1 of these bylaws.

ARTICLE VII: ELECTIONS

7.1 *Elective Offices.* Each year, at least two positions of the elected Board shall be subject to election. These members shall take office on January 1st of the following year, and shall serve for four (4) years, or until their successors are elected. At the organizational meeting each January, the Board shall elect from its own members a Chair-Elect, a Budget Officer, and a Secretary.

7.2 *Eligibility for Office.* Any active status member of the State Bar who is a current member of the Section shall be eligible for office, in accordance with these, and the State Bar of New Mexico Bylaws.

7.3 *Nominations and Voting.* At any time not later than the first Friday of October, the Chair, after consultation with the Board, shall appoint a nominating and recruitment committee of three (3) members of the Section who are not candidates for office, at least one (1) of whom shall not be a present officer or Board member of the Section, and, to the extent practical, shall be representative of geographical areas throughout the state. The Section Chair may appoint a member to fill any vacancy that may arise thereafter in the nominating and recruitment committee.

The Executive Director's Designee will administer timely notice of the annual election, including the positions to be filled, and provide a submission process for candidates to submit 1) a brief statement of involvement in the Section and law profession generally and 2) a professional biography or resume. Candidate materials must be received on or before the date stated in the election notice and will be provided to the nominating and recruitment committee following the date stated. The nominating and recruitment committee will then take one of the following actions:

- 1) In the event that more candidates respond to the notice of the annual election than there are positions available, then a formal Section election shall be conducted, by electronic means, no later than the second week of November. Members enrolled in the Section after the election has begun are not eligible to vote. The election shall include a brief biographical statement of each candidate. The election shall conclude no later than November 30th. Election shall be by a plurality of the votes cast. The nominating and recruitment committee shall nominate the election winners for each position to be filled and the election results shall be announced as soon as practical; or
- 2) In the event that fewer candidates respond to the notice of the annual election than there are positions available, then those who expressed interest are elected by acclamation and the nominating and recruitment committee shall conduct outreach to recruit nominees for any remaining positions. Recruited candidates will be elected by acclamation. The nominating and recruitment committee shall nominate the winners of the election for each position to be filled and the election results shall be announced as soon as practical; or
- 3) In the event that only one (1) candidate responds to the notice of the annual election for each position available, the nominating and recruitment committee should

nominate the candidates for each position to be filled, and an election need not be conducted. Candidates shall be deemed elected by acclamation and the election results shall be announced as soon as practical.

The nominating and recruitment committee shall report one (1) nomination for each position to be filled by election as provided elsewhere in these Bylaws. The report shall identify each nominee and shall include a brief statement of his/her activities in the Section and in the law profession generally. The nominating committee shall submit its report to the chair of the Section no later than the fourth Friday of October and the report shall be provided to Section members.

7.4 Term of Office. The term of office for a member of the Board is three (3) years, beginning on January 1 following the election, and ending on December 31, provided that a successor has been duly elected. The term of office for a Retiring Chair shall be one (1) year. The term of office for an Non-Attorney Member shall be one (1) year. If, at the close of any term of office, a successor has not been elected, then the term shall be extended until a successor is elected. All terms of office are subject to the terms of these Bylaws and the Bylaws of the State Bar of New Mexico.

7.5 Extension of the Board Member's Term. All members of the Board of Directors shall be eligible for re-election pursuant to the terms of these Bylaws.

7.6 Extension of the Chair-Elect's Term as a Board Member. If a member of the Board shall be elected Chair-Elect during the second or third year of his/her elected term, then that member shall not stand for re-election to the Board at the usual time. His/her term shall automatically be extended for an additional full three (3) year term, but he/she shall serve only the portion of the term coinciding with his/her term as Chair. During the extended term, there shall be elected one (1) less member to the Board than would otherwise be elected and at the end of said Chair-Elect's term of office as Chair, an election shall be held to elect a member of the Board who shall serve for the remainder of the term in accordance with procedures outlined in Section 7.4.

ARTICLE VIII: SUCCESSION OF OFFICERS AND BOARD VACANCIES

8.1 Officers and Board. The Board may fill vacancies in its own membership on an interim basis. In the next annual election, the remaining term for any position filled by appointment shall be added to the election notice. Members of the Board and officers so appointed shall serve until the results of the annual election are announced at the organizational meeting of the Board in January.

8.2 Absenteeism. If any officer or member of the Board shall fail to attend two (2) successive meetings of the Board, the office of that officer or member shall be automatically vacated, unless excused upon good cause accepted by the members of the Board.

8.3 Retiring Chair. At the end of the term of office of the Chair, the Retiring Chair shall become a member of the Board for a term of one (1) year.

ARTICLE IX: REPRESENTATION OF ASSOCIATION POSITION

9.1 Board of Bar Commissioners Review. Any action by this Section must be approved by the Board of Bar Commissioners of the State Bar of New Mexico before action can be effective as the action of the State Bar of New Mexico. Any resolution adopted or action taken by the Section shall, on request of the Board or the Section, be reported by the Chair to the Board of Bar Commissioners for action by the State Bar and the same shall not be publicly disclosed or pursued further until it has been considered by the Board of Bar Commissioners.

9.2 Public Statements. The Section shall not make any public statements without first obtaining a prior determination from the Executive Director of the State Bar that:

- (a) The public statement is germane to the purpose of the section;
- (b) The public statement is supported by a majority of the Board of Directors of the Section; and
- (c) The public statement indicates it is the action of the Section and does not represent the view or action of the State Bar.

9.3 Positions on Matters Pertaining to Governmental Affairs. The Section shall not represent to any member of the Legislature, Executive or Judiciary that the State Bar has taken a position on a specific matter related to governmental affairs or conduct any lobbying activities regarding such matters without complying with Section 11.4 of the bylaws of the State Bar of New Mexico.

9.4 Legislative, Executive and Judicial Advocacy. Neither the Section nor any person acting on its behalf shall take any action to support or oppose legislation without giving reasonable notice to the membership of the Section and the Board of Bar Commissioners; the position having been approved by a two-thirds vote of the Board of Directors of the Section, and complying with all other requirements of Section 11.7 of the State Bar of New Mexico bylaws. The results of all votes by Section Board of Directors on proposals to support or oppose legislation shall be transmitted immediately to the Governmental Affairs Committee of the Board of Bar Commissioners and published within a reasonable time in the *Bar Bulletin*.

ARTICLE X: SECTION FINANCES AND BUDGETS

10.1 Section Finances. All funds generated by the Section dues and activities are and shall be funds of the State Bar of New Mexico. Funds shall be expended by the Section only pursuant to a budget approved by the Executive Director of the State Bar's Designee.

The Section's fund balance on December 31st of each year shall be considered carryover funds and shall be included in the Section's budget for the coming fiscal year. All in excess of one year's worth of dues will be forfeited and transferred to the State Bar General Account. Should the Section be saving funds for a future activity, the Section may request of the Finance Committee additional funds. The request should include a plan and a budget

detailing the ways in which excess funds would be spent in the following year.

10.2 Budgets. Sections shall operate pursuant to an annual budget for the succeeding calendar year, which shall be submitted to the Executive Director of the State Bar of New Mexico's Designee. The Section may, with the approval of the Executive Director of the State Bar of New Mexico's Designee, amend its annual budget from time to time during the year to which the budget is applicable. Annual budget or budget amendment proposals shall be submitted by the Board of Directors of the Section to the Executive Director's Designee, who shall review all budget proposals and submit such budget proposals to the Executive Director of the State Bar of New Mexico for approval. Any proposed expenditures shall be explained relative to the purpose and objectives of the Section.

10.3 Continuing Legal Education. All programs must be co-sponsored with the State Bar Foundation Center for Legal Education before announcement or advertisement of the program. The Chair shall announce a CLE Liaison to work with the CLE Director for development of programs. An administrative fee may be charged for noncompliance with this article. Should CLE decline a program, the section may appeal to the Board of Bar Commissioners.

ARTICLE XI: ANNUAL REVIEW OF SECTIONS AND COMMITTEES

11.1 Annual Review. The Board of Bar Commissioners or its designee shall establish a sunset date for each section and committee that shall be on December 31 of a selected year. On or before September 1 of the sunset year, a member or members of the Bar may petition the Board of Bar Commissioners to continue the section or committee. If no member of the Bar petitions the Board of Bar Commissioners to continue the section/committee, it will automatically cease to exist on its sunset date unless the Board of Bar Commissioners on its own motion votes to continue the section/committee. The petition must contain reasons why the section/committee should be continued. If the Board of Bar Commissioners determines that the petition contains sufficient reason to continue the section/committee, it will be continued. Otherwise, the section/committee will be abolished. If a section/committee is continued beyond its sunset date, it will be subject to sunset again in five years, at which time the petition process set forth in this section will be required to continue the section/committee.

ARTICLE XII: REVISION OF BYLAWS

12.1 Revision of Bylaws. These Bylaws may be amended by a majority vote of a quorum of the Board as defined in Section 6.3 of these Bylaws. They shall become effective upon approval by the Board of Bar Commissioners.

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COMMITTEE ON CANNABIS LAW

Mission Statement

The Committee on Cannabis Law is charged with serving as the New York State Bar Association's focal point for the evolving legal status of Cannabis1 at both the state and federal level. Cannabis law is perhaps one of the fastest growing yet complex areas of the law that poses a broad spectrum of challenges. This Committee seeks to help NYSBA lawyers give their clients better advice through sharing educational resources, and otherwise helping New York set the highest possible legal and business (including advice to medical professionals) standards for legalized Cannabis products.

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Cannabis Update 2019

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Hot Topics in Cannabis Law: What Lawyers Need to Know

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Practical Implications of Decriminalized Marijuana for the Legal Practitioner

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The Committee on Cannabis Law is charged with serving as the New York State Bar Association's focal point for the evolving legal status of Cannabis¹ at both the state and federal level. Cannabis law is perhaps one of the fastest growing yet complex areas of the law that poses a broad spectrum of challenges. This Committee seeks to help NYSBA lawyers give their clients better advice through sharing educational resources, and otherwise helping New York set the highest possible legal and business (including advice to medical professionals) standards for legalized Cannabis products.

CANNABIS LAW PROGRAMS

Hot Topics in New York State Hemp Law

Topics include: A Federal and State Overview of New York State Hemp Law, How Hemp Nonprofit Organizations are Leading the Way, and Clinical and Chemical Analysis of Hemp/Deciphering the Certificate of Analysis.

CBD Oil, Hemp and Cannabis Update I What Lawyers Need to Know in Advising Clients

A practical, basic cannabis industry update. Topics include: CBD, Hemp and the 2018 Federal Farm Bill.

Hot Topics in Cannabis Law: CBD Rulemaking, C.R.T.A., Advertising Issues and Ethical Considerations

Speakers include regulators in Governor Cuomo's office on the current adult use legislation and the complexities of NY's CBD rule making. Topics include: Advertising, M&A, and Ethics.

Hot Topics in Cannabis Law: What Lawyers Need to Know

Topics include: Cross the Border-North and South, Ethical Considerations, Cannabis Packing and Labeling Laws, and Potential Adult Use Regulations.

Practical Implications of Decriminalized Marijuana for the Legal Practitioner

An overview of how legalized marijuana affects and intersects in practice areas such as: Health Law, Immigration, Intellectual Property Law, and Employment Law.

Cannabis Law Update 2018

An overview of the Cannabis industry.

Legislative Developments in Medical Marijuana in New York 2018

New York State's Medical Marijuana Program and Industrial Hemp Agriculture, Markets, and Research. Featuring distinguished speakers and leaders from Governor Cuomo's Office, the New York State Legislature, the New York Department of Health, Bureau of Narcotic Enforcement, and the New York State Department of Agriculture and Markets.



NEW YORK STATE BAR ASSOCIATION
Serving the legal profession and the community since 1876

LOGIN

COMMITTEE ROSTER

COMMITTEE ON CANNABIS LAW

Title	Full Name	Company
CO-CHAIR	Aleece E. Burgio, Esq.	Bardlay Damon LLP
CO-CHAIR	Brian J. Malkin, Esq.	Arent Fox LLP
MEMBER	Jonathan B. Behrins, Esq.	The Behrins Law Firm PLLC
MEMBER	Donald M. Bernstein	Bernstein Redo, P.C.
MEMBER	Karen J. Bernstein, Esq.	Bernstein IP
MEMBER	Lynelle Kathleen Bosworth, Esq.	Greenberg Traurig LLP
MEMBER	Jose Alberto A. Campos Vargas	Sanchez Devanny
MEMBER	John P. Christopher	Publicis Health Media
MEMBER	Cori Annapolen Goldberg, Esq.	Reed Smith LLP
MEMBER	Robert L. Greenberg, Esq.	Robert L. Greenberg, P.C.
MEMBER	Bethany J. Hills, Esq.	Morrison & Foerster LLP
MEMBER	Kristin L. Jordan, Esq.	Greenspoon Marder LLP
MEMBER	Cheryl J. Kinch, Esq.	Law Office of Cheryl J. Kinch
MEMBER	Jason W. Klimek	Boylan Code LLP
MEMBER	Diane F. Krausz, Esq.	Diane Krausz & Associates
MEMBER	James K. Landau	McCarthy Fingar LLP
MEMBER	John Joseph Montes, Esq.	Law Office of John J. Montes, PLLC
MEMBER	Geoffrey A. Mort, Esq.	Kraus & Zuchlewski LLP
MEMBER	Mitchell Pawluk, Esq.	Harris Beach

Ohio State Bar Association Hosts First-Ever Cannabis Law Conference



OHIO STATE BAR
ASSOCIATION

The continuing education for legal professionals will cover an overview of current state law regarding medical marijuana, employment and accommodation, and driving under the influence of pot, among other legal topics.

Medical pot was legalized in Ohio in 2016, and the Ohio State Bar Association has provided smaller presentations about the legal issues surrounding it in the past three years, but this is its first full-day conference on the subject.

"I think it's a rolling stone type issue, actually maybe a snowball," says John Izzo, a presenter at the conference. "Because as time has gone on there's more and more to talk about."

Izzo is a lawyer for Graff and McGovern whose presentation focuses on representing Ohio clients in the cannabis industry. He says when the law was first approved, there wasn't much detail past the text of the bill itself.

"Now we have rules, now we have a lot of lawsuits that have happened, who should get a license, who won't be getting a license, and because of that we definitely have a lot to talk about in the community," Izzo says.

While he hasn't seen any clients get in trouble with the law, Izzo says the thorniest subject within this legal field is the contradiction between federal law that prohibits marijuana use of any kind, and state laws like Ohio's that allow for it in certain circumstances.

"It's that dichotomy in the laws: trying to keep people in accordance with the state law while also trying to avoid any problems with the federal laws," he says.

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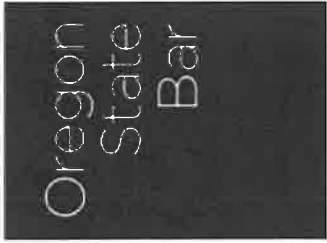
Green Rush

Workplace Impairment: A Matter Worth Considering

Recapping the Packaging and Labelling Rules of Canadian Cannabis Products

Superior Court Overturns Quebec's Ban on Home Grow Ops





Cannabis Law Section



About

The Cannabis Law Section was formed in 2016 in order to educate Oregon lawyers and judges on Oregon cannabis law, while simultaneously helping practitioners meet their client's cannabis law and policy related needs. The Oregon Cannabis Law Section joins Michigan and Colorado in establishing the third cannabis law section in the United States.

Disclaimer of Liability

The Cannabis Law Section maintains this website as a service to our members. Nothing on this site should be construed as legal advice, and we make no warranty or guarantee concerning the accuracy or reliability of the content at this site or the other sites to which we link.



Oregon
State
Bar

Cannabis
Law Section



Home About Cannabis Law Section Blog Events

Home


Welcome to The Cannabis Law Section. The Cannabis Law Section seeks to educate and promote cannabis law among Oregon lawyers and judges. The section also maintains a listserve and encourages practitioners to share information, evaluate cannabis laws, and discuss practicing cannabis law in Oregon.

We are also a resource for lawyers that monitor federal enforcement activities and defend against federal government interference in state lawful cannabis activities. Please see our Resources section: <http://cannabislaw.osbar.org/resources/>

The section also maintains an ongoing blog.

Medical Marijuana and Hemp Law

http://www.pabar.org/ethics/committees/Committees/Medical_Marijuana_and_Hemp_Law


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Medical Marijuana and Hemp Law

The Medical Marijuana and Hemp Law Committee shall keep members of the bar apprised of developments within the field of medical cannabis and hemp law by fostering communications and facilitating continuing education programs in the areas of client representation, industry developments, and ethical and other issues of concern to members. It shall also monitor legislative developments and/or make recommendations concerning legislation and regulations affecting such interests.

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WSBASections

WSBA SECTION ANNUAL REPORT – FY18

Name of the Section:	<i>Cannabis Law Section</i>	
Chair:	<i>Joshua Ashby</i>	
Section Information: <i>As of September 30, 2018</i> <i>*To be completed by WSBA*</i>	Membership Size:	70
	Staff Lead:	Eleen Trang
	BOG Liaison:	None
	FY18 revenue: \$	\$1,870.00 (as of 8/31/18)
	FY18 direct expenses: \$ (does not include the Per-Member-Charge)	\$445.20 (as of 8/31/18)
Purpose:	To provide networking and education opportunities to attorneys who practice in, or are interested in, cannabis law	
2017-2018 Accomplishments and Work in Progress:	During the 2017-2018 year the section was formed and held its first few section meetings, and its first official CLE and networking event. We are in the process of developing the next CLE, setting up committees to handle legislative updates, a quarterly newsletter to the membership, young lawyer/student engagement, and diversity.	
Please quantify your section's current member benefits: <i>For example:</i> <ul style="list-style-type: none"> \$3000 Scholarships, donations, grants awarded; 	Quantity	Member Benefit
		Scholarships, donations, grants awarded
		Law school outreach events/benefits hosted
		Legislative bills reviewed/drafted
		Newsletters produced
	1	Mini-CLEs produced

<ul style="list-style-type: none"> 4 mini-CLEs produced 		Co-sponsored half/day to multi-day CLEs with WSBA
	1	Receptions/forums hosted
		Awards given
		New Lawyer Outreach events/benefits
		Other (please describe):
2018-2019 Goals & Priorities (Top 5)	1	Develop and host half day CLE with networking event
	2	New lawyer and law student outreach
	3	Establish quarterly newsletter
	4	Develop and host multiple Mini-CLEs
	5	Increase membership through outreach

Please report how this section is addressing diversity:

(Are you using any of the tools provided by WSBA and if so, how? Have you sought out training or consultation from the Diversity Specialist? How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your section done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession?)

We are in the process of establishing a diversity and outreach committee that will focus on increasing diversity in the membership through young lawyers/students, regional diversity, increasing racial and LGBTQ membership and positions on the soon to be established committees. Once established, we will seek diversity training from the WSBA and seek out a potential mentorship partnership with one of the diversity/minority bar associations.

Please report how this section is addressing professionalism:

(Does the section's work promote respect and civility within the legal community? Does it seek to improve relationships between and among lawyers, judges, staff and clients? Does it raise awareness about the causes and/or consequences of unprofessional behavior?)

Our first Mini-CLE focused on professionalism, specifically professional responsibility as it pertains to practicing in an area that is federally illegal. This is a topic of concern for new lawyers and a topic that the section shall continue to address through Mini-CLEs, especially as developments on the federal level progress. We also intend to include professionalism on a larger scale in our CLEs such as by addressing civility as a topic. We also seek to partner with the administrative law section to host either a mixer or a Mini-CLE with administrative law judges who preside over WSLCB appeal hearings; we hope this not only educates the members on the position and function of the ALJs but also fosters relationship development between members and the ALJs. We have yet to reach out to the administrative law section, but it has been an idea that the board has discussed on multiple occasions.

Please report how this section is integrating new and young lawyers into its work:

(How have you brought new and young lawyers into your decision making process? Has the section supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities?)

We recently onboarded a young lawyer liaison who is assisting the executive committee with outreach to young lawyers, and can provide insight on the matters most important to young lawyers, whether those are finding work, education to prepare for employment, etc. We have discussed the possibility of having a job board on our section page specific to the legal cannabis industry, which may help young lawyers job search, and expect that our liaison will provide many suggestions to our board about the best way to assist young lawyers.

Please describe your Executive Committee's relationship with WSBA staff and the Board of Governors.

For example:

- *Quality of WSBA staff support/services provided to Section Executive Committee*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support services to sections.*

So far, we have had tremendous support from the WSBA, and specifically our staff liaison, as we attempt to bring this fledgling section to a fully functioning section that is representative of the WSBA.

CANNABIS LAW SECTION

HOME | SECTIONS



Updated: Aug. 2, 2019

Cannabis Law Section

The formation of a Cannabis Law Section was approved by the Washington State Bar Association Board of Governors on Nov 16, 2017

Currently, the stated primary purpose of the Section is to connect practitioners in the State of Washington who are interested in learning more about the area of Cannabis Law. The Cannabis Law Section would not only be a repository of information to guide practitioners through this highly technical area of law, but also a network of highly skilled practitioners working together to interpret the rules and regulations in order to further best practices guidelines for this growing industry.

[Annual Report](#) | [Bylaws](#) | [Budget](#) | [Year in Review](#) | [Members Only](#)

Meetings & Events

Cannabis Law Section

Canceled: Cannabis Law Section Executive Committee Meeting

Date: Sept 3, 2019
Time: 10:00 AM - 11:00 AM
Location: Lane Powell, 1420 Fifth Ave., Suite 4200, Seattle, WA

Cannabis Law Section Executive Committee Meeting

Sept 10, 2019

TAB 7

From: Victoria Bunch Finlinson
Sent: Wednesday, November 06, 2019 11:27 AM
To: herm@hao-law.com
Subject: YLD Discussion Items for 11/8 Meeting

111

Hi Herm,

There are a few items I was hoping to discuss at the Bar Commission Meeting this Friday, if possible. I apologize for not getting these to you before you posted the materials, but I was waiting to meet with the YLD Board today first. Here are the items for discussion:

1. Changing definition of "young lawyer" to those in their first 10 years of practice or under the age of 36 as opposed to the current definition which includes only those in their first 6 years of practice or under the age of 36. This would pattern the ABA which just recently made this change at the Annual Meeting in SF and would help us adapt to the changing demographics of law students.
2. Changing the name "Young Lawyers Division" to "New Lawyers Division." This change would also be in response to the changing demographics in law schools, as I have had many older "young lawyer"s tell me that the name makes them feel silly and that they should not participate in YLD events.

Please let me know if you need any more information from me before bringing these items to the commission's attention.

Thanks,

Torie B. Finlinson

ClydeSnow

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TAB**8**

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

NOVEMBER 8, 2019

LAW AND JUSTICE CENTER

- In Attendance:** President Herm Olsen and President-elect Heather Farnsworth. Commissioners: John Bradley, Steven Burt, Mary Kay Griffin, Chrystal Mancusco-Smith, Marty Moore, Mark Pugsley, Michelle Quist, Tom Seiler, and Cara Tangaro.
- Ex-Officio Members:** Nate Alder, H. Dickson Burton, Erik Christiansen, Kate Conyers, Torie Finlinson, Amy Fowler, Margaret Plane and Camila Moreno.
- Not in Attendance:** Heather Thuet and Katie Woods. Ex-Officio Members: Candace Gleed, Jiro Johnson, Robert Rice, Dean Gordon Smith and Dean Elizabeth Kronk Warner.
- Also in Attendance:** Executive Director John C. Baldwin, Assistant Executive Director Richard Dibblee, General Counsel Elizabeth A. Wright, and Supreme Court Liaison Larissa Lee.

Minutes: 9:05 a.m. start

1. President's Report: Herm Olsen

- 1.1 Welcome and Introductions.** The Commission welcomed Camila Moreno as the Bar's YLD Delegate to the ABA. Ms. Moreno is currently clerking for Magistrate Judge Cecelia Romero.
- 1.2 Legislative Breakfast/Tax Reform Follow-Up & Planning.** Herm Olsen reported that the annual breakfast with lawyer legislators took place on October 16, 2019. The event was well attended. The status of the tax on professional services was discussed during the breakfast. Mr. Olsen handed the Commissioners the Executive Summary of the Tax Restructuring Policy Proposal from Utah Legislature Tax Restructuring and Equalization Task Force. The Executive Summary does not include a tax on legal services. The Commission thanked Past Bar President Dickson Burton on his efforts to stop a tax on legal services which would have had an adverse effect on individuals seeking the services of a lawyer.
- 1.3 Report on Fall Forum.** Herm Olsen reminded the Commissioners of the Fall Forum that will take place on November 14-15 in Salt Lake City. Commissioners were given a copy of the program.

- 1.4 April Commission Meeting Date & Location.** Herm Olsen announced the April Commission meeting will be in Logan on Friday, April 17, 2020.
- 1.5 Ratify Executive Committee Approval of NLTP Awards.** John Bradley moved to ratify the Executive Committee's approval of the NLTP's Committee's selection of **Kyle Leishmann** and **Brady Brammer** to receive the 2018 outstanding mentor award to be given at the Fall Forum. **Marty Moore** seconded the motion which passed unopposed.

2. Action Items.

- 2.1 Approve LPP Administrator & Ethics Hotline Counsel Staff Position.** John Baldwin reported on the need for an additional staff attorney to administer the Licensed Paralegal Practitioner Program and to answer the Ethics Hotline. **After a discussion of responsibilities and pay scale, Michelle Quest moved to approve between \$80,000 - \$100,000 (includes benefits package) for one staff person or two part-time staffers. Tom Seiler seconded the motion which passed unopposed.**

NEW ITEM: Herm Olsen reported that the Office of Professional Conduct had made a request to the Commission to withdraw Ethics Advisory Opinion 19-03 which discusses Rule of Professional Conduct 5.5. OPC believes the opinion is incorrect. The issue will be on the agenda next month as an action item.

- 2.2 Approve Commission Policies and Procedures.** Marty Moore moved to approve updates to the Bar's Policies and Procedures. John Bradley seconded the motion which passed unopposed.

3. Discussion Items.

- 3.1 2021 Summer Convention Site.** After a discussion of the need to rotate the location of the Summer Convention among Park City, Sun Valley and perhaps California, **Michelle Quist moved to hold the 2021 Summer Convention in Sun Valley, Idaho. Marty Moore seconded the motion which passed unopposed.**
- 3.2 Report on Access to Justice Summit.** Heather Farnsworth reported the Summit was attended by over 90 organizations. The event enables legal service and social service organizations to come together to learn what each is doing. Awareness of efforts and resources helps the organizations to better serve the public and to avoid overlap of services.
- 3.3 Access to Justice Commission Charge.** The charge has been updated.

OUT OF ORDER

5.2 Create Commission Committee on Regulatory Reform. Bar President Herm Olsen will create a Bar Commission Committee on Regulatory Reform. The purpose of the Committee will

provide input and information to Bar members. Heather Farnsworth will serve on both Committees and make sure the lines of communication are open between the Bar and the Regulatory Reform Implementation Task Force. Judge Willmore and Erik Christiansen will be Co-Chairs. Other members will be Rachel Sykes, Mark Morris, Marty Moore, Mark Pugsley, Heather Thuet, John Bradley and Katie Woods.

- 3.4 Update on creation of shared calendar.** John Baldwin reported that the Bar's IT Department was working with an outside contractor to create an interactive, shared calendar for non-CLE events. The plan is to have it operational sometime in December.

4. Information Items.

- 4.1 Report on Bar Survey.** Mark Morris reported that his Survey Committee is working on survey questions. They hope to modernize some of the questions to reflect changes in practice since last survey. The Committee plans to ask questions about proposed regulatory reform. The Committee hopes to have questions done by the end of the year.
- 4.2 Request to form Cannabis Law Section.** There was not time for this topic. It will be on the December meeting agenda.

5. Regulatory Reform Task Force Report and Discussion.

- 5.1 Presentation: Hon. Deno Himonas, Hon. Christine Durham & John Lund** joined the Commission to answer questions about the proposed regulatory reform. Justice Himonas reported that the Supreme Court has unanimously approved the recommendations of the Regulatory Reform task force and that the recommended changes to legal regulation will be coming in the next 2-3 years. The Commission discussed the number of unrepresented parties in Utah's legal system and the likelihood that the proposed reforms will help access to justice. The Commission discussed the possible effects the proposed changes will have on different types of practitioners. Justices Himonas, Durham and John Lund agree that a Bar Committee to interface with the Task Force Implementation Committee will promote dialogue and the dissemination of information.

- 5.2 Create Commission Committee on Regulatory Reform.** See above.

6. Lunch & Executive Session

The meeting adjourned for the day at 12:25 p.m.

Consent Agenda

1. Approved Minutes from the October 4, 2019 Commission Meeting.

Handouts:

1. Executive Summary of the Tax Restructuring Policy Proposal from Utah Legislature Tax Restructuring and Equalization Task Force.
2. Fall Forum Agenda.
3. Fall Forum Award Recipients.

TAB 9

UTAH STATE BAR
Budget and Finance Committee
Financial Results as of November 30, 2019
and for the five month period then ended

FINANCIAL STATEMENT HIGHLIGHTS

Notable Trends:

- The results of the first five months of the fiscal year was, for the most part, as expected. Licensing revenue, NLTP and admissions revenue are all reporting under budget. Declining applicants and admittees to the Bar continue to impact these revenue streams.

Year-to-Date (YTD) Net Profit – Accrual Basis:

	Actual	Budget	Fav(unfav) \$ Variance	Fav(unfav) % Variance
YTD revenue	5,327,437	5,523,873	(196,436)	-4%
YTD expenses	3,127,387	3,029,416	(97,971)	-3%
YTD net profit	2,200,050	2,494,457	(294,407)	-12%

YTD net profit is \$2.2 million, which is \$294,000 under budget, which is the result of the YTD revenue reporting \$196,000 under budget combined with expenses that are running \$98,000 over budget.

YTD Net Profit –Cash Basis: Adding back year-to-date depreciation expense of \$83,000 and adding back in capital expenditures of \$29,000, the cash basis year-to-date net profit is approximately \$54,000 higher.

Explanations for Departments with Net Profit Variances \$10k and 5% Over/Under Budget and/or significant activity:

Admissions: YTD Admissions revenue is \$143,000, which is \$16k (10%) below budget and approximately \$10,000 less than last year's revenue, at this time. Admissions expenses are \$289,000, or \$46,000 (19%) over budget and \$55,000 over last year's expenses, compared to the same time last year, which is due to the purchase of a new admissions database costing \$60,000.

OPC: OPC YTD net spending is \$626,000, which is \$48,000 over budget. The main reason for the unfavorable variance is that some of the expenses related to the OPC website were incurred in the last four months, but we budgeted over a 12-month period. This issue will likely resolve itself as the year progresses. Additionally, we note that OPC's salaries are slightly over budget. This is not due to any changes that have occurred in the OPC department, rather it appears that the OPC salaries and wages budget was inadvertently underestimated.

CLE: The CLE department's revenue is currently reporting \$40,000 less than budgeted, which has resulted in a net spending of \$58,000 compared to budget net spending of \$26,815, a difference of \$31,000. Seminar profit/loss is the most significant revenue item reporting under budget. This is due to some of the prior year CLE events getting closed in the current fiscal year, instead of the prior year, which was due to slow responses from Section leaders approving closure of events. This will likely

UTAH STATE BAR
Budget and Finance Committee
Financial Results as of November 30, 2019
and for the five month period then ended

continue to affect the current year budget-to-actual comparisons. Note that aside from the Seminar Profit/Loss variance, the CLE Registrations and Video Library sales are running close to the budget amounts. Program expenses are running under budget, but this is largely a timing issue and will likely resolve itself as the year progresses.

Summer Convention: Currently the July 2019 Summer Convention in Park City, is reporting YTD spending of \$31,000. We had budgeted for the Summer Convention to report net income of approximately \$15,000, and therefore, the Summer Convention is \$46,000 under budget. The unfavorable variance is due mostly to lower revenue generate off the event than expected.

Fall Forum: Currently is reporting net profit of \$22,000, approximately \$18,000 higher than budgeted. We are expected additional expenses related to the event in the coming months; however we are expecting the net profit for the event to be higher than budgeted.

Member Services: Member Services YTD net spending is \$117,000 compared to budgeted net spending of \$132,000. Lower net spending is due lower expenses, which is most likely a timing issue which will align more closely to budget as the year progresses. We also note that currently member Services revenues are \$18,000 less than budgeted, which is related to lower than budgeted advertising revenue for the Bar Journal. Advertising revenue can be difficult to estimate and fluctuations are not uncommon. Therefore, the variance is not unusual.

Bar Operations: Bar Operations (Management, Finance, General Counsel, IT, and Commission/Special Projects) generated net spending of \$706,000 YTD, compared to YTD budgeted net spending of \$653,000. The higher than projected net spending is mainly due to lower than budgeted interest income and higher than budgeted expenses for Unauthorized Practice of Law (UPL), outside consulting services and staff-related expenses. The UPL expense relates to an ongoing case of an individual who continues to practice law without a license. The expense was not anticipated and was not included in the budget.

ADDITIONAL COMMENTS

Board Designated Reserves: In consultation with Bar management and the Budget & Finance Committee, the Commission informally targeted the following reserve amounts:

Operations Reserve (3 months' operations)	\$1,736,718
Capital Replacement Reserve (equipment)	200,000
Capital Replacement Reserve (building)	<u>650,000</u>
Total	\$2,586,718
Estimated cash reserve at November 30, 2019	<u>\$4,085,545</u>
Excess of current cash reserve over board-designated reserve	<u>\$1,498,827</u>

**Utah State Bar
Income Statement
November 30, 2019**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
Licensing	4,248,556	4,364,346	4,390,503	(26,157)	99%	4,525,292	96%
Admissions	156,000	143,075	158,728	(15,653)	90%	424,535	34%
NLTP	27,450	24,450	27,450	(3,000)	89%	65,250	37%
OPC	9,854	2,250	8,232	(5,982)	27%	26,687	8%
CLE	190,328	143,610	183,562	(39,952)	78%	566,000	25%
Summer Convention	250,465	218,585	266,000	(47,415)	82%	266,000	82%
Fall Forum	79,085	79,745	80,725	(980)	99%	80,400	99%
Spring Convention	1,437	280	1,164	(884)	24%	123,000	0%
Member Services	183,987	164,401	182,814	(18,413)	90%	283,247	58%
Public Services	4,425	7,665	4,298	3,367	178%	14,297	54%
Bar Operations	96,967	84,177	132,576	(48,399)	63%	210,561	40%
Facilities	88,141	94,853	87,821	7,032	108%	248,600	38%
Total Revenue	5,336,694	5,327,437	5,523,873	(196,436)	96%	6,833,869	78%
Expenses							
Licensing	40,318	54,584	63,036	8,451	87%	157,495	35%
Admissions	234,396	289,013	242,528	(46,485)	119%	516,992	56%
NLTP	20,513	24,265	22,284	(1,981)	109%	54,898	44%
OPC	577,155	628,699	592,907	(35,792)	106%	1,495,540	42%
CLE	178,778	201,268	210,377	9,109	96%	568,972	35%
Summer Convention	253,571	249,274	250,945	1,671	99%	265,605	94%
Fall Forum	79,937	57,687	76,366	18,679	76%	80,738	71%
Spring Convention	5,976	5,822	8,210	2,388	71%	123,448	5%
Member Services	272,806	281,410	315,189	33,779	89%	809,044	35%
Public Services	227,626	273,283	264,788	(8,495)	103%	560,914	49%
Bar Operations	736,662	853,382	778,940	(74,442)	110%	1,722,110	50%
Facilities	198,850	208,697	203,846	(4,851)	102%	541,122	39%
Total Expenses	2,826,588	3,127,387	3,029,416	(97,971)	103%	6,896,878	45%
Net Profit (Loss)	\$ 2,510,106	\$ 2,200,050	\$ 2,494,457	\$ (294,407)	88%	\$ (63,009)	-3492%
Depreciation	92,492	82,861	96,073	13,212	86%	251,412	
Cash increase (decrease) from operations	2,602,598	2,282,911	2,590,530	(307,619)	88%	188,403	
Changes in operating assets/liabilities	3,043,580	(3,034,411)	(3,034,411)	-	100%	20,000	
Capital expenditures	(30,303)	(29,008)	(52,333)	23,325	55%	(157,000)	
Net change in cash	\$ 5,615,875	\$ (780,509)	\$ (496,215)	\$ (284,294)	157%	\$ 51,403	-1518%

Utah State Bar Licensing

November 30, 2019

Revenue

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget
4010 · Section/Local Bar Support fees	16,401	16,856	18,003	(1,147)	94%
4011 · Admissions LPP	-	1,650	-	1,650	#DIV/0!
4021 · Lic Fees > 3 Years	3,595,010	3,659,810	3,683,137	(23,327)	99%
4022 · Lic Fees < 3 Years	204,370	187,470	225,466	(37,996)	83%
4023 · Lic Fees - House Counsel	34,960	41,440	38,476	2,964	108%
4025 · Pro Hac Vice Fees	25,750	47,075	38,019	9,056	124%
4024 · Lic Fees LPP	-	800	-	800	#DIV/0!
4026 · Lic Fees - Inactive/FS	118,585	122,140	122,660	(520)	100%
4027 · Lic Fees - Inactive/NS	211,950	214,515	218,520	(4,005)	98%
4029 · Prior Year Lic Fees	1,275	-	1,627	(1,627)	0%
4030 · Certs of Good Standing	12,260	11,760	13,041	(1,281)	90%
4095 · Miscellaneous Income	195	430	569	(139)	76%
4096 · Late Fees	27,800	60,400	30,985	29,415	195%
Total Revenue	4,248,556	4,364,346	4,390,503	(26,157)	99%
Expenses					
Program Services	-	-	15,430	15,430	0%
Salaries & Benefits	27,923	38,287	27,912	(10,375)	137%
General & Administrative	8,835	12,943	16,647	3,704	78%
Building Overhead	3,559	3,354	3,047	(307)	110%
Total Expenses	40,318	54,584	63,036	8,451	87%
Net Profit (Loss)	\$ 4,208,238	\$ 4,309,762	\$ 4,327,467	\$ (17,706)	100%

Total Budget	YTD % of Tot Budget
18,237	92%
-	#DIV/0!
3,732,582	98%
239,045	78%
43,012	96%
82,639	57%
-	#DIV/0!
120,305	102%
218,187	98%
3,432	0%
34,058	35%
962	45%
32,833	184%
4,525,292	96%
37,028	-
61,896	62%
49,161	26%
9,410	36%
157,495	35%
\$ 4,367,797	99%

Note: Includes LPP staff time and exam expense

Utah State Bar Admissions

November 30, 2019

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4001 · Admissions - Student Exam Fees	20,350	19,800	19,808	(8)	100%	120,725	16%
4002 · Admissions - Attorney Exam Fees	25,925	19,450	26,067	(6,617)	75%	45,725	43%
4003 · Admissions - Retake Fees	27,625	21,150	31,275	(10,125)	68%	46,700	45%
4004 · Admissions - Laptop Fees	16,350	13,350	16,964	(3,614)	79%	53,850	25%
4006 · Transfer App Fees	15,350	26,100	15,332	10,768	170%	44,950	58%
4008 · Attorney - Motion	21,250	23,800	23,181	619	103%	51,000	47%
4009 · House Counsel	10,200	7,650	11,051	(3,401)	69%	22,100	35%
4095 · Miscellaneous Income	5,550	1,075	2,712	(1,637)	40%	7,235	15%
4096 · Late Fees	11,400	8,700	11,319	(2,619)	77%	30,200	29%
Total Revenue	156,000	143,075	158,709	(15,634)	90%	424,485	37%
Expenses							
Program Services	72,331	66,972	71,587	4,615	94%	115,838	58%
Salaries & Benefits	140,798	136,538	149,053	12,515	92%	339,263	40%
General & Administrative	12,139	76,901	12,594	(64,307)	611%	37,779	204%
Building Overhead	9,128	8,603	9,294	691	93%	24,112	36%
Total Expenses	234,396	289,013	242,528	(46,485)	119%	516,992	56%
Net Profit (Loss)	\$ (78,396)	\$ (145,938)	\$ (83,819)	\$ (62,119)	74%	\$ (92,507)	158%

Utah State Bar NLTP

November 30, 2019

Revenue

4020 · NLTP Fees
4200 · Seminar Profit/Loss
Total Revenue

Expenses

Program Services
Salaries & Benefits
General & Administrative
Building Overhead
Total Expenses

Net Profit (Loss)

Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
27,450	24,450	27,450	(3,000)	89%	65,250	37%
-	-	-	-	#DIV/0!	-	-
27,450	24,450	27,450	(3,000)	89%	65,250	37%
1,281	1,233	1,779	546	69%	5,146	24%
14,953	16,094	16,482	388	98%	38,996	41%
2,269	5,045	1,975	(3,070)	255%	5,447	93%
2,010	1,894	2,048	154	92%	5,309	36%
20,513	24,265	22,284	(1,981)	109%	54,898	44%
\$ 6,937	\$ 185	\$ 5,166	\$ (4,981)	4%	\$ 10,352	2%

**Utah State Bar
OPC**

November 30, 2019

Revenue

4095 · Miscellaneous Income
4200 · Seminar Profit/Loss
Total Revenue

Expenses

Program Services
Salaries & Benefits
General & Administrative
Building Overhead
Total Expenses

Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget
2,900	2,250	3,093	(843)	73%
6,954	-	5,139	(5,139)	0%
9,854	2,250	8,232	(5,982)	27%
17,129	13,996	17,160	3,164	82%
493,191	530,820	512,623	(18,197)	104%
34,969	53,853	30,651	(23,202)	176%
31,865	30,030	32,473	2,443	92%
577,155	628,699	592,907	(35,792)	106%
\$ (567,301)	\$ (626,449)	\$ (584,675)	\$ (41,774)	107%

Total Budget	YTD % of Tot Budget
6,687	34%
20,000	0%
26,687	8%
29,581	47%
1,252,244	42%
129,546	42%
84,169	36%
1,495,540	42%
\$ (1,468,853)	43%

Net Profit (Loss)

**Utah State Bar
CLE**

November 30, 2019

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4052 · Meeting - Sponsor Revenue	1,500	5,000	1,163	3,837	430%	15,000	33%
4053 · Meeting - Vendor Revenue	-	1,000	-	1,000	#DIV/0!	1,000	-
4054 · Meeting - Material Sales	-	-	-	-	#DIV/0!	-	-
4081 · CLE - Registrations	123,391	115,769	118,193	(2,424)	98%	470,000	25%
4082 · CLE - Video Library Sales	54,873	56,385	57,094	(709)	99%	90,000	63%
4084 · Business Law Book Sales	3,315	-	-	-	#DIV/0!	-	-
4095 · Miscellaneous Income	-	-	-	-	#DIV/0!	-	-
4200 · Seminar Profit/Loss	7,249	(34,544)	7,112	(41,656)	-486%	(10,000)	345%
Total Revenue	190,328	143,610	183,562	(39,952)	78%	566,000	25%
Expenses							
Program Services	105,526	122,905	128,709	5,804	95%	359,405	34%
Salaries & Benefits	47,727	55,940	51,900	(4,040)	108%	132,750	42%
General & Administrative	18,722	17,046	22,379	5,333	76%	60,693	28%
Building Overhead	6,802	5,377	7,389	2,012	73%	16,124	33%
Total Expenses	178,778	201,268	210,377	9,109	96%	568,972	35%
Net Profit (Loss)	\$ 11,550	\$ (57,658)	\$ (26,815)	\$ (30,843)	215%	\$ (2,972)	1940%

Utah State Bar Summer Convention

November 30, 2019

Revenue

4051 · Meeting - Registration
4052 · Meeting - Sponsor Revenue
4053 · Meeting - Vendor Revenue
4055 · Meeting - Sp Ev Registration
Total Revenue

Expenses

Program Services
Salaries & Benefits
General & Administrative
Building Overhead
Total Expenses

Net Profit (Loss)

Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget
199,695	181,985	215,000	(33,015)	85%
25,500	19,500	25,500	(6,000)	76%
9,800	11,800	10,000	1,800	118%
15,470	5,300	15,500	(10,200)	34%
250,465	218,585	266,000	(47,415)	82%
221,993	214,436	221,530	7,094	97%
14,957	20,422	14,632	(5,790)	140%
16,621	14,416	13,628	(788)	106%
-	-	1,155	1,155	0%
253,571	249,274	250,945	1,671	99%
\$ (3,106)	\$ (30,689)	\$ 15,055	\$ (45,744)	-204%

Total Budget	YTD % of Tot Budget
215,000	85%
25,500	76%
10,000	118%
15,500	34%
266,000	82%
224,000	96%
21,845	93%
16,993	85%
2,767	-
265,605	94%
\$ 395	-7769%

Utah State Bar Fall Forum

November 30, 2019

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4051 · Meeting - Registration	72,360	73,020	74,000	(980)	99%	74,000	99%
4052 · Meeting - Sponsor Revenue	-	-	-	-	#DIV/0!	-	-
4053 · Meeting - Vendor Revenue	6,725	4,950	6,725	(1,775)	74%	6,400	77%
4055 · Meeting - Sp Ev Registration	-	1,775	-	1,775	#DIV/0!	-	-
Total Revenue	79,085	79,745	80,725	(980)	99%	80,400	99%
Expenses							
Program Services	60,803	46,580	56,263	9,683	83%	59,466	78%
Salaries & Benefits	8,222	4,160	8,784	4,624	47%	8,827	47%
General & Administrative	10,912	6,948	10,739	3,791	65%	11,062	63%
Building Overhead	-	-	580	580	0%	1,383	-
Total Expenses	79,937	57,687	76,366	18,679	76%	80,738	71%
Net Profit (Loss)	\$ (852)	\$ 22,058	\$ 4,359	\$ 17,699	506%	\$ (338)	-6526%

Utah State Bar Spring Convention

November 30, 2019

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4051 · Meeting - Registration	480	(870)	364	(1,234)	-239%	97,000	-1%
4052 · Meeting - Sponsor Revenue	-	250	-	250	#DIV/0!	15,000	2%
4053 · Meeting - Vendor Revenue	900	900	740	160	122%	9,000	10%
4055 · Meeting - Sp Ev Registration	57	-	60	(60)	0%	2,000	0%
Total Revenue	1,437	280	1,164	(884)	24%	123,000	0%
Expenses							
Program Services	4,995	5,456	5,677	221	96%	83,500	7%
Salaries & Benefits	951	281	1,345	1,064	21%	23,054	1%
General & Administrative	30	85	33	(52)	258%	14,128	1%
Building Overhead	-	-	1,155	1,155	0%	2,766	-
Total Expenses	5,976	5,822	8,210	2,388	71%	123,448	5%
Net Profit (Loss)	\$ (4,539)	\$ (5,542)	\$ (7,046)	\$ 1,504	79%	\$ (448)	1237%

**Utah State Bar
Member Services
(Bar Journal, Member Benefits, Section Support, Legislative, Public Education & YLD)
November 30, 2019**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4010 · Section/Local Bar Support fees	81,774	82,124	82,565	(441)	99%	82,600	99%
4052 · Meeting - Sponsor Revenue	200	-	607	(607)	0%	1,790	0%
4061 · Advertising Revenue	97,911	77,734	95,584	(17,850)	81%	181,492	43%
4062 · Subscriptions	30	60	30	30	200%	90	67%
4071 · Mem Benefits - Lexis	761	653	752	(99)	87%	1,455	-
4072 · Royalty Inc - Bar J, MBNA, LM,M	3,311	3,662	3,266	396	112%	6,680	55%
Total Revenue	183,987	164,401	182,804	(18,403)	90%	283,222	58%
Expenses							
Program Services	114,441	117,002	118,817	1,815	98%	308,514	38%
Salaries & Benefits	77,183	76,416	82,327	5,911	93%	202,067	38%
General & Administrative	72,283	80,639	104,519	23,880	77%	276,801	29%
Building Overhead	8,899	7,353	9,526	2,173	77%	21,662	34%
Total Expenses	272,806	281,410	315,189	33,779	89%	809,044	35%
Net Profit (Loss)	\$ (88,819)	\$ (117,009)	\$ (132,385)	\$ 15,376	88%	\$ (525,822)	22%

**Utah State Bar
Public Services
November 30, 2019
(Committees, Consumer Assistance, Access to Justice, Tuesday Night Bar)**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4063 · Modest Means revenue	4,425	4,625	4,503	122	103%	10,914	42%
4093 · Law Day Revenue	-	-	-	-	#DIV/0!	3,870	0%
4095 · Miscellaneous Income	-	40	-	40	#DIV/0!	10	400%
4120 · Grant Income	-	3,000	-	3,000	#DIV/0!	-	#DIV/0!
4200 · Seminar Profit/Loss	-	-	(205)	205	0%	(497)	-
Total Revenue	4,425	7,665	4,298	3,367	178%	14,297	54%
Expenses							
Program Services	90,643	112,692	111,730	(962)	101%	182,339	62%
Salaries & Benefits	114,443	135,895	130,495	(5,400)	104%	321,605	42%
General & Administrative	16,615	19,112	16,521	(2,591)	116%	41,321	46%
Building Overhead	5,924	5,583	6,042	459	92%	15,649	36%
Total Expenses	227,626	273,283	264,788	(8,495)	103%	560,914	49%
Net Profit (Loss)	\$ (223,201)	\$ (265,618)	\$ (260,490)	\$ (5,128)	102%	\$ (546,617)	49%

**Utah State Bar
Bar Operations
November 30, 2019
(Bar Management, General Counsel, IT, Commission/Special Projects)**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4060 · E-Filing Revenue	21,895	7,836	15,450	(7,614)	51%	33,622	23%
4103 · In - Kind Revenue - UDR	847	1,310	671	639	195%	1,330	98%
4095 · Miscellaneous Income	573	574	577	(4)	99%	1,335	43%
4200 · Seminar Profit/Loss	-	-	-	-	#DIV/0!	-	-
Investment Income	73,652	74,458	115,878	(41,420)	64%	174,274	42%
Total Revenue	96,967	84,177	132,576	(48,399)	63%	210,561	46%
Expenses							
Program Services	140,616	174,430	175,828	1,398	99%	279,876	62%
Salaries & Benefits	463,224	495,769	472,693	(23,076)	105%	1,124,353	44%
General & Administrative	107,816	159,021	104,660	(54,361)	152%	251,140	63%
In Kind	1,632	2,134	1,939	(195)	110%	5,000	43%
Building Overhead	23,374	22,028	23,820	1,792	92%	61,741	36%
Total Expenses	736,662	853,382	778,940	(74,442)	110%	1,722,110	50%
Net Profit (Loss)	\$ (639,695)	\$ (769,205)	\$ (646,364)	\$ (122,841)	119%	\$ (1,511,549)	51%

**Utah State Bar
Facilities
November 30, 2019**

Revenue

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget
4039 · Room Rental-All parties	37,469	39,288	40,104	(816)	98%
4042 · Food & Beverage Rev-All Parties	42,090	46,621	38,897	7,724	120%
4043 · Setup & A/V charges-All parties	95	-	68	(68)	0%
4090 · Tenant Rent	8,444	9,030	8,692	338	104%
4095 · Miscellaneous Income	43	9	60	(51)	14%
4103 · In - Kind Revenue - UDR	-	(95)	-	(95)	#DIV/0!
Total Revenue	88,141	94,853	87,821	7,032	108%

Expenses

Program Services	39,973	44,891	37,466	(7,425)	120%
Salaries & Benefits	60,181	68,158	61,527	(6,631)	111%
General & Administrative	11	3,326	3,979	653	84%
In Kind	5,750	6,118	5,561	(557)	110%
Building Overhead	92,935	86,205	95,313	9,108	90%
Total Expenses	198,850	208,697	203,846	(4,851)	102%

Net Profit (Loss)

\$ (110,709)	\$ (113,845)	\$ (116,025)	\$ 2,180	98%
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Total Budget	YTD % of Tot Budget
110,000	36%
115,800	40%
1,000	0%
21,700	42%
100	9%
-	#DIV/0!
248,600	38%
114,184	39%
153,764	44%
14,875	22%
15,277	40%
243,022	35%
541,122	39%
\$ (292,522)	39%

Utah State Bar
Income Statement - Consolidated By Account
November 30, 2019

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4001 · Admissions - Student Exam Fees	20,350	19,800	19,808	(8)	100%	120,725	16%
4002 · Admissions - Attorney Exam Fees	25,925	19,450	26,067	(6,617)	75%	45,725	43%
4003 · Admissions - Retake Fees	27,625	21,150	31,275	(10,125)	68%	46,700	45%
4004 · Admissions - Laptop Fees	16,350	13,350	16,964	(3,614)	79%	53,850	25%
4006 · Transfer App Fees	15,350	26,100	15,332	10,768	170%	44,950	58%
4008 · Attorney - Motion	21,250	23,800	23,181	619	103%	51,000	47%
4009 · House Counsel	10,200	7,650	11,051	(3,401)	69%	22,100	35%
4010 · Section/Local Bar Support fees	98,175	98,980	100,568	(1,588)	98%	100,837	98%
4011 · Admissions LPP	-	1,650	-	1,650	#DIV/0!	-	#DIV/0!
4020 · NLTP Fees	27,450	24,450	27,450	(3,000)	89%	65,250	37%
4021 · Lic Fees > 3 Years	3,595,010	3,659,810	3,683,137	(23,327)	99%	3,732,582	98%
4022 · Lic Fees < 3 Years	204,370	187,470	225,466	(37,996)	83%	239,045	78%
4023 · Lic Fees - House Counsel	34,960	41,440	38,476	2,964	108%	43,012	96%
4025 · Pro Hac Vice Fees	25,750	47,075	38,038	9,037	124%	82,689	57%
4026 · Lic Fees - Inactive/FS	118,585	122,140	122,660	(520)	100%	120,305	102%
4027 · Lic Fees - Inactive/NS	211,950	214,515	218,520	(4,005)	98%	218,187	98%
4029 · Prior Year Lic Fees	1,275	-	1,627	(1,627)	0%	3,432	0%
4030 · Certs of Good Standing	12,260	11,760	13,041	(1,281)	90%	34,058	35%
4039 · Room Rental-All parties	37,469	39,288	40,104	(816)	98%	110,000	36%
4042 · Food & Beverage Rev-All Parties	42,090	46,621	38,897	7,724	120%	115,800	40%
4043 · Setup & A/V charges-All parties	95	-	68	(68)	0%	1,000	0%
4051 · Meeting - Registration	272,535	254,135	289,364	(35,229)	88%	386,000	66%
4052 · Meeting - Sponsor Revenue	27,200	24,750	27,270	(2,520)	91%	57,290	43%
4053 · Meeting - Vendor Revenue	17,425	18,650	17,465	1,185	107%	26,400	71%
4054 · Meeting - Material Sales	-	-	-	-	#DIV/0!	-	-
4055 · Meeting - Sp Ev Registration	15,527	7,075	15,560	(8,485)	45%	17,500	40%
4060 · E-Filing Revenue	21,895	7,836	15,450	(7,614)	51%	33,622	23%
4061 · Advertising Revenue	97,911	77,734	95,584	(17,850)	81%	181,492	43%
4062 · Subscriptions	30	60	30	30	200%	90	67%
4063 · Modest Means revenue	4,425	4,625	4,513	112	102%	10,939	42%
4071 · Mem Benefits - Lexis	761	653	752	(99)	87%	1,455	-
4072 · Royalty Inc - Bar J, MBNA, LM,M	3,311	3,662	3,266	396	112%	6,680	55%
4081 · CLE - Registrations	123,391	115,769	118,193	(2,424)	98%	470,218	25%
4082 · CLE - Video Library Sales	54,873	56,385	57,094	(709)	99%	90,000	63%
4084 · Business Law Book Sales	3,315	-	-	-	#DIV/0!	-	-
4090 · Tenant Rent	8,444	9,030	8,692	338	104%	21,700	42%
4093 · Law Day Revenue	-	-	-	-	#DIV/0!	3,870	0%
4095 · Miscellaneous Income	9,260	4,545	7,011	(2,466)	65%	21,329	21%
4096 · Late Fees	39,200	69,100	42,304	26,796	163%	63,033	110%
4103 · In - Kind Revenue - UDR	847	1,215	671	544	181%	1,330	91%
4120 · Grant Income	-	3,000	-	3,000	#DIV/0!	-	#DIV/0!
4200 · Seminar Profit/Loss	14,203	(34,544)	12,046	(46,590)	-287%	13,400	-258%
Investment income	73,652	74,458	115,878	(41,420)	64%	174,274	43%
Total Revenue	5,336,694	5,326,637	5,523,873	(197,236)	96%	6,833,869	78%
Program Service Expenses							
5001 · Meeting Facility-external only	22,120	12,086	20,662	8,576	58%	42,400	29%
5002 · Meeting facility-internal only	22,207	24,638	23,637	(1,001)	104%	62,208	40%
5013 · ExamSoft	14,998	12,983	15,567	2,584	83%	21,000	62%
5014 · Questions	29,355	26,102	46,223	20,121	56%	79,500	33%
5015 · Investigations	125	250	99	(151)	253%	352	71%
5016 · Credit Checks	403	558	430	(128)	130%	2,200	25%
5017 · Medical Exam	-	-	-	-	#DIV/0!	240	-
5020 · Exam Scoring	-	1,045	-	(1,045)	#DIV/0!	-	-
5025 · Temp Labor/Proctors	2,850	3,100	2,850	(250)	109%	5,993	52%
5030 · Speaker Fees & Expenses	8,245	7,862	14,858	6,996	53%	24,850	32%
5031 · Speaker Reimb. - Receipt Req'd	1,583	1,832	2,163	331	85%	18,266	10%
5035 · Awards	2,711	2,979	2,349	(630)	127%	5,087	59%
5037 · Grants/ contributions - general	4,170	6,000	3,600	(2,400)	167%	6,400	94%

Utah State Bar
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November 30, 2019

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
5040 · Witness & Hearing Expense	128	446	492	46	91%	4,464	10%
5041 · Process Serving	768	245	945	700	26%	1,491	16%
5046 · Court Reporting	2,920	-	-	-	#DIV/0!	920	0%
5047 · Casemaker	29,860	19,166	30,360	11,194	63%	73,800	26%
5055 · Legislative Expense	18,042	31,599	22,785	(8,814)	139%	60,110	53%
5060 · Program Special Activities	-	2,595	-	(2,595)	#DIV/0!	-	-
5061 · LRE - Bar Support	65,000	65,000	65,000	-	100%	65,000	100%
5062 · Law Day	1,263	-	1,380	1,380	0%	8,715	0%
5063 · Special Event Expense	74,991	55,369	77,462	22,093	71%	89,750	62%
5064 · MCLE Fees Paid	12,893	7,778	14,460	6,682	54%	44,000	18%
5070 · Equipment Rental	27,235	47,041	21,458	(25,583)	219%	44,756	105%
5075 · Food & Bev-external costs only	233,740	262,081	228,309	(33,772)	115%	452,082	58%
5076 · Food & beverage - internal only	24,217	29,016	24,665	(4,351)	118%	66,908	43%
5079 · Soft Drinks	3,456	3,297	3,402	105	97%	10,334	32%
5085 · Misc. Program Expense	2,446	7,575	2,702	(4,873)	280%	10,344	73%
5090 · Commission Expense	13,997	12,222	11,358	(864)	108%	27,176	45%
5095 · Wills for Heroes	225	482	427	(55)	113%	856	56%
5096 · UDR Support	-	-	-	-	#DIV/0!	-	-
5099 · Blomquist Hale	30,788	30,721	30,808	87	100%	73,881	42%
5702 · Travel - Lodging	37,672	38,023	29,373	(8,650)	129%	55,147	69%
5703 · Travel - Transportation/Parking	6,002	10,677	5,696	(4,981)	187%	19,672	54%
5704 · Travel - Mileage Reimbursement	10,919	4,204	5,860	1,656	72%	13,433	31%
5705 · Travel - Per Diems	2,604	3,502	2,000	(1,502)	175%	4,523	77%
5706 · Travel - Meals	251	109	169	60	65%	958	11%
5707 · Travel - Commission Mtgs	42,649	12,543	30,640	18,097	41%	39,202	32%
5805 · ABA Annual Meeting	18,403	13,195	19,111	5,916	69%	23,727	56%
5810 · ABA Mid Year Meeting	3,676	2,362	6,028	3,666	39%	19,930	12%
5815 · Commission/Education	18,903	12,895	18,404	5,509	70%	25,423	51%
5820 · ABA Annual Delegate	7,214	4,818	8,647	3,829	56%	11,938	40%
5830 · Western States Bar Conference	1,740	427	1,076	649	40%	17,146	2%
5840 · President's Expense	9,188	13,958	9,004	(4,954)	155%	20,000	70%
5841 · President's Reimbursement	-	2,754	80	(2,674)	3443%	1,441	191%
5845 · Reg Reform Task Force	-	4,477	-	(4,477)	#DIV/0!	10,000	-
5850 · Leadership Academy	3,795	2,148	6,085	3,937	35%	20,000	11%
5855 · Bar Review	1,156	-	1,003	1,003	0%	1,500	0%
5865 · Retreat	31,413	20,234	27,062	6,828	75%	30,000	67%
5866 · Well-Being Committee	-	22,198	20,835	(1,363)	107%	50,004	44%
5868 · UCLI Support	-	50,000	50,000	-	100%	50,000	100%
5960 · Overhead Allocation - Seminars	-	-	7,948	7,948	0%	10,750	0%
5970 · Event Revenue Sharing - 3rd Pty	23,417	26,001	44,504	18,503	58%	71,000	37%
Total Program Service Expenses	869,733	918,593	961,976	43,383	95%	1,798,877	51%
Salaries & Benefit Expenses							
5510 · Salaries/Wages	1,156,138	1,240,438	1,204,403	(36,035)	103%	2,881,554	43%
5605 · Payroll Taxes	83,298	88,603	86,225	(2,378)	103%	213,905	41%
5610 · Health Insurance	99,167	107,662	101,871	(5,791)	106%	256,314	42%
5620 · Health Ins/Medical Reimb	2,990	1,625	4,848	3,223	34%	8,362	19%
5630 · Dental Insurance	5,914	6,364	6,048	(316)	105%	15,373	41%
5640 · Life & LTD Insurance	6,985	7,341	7,059	(282)	104%	17,616	42%
5645 · Workman's Comp Insurance	1,092	1,083	1,165	83	93%	2,650	41%
5650 · Retirement Plan Contributions	98,565	107,488	106,426	(1,062)	101%	242,708	44%
5655 · Retirement Plan Fees & Costs	4,861	4,844	4,521	(323)	107%	15,397	31%
5660 · Training/Development	4,744	13,333	7,207	(6,126)	185%	26,785	50%
Total Salaries & Benefit Expenses	1,463,755	1,578,780	1,529,773	(49,007)	103%	3,680,664	40%
General & Administrative Expenses							
7025 · Office Supplies	11,254	11,214	10,945	(269)	102%	24,870	45%
7033 · Operating Meeting Supplies	10,083	9,611	10,083	472	95%	23,155	42%
7035 · Postage/Mailing, net	23,369	26,773	27,465	692	97%	61,456	44%
7040 · Copy/Printing Expense	73,878	67,759	76,902	9,143	88%	158,848	43%

Utah State Bar
Income Statement - Consolidated By Account
November 30, 2019

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
7041 · Copy/Print revenue	(10,933)	(8,128)	(11,363)	(3,235)	72%	(26,249)	31%
7045 · Internet Service	5,128	2,991	7,438	4,447	40%	14,467	21%
7050 · Computer Maintenance	11,380	19,179	10,822	(8,357)	177%	38,275	50%
7055 · Computer Supplies & Small Equip	4,646	6,191	4,968	(1,223)	125%	14,078	44%
7089 · Membership Database Fees	8,000	10,260	8,606	(1,654)	119%	41,382	25%
7100 · Telephone	20,119	29,428	18,040	(11,388)	163%	47,750	62%
7105 · Advertising	10,750	17,660	22,774	5,114	78%	106,318	17%
7106 · Public Notification	295	-	315	315	0%	1,225	0%
7110 · Publications/Subscriptions	9,245	13,315	8,104	(5,211)	164%	19,323	69%
7115 · Public Relations	-	-	20,835	20,835	0%	50,000	0%
7120 · Membership/Dues	7,558	9,314	8,379	(935)	111%	12,133	77%
7135 · Bank Service Charges	514	523	513	(10)	102%	1,257	42%
7136 · ILM Service Charges	8,042	8,149	7,407	(742)	110%	16,298	50%
7138 · Bad debt expense	-	-	-	-	#DIV/0!	-	-
7140 · Credit Card Merchant Fees	34,534	38,693	35,031	(3,662)	110%	109,834	35%
7141 · Credit Card surcharge	(15,551)	(19,671)	(15,162)	4,509	130%	(59,836)	33%
7145 · Commission Election Expense	-	-	-	-	#DIV/0!	3,250	0%
7150 · E&O/Off & Dir Insurance	21,466	21,646	21,780	134	99%	52,267	41%
7160 · Audit Expense	33,546	34,265	34,000	(265)	101%	34,000	101%
7170 · Lobbying Rebates	111	119	70	(49)	171%	114	105%
7175 · O/S Consultants	23,354	112,591	12,890	(99,701)	873%	112,742	100%
7176 · Bar Litigation	2,650	9,389	10,396	1,008	90%	25,000	38%
7177 · UPL	275	21,331	132	(21,199)	16160%	3,960	539%
7178 · Offsite Storage/Backup	1,854	1,831	745	(1,086)	246%	4,681	39%
7179 · Payroll Adm Fees	1,193	1,438	1,179	(259)	122%	2,853	50%
7180 · Administrative Fee Expense	380	401	430	29	93%	877	46%
7190 · Lease Interest Expense	-	-	-	-	#DIV/0!	701	0%
7191 · Lease Sales Tax Expense	-	-	-	-	#DIV/0!	-	#DIV/0!
7195 · Other Gen & Adm Expense	4,081	3,063	4,601	1,538	67%	13,914	22%
Total General & Administrative Expenses	301,222	449,335	338,325	(111,011)	133%	908,946	33%
In Kind Expenses							
7103 · InKind Contrib-UDR & all other	7,382	8,252	7,500	(752)	110%	20,277	41%
Total In Kind Expenses	7,382	8,252	7,500	(752)	110%	20,277	36%
Building Overhead Expenses							
6015 · Janitorial Expense	12,691	12,572	13,251	679	95%	31,209	40%
6020 · Heat	6,329	4,865	6,883	2,018	71%	22,437	22%
6025 · Electricity	22,504	21,705	23,382	1,677	93%	47,638	46%
6030 · Water/Sewer	4,867	5,048	4,911	(137)	103%	7,627	66%
6035 · Outside Maintenance	3,099	5,874	3,300	(2,574)	178%	14,124	42%
6040 · Building Repairs	7,049	6,175	6,361	186	97%	20,969	29%
6045 · Bldg Mtnc Contracts	12,690	12,778	12,909	131	99%	36,050	35%
6050 · Bldg Mtnc Supplies	346	-	328	328	0%	4,611	0%
6055 · Real Property Taxes	15,089	10,774	16,880	6,106	64%	33,743	32%
6060 · Personal Property Taxes	186	176	200	24	88%	460	38%
6065 · Bldg Insurance/Fees	7,156	7,600	7,364	(236)	103%	17,834	43%
6070 · Building & Improvements Depre	21,619	22,506	21,849	(657)	103%	54,832	41%
6075 · Furniture & Fixtures Depre	5,660	3,587	6,164	2,577	58%	14,857	24%
7065 · Computers, Equip & Sftwre Depre	65,213	56,768	68,060	11,292	83%	181,723	31%
Total Building Overhead Expenses	184,497	170,427	191,842	21,415	89%	488,114	38%
Total Expenses	2,826,588	3,125,387	3,029,416	(95,971)	103%	6,896,878	41%
Net Profit (Loss)	\$ 2,510,106	\$ 2,201,250	\$ 2,494,457	\$ (293,207)	88%	\$ (63,009)	

Utah State Bar Balance Sheets

	<u>11/30/2019</u>	<u>6/30/2019</u>
ASSETS		
Current Assets		
Petty Cash	\$ 625	\$ 625
Cash in Bank	193,389	1,033,337
Invested Funds	6,751,525	6,692,156
Total Cash/Investments	<u>6,945,539</u>	<u>7,726,118</u>
Accounts Receivable	84,287	47,761
Prepaid Expenses	151,606	167,371
A/R - Sections	40,860	47,548
Total Other Current Assets	<u>276,753</u>	<u>262,680</u>
Total Current Assets	<u>7,222,292</u>	<u>7,988,798</u>
Fixed Assets		
Property & Equipment	4,839,088	4,810,080
Accumulated Depreciation	(4,120,671)	(4,037,810)
Land	633,142	633,142
Total Fixed Assets	<u>1,351,559</u>	<u>1,405,411</u>
TOTAL ASSETS	<u><u>\$ 8,573,851</u></u>	<u><u>\$ 9,394,209</u></u>
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
AP Trade	\$ 67,732	\$ 119,826
Other Accounts Payable	27,834	132,403
Accrued Payables	413,029	434,814
Cap Lease Oblig - ST	3,683	3,683
A/P - Sections	1,800	220,698
Deferred Revenue	-	2,620,865
Total Current Liabilities	<u>514,079</u>	<u>3,532,289</u>
Long Term Liabilities		
Capital Lease Oblig	5,875	8,003
Total Long Term Liabilities	<u>5,875</u>	<u>8,003</u>
Total Liabilities	<u>519,954</u>	<u>3,540,292</u>
Equity		
Unrestricted Net Assets (R/E)	5,853,847	5,467,275
Fund Balance - Current Year	2,200,050	386,643
Total Equity	<u>8,053,898</u>	<u>5,853,917</u>
TOTAL LIABILITIES & EQUITY	<u><u>\$ 8,573,851</u></u>	<u><u>\$ 9,394,209</u></u>

INSTITUTIONAL LIQUIDITY MANAGEMENT

ILM-UT ST BAR (3176)

Dated: 12/10/2019

Balance Sheet Classification

Base Currency: USD As of 11/30/2019

CE

Identifier	Description	Current Units	Rating	Coupon	Effective Maturity	Book Yield	Yield	Base Book Value	Base Net Total Unrealized Gain/Loss	Market Price	Base Accrued Balance	Base Market Value + Accrued
38141W232	GOLDMAN:FS MM INST	3,456,545.34	AAA	1.810	11/30/2019	1.780	1.780	3,458,582.18	-308.57	1.0005	0.00	3,458,273.61
CCYUSD	Cash	7,140.82	AAA	0.000	11/30/2019	0.000	0.000	7,140.82	0.00	1.0000	0.00	7,140.82
---	---	3,463,686.16	AAA	---	11/30/2019	1.776	1.776	3,465,723.00	-308.57	---	0.00	3,465,414.43

ST

Identifier	Description	Current Units	Rating	Coupon	Effective Maturity	Book Yield	Yield	Base Book Value	Base Net Total Unrealized Gain/Loss	Market Price	Base Accrued Balance	Base Market Value + Accrued
44987CAG3	ING BANK NV	300,000.00	AA-	2.700	08/17/2020	1.940	1.913	301,601.14	65.66	100.5556	2,340.00	304,006.80
05579HAG7	BNZ INTERNATIONAL FUNDING LIMITED (LONDON BRANCH)	250,000.00	AA-	2.400	02/21/2020	1.876	1.806	250,284.35	45.65	100.1320	1,666.67	251,996.67
961214DJ9	WESTPAC BANKING CORP	200,000.00	AA-	2.150	03/06/2020	1.900	1.958	200,127.46	-29.66	100.0489	1,015.28	201,113.08
63307A2E4	NATIONAL BANK OF CANADA	200,000.00	AA-	2.150	05/12/2020	1.901	1.843	200,220.82	55.38	100.1381	2,018.61	202,294.61
63307A2E4	NATIONAL BANK OF CANADA	100,000.00	AA-	2.150	05/12/2020	1.938	1.843	100,093.77	44.33	100.1381	1,009.31	101,147.41
00182EBE8	ANZ NEW ZEALAND (INT'L) LTD	200,000.00	AA-	2.200	07/17/2020	3.297	1.942	198,649.46	1,672.14	100.1608	1,637.78	201,959.38
57629WCF5	MASSMUTUAL GLOBAL FUNDING II	250,000.00	AA+	1.950	09/22/2020	1.844	1.874	250,209.81	-59.56	100.0601	934.38	251,084.63
74368CAJ3	PROTECTIVE LIFE GLOBAL FUNDING	215,000.00	AA-	2.161	09/25/2020	2.065	1.968	215,185.13	168.55	100.1552	851.79	216,185.47
94988J5L7	WELLS FARGO BANK NA	350,000.00	AA	2.400	01/15/2020	2.896	2.377	349,790.60	210.10	100.0002	3,173.33	353,174.03
09702LBS3	The Boeing Company	300,000.00	A-1+	0.000	02/26/2020	2.180	2.135	298,434.00	0.00	99.4780	0.00	298,434.00
---	---	2,365,000.00	AA	---	05/15/2020	2.214	1.997	2,384,576.55	2,172.58	---	14,847.14	2,381,395.27

LT

Identifier	Description	Current Units	Rating	Coupon	Effective Maturity	Book Yield	Yield	Base Book Value	Base Net Total Unrealized Gain/Loss	Market Price	Base Accrued Balance	Base Market Value + Accrued
525ESC1Y5	LEHMAN ESCROW	300,000.00	NA	0.000	01/01/2049	0.000	---	0.00	2,157.00	0.7190	0.00	2,157.00
22546QAR8	CREDIT SUISSE AG (NEW YORK BRANCH)	337,000.00	A+	3.000	10/28/2021	2.006	2.039	343,248.70	-194.49	101.7965	898.67	343,952.87
59217GBX6	METROPOLITAN LIFE GLOBAL FUNDING I	316,000.00	AA-	1.950	09/15/2021	1.936	1.943	316,074.31	-38.28	100.0114	1,300.87	317,336.89
136069XY2	CANADIAN IMPERIAL BANK OF COMMERCE	187,000.00	AA	2.700	02/02/2021	1.876	1.921	188,773.38	-91.87	100.8992	1,668.97	190,350.48
69371RP26	PACCAR FINANCIAL CORP	50,000.00	A+	3.100	05/10/2021	1.908	1.936	50,843.86	-17.51	101.6527	90.42	50,916.77
---	---	1,190,000.00	AA-	---	09/01/2021	1.948	1.974	898,940.24	1,814.84	---	3,858.93	904,714.01

Summary

Identifier	Description	Current Units	Rating	Coupon	Effective Maturity	Book Yield	Yield	Base Book Value	Base Net Total Unrealized Gain/Loss	Market Price	Base Accrued Balance	Base Market Value + Accrued
---	---	7,018,686.16	AA+	---	04/23/2020	1.854	1.881	8,729,239.79	3,878.85	---	18,806.07	8,751,524.71

* Grouped by: BS Class 2 * Groups Sorted by: BS Class 2 * Weighted by: Base Market Value + Accrued, except Book Yield by Base Book Value + Accrued * Holdings Displayed by: Lot

11,398 views | Nov 18, 2019, 09:00am

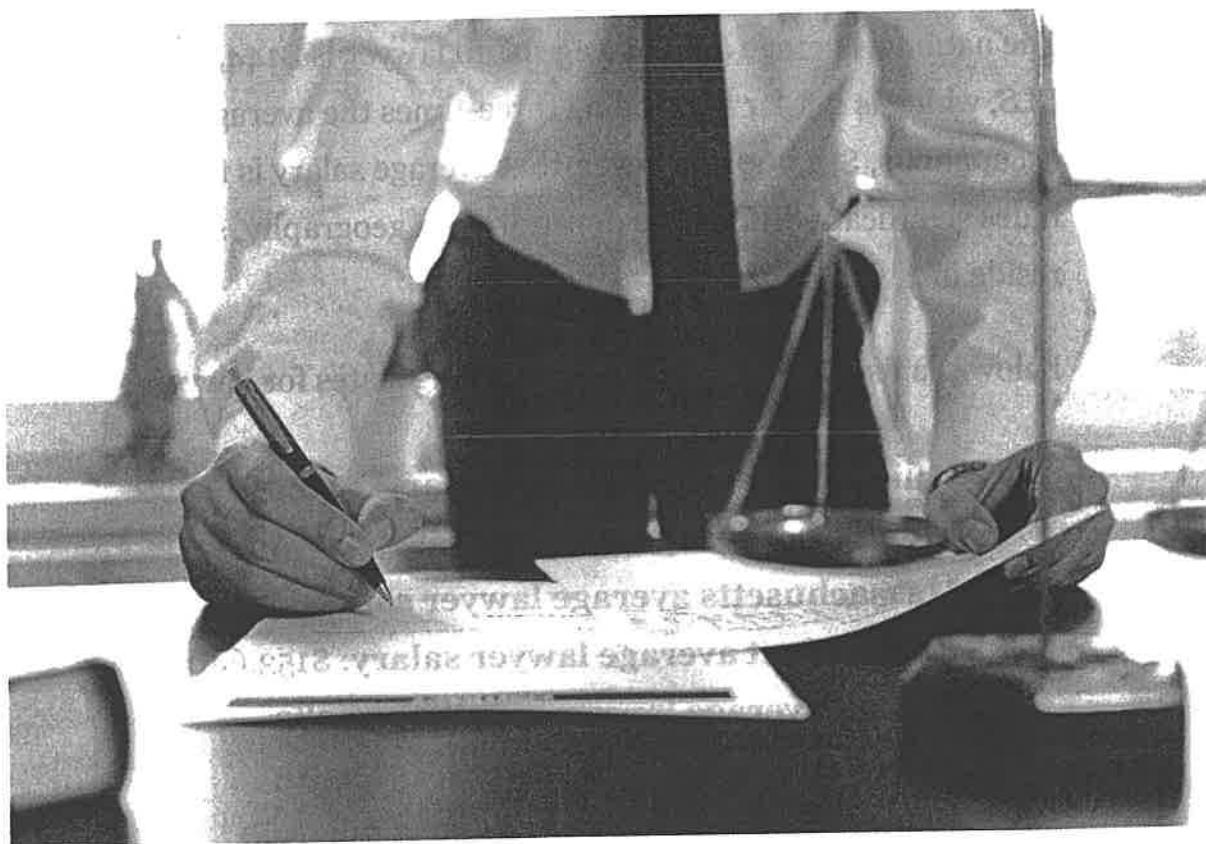
Here's How Much Money Lawyers Make In Every State



Andrew DePietro Contributor ⓘ

Personal Finance

I cover small business, real estate and cost of living.



Lawyer working with documents. Justice and law, attorney, concept. Man signing contract papers GETTY

According to the Bureau of Labor Statistics' Occupational Outlook Handbook, the employment of lawyers is projected to increase by 50,100 from 2018 to 2028. That's a substantial amount of growth for most occupations, but with the current number of lawyer jobs being 823,900, it's only an increase of 6%, which

is about as fast as the average growth for all occupations. So, it's not exactly a career path that's on fire, but neither is it declining.

One of the many draws of pursuing a career as a lawyer is the financial compensation; namely, it pays well. Using occupational data from the Bureau of Labor Statistics, we've analyzed and compiled an overview of the average lawyer salary by state in the U.S. Read on for a full breakdown of where lawyers make the most money, and where they're making the least.

10 States Where Lawyers Earn the Most Money

The national average annual wage of an lawyer is \$144,230, according to the BLS, which is not far from being three-times the average annual salary for all occupations, \$51,960. However, that average salary is for the U.S. overall, which hides significant differences depending on geography, such as the state you reside in.

Below is a list of the top-10 highest-paying states for lawyers:

1. **California average lawyer salary:** \$171,550
2. **New York average lawyer salary:** \$167,110
3. **Massachusetts average lawyer salary:** \$165,610
4. **Connecticut average lawyer salary:** \$153,640
5. **Illinois average lawyer salary:** \$152,980
6. **Texas average lawyer salary:** \$150,250
7. **Colorado average lawyer salary:** \$147,560
8. **Arizona average lawyer salary:** \$145,750
9. **Virginia average lawyer salary:** \$139,180
10. **New Jersey average lawyer salary:** \$139,020

Massachusetts has not only the third-highest average annual wage for lawyers. It has seen the third-largest growth in its average lawyer salary over the last five years: 23.2%, from \$134,380 in 2013 to \$165,610 in 2018.

Trending Now: Best States to Start a Business

10 States Where Lawyers Earn the Least Money

The bottom-10 states where lawyers make the least money tend to be ones less densely populated, and either in the South or the Mountain states of the West. Check them out below, with No. 1 being the lowest-paying state:

- 1. Montana average lawyer salary: \$88,600**
- 2. Mississippi average lawyer salary: \$97,990**
- 3. West Virginia average lawyer salary: \$98,630**
- 4. Arkansas average lawyer salary: \$98,780**
- 5. Idaho average lawyer salary: \$99,360**
- 6. Kentucky average lawyer salary: \$100,100**
- 7. South Carolina average lawyer salary: \$105,320**
- 8. Louisiana average lawyer salary: \$105,490**
- 9. Wyoming average lawyer salary: \$105,600**
- 10. New Mexico average lawyer salary: \$105,910**

For some of these states, the prospects for lawyers is actually looking bright, as average lawyer wages have risen by 17.6% in Montana and by 18.3% in Wyoming from 2013 to 2018. On the other hand, many of the other 10 worst states have seen declining wages for lawyers. The fifth-lowest paying state for lawyers, Idaho, has seen its average annual wage decline by 5.7% in the last five years, one of the worst rates in the country.

How Much Do Lawyers Make in Each State

Below you'll find the average annual wage for lawyers in all 50 states from 2014 to 2018. Unfortunately, there was no 2018 data available for the average lawyer salary in Delaware from the BLS. The rank is included, as well as the five-year change in average annual wage in percent.

Average Lawyer Salary by State

Annual mean wage of lawyers in every U.S. state

Rank	State	2018 Average Salary	2017 Average Salary	2016 Average Salary	2015 Average Salary	2014 Average Salary
27	Alabama	\$117,100	\$117,640	\$118,420	\$114,820	\$113,010
22	Alaska	\$121,680	\$122,870	\$123,770	\$121,910	\$117,910
8	Arizona	\$145,750	\$138,680	\$130,630	\$125,660	\$117,380
46	Arkansas	\$98,780	\$99,100	\$103,980	\$100,320	\$100,690
1	California	\$171,550	\$168,200	\$162,010	\$163,020	\$158,200
7	Colorado	\$147,560	\$141,200	\$138,130	\$135,880	\$130,620
4	Connecticut	\$153,640	\$152,540	\$151,540	\$147,100	\$140,040
N/A	Delaware	*	*	\$157,610	\$152,330	\$145,940
17	Florida	\$128,920	\$127,730	\$131,990	\$128,050	\$122,020
16	Georgia	\$128,930	\$136,190	\$133,030	\$130,710	\$132,540
32	Hawaii	\$111,290	\$113,190	\$106,650	\$104,180	\$105,410
45	Idaho	\$99,360	\$98,390	\$91,390	\$96,900	\$100,900
5	Illinois	\$152,980	\$140,920	\$129,070	\$125,920	\$124,680
29	Indiana	\$113,360	\$113,850	\$114,270	\$110,240	\$103,010
30	Iowa	\$112,630	\$113,470	\$108,660	\$106,820	\$106,080
35	Kansas	\$109,020	\$104,730	\$106,470	\$105,790	\$98,850

How Much Do Lawyers Make in Each State

Below you'll find the average annual wage for lawyers in all 50 states from 2014 to 2018. Unfortunately, there was no 2018 data available for the average lawyer salary in Delaware from the BLS. The rank is included, as well as the five-year change in average annual wage in percent.

Average Lawyer Salary by State

Annual mean wage of lawyers in every U.S. state

▼ Rank	State	2018 Average Salary	2017 Average Salary	2016 Average Salary	2015 Average Salary	2014 Average Salary
49	Montana	\$88,600	\$83,150	\$83,330	\$82,070	\$75,720
48	Mississippi	\$97,990	\$106,360	\$114,710	\$103,180	\$99,470
47	West Virginia	\$98,630	\$95,220	\$100,430	\$98,270	\$94,010
46	Arkansas	\$98,780	\$99,100	\$103,980	\$100,320	\$100,690
45	Idaho	\$99,360	\$98,390	\$91,390	\$96,900	\$100,900
44	Kentucky	\$100,100	\$95,890	\$93,020	\$93,560	\$92,090
43	South Carolina	\$105,320	\$104,300	\$107,230	\$109,250	\$113,760
42	Louisiana	\$105,490	\$101,170	\$105,740	\$111,240	\$113,830
41	Wyoming	\$105,600	\$98,090	\$112,710	\$102,130	\$103,290
40	New Mexico	\$105,910	\$99,510	\$97,100	\$91,430	\$96,520
39	Maine	\$107,120	\$102,040	\$106,270	\$99,260	\$100,720
38	North Dakota	\$107,290	\$97,680	\$102,660	\$101,840	*
37	Vermont	\$107,490	\$105,900	\$103,970	\$106,610	\$101,620
36	Nebraska	\$108,170	\$110,950	\$107,590	\$106,460	\$93,820
35	Kansas	\$109,020	\$104,730	\$106,470	\$105,790	\$98,850
34	South Dakota	\$109,070	\$100,000	\$101,360	\$96,580	\$98,360

Massachusetts has not only the third-highest average annual wage for lawyers. It has seen the third-largest growth in its average lawyer salary over the last five years: 23.2%, from \$134,380 in 2013 to \$165,610 in 2018.

Trending Now: Best States to Start a Business

10 States Where Lawyers Earn the Least Money

The bottom-10 states where lawyers make the least money tend to be ones less densely populated, and either in the South or the Mountain states of the West. Check them out below, with No. 1 being the lowest-paying state:

1. **Montana average lawyer salary:** \$88,600
2. **Mississippi average lawyer salary:** \$97,990
3. **West Virginia average lawyer salary:** \$98,630
4. **Arkansas average lawyer salary:** \$98,780
5. **Idaho average lawyer salary:** \$99,360
6. **Kentucky average lawyer salary:** \$100,100
7. **South Carolina average lawyer salary:** \$105,320
8. **Louisiana average lawyer salary:** \$105,490
9. **Wyoming average lawyer salary:** \$105,600
10. **New Mexico average lawyer salary:** \$105,910

For some of these states, the prospects for lawyers is actually looking bright, as average lawyer wages have risen by 17.6% in Montana and by 18.3% in Wyoming from 2013 to 2018. On the other hand, many of the other 10 worst states have seen declining wages for lawyers. The fifth-lowest paying state for lawyers, Idaho, has seen its average annual wage decline by 5.7% in the last five years, one of the worst rates in the country.

Rank	State	2018 Average Salary	2017 Average Salary	2016 Average Salary	2015 Average Salary	2014 Average Salary	2013 Average Salary	5-Year Change
39	Maine	\$107,120	\$102,040	\$106,270	\$99,260	\$100,720		
18	Maryland	\$128,340	\$126,480	\$123,220	\$121,530	\$126,060	\$127,040	1
3	Massachusetts	\$165,610	\$157,450	\$158,760	\$152,990	\$144,030	\$134,380	23
33	Michigan	\$110,180	\$112,740	\$110,760	\$110,920	\$116,710	\$114,460	-4
25	Minnesota	\$119,330	\$124,230	\$133,390	\$128,320	\$128,290	\$126,520	-6
48	Mississippi	\$97,990	\$106,360	\$114,710	\$103,180	\$99,470	\$92,640	6
28	Missouri	\$113,780	\$115,520	\$116,060	\$114,480	\$121,500	\$116,190	-2
49	Montana	\$88,600	\$83,150	\$83,330	\$82,070	\$75,720	\$75,360	18
36	Nebraska	\$108,170	\$110,950	\$107,590	\$106,460	\$93,820	\$95,220	14
11	Nevada	\$138,920	\$138,850	\$134,440	\$120,360	\$123,850	\$122,770	13
19	New Hampshire	\$125,890	\$119,650	\$115,410	\$114,470	\$111,050	\$112,710	12
10	New Jersey	\$139,020	\$140,340	\$144,190	\$145,970	\$140,770	\$133,330	4
40	New Mexico	\$105,910	\$99,510	\$97,100	\$91,430	\$96,520	\$98,150	8
2	New York	\$167,110	\$165,260	\$161,260	\$155,050	\$154,340	\$153,490	9
15	North Carolina	\$129,990	\$137,200	\$138,470	\$123,940	\$118,310	\$114,840	13
38	North Dakota	\$107,290	\$97,680	\$102,660	\$101,840 *		\$90,850	18
23	Ohio	\$121,520	\$113,610	\$113,400	\$113,360	\$113,200	\$108,950	12
26	Oklahoma	\$118,790	\$115,260	\$123,510	\$116,900	\$112,520	\$101,310	17
24	Oregon	\$119,500	\$117,810	\$114,730	\$117,800	\$114,870	\$111,640	7
12	Pennsylvania	\$138,610	\$139,050	\$134,600	\$131,090	\$129,460	\$134,250	3
20	Rhode Island	\$125,330	\$129,410	\$131,430	\$129,100	\$119,010	\$99,010	27
43	South Carolina	\$105,320	\$104,300	\$107,230	\$109,250	\$113,760	\$108,790	-3

Rank	State	2018 Average Salary	2017 Average Salary	2016 Average Salary	2015 Average Salary	2014 Average Salary	2013 Average Salary	5-Year Change
34	South Dakota	\$109,070	\$100,000	\$101,360	\$96,580	\$98,360	\$99,650	10
21	Tennessee	\$124,470	\$129,830	\$127,700	\$125,530	\$113,580	\$108,240	15
6	Texas	\$150,250	\$145,800	\$149,400	\$143,490	\$141,240	\$134,200	12
31	Utah	\$112,380	\$109,280	\$108,670	\$113,550	\$118,910	\$115,930	-3
37	Vermont	\$107,490	\$105,900	\$103,970	\$106,610	\$101,620	\$98,580	9
9	Virginia	\$139,180	\$136,790	\$139,050	\$135,180	\$131,320	\$129,800	7
13	Washington	\$136,480	\$129,220	\$126,900	\$124,000	\$120,740	\$119,900	14
47	West Virginia	\$98,630	\$95,220	\$100,430	\$98,270	\$94,010	\$90,240	9
14	Wisconsin	\$130,450	\$123,600	\$111,080	\$101,990	\$101,980	\$105,080	24
41	Wyoming	\$105,600	\$98,090	\$112,710	\$102,130	\$103,290	\$89,280	18

Table: Andrew DePietro Source: [Bureau of Labor Statistics](#) [Get the data](#) Created with [Datawrapper](#)

OFFICE OF PROFESSIONAL CONDUCT

ANNUAL REPORT August 2019



INTRODUCTION

This report on the Office of Professional Conduct (“OPC”) will focus on six areas: (I) staff composition; (II) attorney misconduct case process and procedure; (III) statistics for July 1, 2018 to June 30, 2019 (“year 2018-2019”); (IV) progress and goals on cases; (V) the Consumer Assistance Program (“CAP”);^A and (VI) goals for July 1, 2019 to June 30, 2020 (“year 2019-2020”).

In 2017, at the direction of the Utah Supreme Court, the American Bar Association (“ABA”) conducted a review of the entire disciplinary system. Based upon the ABA’s report, the Utah Supreme Court formed an ad hoc committee to evaluate the report and make recommendations regarding what changes should be implemented. After review of the recommendations, the Utah Supreme Court took the first step, effective March 4, 2019, and promulgated Rule 11-501 as part of Article 5 of the Utah Supreme Court Rules of Professional Practice. This rule authorizes the formation of an OPC Oversight Committee that reports to the Utah Supreme Court. The rule makes clear that the OPC is no longer part of the administrative oversight of the Utah State Bar.

The OPC Oversight Committee is required to have five voting members, including at least one judge, one member of the public, and one past chair or vice-chair of the Ethics and Discipline Committee. At least one of the members must have an accounting background. The Executive Director of the Bar is an ex-officio, non-voting member of the OPC Oversight Committee. The current voting members of the OPC Oversight Committee are:

- Judge Diana Hagen – Chair, Utah Court of Appeals
- Art Berger – Attorney

^A CAP is a program at the Utah Bar separate from the OPC and manned by a part-time attorney to handle minor disputes between consumers (i.e., clients) and attorneys.

- Margaret Plane – Attorney
- Roger Smith – Accountant
- Magistrate Judge Brooke Wells – United States District Court for the District of Utah

During the coming year more changes will be made, from procedural rule changes to the creation of a separate website for the OPC to implement the recommendations of the ABA review as further approved by the Utah Supreme Court. The OPC Oversight Committee will oversee the process of implementing these changes.

In addition to the regulation of attorneys for professional misconduct, effective November 1, 2018, in Chapter 15 of the Utah Supreme Court Rules of Professional Practice the Utah Supreme Court promulgated rules governing Licensed Paralegal Practitioners (“LPPs”). The OPC will also have regulatory authority over LPPs.

Since none of the procedural rules were amended regarding attorneys during year 2018-2019 and no LPPs were admitted to Utah Bar membership during year 2018-2019, this report will reflect statistics under the current procedural rules in effect and will not reflect any statistics on LPPs. The OPC anticipates that future reports will reflect procedural changes resulting from the ABA review and any professional misconduct of LPPs.

I. STAFF COMPOSITION

The staff for year 2018-2019 consisted of 12 full-time employees. These 12 full-time employees include Chief Disciplinary Counsel, a Deputy Chief Disciplinary Counsel, four Assistant Disciplinary Counsel, four Paralegals, one Investigator, and one Intake Secretary.^B

^B Rule 11-501 changed the OPC attorney staff titles as follows: Senior Counsel changed to Chief Disciplinary Counsel; Deputy Senior Counsel changed to Deputy Chief Disciplinary Counsel, and Assistant Counsel changed to Assistant Disciplinary Counsel.

II. ATTORNEY MISCONDUCT CASE PROCESS AND PROCEDURE

A) Rules

The Rules of Lawyer Discipline and Disability (“RLDD”) are in Chapter 14, Article 5, of the Utah Supreme Court Rules of Professional Practice. The RLDD are the authority for the attorney discipline process and procedure. Rule 14-504 of the RLDD is the overall authority for the OPC and Chief Disciplinary Counsel as head of the OPC.

B) Ethics and Discipline Committee

Pursuant to Rule 14-503 of the RLDD, 29 volunteer attorneys and eight volunteer non-attorneys are appointed by the Utah Supreme Court to serve on an administrative body called the Ethics and Discipline Committee (“Committee”). The Committee’s function is to consider attorney discipline cases that are appropriately referred to it under the RLDD.

The Utah Supreme Court appoints a Committee Chair and four Committee Vice-Chairs from the 29 attorneys. The Committee Chair is responsible for the oversight of the Committee and the Committee Vice-Chairs assist the Committee Chair in this task. The remaining 24 attorneys and eight non-attorneys do their main work in subcommittees called Screening Panels. The Utah Supreme Court appoints a Chair and a Vice-Chair to each Screening Panel. The year 2018-2019 composition of the Committee was as follows:

Christine Greenwood (Magleby Cataxinos & Greenwood), Chair, Ethics and Discipline Committee

Catherine L. Brabson (Salt Lake City Attorney’s Office), Vice-Chair, Ethics and Discipline Committee

Jeffrey J. Hunt (Parr, Brown, Gee & Loveless), Vice-Chair, Ethics and Discipline Committee

Michael R. McCarthy II (Barrick Gold of North America, Inc.), Vice-Chair, Ethics and Discipline Committee

Katherine E. Venti (Parsons Behle & Latimer), Vice-Chair, Ethics and Discipline Committee

Brady Whitehead, Clerk, Ethics and Discipline Committee

Panel A

Andrea Martinez Griffin (Salt Lake Legal Defender Association), Chair

Richard G. Hamp (Salt Lake County District Attorney), Vice-Chair

Duane H. Gillman (Durham Jones & Pinegar)

J. Gregory Hardman (Snow Jensen & Reece)

Kimberly A. Neville (Dorsey & Whitney LLP)

Roger D. Sandack (Attorney at Law)

Sarah Sandberg, Public Member

Diane Walker, Public Member

Panel B

Jonathan G. Pappasideris (Salt Lake City Corporation), Chair

Rebecca S. Parr (Utah Department of Human Resource Management), Vice-Chair

Langdon T. Owen, Jr. (Cohne Kinghorn, PC)

Leonor E. Perretta (Perretta Law Office)

Cassie J. Medura (Jennings & Medura, LLC)

Lara A. Swensen (Hatch James & Dodge)

Joel Campbell, Public Member

Charles Haussler, Public Member

Panel C

Nanci S. Bockelie (Bockelie Law Office, LC), Chair

Amy Hayes Kennedy (Dart, Adamson & Donovan), Vice-Chair

Randall L. Jeffs (Jeffs & Jeffs, PC)

Jennifer F. Parrish (Magleby Cataxinos & Greenwood)

Mitchell A. Stephens (Hatch James & Dodge)

Kasey L. Wright (Wright Law Firm, P.C.)

Linda Blake, Public Member

Jonathan Bone, Public Member

Panel D

Elizabeth S. Whitney (Attorney at Law), Chair

Betsy Haws (Backcountry.com), Vice-Chair

Bryant J. McConkie (Ray Quinney & Nebeker)

Mark E. Hindley (Stoel Rives, LLP)

Monica D. Greene (Utah Juvenile Defender Attorneys)

David W. Tufts (Durham Jones & Pinegar)

Tim Foley, Public Member

Dr. Richard Price, Public Member

The majority of Screening Panel work is done by conducting hearings. The Screening Panel hearings must be presided over by either the Screening Panel Chair or the Screening Panel Vice-Chair, and must have a quorum consisting of two attorneys and one non-attorney.

C) How the OPC Addresses Information That Comes to Its Attention

Specifically addressing the processing of cases, the pertinent provisions of Rule 14-504(b) of the RLDD state that OPC has the power and duty to:

- (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;
- (2) Investigate all information coming to the attention of the Office which, if true, would be grounds for discipline or transfer to disability status and investigate all facts pertaining to petitions for reinstatement or readmission;
- (3) For each matter not covered in Rule 14-510 [of the RLDD] brought to the attention of the OPC:
 - (A) dismiss;
 - (B) decline to prosecute;
 - (C) refer non-frivolous and substantial informal complaints to the Committee for hearing; or
 - (D) petition for transfer to disability status;
- (4) Prosecute before the screening panels, the district courts and the Supreme Court all disciplinary cases and proceedings for transfer to or from disability status.

Information comes to the OPC's attention in the form of notarized/verified and non-notarized complaints. Notarized/verified complaints are official informal complaints ("informal complaints") within the meaning of Rule 14-510(a)(2) and, therefore, are processed pursuant to Rule 14-504 and Rule 14-510 of the RLDD. By contrast, non-notarized complaints are not official informal complaints, and are usually submitted to the OPC in the form of a Request for Assistance. The Request for Assistance form is able to

be submitted online. Requests for Assistance are processed pursuant to Rule 14-504 of the RLDD. For purposes of this report, all non-notarized complaints will hereinafter be referred to as Requests for Assistance. The OPC reviews Requests for Assistance in coordination with CAP.

Additionally, pursuant to Rule 14-504(b)(2) and Rule 14-510(a)(1) of the RLDD, the OPC can start an attorney misconduct investigation or complaint on its own initiative, based upon information that comes to its attention. The most common circumstance where this happens is when the OPC reviews information that has been disseminated through the media or is part of a published court case. The OPC categorizes these cases as Media/Court. Other circumstances where the OPC becomes the Complainant is where information is submitted by a judge where the judge does not want to be the Complainant, or where the Complainant stops cooperating and there is enough information to proceed. In all of the cases where the OPC is the Complainant, the OPC sends the attorney a notice of the OPC complaint with the notarized signature of the head of the OPC. Under Rule 14-510(a)(2), the OPC complaint is not required to be verified and attested to.

1) Central Intake System

Process

The OPC's Central Intake System is staffed by three attorneys who are assigned to review all initial information received (Requests for Assistance and informal complaints) to determine whether the matter should be appropriately closed by a declination to prosecute or a dismissal, or whether the matter should be processed further for referral to a Screening Panel. These decisions are made jointly by the intake attorneys and the other staff attorneys at weekly case status meetings. Therefore, notwithstanding individual case assignments, all the attorneys in the office are actually involved in the

investigation and prosecution decisions of all the cases received by the OPC.

As part of this system, at the weekly attorney staff meetings the OPC reviews all written Requests for Assistance that it receives, or that are made directly to CAP. Prior to opening a case, the OPC has a CAP review process where it determines whether the Request for Assistance is appropriate to be handled through CAP (i.e., minor attorney concerns that most likely do not rise to the level of Rule of Professional Conduct violations or matters that should be addressed in another forum). Within those parameters, Requests for Assistance are sent to CAP and there is no need for the OPC to review the case further. In appropriate cases (matters that likely rise to the level of Rule of Professional Conduct violations or matters involving attorneys who are already under investigation by the OPC), the OPC notifies the Complainant to resubmit their Request for Assistance with notarization and verification or the OPC notarizes the Request for Assistance to open an OPC informal complaint.

2) Investigations

Initial Review

All reviews of all informal complaints and the decisions associated with these reviews are also made jointly by the OPC attorneys at weekly staff meetings. The informal complaint is reviewed for jurisdiction and merit. Looking at the “four corners” of the informal complaint, if the OPC determines it does not have jurisdiction, if the informal complaint fails to state a claim, or if the case lacks merit in that the alleged conduct, even if true is not an ethical violation, the case is dismissed. In these types of dismissal cases, there is no need to contact the attorney for information. Both the Complainant and the attorney receive a dismissal letter, and a copy of the informal complaint is sent to the attorney.

Preliminary Investigation

Assuming that the OPC does not dismiss an informal complaint based on jurisdiction or merit, the OPC conducts a preliminary investigation. The preliminary investigation is to ascertain whether the informal complaint is sufficiently clear as to the allegations. If it is not, the OPC will seek additional facts from the Complainant. Thereafter, the OPC will usually proceed to obtain an informal response from the Respondent.

Settlement

At any point during the investigation, the OPC is willing to conduct settlement discussions with the attorney; however, once the OPC files a Formal Complaint as explained below, the OPC will not conduct settlement discussions until an Answer is made to that Formal Complaint.

Notice of Informal Complaint

After the preliminary investigation and the request for informal responses, if the OPC determines that a formal response is needed from the attorney to reach an appropriate resolution of the informal complaint in accordance with the RLDD, including the possibility of a Screening Panel hearing, the OPC will serve on the attorney a Notice of Informal Complaint ("NOIC"). The NOIC will contain a true copy of the signed informal complaint and any additional information that the OPC has received from the Complainant. The NOIC will also identify with particularity the possible violations of the Rules of Professional Conduct raised by the informal complaint as preliminarily determined by the OPC. The attorney has 20 days after service of the NOIC to file with the OPC 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.

The OPC sends the Complainant a copy of the attorney's response to the NOIC and, in most cases, continues its investigation by obtaining a reply from the Complainant to the attorney's response. Further, where appropriate to ascertain the facts necessary to assess the charges, the OPC will seek additional responses and/or contact witnesses. The OPC always examines all documents submitted by all participants. Upon completion of the investigation as outlined above, the OPC determines whether the informal complaint sets forth facts which by their very nature should be brought before a Screening Panel or if good cause otherwise exists to bring the matter before a Screening Panel. These are "non-frivolous" and "substantial" informal complaints within the meaning of RLDD 14-504(b)(3) and are required to be presented to Screening Panels consistent with RLDD 14-510(a)(5).

Dismissal/Declination to Prosecute

If upon completion of this investigation the OPC determines that the case is not substantial or is frivolous (i.e., the factual allegations made by the Complainant that can be proven do not constitute a violation of the Rules of Professional Conduct or the evidence is insufficient to establish probable cause that the attorney violated the Rules of Professional Conduct), the OPC dismisses the informal complaint consistent with RLDD 14-510(a)(7). Additionally, as part of its dismissal authority, consistent with the language in Rule 14-510(a)(7) of the RLDD, the OPC can determine that an informal complaint is barred by the statute of limitations based on discovery of the acts allegedly constituting a violation of the Rules of Professional Conduct, or is more adequately addressed in another forum, or the OPC can decline to prosecute an informal complaint.

The OPC does not arbitrarily decide to decline to prosecute a case. Occasionally, due to the nature of a case (i.e., the remedy sought by a Complainant; ongoing proceedings and the possible disruption of those proceedings that a disciplinary case could have; the OPC resources needed to process a case compared to the OPC resources needed if the matters are first addressed elsewhere), it is in everyone's best interests to resolve the disciplinary matter by declining to prosecute the case. Generally, the OPC standards for declining to prosecute cases are as follows:

- The OPC may decline to prosecute cases where there is a question as to the nexus between the allegations and the attorney's practice.
- The OPC may decline to prosecute cases where the attorney has already been disciplined in an attorney discipline matter for similar misconduct committed during the same period. In these cases, it is unlikely the misconduct will result in discipline greater than what has already been imposed in an attorney discipline matter.
- The OPC may decline to prosecute cases where the attorney has taken immediate action to remedy the alleged misconduct and that remedy has likely negated a violation of the Rules of Professional Conduct.
- The OPC may decline to prosecute a case by a referral to the Professionalism Counseling Board.^c

It should be noted that if the OPC declines to prosecute a case and a court subsequently makes findings that could be the basis for a finding of misconduct under the Rules of Professional Conduct, the OPC may re-open the case and address the findings.

^c The Professionalism Counseling Board is a Utah Supreme Court Committee charged with addressing violations of the Standards of Professionalism and Civility set forth in Chapter 14, Article 3 of the Utah Supreme Court Rules of Professional Practice.

3) Diversions

Diversion is an alternative to discipline that is entered into by agreement in attorney discipline cases. Pursuant to Rule 14-533 of the RLDD, the Utah Supreme Court created a Diversion Committee; if the attorney consents to a Diversion Agreement that is subsequently approved by the Diversion Committee, either a Screening Panel or the OPC may dismiss cases involving minor violations of the Rules of Professional Conduct. The specific types of cases that are not appropriate for diversion are: when the attorney is accused of misappropriating client funds; the attorney's behavior will, or is likely to, result in substantial prejudice to a client or other person absent adequate provisions for restitution; the attorney has previously been sanctioned in the immediately preceding three years; the current misconduct is of the same type for which the attorney has previously been sanctioned; the misconduct involved dishonesty, deceit, fraud, or misrepresentation; the misconduct constitutes a substantial threat of irreparable harm to the public; the misconduct is a felony or a misdemeanor that reflects adversely on the respondent's honesty, trustworthiness, or fitness as a lawyer; or, the attorney has engaged in a pattern of similar misconduct.

To be eligible for diversion, the presumptive sanction must not be more severe than a public reprimand. Further, all involved must make an assessment of whether or not participation in diversion is likely to improve the attorney's future behavior, whether aggravating or mitigating factors exist, and whether diversion already has been attempted.

The Diversion Committee has to review and approve every diversion contract. Possible program areas of diversion are as follows: Fee Arbitration; Mediation; Law Office Management Assistance; Psychological and Behavioral Counseling; Monitoring;

Restitution; Continuing Legal Education Programs, including Ethics School; and, any other program or corrective course of action agreed to by the responding attorney necessary to address an attorney's conduct.

The OPC notifies an attorney of the diversion option when a case is received. A Complainant is notified of any proposed decision to refer an attorney to diversion and that Complainant may comment, however a decision to divert is not appealable by a Complainant.

Upon entering into the diversion contract, the complaint against the attorney is stayed pending completion of diversion. If diversion is successful, the complaint is dismissed and all information regarding the terms of the diversion is kept confidential. Further, successful completion of diversion is a bar to disciplinary prosecution based on the same allegations. However, a material breach of the diversion contract is cause for terminating the agreement and subjects the lawyer to appropriate discipline as if diversion had never been an option. As noted below, a Screening Panel may also refer a complaint to the Diversion Committee.

4) **Informal Appeals**

Pursuant to Rule 14-510(a)(7) of the RLDD, a Complainant can appeal within 15 days to the Committee Chair the OPC's dismissal, including declinations to prosecute, of any informal complaint. When the OPC dismisses an informal complaint after investigation or declines to prosecute an informal complaint, it gives notice to the Complainant of the language in Rule 14-510(a)(7) of the RLDD and allows the Complainant the opportunity to appeal the decision. If the Complainant files an appeal, the Committee Chair or a Vice-Chair conducts a de novo review of the OPC file and either affirms the dismissal or remands the matter and the OPC will prepare the informal

complaint for a Screening Panel hearing.

5) Screening Panel

If after investigation, the OPC determines that the allegations of the informal complaint are non-frivolous and substantial, or if the Chair or Vice-Chair of the Committee remands a case after an appeal, the OPC refers the informal complaint to a Screening Panel. The NOIC described in section 2 above is the official notice that is required for the OPC to bring the case before a Screening Panel.

A Screening Panel reviews all the facts developed by the informal complaint, the Respondent's answer, the OPC's investigation and the information obtained during the Screening Panel hearing. After this review, the Screening Panel may make any of the following determinations or recommendations:

- Dismissal for lack of merit;
- Dismissal with a letter of caution;
- Dismissal by referral to Diversion Committee;
- Dismissal by referral to Professionalism Counseling Board;
- Recommendation that the attorney be (privately) admonished or publicly reprimanded;
- If the Screening Panel recommends an admonition or public reprimand, the attorney can file an exception to the recommendation with the Committee Chair.
- The OPC can file an exception to any of the determinations or recommendations with the Committee Chair.
- Following the Screening Panel Hearing, or upon completion of the Exceptions Hearing, if an Exception has been filed, the Committee Chair issues a formal determination and can either sustain, dismiss, or modify the Screening Panel's determination or recommendation of discipline.

- After final written determination of the Committee Chair, where an exception has been filed, the OPC or an attorney can appeal by filing a request for review with the Supreme Court for reversal or modification. The OPC refers to these as “Administrative Appeals.”
- A finding of probable cause that a Formal Complaint be filed with the District Court.
 - A determination that a Formal Complaint should be filed is not appealable.

If the Screening Panel determines that the informal complaint should be filed as a Formal Complaint, Rule 14-511 of the RLDD requires the OPC to prepare the Formal Complaint for the signature of the Chair of the Committee. Often the attorney has more than one informal complaint pending against him/her. If there is more than one informal complaint involved, an informal complaint may also pass through the Screening Panel process and can be combined into a single Formal Complaint (“Combined with Formal”). Once a Formal Complaint is filed, if an attorney has other informal complaints or a Request for Assistance filed against him/her, in lieu of the Screening Panel process the OPC may elect to hold the cases for presentation at any Sanctions Hearing resulting from the Formal Complaint (“Hold for Sanctions”), pursuant to Rule 14-515 (a)(3) of the RLDD.

6) **Formal Complaints**

A Formal Complaint must be filed in the county where the alleged misconduct occurred, or in the county where the attorney resides or practices law or last practiced law. Once a Formal Complaint is filed with the District Court, if no settlement can be reached, the case is prepared for a bench trial. The bench trial is bifurcated, the first portion of which involves the adjudication of misconduct (i.e., Rule of Professional Conduct violations). If the judge does not dismiss the case and finds misconduct, the second stage of the trial is a sanctions hearing. At the end of the sanctions hearing, the judge can order sanctions and remedies that may include, but are not limited to, the

following dispositions:

- Admonition
- CLE or Ethics School
- Public Reprimand
- Restitution
- Probation
- Suspension
- Disbarment

7) **Formal Appeals**

All appeals from District Court orders are directed to the Utah Supreme Court. Only the Respondent attorney or the OPC can appeal from the District Court order. The Utah Supreme Court under its constitutional authority to regulate the practice of law has the discretion to consider appeals of all attorney discipline cases.

8) **Monitored Cases**

Monitored cases include probation cases, disability cases and trusteeship cases. Where appropriate, probation cases require someone to docket reminder dates, and follow-up to ensure that the attorney meets the probation requirements. Disability cases generally require someone to investigate the extent of the disability, to process the case through District Court, and to monitor the continuing status of the attorney. Trusteeship cases generally require that someone inventory the attorney's files, notify the attorney's clients of the trusteeship, and assist with distribution of client files to the clients. Additionally, trusteeship cases require someone to inventory unclaimed files, prepare a notice for publication of potential destruction of the files, prepare a request to the District Court to approve destruction of unclaimed files, and ultimately to destroy the files.

When the OPC has to undertake a trusteeship, it takes a significant amount of resources and time. It is preferable to the OPC that an attorney or firm outside of the OPC be appointed to manage trusteeships. However, since in most trusteeship cases there is little or no money for the recoupment of costs and fees, there are not always

attorneys or firms that are willing and able to oversee a trusteeship.

9) Interim Suspension and Disability

Pursuant to Rules 14-518, 14-519, and 14-523 of the RLDD, if an attorney poses a substantial threat of irreparable harm to the public and has either committed a violation of the Rules of Professional Conduct or has been convicted of a crime which reflects adversely on the attorney's honesty, trustworthiness, or fitness as an attorney, or is under a disability as defined in the RLDD, the OPC may file a petition for interim suspension or disability. This is an immediate filing in the District Court, and need not go through the Screening Panel process outlined above.

10) Abeyances

Attorney discipline cases may be continued, stayed and held in abeyance when there is related pending litigation (i.e., criminal or civil) and the alleged misconduct is substantially similar to the issues of the pending litigation. The request for abeyance can be made by either the OPC or the respondent attorney. The request is made to the Committee Chair pursuant to Rule 14-510(g)(3) if the discipline case is pending prior to the filing of a formal case ("Informal Abeyance") and the request is made to the judge pursuant to Rule 14-517(d) if the discipline case is pending in the District Court as part of a formal case ("Formal Abeyance").

11) Special Prosecutor Cases

Special Prosecutor Cases are cases filed against either OPC staff, Bar staff, Bar Commissioners or Committee members. Pursuant to Rule 14-517(f) of the RLDD, these cases have to be prosecuted outside of the OPC.

12) Final Dispositions

Until a case reaches a "final" disposition, the OPC considers it an active case.

Final dispositions are cases where the result has been determined to be dismissal, declination to prosecute, dismissal with caution, admonition, public reprimand, disbarment, time-specified suspension, trusteeship where the OPC is not the trustee, probation, resignation pending discipline, and cases in which no appeal is pending.

III. STATISTICS – Year 2018-2019

A) Case Activity

Active cases as of July 1, 2018 664

1) Cases opened

Informal Complaint	91
Media/Court Information	3
Notice of Insufficient Funds	42
Reciprocal Discipline	4
Reinstatement	7
Request for Assistance	758
Special Prosecutor	3
Total	908
Total cases processed during period	1,572

2) Informal Complaints Closed Without Discipline

By Dismissal	74
By Dismissal with Caution	5
By Declination to Prosecute	14
By Declination to Prosecute (Hold for Reinstatement).....	2
Total.....	95

3) Requests for Assistance Closed Without Discipline

By Dismissal	39
By Dismissal with Caution	11
By Dismissal - Duplicate	1
By Declination to Prosecute	279
By Declination to Prosecute with Caution.....	39
By Sent to CAP.....	314
By Declination to Prosecute (Hold for Reinstatement).....	17
Total.....	700

4) Media/Court Information Closed Without Discipline

By Dismissal	1
By Declination to Prosecute	4
By Declination to Prosecute (Hold for Reinstatement).....	2
Total.....	7

5)	<u>Special Prosecutor Closed Without Discipline</u>	
	By Dismissal	2
	Total	2
6)	<u>Reciprocal Discipline Closed Without Discipline</u>	
	By Declination to Prosecute	1
	Total	1
7)	<u>Reinstatement</u>	
	By Dismissal	1
	Total	1
8)	<u>Notice of Insufficient Funds Closed Without Discipline</u>	
	By Dismissal	1
	By Declination to Prosecute	4
	By Declination to Prosecute with Caution	25
	Total	30
9)	<u>Orders Entered</u>	<u># of attys</u>
	Admonition.....	5 (5)
	Public Reprimand	4 (4)
	Public Reprimand and Probation	3 (3)
	Suspension.....	8 (8)
	Disbarment	5 (5)
	Dismissal	1 (1)
	Probation	4 (4)
	Probation Terminated	4 (4)
	Reinstatement	1 (1)
	Reinstatement Denied	2 (2)
	Trusteeship Terminated.....	2 (2)
	Resignation with Discipline Pending	5 (5)
	Total	44 (44)
10)	<u>Informal Cases Combined with Formal Filings</u>	
	Informal Complaints.....	19
	Requests for Assistance	31
	Media/Court Information	1
	Reciprocal Discipline	1
	Total	52
Total case closures during period		932
Active cases as of July 1, 2019		640
(Open cases minus closures for year 2018-2019)		

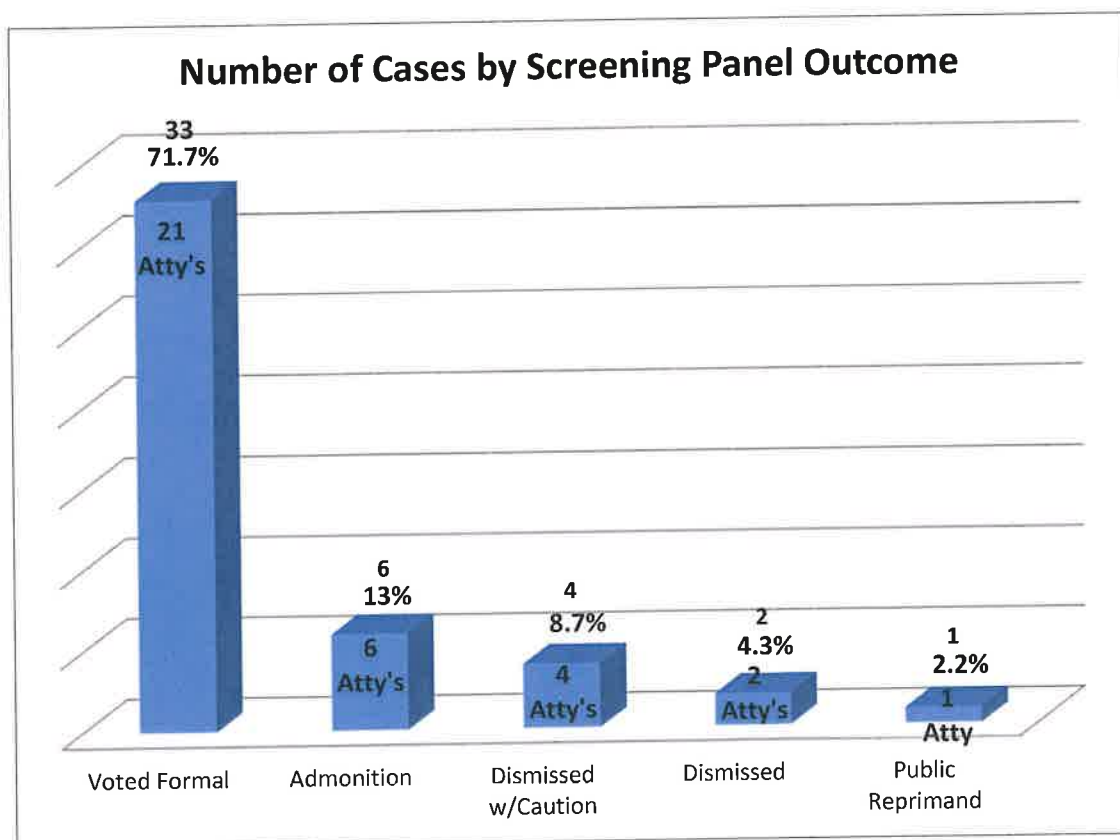
11) **During the Year 2018-2019, the OPC had case activity as follows**

Diversions.....	15
Informal Abeyances.....	6
Informal Appeals.....	47
Informal Appeals Granted.....	1
Informal Appeals Denied	34
Screening Panel Exception by OPC	1
Formal Cases Filed in Court.....	26
Combined with Formal Filings	33

12) <u>Stipulations</u>		<u># of attys</u>
Stipulation to Admonition.....	1	(1)
Stipulation to Public Reprimand.....	4	(4)
Stipulation to Suspension	6	(6)
Stipulation to Disbarment	1	(1)
Stipulation to Resignation with Discipline Pending	4	(4)
Stipulation to Probation	4	(4)
Stipulation to Dismissal	2	(2)
Total.....	22	(22)

13) **Screening Panel Outcomes**

For the year 2018-2019, the OPC referred 46 matters, involving 32 attorneys, to the Ethics and Discipline Committee for a Screening Panel hearing. The outcomes of those hearings were:



14) Notice of Insufficient Funds

As part of the OPC case activity, Rule 1.15(a) of the Rules of Professional Conduct requires that attorneys maintain their trust accounts in financial institutions that agree to report to the OPC “in the event any instrument in properly payable form is presented against an attorney trust account containing insufficient funds (NSF), irrespective of whether or not the instrument is honored.” Pursuant to this rule the OPC opened 42 new NSF cases, and dismissed 30 NSF cases in year 2018-2019. The usual reasons for dismissals of NSF cases are accounting errors, bank errors, depositing errors, or drawing on the account before a deposit clears.

15) Summary

Of the 1,572 cases the OPC processed in year 2018-2019, 888 or 56.49% were resolved by dismissals, declinations to prosecute, referral to CAP or combined with formal. Of the 1,572 cases, approximately 2.79% of the cases resulted in 44 Orders of Discipline. 50% of the Orders of Discipline were by stipulation. Finally, approximately 2.92% of the OPC's processed cases for the year were heard by Screening Panels.

16) Beginning Year July 1, 2019 – June 30, 2020

The OPC begins year 2019-2020 with 640 active cases against 452 attorneys.

The breakdown of the various stages of the 640 cases is as follows:

Abeyance	14
At CAP.....	127
Combined with Formal.....	25
Diversion	9
Exception.....	7
Formal	22
Formal Appeal	3
Informal Appeal	17

Informal Complaint	135
Notice of Insufficient Funds	22
Reciprocal.....	2
Reinstatement	1
Request for Assistance.....	244
Rule 14-519.....	3
Special Prosecutor	9

B) Miscellaneous

1) Ethics Hotline and CLE

Rule 14-504(b)(13) of the RLDD requires that the OPC provide informal guidance to promote ethical conduct by Bar members. In the past, the OPC had an Ethics Hotline where the OPC attorneys gave Bar members informal guidance by telephone. However, the rule does not specifically require the OPC to provide informal guidance by this method and in the past this practice has interfered with the OPC's prosecutorial responsibilities. During year 2018-2019, the OPC received 391 requests for informal ethics opinions. The OPC ceased its Ethics Hotline in April of this year.

Additionally, the OPC attorneys make Continuing Legal Education ("CLE") ethics presentations. During year 2018-2019, the OPC's CLE presentations totaled 35.33 hours.

Two of the CLE presentations were at the Ethics School conducted by the OPC. The OPC titles the Ethics School "What You Didn't Learn in Law School." Some attorneys are required to be there as a condition of a disciplinary case, but the OPC usually opens it to the entire Bar. At the school, the OPC covers a number of topics, including the lawyer discipline process, law office management, malpractice, conflicts of interests, lawyer trust fund accounting and hot topics of ethical issues. The OPC also usually tries to have at least one judge as a guest speaker to talk about civility and professionalism. The Ethics

School was held in September and March of the year 2018-2019 for six CLE hours each time. In September 2018, Ethics School was attended by 77 attorneys; and in March 2019, Ethics School was attended by 125 attorneys.

Included in OPC CLE presentations this fiscal year, the OPC also held a four-hour Law Practice Management and Trust Account Seminar. This seminar was held in January 2019. In addition to law practice management as the overall focus, the seminar specifically covered how to handle fees and trust accounting. It was attended by 63 attorneys. The OPC plans to continue to hold this seminar every year.

Finally, with respect to ethical guidance, in the past the OPC has provided written guidance to attorneys through publication of Utah Bar Journal articles on common ethics topics, and in brochures available to Bar members and the public. As the need arises, the OPC anticipates continuing to publish articles on ethics topics.

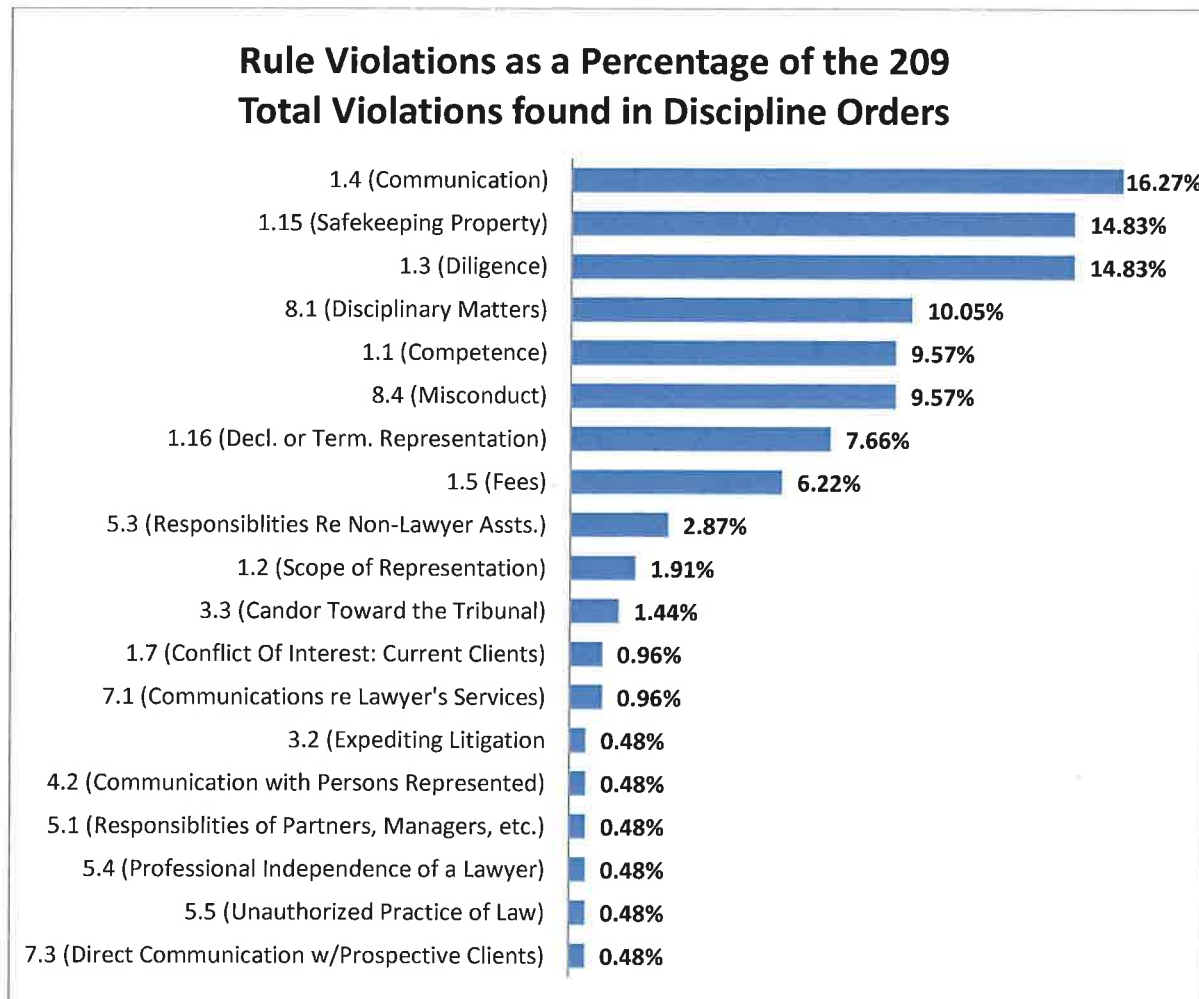
2) Committees

The OPC participates in committees with respect to attorney conduct. Chief Disciplinary Counsel of the OPC sits as a voting member of the Utah Supreme Court's Advisory Committee on the Rules of Professional Practice. OPC counsel sits as a voting member of the Ad Hoc Ethics and Discipline Committee on Rules which addresses proposed rule changes to the RLDD and Standards for Imposing Lawyer Sanctions. OPC counsel sits as a non-voting member on the Utah State Bar's Ethics Advisory Opinion Committee.

3) Rule Violations and Source of Information

The OPC has collected and categorized other data regarding its cases. Specifically, the data collected provide statistics on the rule violations.

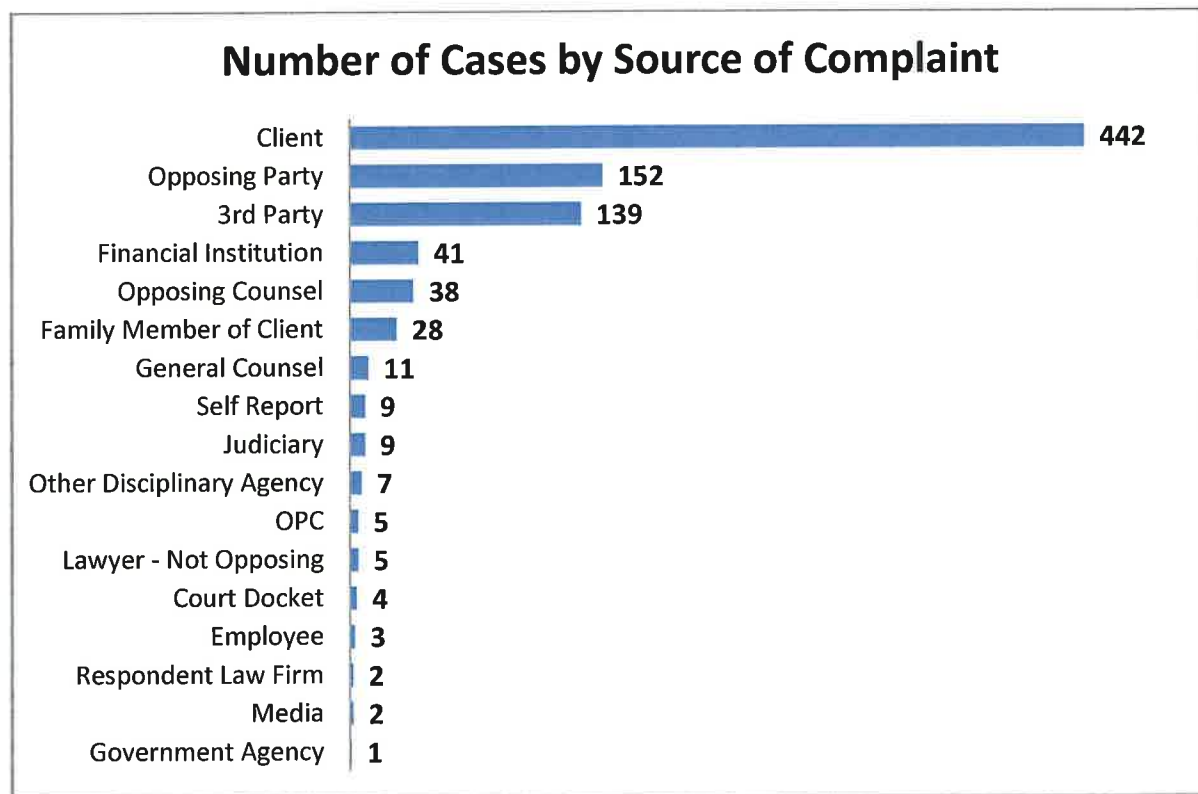
(a) For example, using data from the 44 orders of discipline entered in the year 2018-2019, which resulted in a finding of 209 total rule violations, we can see the frequency with which various rules were violated:



The OPC's impression is that violations of Rule 1.1 (Competence) commonly derive from attorneys missing court appearances; that violations of Rule 1.5 (Fees) commonly arise from attorneys collecting fees without performing meaningful work; that violations of Rule 1.15 (Safekeeping Property) often arise from attorneys failing to keep their earned money separate from clients' money or failing to promptly provide an accounting of how fees were used; that violations of Rule 1.16 (Declining or Terminating Representation) commonly result from

attorneys withholding the client file upon termination of the representation; violations of Rule 8.1(b) (Bar Admission and Disciplinary Matters) usually are based upon attorneys failing to respond to the OPC's lawful requests for information in the course of disciplinary investigations with the most common failure as a violation of this Rule, the failure to timely respond to the NOIC; and violations of Rule 8.4 (Misconduct) commonly arise from criminal conduct, deceitful or fraudulent conduct or conduct prejudicial to the administration of justice. Accordingly, the OPC's CLE presentations often focus on helping practitioners avoid these particular problems.

(b) In year 2018-2019, information regarding possible attorney misconduct was received from the following sources:

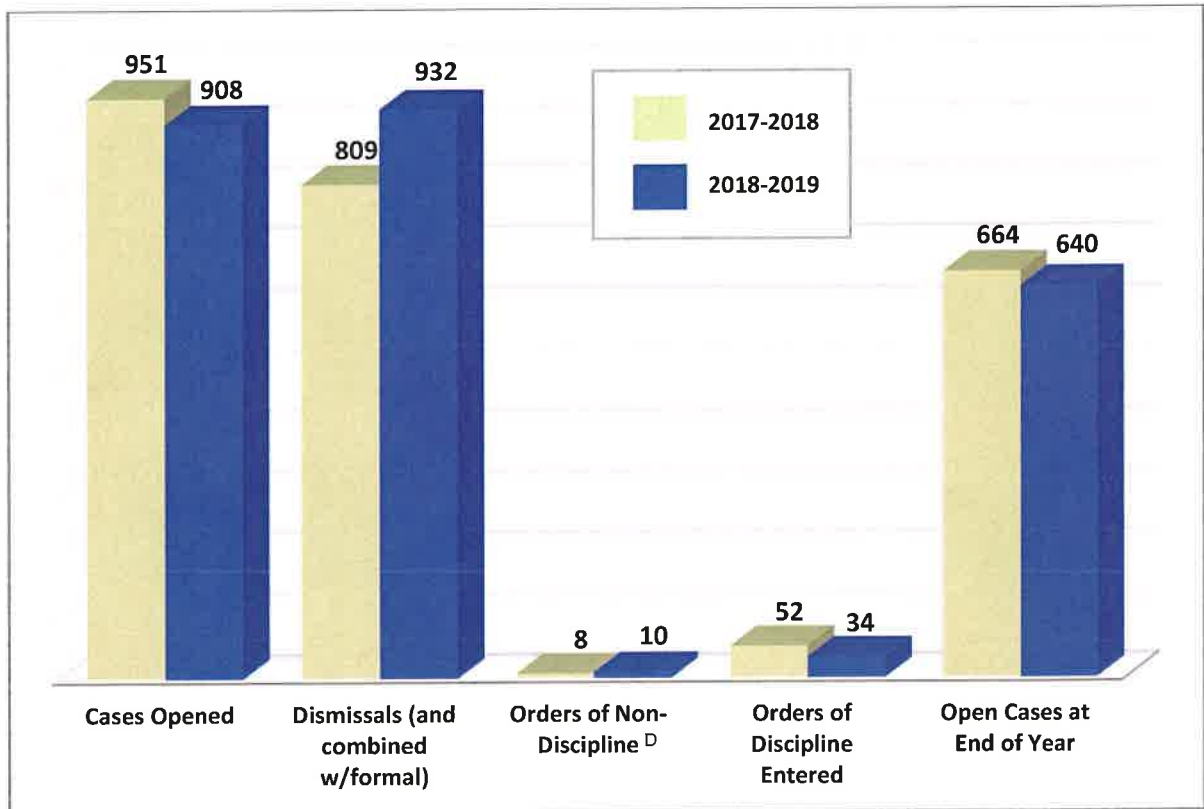


IV. PROGRESS AND GOALS ON CASES

The OPC, like every other state bar disciplinary authority, has and will continue to have unfinished work. Furthermore, the OPC, like every other state bar disciplinary authority, has and will continue to have a percentage of its unfinished work accumulate at the informal stage. The reason for this is the nature of the work. In this regard, the OPC processes disciplinary cases against attorneys who are often determined to use every means at their disposal to protect their license to practice law. This sometimes makes investigating and processing cases analogous to a criminal proceeding. In these cases, it tends to lengthen the processing at both the informal and post-informal stages. Notwithstanding the nature of the work, it should be noted that the OPC's overriding mission is to perform its responsibility in a professional and civil manner.

The OPC case progress goal is to have a system in place that keeps cases moving so the unfinished work at the informal stage is in percentage numbers as small as possible. This goal must be accomplished while simultaneously, and as expeditiously as possible, moving to resolution the larger percentage of cases that are at the post-informal stage (i.e., cases before Screening Panels or the District Court; cases on appeal; cases holding for resolution of a companion formal case; or cases held in abeyance pending related litigation).

As progress points of comparison of this year with last year:



As can be seen from the chart:

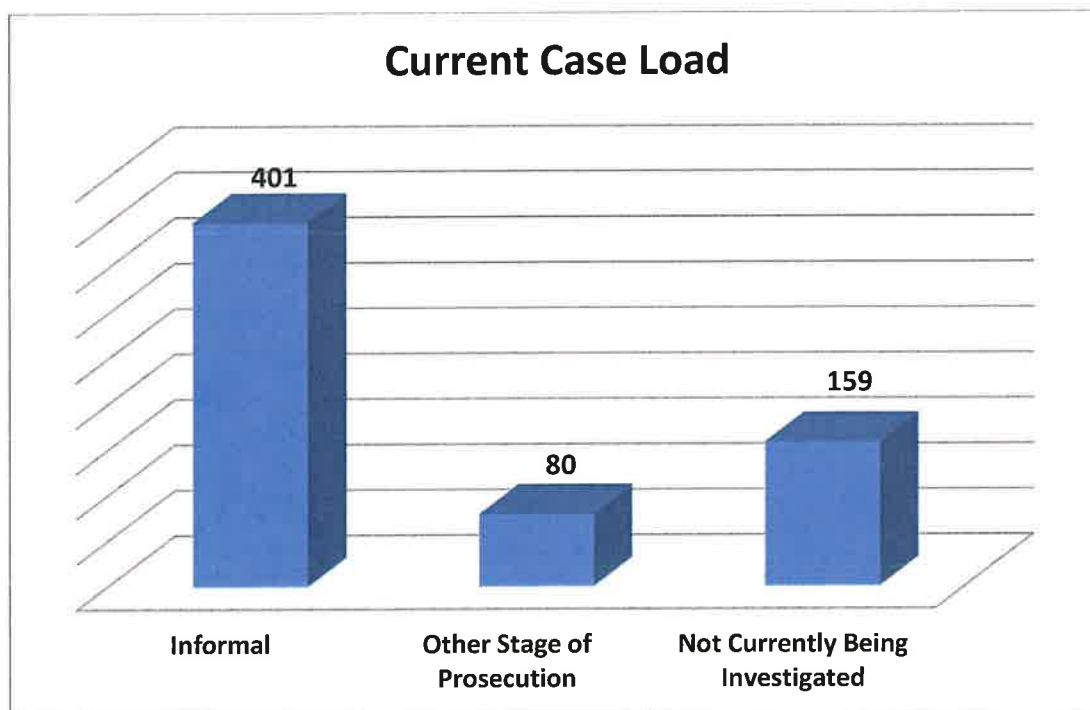
- (1) Cases opened this year decreased by approximately 4.5%;
- (2) Dismissals (and combined with formal) this year increased by just over 15%;
- (3) Orders of non-discipline entered this year increased by 25%;
- (4) Orders of discipline entered this year decreased by just over 34%; and
- (5) Active case numbers at the end of this year decreased by approximately 3.6%.

The OPC has a goal to reduce its active case number each year by closing more cases in a year than the office receives in that year. This year, the OPC accomplished

[□] Orders of Non-Discipline include Dismissal, Reinstatement, Reinstatement Denied, Probation Terminated, and Trusteeship Terminated.

this goal because it opened 908 cases and closed 932^E cases and its active case number decreased by approximately 3.6%.

Of the OPC's current case load (640), 401 are at the informal stage^F, 80 are at other stages of investigation/prosecution^G, and 159 are not currently being investigated by the OPC^H.



Of the 401 cases at the informal stage, 141 or approximately 35% have been in the informal stage for over 180 days. Further breaking down the 141 cases that have been at the informal stage for over 180 days; approximately 62% of those cases have been at that stage for less than a year; and approximately 30% of those cases have been at that stage for between one and two years. So only approximately 8% of those

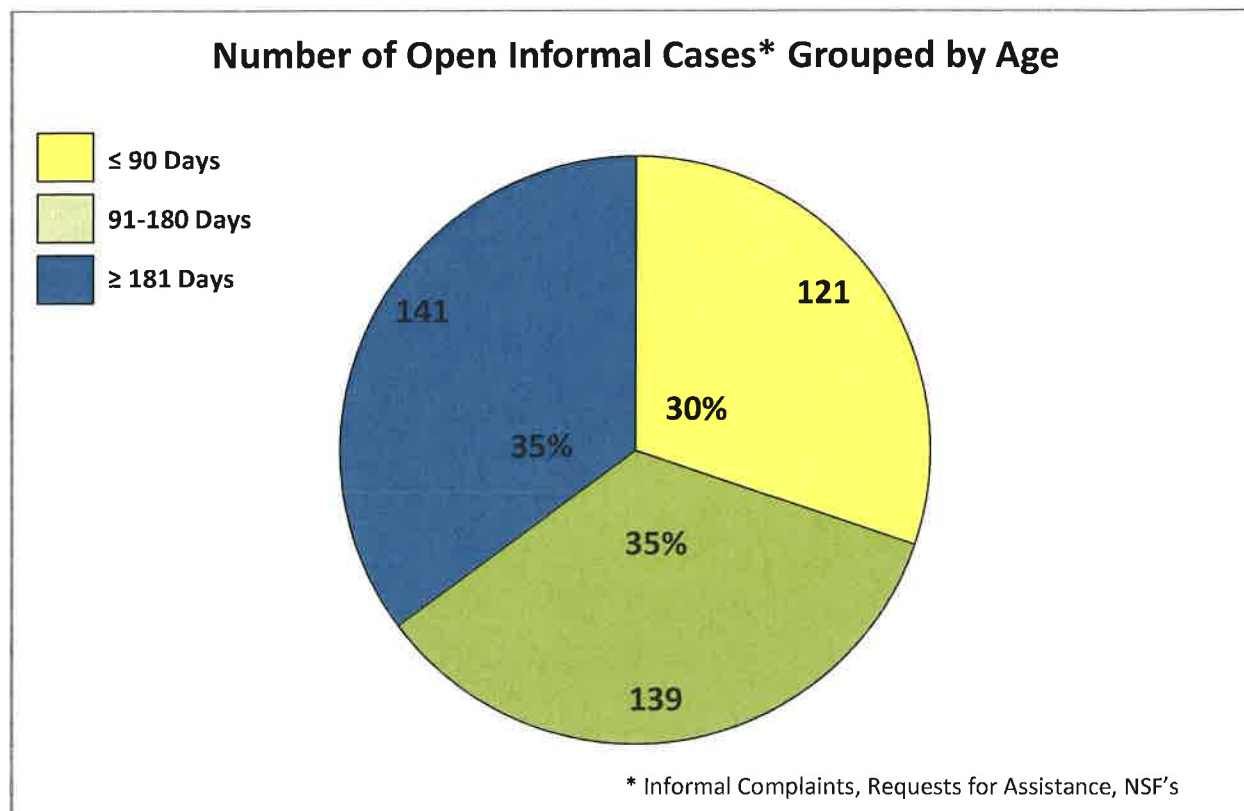
^E The total of Dismissals (and Combined w/Formal) and all Orders (discipline and non-discipline).

^F Informal Complaints, Requests for Assistance, NSF's.

^G Combined with Formal, Exceptions, Formal, Formal Appeal, Informal Appeal, Media/Court Information, Reciprocal, Reinstatement, Rule 14-519.

^H Abeyance, At CAP, Diversion, Special Prosecutor.

cases have been at that stage for over two years.



It should also be noted that the OPC filed a significant number of new formal cases. In this respect, in addition to opening 11 new cases in the areas of reinstatement/reciprocal¹, the OPC filed 13 new formal cases with the District Court (the 13 formal cases include an additional 23 underlying informal complaints).

The OPC does not simply concentrate its efforts on older cases: it attempts to provide expedited and efficient work on all cases, new and old. This work method is intended to keep cases progressing.

The Central Intake System greatly aids case processing goals. Central Intake enables the OPC to address all information coming to its attention (both notarized and

¹ Seven Reinstatements and four Reciprocal cases.

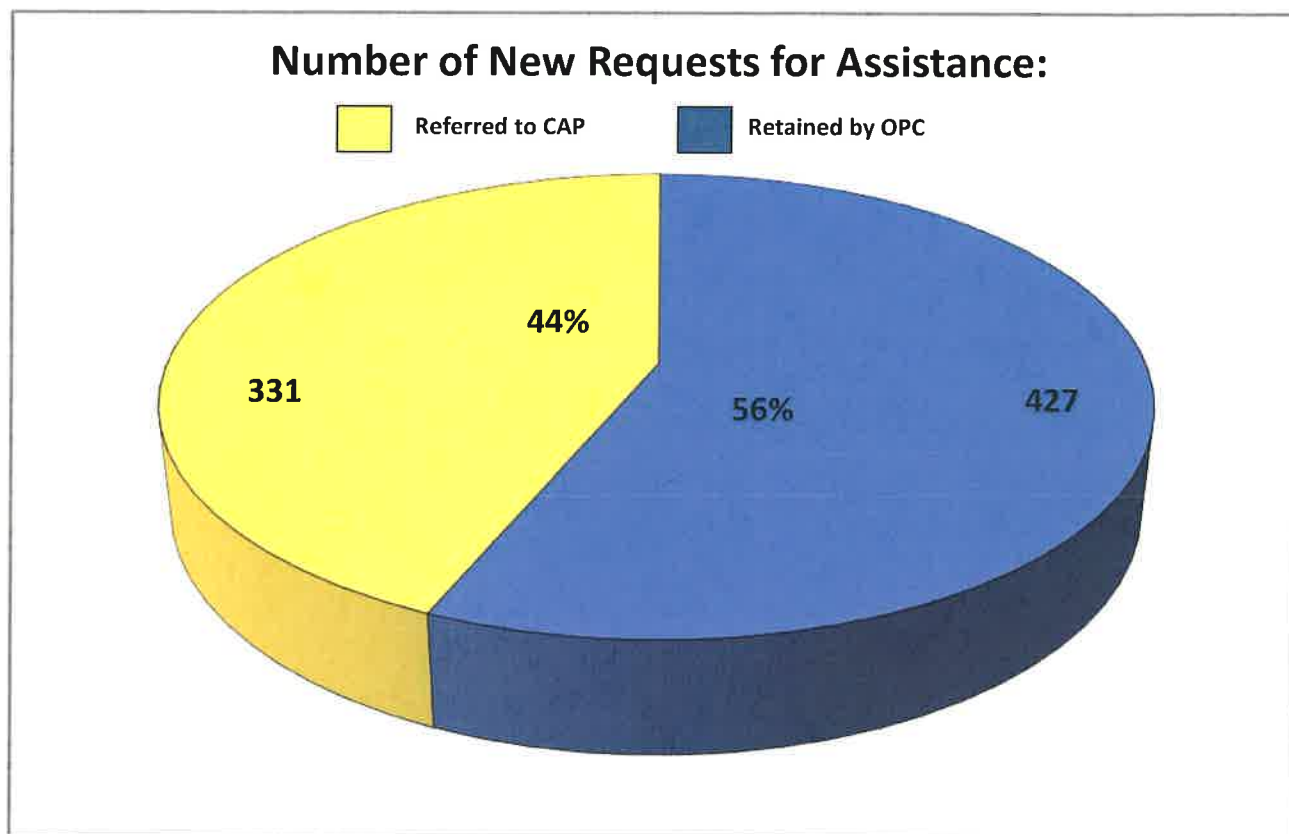
non-notarized) and to quickly and efficiently determine the appropriate track for the information. This leaves more resources to address cases raising more serious ethical allegations, resulting in quicker case processing for all cases.

V. CONSUMER ASSISTANCE PROGRAM

The CAP is not part of the OPC, but the OPC works in coordination with it, and reviews information sent to the Utah State Bar as a non-notarized Request for Assistance. Additionally, for more extensive coordination between the OPC and CAP to ensure that cases do not fall between any gaps of the OPC's and CAP's separate purview, the OPC receives periodic listings of CAP cases from CAP to review and determine if there is overlap between CAP and the OPC on the case or attorney; and to determine if any of the listed cases are cases that are more appropriately handled by the OPC. CAP's listed cases include all cases under review by CAP (i.e., phone calls, emails, Requests for Assistance).

The OPC's review of CAP cases ensures that allegations of serious misconduct are not processed as Requests for Assistance. In year 2018-2019, the OPC reviewed 758 Request for Assistances which can be reviewed as part of its CAP review system, nearly 44% (331) of which the OPC referred to CAP. Only 42 of these matters came back to the OPC.^J

^J 12 of the 42 that came back to the OPC were due to the CAP attorney being unavailable.



Thus, with respect to year 2018-2019, 289 matters were resolved by CAP without the need for further OPC review.^K The OPC uses the resources normally needed for reviewing and resolving the cases that are handled by CAP to process cases where there are serious ethical violations.

VI. GOALS FOR YEAR 2019-2020

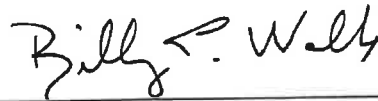
The OPC will continue to work toward the goals outlined in this report. Specifically, the OPC has a responsibility to resolve disciplinary complaints in a uniform, expeditious, professional, civil and systematic way to protect the public, clients, and the legal profession from the professional misconduct of attorneys. The overriding goal is to

^K Since CAP is not part of the OPC, the OPC does not have complete statistics on cases resolved by CAP in a year.

continue to develop the OPC case processing system to ensure that the majority of resources are utilized to more quickly prosecute those cases where it is appropriate to file formal complaints with the District Court.

CONCLUSION

The OPC staff is excellent and continues its hard work. The OPC will continue its efforts towards efficiency in the expedition of cases. The OPC looks forward to another productive year.

A handwritten signature in black ink, reading "Billy L. Walker". The signature is written in a cursive style with a horizontal line underneath it.

Billy L. Walker
Chief Disciplinary Counsel
Office of Professional Conduct

State Bar News

Notice of Bar Commission Election – Third Division

Nominations to the office of Bar Commissioner are hereby solicited for three members from the Third Division, each to serve a three-year term. Terms will begin in July 2020. To be eligible for the office of Commissioner from a division, the nominee's business mailing address must be in that division as shown by the records of the Bar. Applicants must be nominated by a written petition of ten or more members of the Bar in good standing whose business mailing addresses are in the division from which the election is to be held. Nominating petitions are available at <http://www.utahbar.org/bar-operations/leadership/>. Completed petitions must be submitted to John C. Baldwin, Executive Director, no later than February 3, 2020, by 5:00 p.m.

NOTICE: Balloting will be done electronically. Ballots will be e-mailed on or about April 1st with balloting to be completed and ballots received by the Bar office by 5:00 p.m. April 15th.

In order to reduce out-of-pocket costs and encourage candidates, the Bar will provide the following services at no cost:

1. space for up to a 200-word campaign message plus a color photograph in the March/April issue of the *Utah Bar Journal*. The space may be used for biographical information, platform or other election promotion. Campaign messages for the March/April *Bar Journal* publications are due along with completed petitions and two photographs no later than February 1st;
2. space for up to a 500-word campaign message plus a photograph on the Utah Bar Website due February 1st;
3. a set of mailing labels for candidates who wish to send a personalized letter to the lawyers in their division who are eligible to vote; and
4. a one-time email campaign message to be sent by the Bar. Campaign message will be sent by the Bar within three business days of receipt from the candidate.

If you have any questions concerning this procedure, please contact John C. Baldwin at (801) 531-9077 or at director@utahbar.org.

Nominations Sought

The Board of Bar Commissioners is seeking applications for two Bar awards to be given at the 2020 Spring Convention. These awards honor publicly those whose professionalism, public service, and public dedication have significantly enhanced the administration of justice, the delivery of legal services, and the improvement of the profession.

Please submit your nomination for a 2020 Spring Convention Award no later than Monday, January 18, 2020. Use the Award Form located at utahbar.org/nomination-for-utah-state-bar-awards/ to propose your candidate in the following categories:

1. **Dorathy Merrill Brothers Award** – For the Advancement of Women in the Legal Profession.
2. **Raymond S. Uno Award** – For the Advancement of Minorities in the Legal Profession.

The Utah State Bar strives to recognize those who have had singular impact on the profession and the public. We appreciate your thoughtful nominations.

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New Utah rule allows practice of law without supervision of lawyer

By Utah State Bar | Posted - Dec 11th, 2019 @ 3:00pm



UTAH STATE BAR

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Resolving common legal problems is simpler and less costly since Utah's Supreme Court approved a rule allowing licensed paralegal practitioners to handle specific legal processes without the supervision of an attorney.

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About the program

While it's absolutely necessary in some cases to hire a lawyer, not every legal matter requires the experience and training of a licensed attorney. New rules adopted by the [Utah Supreme Court](#) in 2018 allows licensed paralegal practitioners to practice in specific areas of law without direct involvement or supervision of an attorney.

A licensed paralegal practitioner is a mid-level legal provider that is a step up from a paralegal and a step down from a fully practicing attorney. A licensed paralegal practitioner (LPP) can do many of the things traditionally accomplished by attorneys while charging lower fees. The court created the LPP program to improve access to justice for Utah residents.

What LPPs can do

Currently, LPP's can be licensed to practice law in the areas of family law, debt collection and landlord-tenant disputes. LPPs can file court documents and serve as mediators, but they are prohibited from appearing in court, according to the [Utah State Bar](#). An LPP can file forms, complete settlement negotiations, review court documents, and represent clients in mediation.

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Required training for LPPs

Currently, classes are offered exclusively at Utah Valley University in Orem. Students can finish up the coursework in one semester, but the time-consuming part of this licensure comes after the classes. To qualify to take the license exam

paralegal practitioners must work with a law firm for at least 1500 hours in the three years prior to applying for certification and sitting for the LPP exam. Upon successful completion of the exam, LPPs will be sworn in along with attorneys who pass the Bar Examination.

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The LPP program includes an ethics track and specialized tracks to become certified in family law, debt law or landlord-tenant law. LPPs sit for an exam and are thoroughly vetted before being certified by the Utah State Bar, just like attorneys. Once certified, an LPP can join an existing law firm or set up their own practice.

Earning potential for LPPs

The earning potential of an LPP is essentially unlimited. An LPP can work for an existing law firm and earn a salary and benefits, or they can create their own firm and practice in the areas in which they are certified.

To learn more about the LPP program, you can visit the [Utah State Court LPP website](#), the [Utah State Bar's website](#), or [Utah Valley University LPP page](#).

**Utah State
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